



## MEMORANDUM

**TO:** Marisa Perales, Chair, and Members of the Environmental Commission

**FROM:** Andrea Bates, Environmental Program Coordinator  
Watershed Protection Department

**DATE:** March 31, 2017

**SUBJECT:** Proposed Land Development Code Amendments

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The Watershed Protection Department (WPD) is proposing a set of Land Development Code amendments that clarify and improve existing code requirements. The 44 proposed amendments fall into four categories:

**1. Watershed Protection Ordinance clean-up**

Thirty-six of the proposed amendments clarify code requirements and correct inconsistencies resulting from the 2013 Watershed Protection Ordinance (WPO).

**2. Clarification of Land Use Commission findings of fact**

One amendment clarifies the findings of fact for Land Use Commission variances. The current language can be difficult to interpret, so staff is proposing minor revisions that are consistent with historical interpretation and would improve the clarity of the variance process.

**3. Clarification of regulations applicable to agricultural activities**

Two amendments clarify the environmental and drainage requirements for agricultural development. Vegetation clearing for agricultural purposes is currently exempt from code requirements, but the existing language is confusing for the public, applicants, and staff. The proposed amendments would make clear that vegetation removal for agricultural operations is not considered development. The amendments would also reduce permitting complexity and costs for some types of agricultural development. The proposal would exempt agricultural improvements (like barns) from water quality control requirements on sites in the desired development zone with less than 20 percent gross impervious cover.

**4. Barton Springs Zone Redevelopment Exception amendments**

Five amendments to the Barton Springs Zone Redevelopment Exception (BSZRE) are proposed to allow redevelopment of a portion of a site with proportional water quality

treatment and mitigation; allow multifamily residential properties to utilize the BSZRE; allow projects with civic land uses to be approved administratively; and encourage redevelopment projects to restore degraded waterways and critical environmental features. The proposed amendments respond to City Council Resolution 20121213-066, which directed to staff to work with stakeholders to develop recommendations for improving both redevelopment opportunities and environmental protection within the Barton Springs Zone (see Attachment A). Similar amendments to the BSZRE were proposed with the WPO in 2013, but were deferred to a later date pending additional stakeholder input.

A summary of each proposed amendment, including the current status or concern to be addressed, the proposed improvement, and any anticipated impacts, is included in Attachment B. Draft language for each proposed amendment is included in Attachment C.

### **Public Review Process**

Staff recommends that these amendments be taken forward separately from CodeNEXT because they are either minor cleanups or standalone issues. Processing these amendments in advance of CodeNEXT provides two key benefits. First, the amendments could be adopted on a much shorter timeline, which is beneficial because they address existing code issues. Second, reviewing these amendments separately provides greater transparency; stakeholders can have a focused discussion on this proposal rather than the details getting lost among broader code changes.

The initial public review period for the proposed amendments ran from March 6<sup>th</sup> through 24<sup>th</sup>, and staff held a stakeholder meeting on March 21<sup>st</sup>. We have received preliminary comments from several stakeholders, including the Save Our Springs Alliance (SOS), Real Estate Council of Austin (RECA), and individual members of the development community. Key comments received to date include the following:

- **WPO clean-up**  
Stakeholders expressed support for many of the WPO clean-up items and made several recommendations on how the proposed language could be clearer, but this summary will focus on areas of disagreement with staff's proposal. SOS expressed concern about the proposal to allow cut and fill for stormwater ponds by right rather than through the administrative variance process. Cut and fill for ponds would still be subject to the same conditions, but since the review involves discretion SOS believes it would be better handled through the administrative variance process. (See Attachment B, item 16, and Attachment C, pages 8 and 13.)
- **Land Use Commission findings of fact**  
SOS is concerned that the proposed amendments to the findings of fact make the requirements more vague rather than more clear, and as a result could potentially change the standards and therefore the outcome of the current variance process. This is not staff's intent, and we can work with stakeholders on the wording to ensure that the historical interpretation is both clarified and preserved. (See Attachment B, item 15, and Attachment C, page 7.)

- **Regulations applicable to agricultural activities**

SOS does not support exempting agricultural improvements (e.g., barns) from the water quality treatment requirements under certain conditions. (See Attachment B, item 25, and Attachment C, page 10.)

- **Barton Springs Zone Redevelopment Exception**

SOS strongly opposes the proposed amendments to the BSZRE. (See Attachment B, items 10-14, and Attachment C, pages 3-5.) They argue that the existing requirements of the redevelopment exception are the result of extensive community discussion over the last 10 years, and that the proposed amendments were intentionally omitted from the redevelopment exception when it was adopted in 2007 and again when revisions were proposed in 2013. SOS maintains that multifamily residential properties should be subject to the requirements of the SOS ordinance; that projects utilizing the redevelopment exception should be required to provide water quality treatment and mitigation for the entire site; that civic uses should be subject to Council approval; and that allowing on-site mitigation would diminish the overall environmental benefits of the redevelopment exception.

RECA also submitted comments on the proposed amendments to the BSZRE. They recommend that the proposal be modified to adopt a sliding scale for partial site redevelopment. They suggest that sites smaller than two acres in size require water quality treatment and mitigation for two times the redeveloped area; sites from two to five acres require treatment and mitigation for 1.5 times the redeveloped area; sites from five to 10 acres require treatment and mitigation for 1.25 times the redeveloped area; and sites larger than 10 acres require treatment and mitigation for just the redeveloped area.

Site Size	Water Quality Treatment and Mitigation Ratio
< 2 acres	2:1
2 – 5 acres	1.5:1
5 – 10 acres	1.25:1
>10 acres	1:1

These comments are very similar to the feedback provided during stakeholder meetings on the BSZRE in late 2013 and 2014. Some participants asserted that the proposed changes would result in increased use of the redevelopment exception, which would provide improved on-site water quality for historically pollutive development and contribute to permanent off-site land preservation. They stressed the need for property owners to be able to redevelop a portion of the property, rather than the entirety. Other stakeholders underscored concerns that the redevelopment exception does not go far enough to protect sensitive features, such as riparian areas and steep slopes, and that the proposed provisions for partial site redevelopment would result in the remainder of the site not being treated or mitigated at all.

Staff has considered this community input in drafting the current proposal, and believes the recommended amendments strike the correct balance to enable redevelopment of

existing polluting properties in order to achieve incremental but significant environmental improvements through water quality treatment and land mitigation.

**Attachments**

- A City Council Resolution No. 20121213-066
- B Summary of Proposed Code Amendments
- C Draft Markup of Proposed Code Amendments

**RESOLUTION NO. 20121213-066**

**WHEREAS**, properties built in and around the City of Austin during and prior to the 1980s may have substandard or no structural water quality controls and may therefore discharge untreated, uncontrolled urban runoff into waterways; and

**WHEREAS**, the City of Austin has enacted Section 25-8-27 (*Redevelopment Exception in the Barton Springs Zone*) of the City Code to encourage the redevelopment of older properties while providing significant new environmental protections; and

**WHEREAS**, the number, type, and location of properties benefitting from the redevelopment exception provided by Section 25-8-27 is limited, but could be amended to increase its use and concomitant environmental and community benefits; **NOW, THEREFORE,**

**BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:**

The City Manager is directed to work with stakeholders to develop recommendations for improving both redevelopment opportunities and environmental protection, and to report the recommendations to City Council not later than April 30, 2013.

In doing so, the City Manager is directed to consider:

- (1) the impact of expanding the application of 25-8-27 (*Redevelopment Exception in the Barton Springs Zone*) to include redevelopment of existing residential development in City watersheds inside and outside the Barton Springs Zone;

- (2) the impact of expanding the application of redevelopment exceptions in the City Code to include redevelopment of a portion of a site; and
- (3) other code amendments that could encourage redevelopment while providing environmental benefits in the Barton Springs Zone; and, if appropriate, in other areas of the City.

**ADOPTED:** December 13, 2012 **ATTEST:** Shirley A. Gentry  
Shirley A. Gentry  
City Clerk

Description	Type of Change	Current Status/Concern	Proposed Improvement	Anticipated Impacts	
				Advantages	Disadvantages
1. § 25-1-21 Definitions	Clarification	The current definition of development excludes vegetation clearing for agricultural activity, but the language is confusing for the public, applicants, and staff.	Add a definition of "agricultural operations" and revise the definition of development to specifically exempt vegetation clearing for agricultural operations.	Clarity.	None.
2. Chapter 25-2 Subchapter B Article 2 Division 5 §2.3 PUD Tier One Requirements	Clarification	One of the PUD Tier 1 requirements is that the project "comply with the City's Planned Unit Development Green Building Program." This language is confusing because there is not a green building program specific to PUDs. Instead, PUDs must provide at least a two-star Austin Energy Green Building rating.	Change "comply with the City's Planned Unit Development Green Building Program" to "provide a two-star Austin Energy Green Building Rating."	Clarity.	None.
3. Chapter 25-2 Subchapter B Article 2 Division 5 §2.4 PUD Tier Two Requirements	Clarification	One of the Tier 2 Environment/Drainage criteria includes an incorrect program name.	Change "the Austin Green Builder Program" to "Austin Energy Green Building." Change "provides a rating under the Austin Green Builder Program of three stars or above" to "provides an Austin Energy Green Building Rating of three stars or above."	Clarity.	None.
4. §25-7-32 Director Authorized to Require Erosion Hazard Zone Analysis	Clarification	Requirement for Erosion Hazard Zone (EHZ) analysis within 100 feet of the centerline of the waterway does not provide adequate protection for the Colorado River downstream from Longhorn Dam.	Clarify that EHZ analysis is required within 100 feet of the ordinary high water (OHW) mark of the Colorado River downstream from Longhorn Dam.	Clarity. Clarifies the original intent of the Watershed Protection Ordinance (WPO).	None.
5. §25-8-1 Definitions	Clarification	The term floodplain modification (§25-8-261, §25-8-364) is not defined and can be interpreted to mean any development within the floodplain.	Define floodplain modification to mean any vertical or horizontal change in the cross section of the floodplain.	Clarity.	None.
6. §25-8-2 Descriptions of Regulated Areas	Clarification	Subsection C doesn't specify which boundary needs a 1,500-foot verification zone.	Revise language to specify that property within 1,500 feet of an Edwards Aquifer recharge zone boundary may require boundary verification.	Clarity. Codifies current practice.	None.

For ease of review, all proposed amendments are shown with Chapter 25-7 or 25-8 citations. The corresponding sections of Chapters 30-4 and 30-5 would also be amended with identical changes.

Description	Type of Change	Current Status/Concern	Proposed Improvement	Anticipated Impacts	
				Advantages	Disadvantages
7. <i>§25-8-25 Redevelopment Exception in Urban and Suburban Watersheds</i>	Clarification	The redevelopment exception for urban and suburban watersheds does not have a provision to allow the redevelopment exception to be used if a subdivision and site plan are filed concurrently, which is allowed in water supply and Barton Springs Zone (BSZ) watersheds.	Add language from §25-8-26/27 that allows the redevelopment exception to be used if subdivision and site plan applications are filed concurrently.	Consistency. Could allow additional properties in urban and suburban watersheds to use the redevelopment exception.	None.
8. <i>§25-8-25/26/27 Redevelopment Exception in All Watersheds</i>	Clarification	The redevelopment exception requires not increasing non-compliance with Critical Environmental Feature (CEF) protections, but it does not require an Environmental Resource Inventory (ERI) to identify potential CEFs.	Specify that properties using the redevelopment exception must provide an ERI if applicable under §25-8-121.	Allows greater protection for CEFs. Helps implement the existing requirement to demonstrate no increase in non-compliance for CEFs.	Additional expense/potential disincentive for redevelopment projects.
9. <i>§25-8-25/27 Redevelopment Exception in Urban and Suburban and Water Supply Watersheds</i>	Clarification	Proposed standards to the Barton Springs Zone Redevelopment Exception (BSZRE) (see below) are worded differently than the corresponding standards for the urban and suburban and water supply watersheds.	Reword standards for the urban and suburban and water supply watersheds to match the proposed language for the BSZRE in order to clarify similarities and differences among the three sections.	Clarity and consistency.	None.
10. <i>§25-8-26 Redevelopment Exception in the Barton Springs Zone: Eligible Land Uses</i>	Policy	The BSZRE is only applicable to properties with existing commercial development, which limits its use.	Allow the BSZRE to be used for multifamily residential properties, with Council approval required for properties with more than 25 existing or proposed dwelling units.	Allows additional properties to use the BSZRE, which could result in additional on-site water quality controls, mitigation, and urban revitalization. Requiring Council approval ensures additional oversight for potential projects near the Barton Creek Greenbelt.	Some stakeholders expressed concern that land disturbance and increased activity on the redeveloped sites will outweigh the advantages of the water quality controls and mitigation.



Description	Type of Change	Current Status/Concern	Proposed Improvement	Anticipated Impacts	
				Advantages	Disadvantages
11. <i>§25-8-26 Redevelopment Exception in the Barton Springs Zone: Partial Site Redevelopment</i>	Policy	Water quality treatment and mitigation are required for the entire site, which is a potential disincentive for redevelopment projects.	Allow redevelopment of a portion of a site with proportionate water quality treatment and mitigation. Require water quality treatment and mitigation to be provided for an impervious area twice the size of the redeveloped impervious area (up to a maximum of the impervious cover for the entire site).	Increases flexibility and enables additional projects to use the BSZRE and provide the associated benefits. Providing water quality controls and mitigation for the entire site may be financially or otherwise infeasible (e.g., may require controls in the CWQZ). This provision restores the 2000 Redevelopment Exception partial site option eliminated by the WPO for Drinking Water Protection Zone watersheds.	Some stakeholders were concerned that applicants would select only the easiest portions of a site to redevelop and never provide treatment and mitigation for the remainder; the proposed requirement for double treatment seeks to address this concern.
12. <i>§25-8-26 Redevelopment Exception in the Barton Springs Zone: Water Quality Treatment Standard</i>	Clarification	Existing code language regarding the minimum water quality treatment standard is unclear.	Clarifies that all redevelopment must provide a minimum water quality treatment standard of sedimentation/filtration ponds.	Clarification of existing requirement.	None.
13. <i>§25-8-26 Redevelopment Exception in the Barton Springs Zone: Civic Use and Council Approval</i>	Policy	Redevelopment of properties with an existing civic use requires Council approval, but small-scale civic projects pose no greater risks than commercial sites, which are approved administratively.	Allow projects with civic land uses to be reviewed and approved administratively.	Simplifies the use of the BSZRE for small-scale civic projects; reduces permitting cost and time to complete. Large-scale projects would likely trigger Council review for other requirements (e.g., traffic counts, residential units, etc.).	Less direct oversight by Council.

Description	Type of Change	Current Status/Concern	Proposed Improvement	Anticipated Impacts	
				Advantages	Disadvantages
14. <i>§25-8-26/27 Redevelopment Exception in the Barton Springs Zone and Water Supply Watersheds: Setbacks from Sensitive Environmental Features</i>	Policy	Redevelopment may not increase non-compliance with creek buffer or environmental feature protections, but there is no incentive to restore degraded areas.	Encourage redevelopment to set back from waterways critical environmental features by offering a one-for-one credit to move or remove impervious cover from these setbacks. The area vacated must be restored with appropriate native vegetation and soils.	Restore lost natural function in environmentally sensitive areas adjacent to streams, karst features, and springs. Presenting as an option will not be a barrier to redevelopment.	Some owners will elect to leave development in these buffers. However, if this were a requirement, many owners would elect to not redevelop (thus no water quality controls or off-site mitigation land) rather than be required to lose existing development in these areas.
15. <i>§25-8-41 Land Use Commission Variances</i>	Clarification	Current language for findings of fact is confusing and difficult for applicants to interpret.	Clarify the findings of fact language to better reflect the intent and current staff and land use commission practice.	Variances can be processed in a more efficient and effective manner.	Could inadvertently affect what currently qualifies for a variance.
16. <i>§25-8-42 Administrative Variances;</i>  <i>§25-8-341/342 Cut Requirements, Fill Requirements</i>	Policy	Administrative variances for cut and fill for ponds are nearly always granted, but requiring a variance adds time and expense to the review process.	Allow cut and fill greater than 4 feet for ponds by right if the applicant demonstrates that it is necessary for appropriate functioning of the pond and associated drainage infrastructure.	Streamlines review process.	None.
17. <i>§25-8-63 Impervious Cover Calculations</i>	Clarification	Applicants have asked whether the exemption for swimming pools applies to rooftop swimming pools.	Clarify that rooftop swimming pools are not exempt from impervious cover calculations.	Prevents additional ramping up of impervious cover at ground level by not allowing large portion of the building to be exempted.	Argument that impact of rooftop swimming pool is eliminated due to freeboard.
18. <i>§25-8-65 Commercial Impervious Cover</i>	Clarification	Current language can be interpreted to mean there is an exemption for all commercial projects with less than 8,000 square feet of new impervious cover.	Clarify that the impervious cover exemption only applies to the listed roadway improvement projects (i.e., intersection upgrades, low-water crossing upgrades, additions for bicycle lanes, and additions for mass transit stops).	Clarifies the original intent of the WPO.	None.

Description		Type of Change	Current Status/Concern	Proposed Improvement	Anticipated Impacts	
					Advantages	Disadvantages
19.	<i>§25-8-92 Critical Water Quality Zones Established</i>	Clarification	Exemption for drainage features serving a public roadway right-of-way does not apply to similar situations along railroads.	Add exemption for railroad ROW.	Clarity. Addresses the same situation of a modified drainage feature that cannot be restored to a natural condition.	Exempts additional waterways from CWQZ protection.
20.	<i>§25-8-92 Critical Water Quality Zones Established</i>	Clarification	Current language for urban watersheds can be interpreted to exempt Lady Bird Lake from having a CWQZ within the central business district.	Clarify that the exemption in Section F for the area bounded by IH-35, Riverside, Barton Springs, Lamar, & 15th does not apply to Lady Bird Lake. Lady Bird Lake <u>does</u> have a waterway setback.	Clarity. Codifies current practice.	None.
21.	<i>§25-8-92 Critical Water Quality Zones Established</i>	Clarification	Critical water quality zone (CWQZ) for Lake Long (a.k.a. "Decker Lake") is measured from the centerline of the waterway, offering limited to no protection for the riparian zone.	Add Lake Long to the list of lakes in Section D to establish a 100-foot CWQZ from the shoreline.	Provides greater protection to the riparian zone along Lake Long. Consistent with CWQZ for other lakes.	Triggers stricter restrictions for recreational development near the shoreline. However, development within the CWQZ is allowed if identified in a Council-approved master plan.
22.	<i>§25-8-121 Environmental Resource Inventory Requirement</i>	Clarification	Language in section A can be interpreted to apply to a "karst reservoir" instead of a drinking water reservoir.	Revise language to clarify that an ERI is required within the Edwards Aquifer recharge or contributing zone and within the Drinking Water Protection Zone.	Clarity.	None.
23.	<i>§25-8-121 Environmental Resource Inventory Requirement</i>	Clarification	Language in section A states that an ERI is required when development is proposed in a CWQZ, water quality transition zone (WQTZ), or floodplain, but current practice is to require an ERI when a CWQZ, WQTZ, or floodplain is located anywhere on the site.	Revise language to say "on a tract containing" a WQTZ, CWQZ, or floodplain.	Codifies current practice.	None.
24.	<i>§25-8-211 Water Quality Control Requirement</i>	Clarification	Current language could be interpreted to apply to all types of roadway projects, not just the identified roadway improvements.	Change "roadway project" to "roadway improvement."	Clarity.	None.

Description	Type of Change	Current Status/Concern	Proposed Improvement	Anticipated Impacts	
				Advantages	Disadvantages
25. § 25-8-211 <i>Water Quality Control Requirement</i>	Policy	Complying with water quality control requirements may be prohibitively expensive for farmers who wish to develop an agricultural improvement like a barn or storage building.	Exempt agricultural improvements from water quality control requirements if they are located in the desired development zone and the total of new and existing impervious cover on the site does not exceed 20 percent.	Reduces permitting complexity and construction expense for agricultural development.	Exempts new impervious cover from water quality regulations.
26. §25-8-261 <i>Critical Water Quality Zone Development</i>	Clarification	The language allowing hard surface trails that do not cross the CWQZ could be interpreted to mean that trail crossings are not allowed. Multiuse trail crossings are allowed under 25-8-262.	Clarify that trail crossings are allowed pursuant to 25-8-262, and trails that do not cross the CWQZ are allowed pursuant to the listed conditions.	Clarity.	None.
27. §25-8-261 <i>Critical Water Quality Zone Development</i>	Clarification	Requirements for certain uses (e.g., urban agriculture, trails) to be located a minimum distance from the centerline of the waterway do not provide adequate protection for lakes and rivers.	Clarify that the minimum setback is 50 feet from the shoreline along lakes and 100 feet from the OHW mark of the Colorado River.	Clarifies the original intent of the WPO.	None.
28. §25-8-261 <i>Critical Water Quality Zone Development</i>	Clarification	The intent of the WPO was to allow in-channel detention basins and wet ponds if they comply with design criteria in the ECM. Current language does not reference the design criteria, and the reference to floodplain modification criteria in 25-8-364 unnecessary and confusing.	Clarify that in-channel detention basins and wet ponds are allowed if they comply with the design criteria in the ECM.	Clarifies the original intent of the WPO.	None.
29. §25-8-261 <i>Critical Water Quality Zone Development</i> ;  §25-8-364 <i>Floodplain Modification</i>	Clarification	Unclear what kind of floodplain modification/CWQZ development qualifies as "necessary to protect public health and safety."	Specify that the floodplain modifications must address an existing threat to public health and safety, as determined by the Watershed Protection Department.	Clarity. Codifies current practice.	None.
30. §25-8-261 <i>Critical Water Quality Zone Development</i>	Clarification	Subsection J is not necessary, because there is not a critical water quality zone on the described waterways per 25-8-92.	Delete subsection J.	Clarity.	None.
31. §25-8-261 <i>Critical Water Quality Zone Development</i>	Clarification	Adding a CWQZ along the shoreline of Lake Long could impact future development at the Decker Creek Power Station.	Allow development associated with the Decker Creek Power Station to be located within the CWQZ.	Provides flexibility for new development for an existing use.	Allows new development to be located in the CWQZ without a variance.

Summary of WPD Proposed Code Amendments

Draft for Public Stakeholder Review, 3/3/17

Description	Type of Change	Current Status/Concern	Proposed Improvement	Anticipated Impacts	
				Advantages	Disadvantages
32. <i>§25-8-262 Critical Water Quality Zone Street Crossings</i>	Clarification	Proposed change to allow 900 foot spacing for crossings of minor waterways outside of the drinking water protection zone was inadvertently dropped in later draft of the WPO.	Change minimum spacing for collector street crossings from 1,000 feet to 900 feet for minor waterways.	Clarifies the original intent of the WPO.	None.
33. <i>§25-8-341 Cut Requirements</i>	Clarification	Current practice of not applying cut requirements to swimming pools is not codified.	Clarify that cut requirements do not apply to swimming pools.	Clarity. Codifies current practice.	None.
34. <i>§25-8-361 Wastewater Restrictions</i>	Clarification	Use of the word "treatment" in "wastewater treatment by land application" makes it unclear whether this section applies to application of treated wastewater effluent, which is the intent.	Change "wastewater treatment by land application" to "land application of treated wastewater effluent," which clarifies that the section applies to facilities that dispose of treated effluent by land application.	Clarity.	None.
35. <i>§25-8-361 Wastewater Restrictions</i>	Clarification	Language prohibiting wastewater application on "trunk of surveyed trees" may be applied to additional trees not required to be surveyed by code.	Change "trunk of surveyed trees" to "trunk of trees required to be surveyed as prescribed in the ECM."	Clarity.	None.
36. <i>§25-8-364 Floodplain Modification</i>	Clarification	The relationship between the floodplain modification criteria in §25-8-261 and 364 is confusing; it is unclear which parts of 364 apply to floodplain modifications within the CWQZ.	Clarify that the conditions in §25-8-364(C) only apply to floodplain modifications outside of a CWQZ, and that the conditions in §25-8-364(D) apply to all floodplain modifications.	Clarity.	None.
37. <i>§25-8-453 Uplands Zone</i>	Clarification	List of uses allowed within the 40 percent buffer do not include water quality controls, which are allowed pursuant to §25-8-213(C)(3).	Add a reference to §25-8-213(C)(3), allowing water quality controls under certain conditions.	Consistency.	None.
38. <i>§25-8-514 Pollution Prevention Required</i>	Policy	List of pollutants includes Total Organic Carbon (TOC), which has many natural sources and is not necessarily an indicator of anthropogenic pollution in stormwater. TOC, like Chemical Oxygen Demand (COD), measures the organic matter in water, but COD is a better indicator of the impact on dissolved oxygen. COD is thus more relevant to receiving water quality.	Remove Total Organic Carbon from the list of pollutants.	Conform with best practice.	None.

Summary of WPD Proposed Code Amendments

Draft for Public Stakeholder Review, 3/3/17

Description	Type of Change	Current Status/Concern	Proposed Improvement	Anticipated Impacts	
				Advantages	Disadvantages
39. <i>§25-8-516 Application to Existing Tracts, Platted Lots, and Public Schools</i>	Clarification	Current language could be interpreted to apply to all types of roadway projects, not just the identified roadway improvements.	Change "roadway project" to "roadway improvement."	Clarity.	None.
40. <i>§25-8-606 Report</i>	Clarification	The Urban Forestry Board was merged with the Environmental Commission, but the City Arborist's reporting requirements were not updated.	Delete the monthly reporting requirement that previously applied to the Urban Forestry Board.	Clarity.	None.
41. <i>§25-8-643 Land Use Commission Variance; §25-8-644 Appeal</i>	Clarification	The Urban Forestry Board was merged with the Environmental Commission, but the process for land use commission variances and appeals was not updated.	Clarify that land use commission variances and appeals must be reviewed by the Environmental Commission.	Clarity.	None.
42. <i>§25-8-696 Notice</i>	Clarification	The notification requirements apply to endangered species but not threatened species, such as the Jollyville Plateau salamander, which are also protected under the Endangered Species Act.	Require notification for the Jollyville Plateau salamander.	Clarity.	None.
43. <i>§25-8-696 Notice</i>	Clarification	Unclear whether staff can ask applicant to contact the required agencies (as opposed to staff making the notification).	Clarify that the applicant needs to make the notification.	Clarity. Codifies current practice.	None.
44. <i>§25-8-696 Notice</i>	Clarification	Includes reference to Texas Parks & Wildlife Department (TPWD) Natural Heritage Program, which no longer exists.	Generalize reference to TPWD and add requirement to notify Travis or Williamson County.	Clarity.	None.

**CHAPTER 25-1. - GENERAL REQUIREMENTS AND PROCEDURES.**

§ 25-1-21 - DEFINITIONS.

Unless a different definition is expressly provided, in this title: [...]

(5) AGRICULTURAL OPERATIONS means:

(a) producing crops for human food, animal feed, planting seed, or fiber;

(b) floriculture, viticulture, horticulture, or silviculture;

(c) raising or keeping livestock or poultry;

(d) wildlife management; and

(e) planting cover crops or leaving land idle for the purpose of participating in any governmental program or normal crop or livestock rotation procedure. [...]

*Renumber sections (5) through (133)*

~~(2930)~~ DEVELOPMENT means the construction or reconstruction of a building or road; the placement of a structure on land; the excavation, mining, dredging, grading, or filling of land; the removal of vegetation from land; or the deposit of refuse or waste on land. Development does not include:

(a) lawn and yard care, including mowing, gardening, tree care, and maintenance of landscaped areas;

(b) removal of trees or vegetation damaged by natural forces;

(c) ~~agricultural activity that is not~~ removal of vegetation or cultivating the soil for agricultural operations, unless prohibited by Section 25-8-321 ~~(B)~~ ( *Clearing Of Vegetation* ); or

(d) the repair, maintenance, or installation of a utility, drainage or street system that does not disturb land or increase impervious cover. [...]

**Chapter 25-2, Subchapter B, Article 2, Division 5 – Planned Unit Developments.**

§ 2.3. - TIER ONE REQUIREMENTS.

2.3.1. Minimum Requirements.

All PUDs must: [...]

D. ~~comply with the City's Planned Unit Development Green Building Program~~ provide a two-star Austin Energy Green Building Rating; [...]

§ 2.4. - TIER TWO REQUIREMENTS.

Austin Energy Green Building <del>Program</del>	Provides an <del>rating under the</del> Austin Energy Green Building <del>Program</del> Rating of three stars or above.
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***For ease of review, all proposed amendments are shown with Chapter 25-7 or 25-8 citations. The corresponding sections of Chapters 30-4 and 30-5 would also be amended with identical changes.***

#### **CHAPTER 25-7. - DRAINAGE.**

##### **§ 25-7-32 - DIRECTOR AUTHORIZED TO REQUIRE EROSION HAZARD ZONE ANALYSIS.**

- (A) The director may require the owner of real property to provide, at the owner's expense and as a condition for development application approval, an analysis to establish the erosion hazard zone if the proposed development is:
- (1) within 100 feet of the centerline of a waterway with a drainage area of 64 acres or greater;
  - (2) within 100 feet of the ordinary high water mark of the Colorado River downstream from Longhorn Dam, as defined by Code of Federal Regulations Title 33, Section 328.3 (Definitions);  
or
  - (3) located where significant erosion is present.
- (B) The erosion hazard zone analysis must be in accordance with the Drainage Criteria Manual.
- (C) If an erosion hazard zone analysis is required under this section, the City may not accept for review a development application for any portion of the proposed development until the director has received the required erosion hazard zone analysis.

#### **CHAPTER 25-8. - ENVIRONMENT.**

##### **§ 25-8-1 - DEFINITIONS.**

In this subchapter: [...]

(10) FLOODPLAIN MODIFICATION means development that results in any vertical or horizontal change in the cross section of the 100-year floodplain calculated under fully developed conditions as prescribed by the Drainage Criteria Manual. [...]

*Renumber sections (10) through (16)*

##### **§ 25-8-2 - DESCRIPTIONS OF REGULATED AREAS.**

[...]

- (C) For property within 1500 feet of an Edwards Aquifer recharge zone boundary, the director of the Watershed Protection Department may require that an applicant provide a certified report from a geologist or hydrologist verifying the boundary location. [...]

##### **§ 25-8-25 - REDEVELOPMENT EXCEPTION IN URBAN AND SUBURBAN WATERSHEDS.**

- (A) This section applies to property located in an urban or suburban watershed that has existing development if:
- (1) no unpermitted development occurred on the site after January 1, 1992, and
  - (2) the property owner files a site plan application and an election for the property to be governed by this section.
- (B) The requirements of this subchapter do not apply to the subdivision of property if at the time of redevelopment under this section subdivision and site plan applications are filed concurrently.



(C) The requirements of this subchapter do not apply to the redevelopment of the property if the redevelopment:

- (1) does not increase the existing amount of impervious cover;
- (2) provides the level of water quality treatment prescribed by current regulations for ~~the redeveloped area or an equivalent area on the site; the entire site or for an untreated impervious area at least the size of the redeveloped impervious area;~~
- (3) does not generate more than 2,000 vehicle trips a day above the estimated traffic level based on the most recent authorized use on the property;
- (4) is consistent with the neighborhood plan adopted by council, if any;
- (5) does not increase non-compliance, if any, with Article 7, Division 1 (Critical Water Quality Zone Restrictions), Section 25-8-281 (Critical Environmental Features), or Section 25-8-282 (Wetland Protection); and
- (6) does not place redevelopment within the Erosion Hazard Zone, unless protective works are provided as prescribed in the Drainage Criteria Manual.

(DG) The redevelopment must comply with Section 25-8-121 (Environmental Resource Inventory Requirement) and all construction phase environmental requirements in effect at the time of construction, including Chapter 25-8, Article 5 (Erosion and Sedimentation Control; Overland Flow).

#### § 25-8-26 - REDEVELOPMENT EXCEPTION IN THE BARTON SPRINGS ZONE.

(A) This section applies to property located in the Barton Springs Zone that has existing commercial development or existing residential development with greater than two dwelling units per lot if:

- (1) no unpermitted development occurred on the site after January 1, 1992, and
- (2) the property owner files a site plan application and an election for the property to be governed by this section.

(B) For property governed by this section, this section supersedes Article 13 (Save Our Springs Initiative), to the extent of conflict.

(C) In this section:

- (1) SEDIMENTATION/FILTRATION POND means water quality controls that comply with Section 25-8-213 (Water Quality Control Standards) or are approved under Section 25-8-151 (Innovative Management Practices); and
- (2) SOS POND means water quality controls that comply with all requirements of Section 25-8-213 (Water Quality Control Standards) and the pollutant removal requirements of Section 25-8-514(A) (Pollution Prevention Required).

(D) The requirements of this subchapter do not apply to the subdivision of property if at the time of redevelopment under this section subdivision and site plan applications are filed concurrently.

(E) The requirements of this subchapter do not apply to the redevelopment of property if the redevelopment meets all of the following conditions:

- (1) The redevelopment may not increase the existing amount of impervious cover on the site.
- (2) The redevelopment may not increase non-compliance, if any, with Article 7, Division 1 (Critical Water Quality Zone Restrictions), Section 25-8-281 (Critical Environmental Features), Section 25-8-282 (Wetland Protection), or Section 25-8-482 (Water Quality Transition Zone).
- (3) The redevelopment must comply with Section 25-8-121 (Environmental Resource Inventory Requirement) and all construction phase environmental requirements in effect at the time of construction, including Chapter 25-8, Article 5 (Erosion and Sedimentation Control; Overland Flow) and Section 25-8-234 (Fiscal Security in the Barton Springs Zone).

- (4) The redevelopment must provide water quality treatment for the entire site or for an untreated impervious area at least twice the size of the redeveloped impervious area.
- ~~(5) The water quality controls on the redevelopment site must provide a level of water quality treatment that is equal to or greater than that which was previously provided. At a minimum, a site with more than 40 percent net site area impervious cover must provide sedimentation/filtration ponds for the area required to be treated under Subsection (4). A site with 40 percent or less net site area impervious cover must provide SOS ponds for the area required to be treated under Subsection (4).~~
- (65) For a commercial or multifamily redevelopment, the owner or operator must obtain a permit under Section 25-8-233 (Barton Springs Zone Operating Permit) for both sedimentation/filtration ponds and SOS ponds.
- ~~(6) For a site with more than 40 percent net site area impervious cover, the redevelopment must have:~~
- ~~(a) sedimentation/filtration ponds for the entire site; or~~
- ~~(b) SOS ponds for a portion of the site, and sedimentation/filtration ponds for the remainder of the redeveloped site.~~
- ~~(7) For a site with 40 percent or less net site area impervious cover, the redevelopment must have SOS ponds for the entire site.~~
- (78) The property owner must mitigate the effects of the redevelopment, if required by and in accordance with Subsection (H).
- (89) Redevelopment may not be located within the Erosion Hazard Zone, unless protective works are provided as prescribed in the Drainage Criteria Manual.
- (F) City Council approval of a redevelopment in accordance with Subsection (G) is required if the redevelopment:
- (1) includes more than 25 existing or proposed dwelling units;
  - (2) is located outside the City's zoning jurisdiction;
  - (3) is proposed on property with an existing industrial ~~or civic~~ use;
  - (4) is inconsistent with a neighborhood plan; or
  - (5) will generate more than 2,000 vehicle trips a day above the estimated traffic level based on the most recent authorized use on the property.
- (G) City Council shall consider the following factors in determining whether to approve a proposed redevelopment:
- (1) benefits of the redevelopment to the community;
  - (2) whether the proposed mitigation or manner of development offsets the potential environmental impact of the redevelopment;
  - (3) the effects of offsite infrastructure requirements of the redevelopment; and
  - (4) compatibility with the City's long-range planning goals comprehensive plan.
- (H) Redevelopment of property under this section requires the purchase, ~~or restriction,~~ or restoration of mitigation land if the site has required water quality treatment is provided by a sedimentation/filtration pond.
- (1) The combined gross site area impervious cover of the mitigation land and the portion of the redevelopment site required treatment area treated by sedimentation/filtration ponds may not exceed 20 percent.
  - (2) The mitigation requirement may be satisfied by:

- (a) paying into the Barton Springs Zone Mitigation Fund a non-refundable amount established by ordinance;
  - (b) transferring to the City in accordance with Paragraph (3) mitigation land approved by the director of the Watershed Protection Department within a watershed that contributes recharge to Barton Springs, either inside or outside the City's jurisdiction;
  - (c) placing restrictions in accordance with Paragraph (3) on mitigation land approved by the director of the Watershed Protection Department within a watershed that contributes recharge to Barton Springs, either inside or outside the City's jurisdiction; ~~or~~
  - (d) removing existing impervious cover from and restoring an on-site critical water quality zone, water quality transition zone, or critical environmental feature buffer, in accordance with the Environmental Criteria Manual; or
  - (e) a combination of the mitigation methods described in Subparagraphs (a) - (d), if approved by the director of the Watershed Protection Department.
- (3) A person redeveloping under this section shall pay all costs of restricting the mitigation land or transferring the mitigation land to the City, including the costs of:
- (a) an environmental site assessment without any recommendations for further clean-up, certified to the City not earlier than the 120th day before the closing date transferring land to the City;
  - (b) a category 1(a) land title survey, certified to the City and the title company not earlier than the 120th day before the closing date transferring land to the City;
  - (c) a title commitment with copies of all Schedule B and C documents, and an owner's title policy;
  - (d) a fee simple deed, or, for a restriction, a restrictive covenant approved as to form by the city attorney;
  - (e) taxes prorated to the closing date;
  - (f) recording fees; and
  - (g) charges or fees collected by the title company.
- (l) The Watershed Protection Department shall adopt rules to identify criteria for director approval under this section to ensure that the proposed mitigation, manner of development, and water quality controls offset the potential environmental impact of the redevelopment.

§ 25-8-27 - REDEVELOPMENT EXCEPTION IN THE WATER SUPPLY RURAL AND WATER SUPPLY SUBURBAN WATERSHEDS.

- (A) This section applies to property located in a water supply rural or water supply suburban watershed that has existing commercial development or existing residential development with greater than two dwelling units per lot if:
  - (1) no unpermitted development occurred on the site after January 1, 1992, and
  - (2) the property owner files a site plan application and an election for the property to be governed by this section.
- (B) In this section, SEDIMENTATION/ FILTRATION POND means water quality controls that comply with Section 25-8-213 (Water Quality Control Standards) or are approved under Section 25-8-151 (Innovative Management Practices).
- (C) The requirements of this subchapter do not apply to the subdivision of property if at the time of redevelopment under this section subdivision and site plan applications are filed concurrently.

- (D) The requirements of this subchapter do not apply to the redevelopment of property if the redevelopment meets all of the following conditions:
- (1) The redevelopment may not increase the existing amount of impervious cover on the site.
  - (2) The redevelopment may not increase non-compliance, if any, with Article 7, Division 1 (Critical Water Quality Zone Restrictions), Section 25-8-281 (Critical Environmental Features), Section 25-8-282 (Wetland Protection), Section 25-8-422 (Water Quality Transition Zone), or Section 25-8-452 (Water Quality Transition Zone).
  - (3) The redevelopment must comply with Section 25-8-121 (Environmental Resource Inventory Requirement) and all construction phase environmental requirements in effect at the time of construction, including Chapter 25-8, Article 5 (Erosion and Sedimentation Control; Overland Flow).
  - (4) The redevelopment must provide water quality treatment for the entire site or for an untreated impervious area at least the size of the redeveloped impervious area.
  - ~~(5)~~ The water quality controls on the site for the redeveloped areas or an equivalent area on the site must provide a level of water quality treatment that is equal to or greater than that which was previously provided. At a minimum, the site must provide sedimentation/ filtration ponds for the redeveloped area or an equivalent area on the site ~~area required to be treated under Subsection (4).~~
  - ~~(6)~~ The property owner must mitigate the effects of the redevelopment, if required by and in accordance with Subsection (G).
  - ~~(7)~~ Redevelopment may not be located within the Erosion Hazard Zone, unless protective works are provided as prescribed in the Drainage Criteria Manual.
- (E) City Council approval of a redevelopment in accordance with Subsection (F) is required if the redevelopment:
- (1) includes more than 25 additional dwelling units;
  - (2) is located outside the City's zoning jurisdiction;
  - (3) is proposed on property with an existing industrial use;
  - (4) is inconsistent with a neighborhood plan; or
  - (5) will generate more than 2,000 vehicle trips a day above the estimated traffic level based on the most recent authorized use on the property.
- (F) City Council shall consider the following factors in determining whether to approve a proposed redevelopment:
- (1) benefits of the redevelopment to the community;
  - (2) whether the proposed mitigation or manner of development offsets the potential environmental impact of the redevelopment;
  - (3) the effects of off-site infrastructure requirements of the redevelopment; and
  - (4) compatibility with the City's ~~long-range planning goals~~ comprehensive plan.
- (G) Redevelopment of property under this section requires the purchase, ~~or~~ restriction, or restoration of mitigation land.
- (1) The combined gross site area impervious cover of the mitigation land and the portion of the ~~redevelopment-required treatment area~~ treated by sedimentation/filtration ponds may not exceed 20 percent if in a water supply rural watershed or 40 ~~percent~~ % if in a water supply suburban watershed.
  - (2) The mitigation requirement may be satisfied by:

- (a) paying into the Water Supply Mitigation Fund a nonrefundable amount established by ordinance;
  - (b) transferring to the City in accordance with Paragraph (3) mitigation land approved by the director of the Watershed Protection Department within a water supply rural or water supply suburban watershed, either inside or outside the City's jurisdiction;
  - (c) placing restrictions in accordance with Paragraph (3) on mitigation land approved by the director of the Watershed Protection Department within a water supply rural or water supply suburban watershed, either inside or outside the City's jurisdiction; or
  - (d) removing existing impervious cover from and restoring an on-site critical water quality zone, water quality transition zone, or critical environmental feature buffer, in accordance with the Environmental Criteria Manual; or
  - (e) a combination of the mitigation methods described in Subparagraphs (a) - (ed), if approved by the director of the Watershed Protection Department.
- (3) A person redeveloping under this section shall pay all costs of restricting the mitigation land or transferring the mitigation land to the City, including the costs of:
- (a) an environmental site assessment without any recommendations for further clean-up, certified to the City not earlier than the 120th day before the closing date transferring land to the City;
  - (b) a category 1(a) land title survey, certified to the City and the title company not earlier than the 120th day before the closing date transferring land to the City;
  - (c) a title commitment with copies of all Schedule B and C documents, and an owner's title policy;
  - (d) a fee simple deed, or, for a restriction, a restrictive covenant approved as to form by the City Attorney;
  - (e) taxes prorated to the closing date;
  - (f) recording fees; and
  - (g) charges or fees collected by the title company.
- (H) The Watershed Protection Department shall adopt rules to identify criteria for director approval under this section to ensure that the proposed mitigation, manner of development, and water quality controls offset the potential environmental impact of the redevelopment.

#### § 25-8-41 - LAND USE COMMISSION VARIANCES.

- (A) It is the applicant's burden to establish that the findings described in this Section have been met. Except as provided in Subsections (B) and (C), the Land Use Commission may grant a variance from a requirement of this subchapter after determining that:
- (1) the requirement will deprive the applicant of a privilege ~~to~~ or the safety of property given enjoyed by owners of other similarly situated property ~~with approximately contemporaneous development; subject to similar code requirements.~~
  - (2) the variance:
    - (a) is not ~~based on a condition caused necessitated~~ by the scale, design, or construction method chosen by the applicant to develop the property, unless the proposed development ~~method~~ provides greater overall environmental protection than is achievable without the variance;
    - (b) is the minimum change necessary ~~to avoid the deprivation of a privilege given to other property owners and to allow a reasonable use of the property;~~ and

- (c) does not create a significant probability of harmful environmental consequences; and
- (3) development with the variance will result in water quality that is at least equal to the water quality achievable without the variance.
- (B) The Land Use Commission may grant a variance from a requirement of Section 25-8-422 (Water Quality Transition Zone), Section 25-8-452 (Water Quality Transition Zone), Section 25-8-482 (Water Quality Transition Zone), Section 25-8-652 (Restrictions on Development Impacting Lake Austin, Lady Bird Lake, and Lake Walter E. Long), or Article 7, Division 1 (Critical Water Quality Zone Restrictions), after determining that:
  - (1) the criteria for granting a variance in Subsection (A) are met;
  - (2) the requirement for which a variance is requested prevents a reasonable, economic use of the entire property; and
  - (3) the variance is the minimum change necessary to allow a reasonable, economic use of the entire property.
- (C) The Land Use Commission may not grant a variance from a requirement of Article 13 (Save Our Springs Initiative).
- (D) The Land Use Commission shall prepare written findings of fact to support the grant or denial of a variance request under this section.

#### § 25-8-42 - ADMINISTRATIVE VARIANCES.

[...]

- (B) The director of the Watershed Protection Department may grant a variance from a requirement of: [...]

~~(6) Section 25-8-341 (Cut Requirements) or Section 25-8-342 (Fill Requirements), for a water quality control or detention facility and appurtenances for conveyance such as swales, drainage ditches, and diversion berms; [...]~~

*Renumber sections (7) through (9)*

#### § 25-8-63 - IMPERVIOUS COVER CALCULATIONS.

[...]

- (C) Impervious cover calculations exclude: [...]

(6) the water surface area of ground level ponds, pools, and fountains, and ponds; [...]

#### § 25-8-65 - COMMERCIAL IMPERVIOUS COVER.

- (A) This section applies to impervious cover calculations for commercial developments.
- (B) An application for a commercial development must demonstrate that once fully constructed, the development will not exceed applicable maximum impervious cover limitations.
- (C) Subsection (B) does not apply to an application for a ~~commercial site development, including a roadway project, roadway improvement~~ which will not exceed with less than 8,000 square feet of new impervious cover. For the purposes of this Section, roadway improvements are limited to intersection upgrades, low-water crossing upgrades, additions for bicycle lanes, and additions for mass transit stops.

## § 25-8-92 - CRITICAL WATER QUALITY ZONES ESTABLISHED.

- (A) In the water supply rural watersheds, water supply suburban watersheds, and Barton Springs zone, a critical water quality zone is established along each waterway classified under Section 25-8-91 (Waterway Classifications). [...]
- (2) Notwithstanding the provisions of Subsections (A)(1)(a), (b), and (c), a critical water quality zone does not apply to a previously modified drainage feature serving a railroad or public roadway right-of-way that does not possess any natural and traditional character and cannot reasonably be restored to a natural condition, as prescribed in the Environmental Criteria Manual.
- (B) In the suburban watersheds, a critical water quality zone is established along each waterway classified under Section 25-8-91 (Waterway Classifications). [...]
- (5) Notwithstanding the provisions of Subsections (B)(1), (2), and (3), a critical water quality zone does not apply to a previously modified drainage feature serving a railroad or public roadway right-of-way that does not possess any natural and traditional character and cannot reasonably be restored to a natural condition.
- (C) In an urban watershed, a critical water quality zone is established along each waterway with a drainage area of at least 64 acres. This does not apply in the area bounded by IH-35, Riverside Drive, Barton Springs Road, Lamar Boulevard, and 15th Street.
- (1) The boundaries of the critical water quality zone coincide with the boundaries of the 100-year floodplain calculated under fully developed conditions as prescribed by the Drainage Criteria Manual; provided that the boundary is not less than 50 feet and not more than 400 feet from the centerline of the waterway.
- (2) Notwithstanding the provisions of Subsection (F)(1), a critical water quality zone does not apply to a previously modified drainage feature serving a railroad or public roadway right-of-way that does not possess any natural and traditional character and cannot reasonably be restored to a natural condition.
- ~~(D)~~ Notwithstanding the provisions of Subsections A through C, critical water quality zones are established to include the inundated areas that constitute Lake Walter E. Long, Lake Austin, Lady Bird Lake, and the Colorado River downstream of Lady Bird Lake.
- ~~(E)~~ Notwithstanding the provisions of Subsections A through C, critical water quality zones are established along and parallel to the shorelines of Lake Travis, Lake Austin, ~~and~~ Lady Bird Lake, and Lake Walter E. Long.
- (1) The shoreline boundary of a critical water quality zone:
- for Lake Travis, coincides with the 681.0 foot contour line;
  - for Lake Austin, coincides with the 492.8 foot contour line; ~~and~~
  - for Lady Bird Lake, coincides with the 429.0 foot contour line; ~~and~~
  - for Lake Walter E. Long, coincides with the 554.5 foot contour line.
- (2) The width of a critical water quality zone, measured horizontally inland, is:
- 100 feet; or
  - for a detached single-family residential use, 75 feet.
- ~~(F)~~ Notwithstanding the provisions of Subsections A through C, critical water quality zones are established along and parallel to the shorelines of the Colorado River downstream of Lady Bird Lake.
- The shoreline boundary of a critical water quality zone coincides with the river's ordinary high water mark, as defined by Code of Federal Regulations Title 33, Section 328.3 (Definitions).
  - The inland boundary of a critical water quality zone coincides with the boundary of the 100-year floodplain as delineated by the Federal Emergency Management Agency, except that the width

of the critical water quality zone, measured horizontally inland, is not less than 200 feet and not more than 400 feet.

~~(F) In an urban watershed, a critical water quality zone is established along each waterway with a drainage area of at least 64 acres. This does not apply in the area bounded by IH 35, Riverside Drive, Barton Springs Road, Lamar Boulevard, and 15th Street.~~

~~(1) The boundaries of the critical water quality zone coincide with the boundaries of the 100-year floodplain calculated under fully developed conditions as prescribed by the Drainage Criteria Manual, provided that the boundary is not less than 50 feet and not more than 400 feet from the centerline of the waterway.~~

~~(2) Notwithstanding the provisions of Subsection (F)(1), a critical water quality zone does not apply to a previously modified drainage feature corving a public roadway right of way that does not possess any natural and traditional character and cannot reasonably be restored to a natural condition.~~

#### § 25-8-121 - ENVIRONMENTAL RESOURCE INVENTORY REQUIREMENT.

(A) An applicant shall file an environmental resource inventory with the director for proposed development located on a tract:

- (1) within the Edwards Aquifer recharge or contributing zone over a karst aquifer;
- (2) within the Drinking Water Protection Zone an area draining to a karst aquifer or reservoir;
- (3) ~~in-containing~~ a water quality transition zone;
- (4) ~~in-containing~~ a critical water quality zone;
- (5) ~~in-containing~~ a floodplain; or
- (6) ~~on a tract~~ with a gradient of more than 15 percent. [...]

#### § 25-8-211 - WATER QUALITY CONTROL REQUIREMENT.

[...]

(E) The water quality control requirements in this division do not require water quality controls for a roadway project improvement with less than 8,000 square feet of new impervious cover. For the purposes of this Section, roadway improvements are limited to intersection upgrades, low-water crossing upgrades, additions for bicycle lanes, and additions for mass transit stops.

(F) The water quality control requirements in this division do not require water quality controls for an agricultural improvement in the desired development zone if the total of new and existing impervious cover on the site does not exceed 20 percent of gross site area. For the purposes of this Section, agricultural improvement means a structure or facility that supports on-site agricultural operations, including facilities designed to process or store agricultural products produced on site. Agricultural improvements do not include facilities used for events or sales.

#### § 25-8-261 - CRITICAL WATER QUALITY ZONE DEVELOPMENT.

In all watersheds, development is prohibited in a critical water quality zone except as provided in this Division. Development allowed in the critical water quality zone under this Division shall be revegetated and restored within the limits of construction as prescribed by the Environmental Criteria Manual.

[...]



- (B) Open space is permitted in a critical water quality zone if a program of fertilizer, pesticide, and herbicide use is approved by the Watershed Protection Department, subject to the conditions in this Subsection.
- (1) In a water supply rural watershed, water supply suburban, or the Barton Springs Zone, open space is limited to sustainable urban agriculture or a community garden if the requirements in subsection (B)(4) are met, multi-use trails, picnic facilities, and outdoor facilities, excluding stables, corrals for animals and athletic fields.
  - (2) A master planned park that is approved by the council may include recreational development other than that described in Subsection (B)(1).
  - (3) A hard surfaced trail may cross the critical water quality zone pursuant to Section 25-8-262 (Critical Water Quality Zone Street Crossings). A hard surfaced trail that does not cross the critical water quality zone may be located within the critical water quality zone only if:
    - (a) designed in accordance with the Environmental Criteria Manual;
    - (b) located outside the erosion hazard zone unless protective works are provided as prescribed in the Drainage Criteria Manual;
    - (c) limited to 12 feet in width unless a wider trail is designated in the Urban Trails Master Plan adopted by Council;
    - (d) located not less than 25 feet from the centerline of a waterway if within an urban watershed ~~and not crossing the Critical Water Quality Zone; and~~
    - (e) located not less than 50 feet from the centerline of a minor waterway, 100 feet from the centerline of an intermediate waterway, and 150 feet from the centerline of a major waterway if within a watershed other than an urban watershed ~~and not crossing the Critical Water Quality Zone;~~
    - (f) located not less than 50 feet from the shoreline of Lake Travis, Lake Austin, Lady Bird Lake, and Lake Walter E. Long, as defined in Section 25-8-92; and
    - (g) located not less than 100 feet from the ordinary high water mark of the Colorado River downstream from Longhorn Dam.
  - (4) Open space may include sustainable urban agriculture or a community garden only if:
    - (a) in an urban watershed and located not less than 25 feet from the centerline of a waterway, or in a watershed other than an urban watershed and located not less than 50 feet from the centerline of a minor waterway, 100 feet from the centerline of an intermediate waterway, and 150 feet from the centerline of a major waterway;
    - (b) located not less than 50 feet from the shoreline of Lake Travis, Lake Austin, Lady Bird Lake, and Lake Walter E. Long, as defined in Section 25-8-92;
    - (c) located not less than 100 feet from the ordinary high water mark of the Colorado River downstream from Longhorn Dam;
    - ~~(d)~~ designed in accordance with the Environmental Criteria Manual; and
    - ~~(e)~~ limited to garden plots and paths, with no storage facilities or other structures over 500 square feet.
  - (5) In a suburban or urban watershed, open space may include an athletic field only if:
    - (a) ~~the athletic field is~~ in an urban watershed and located not less than 25 feet from the centerline of a waterway, or is in a suburban watershed and located not less than 50 feet from the centerline of a minor waterway, 100 feet from the centerline of an intermediate waterway, and 150 feet from the centerline of a major waterway; ~~and~~
    - (b) located not less than 50 feet from the shoreline of Lake Travis, Lake Austin, Lady Bird Lake, and Lake Walter E. Long, as defined in Section 25-8-92;

(c) located not less than 100 feet from the ordinary high water mark of the Colorado River downstream from Longhorn Dam; and

~~(db)~~ the owner of the athletic field submits to the Watershed Protection Department a maintenance plan to keep the athletic field well vegetated and minimize compaction, as prescribed in the Environmental Criteria Manual.

[...]

(E) In the urban and suburban watersheds, a utility line may be located parallel to and within the critical water quality zone if:

(1) in an urban watershed and located not less than 50 feet from the centerline of a waterway, or in a watershed other than urban and located not less than 50 feet from the centerline of a minor waterway, 100 feet from the centerline of an intermediate waterway, and 150 feet from the centerline of a major waterway;

(2) located not less than 50 feet from the shoreline of Lake Travis, Lake Austin, Lady Bird Lake, and Lake Walter E. Long, as defined in Section 25-8-92; and

(3) located not less than 100 feet from the ordinary high water mark of the Colorado River downstream from Longhorn Dam; [...]

*Renumber sections (2) through (4)*

(F) ~~In-channel~~ Detention basins and wet ponds are prohibited in the critical water quality zone unless designed in accordance with the Environmental Criteria Manual ~~unless the requirements of Section 25-8-364 (Floodplain Modification), Chapter 25-7 (Drainage), and the other provisions of this subchapter are met.~~

(G) Floodplain modifications are prohibited in the critical water quality zone unless:

(1) the floodplain modifications proposed are necessary to ~~protect the~~ address an existing threat to public health and safety, as determined by the director of the Watershed Protection Department; [...]

(H) In the urban and suburban watersheds, vegetative filter strips, rain gardens, biofiltration ponds, areas used for irrigation or infiltration of stormwater, or other controls as prescribed by rule are allowed in the critical water quality zone if:

(1) in an urban watershed and located not less than 50 feet from the centerline of a waterway, or in a watershed other than urban and located no less than 50 feet from the centerline of a minor waterway, no less than 100 feet from the centerline of an intermediate waterway, and no less than 150 feet from the centerline of a major waterway;

(2) located not less than 50 feet from the shoreline of Lake Travis, Lake Austin, Lady Bird Lake, and Lake Walter E. Long, as defined in Section 25-8-92;

(3) located not less than 100 feet from the ordinary high water mark of the Colorado River downstream from Longhorn Dam;

~~(4)~~ located outside the 100 year floodplain; and

~~(5)~~ located outside the erosion hazard zone, unless protective works are provided as prescribed in the Drainage Criteria Manual.

(I) Development associated with the Decker Creek Power Station is allowed in the critical water quality zone.

~~(J)~~ A residential lot that is 5,750 square feet or less in size may not include any portion of a critical water quality zone.

~~(J)~~ For the purposes of calculating the centerline of a waterway in an urban watershed under this Section, the waterway must have a drainage area of at least 64 acres and be located outside the

~~area bounded by Interstate 35, Riverside Drive, Barton Springs Road, Lamar Boulevard, and 15th Street.~~

§ 25-8-262 - CRITICAL WATER QUALITY ZONE STREET CROSSINGS.

[...]

(B) This subsection applies in a watershed other than an urban watershed.

[...]

(3) A minor waterway critical water quality zone may be crossed by an arterial and collector streets, except:

(a) a collector street crossing must be at least ~~4,000~~900 feet from a collector or arterial street crossing on the same waterway; or

(b) in a water supply suburban or water supply rural watershed, or the Barton Springs Zone, a collector street crossing must be at least 2,000 feet from a collector or arterial street crossing on the same waterway. [...]

§ 25-8-321 - CLEARING OF VEGETATION.

[...]

(B) Clearing of vegetation ~~on land used~~ for agricultural ~~purposes~~operations is prohibited if an application to develop for a non-agricultural use has been granted or is pending. The director may waive this prohibition after determining that the clearing has a bonafide agricultural purpose and is unrelated to the proposed development or sale of the land for non-agricultural uses. [...]

§ 25-8-341 - CUT REQUIREMENTS.

(A) Cuts on a tract of land may not exceed four feet of depth, except:

[...]

(3) for construction of a building foundation or swimming pool;

(4) for construction of a water quality control or detention facility and appurtenances for conveyance such as swales, drainage ditches, and diversion berms, if the cut is the minimum necessary for the appropriate functioning of the facility. [...]

*Renumber (4) and (5)*

§ 25-8-342 - FILL REQUIREMENTS.

(A) Fill on a tract of land may not exceed four feet of depth, except:

[...]

(4) for construction of a water quality control or detention facility and appurtenances for conveyance such as swales, drainage ditches, and diversion berms, if the fill is the minimum necessary for the appropriate functioning of the facility. [...]

*Renumber (4) and (5)*

## § 25-8-361 - WASTEWATER RESTRICTIONS.

- (A) A lot in the Edwards Aquifer recharge zone with private on-site sewage facilities must demonstrate compliance with City Code Chapter 15-5 (Private Sewage Facilities).
- (B) ~~Wastewater treatment by land application~~ and application of treated wastewater effluent is prohibited:
- (1) on a slope with a gradient of more than 15 percent;
  - (2) in a critical water quality zone;
  - (3) in a 100-year floodplain;
  - (4) on the trunk of ~~surveyed trees~~ required to be surveyed as prescribed in the Environmental Criteria Manual;
  - (5) in the buffer zone established around a critical environmental feature under Section 25-8-281 (Critical Environmental Features); or
  - (6) during wet weather conditions.

Source: Section 13-7-30; Ord. 990225-70; Ord. 010607-8; Ord. 031211-11; Ord. 20131017-046.

## § 25-8-364 - FLOODPLAIN MODIFICATION.

- (A) Floodplain modification within a critical water quality zone is prohibited except as allowed under Section 25-8-261 (Critical Water Quality Zone Development).
- ~~(B) Floodplain modification outside a critical water quality zone is prohibited except as allowed in this section.~~
- ~~(B)~~ (C) Floodplain modification outside a critical water quality zone is allowed only if the modification proposed:
- (1) is necessary to ~~protect the~~ address an existing threat to public health and safety, as determined by the director of the Watershed Protection Department;
  - (2) would provide a significant, demonstrable environmental benefit, as determined by a functional assessment of floodplain health as prescribed by the Environmental Criteria Manual;
  - (3) is located within a floodplain area classified as in fair or poor condition, as determined by a functional assessment of floodplain health, prescribed by the Environmental Criteria Manual; or
  - (4) is necessary for development allowed under Section 25-8-261 (Critical Water Quality Development) or 25-8-262 (Critical Water Quality Zone Street Crossings).
- ~~(C)~~ (D) All floodplain modifications must:
- (1) be designed to accommodate existing and fully-vegetated conditions;
  - (2) encourage sound engineering and ecological practices, prevent and reduce degradation of water quality, and encourage the stability and integrity of floodplains and waterways, as prescribed in the floodplain modification criteria in the Environmental Criteria Manual;
  - (3) restore floodplain health, or provide mitigation if restoration is infeasible, to support natural functions and processes as prescribed in the floodplain modification criteria in the Environmental Criteria Manual; and
  - (4) comply with the requirements of Chapter 25-7 (Drainage), the Drainage Criteria Manual, and the Environmental Criteria Manual. [...]

*Reletter section (E)*

## § 25-8-453 - UPLANDS ZONE.

[...]

(C) This subsection applies to cluster housing. [...]

(2) At least 40 percent of the uplands area of a site must be retained in or restored to its natural state to serve as a buffer. The buffer must be contiguous to the development, and must receive overland drainage from the developed areas of the site unless a water quality control is provided. Use of the buffer is limited to fences, water quality controls that comply with Subsection 25-8-213(C)(3) (Water Quality Control Standards), utilities that cannot reasonably be located elsewhere, irrigation lines not associated with wastewater disposal, and access for site construction. A wastewater disposal area may not be located in the buffer.

(D) This subsection applies to a commercial, multifamily residential use, or mixed use. [...]

(2) At least 40 percent of the uplands area of a site must be retained in or restored to its natural state to serve as a buffer. The buffer must be contiguous to the development, and must receive overland drainage from the developed areas of the site unless a water quality control is provided. Use of the buffer is limited to fences, water quality controls that comply with Subsection 25-8-213(C)(3) (Water Quality Control Standards), utilities that cannot reasonably be located elsewhere, irrigation lines not associated with wastewater disposal, and access for site construction. A wastewater disposal area may not be located in the buffer.

## ARTICLE 13. - SAVE OUR SPRINGS INITIATIVE.

## § 25-8-514 - POLLUTION PREVENTION REQUIRED.

(A) In the watersheds contributing to Barton Springs, no development nor any revision, extension, or amendment thereof, may be approved unless it is designed, carried out, and maintained on a site-by-site basis to meet the pollution prevention requirements set forth below for the life of the project. In order to prevent pollution, impervious cover for all such development shall be limited to a maximum of 15 percent in the entire recharge zone, 20 percent of the contributing zone within the Barton Creek watershed, and 25 percent in the remainder of the contributing zone. The impervious cover limits shall be calculated on a net site area basis. In addition, runoff from such development shall be managed through water quality controls and onsite pollution prevention and assimilation techniques so that no increases occur in the respective average annual loadings of total suspended solids, total phosphorus, total nitrogen, chemical oxygen demand, total lead, cadmium, E. coli, volatile organic compounds, ~~total organic carbon~~, pesticides, and herbicides from the site. For a given project, impervious cover shall be reduced if needed to assure compliance with these pollutant load restrictions. [...]

## § 25-8-516 - APPLICATION TO EXISTING TRACTS, PLATTED LOTS, AND PUBLIC SCHOOLS.

[...]

(D) This article does not apply to a roadway ~~improvement project~~ with less than 8,000 square feet of new impervious cover. For the purposes of this Section, roadway improvements are limited to intersection upgrades, low-water crossing upgrades, additions for bicycle lanes, and additions for mass transit stops.

## § 25-8-606 - REPORTS.

The city arborist shall ~~annually~~ report annually to the Environmental ~~Board~~Commission ~~and monthly report to the Environmental Commission~~. The report shall include, but is not limited to, impacts to protected or heritage trees, tree promotional programs, and urban forestry planning efforts.

## § 25-8-643 - LAND USE COMMISSION VARIANCE.

[...]

(C) Consideration of a variance under this section requires:

- ~~(1) review by the Environmental Board Commission; and~~
- ~~(2) review by the Environmental Commission if the heritage tree is located on public property or a public street or easement.~~

## § 25-8-644 - APPEAL.

[...]

(B) An appeal under this section requires:

- ~~(1) review by the Environmental Board Commission; and~~
- ~~(2) review by the Environmental Commission if the heritage tree is located on public property or a public street or easement.~~

## § 25-8-692 - ENDANGERED SPECIES.

In this article, "threatened or endangered species" means:

- (1) black-capped vireo;
- (2) golden-cheeked warbler;
- (3) Tooth Cave pseudoscorpion;
- (4) Tooth Cave spider;
- (5) Bee Creek Cave harvestman;
- (6) Tooth Cave ground beetle;
- (7) Kretschmarr Cave mold beetle;
- ~~(8) Jollyville Plateau salamander;~~
- ~~(98) a species included in the Balcones Canyonland Conservation Plan; or~~
- ~~(109) a species classified as endangered by the United States Fish and Wildlife Service.~~

## § 25-8-695 - SALAMANDER SPECIES.

For an threatened or endangered salamander species, the requirements of Section 25-8-696 (Notice) apply in the areas included in the salamander habitat map maintained by the Watershed Protection Department.

## § 25-8-696 - NOTICE.

(A) On ~~receipt~~ submission of an application for subdivision or site plan approval in an area described in Section 25-8-693 (Birds And Plants), 25-8-694 (Cave Species), or 25-8-695 (Salamander Species), the ~~director~~ applicant shall give notice of the application to the appropriate authority, including:

- (1) United States Fish and Wildlife Service;
- (2) Texas Parks and Wildlife Department ~~—Natural Heritage Program;~~

- (3) Balcones Canyonlands Conservation Plan Coordinating Committee Secretary; and
  - (4) Travis or Williamson County, as applicable.
- (B) The notice must include a statement that the development could cause the loss of threatened or endangered species habitat.

DRAFT