



## MEMORANDUM

**TO:** Members of the Codes and Ordinances Joint Committee

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

**DATE:** May 12, 2017

**SUBJECT:** Proposed Land Development Code Amendments

---

The Watershed Protection Department (WPD) is proposing a set of Land Development Code amendments to clarify and improve existing code requirements. The proposed amendments fall into three categories:<sup>1</sup>

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

The majority 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**

Amendments are proposed to clarify the Land Use Commission findings of fact for variances from the requirements of Chapters 25-8 and 30-5. 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**

Amendments are proposed to 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 WPO clean-up and findings of fact amendments were initiated by the Planning Commission in April 2016, and the agricultural amendments were initiated by the Planning Commission in July 2014. A summary of each proposed amendment, including the current status or concern to

---

<sup>1</sup> WPD is also proposing amendments to the Barton Springs Zone Redevelopment Exception and a provision to exempt some agricultural facilities from water quality control requirements. The Environmental Commission has requested additional time to review these amendments, so they will be processed as a separate ordinance. Staff expects to bring these items to the Codes and Ordinances Joint Committee in July.

be addressed, the proposed improvement, and any anticipated impacts, is included in Attachment A. Draft language for each proposed amendment is included in Attachment B.

### **Public Review Process**

The initial public review period for the proposed amendments ran from March 6<sup>th</sup> through 24<sup>th</sup>, 2017, and staff held a stakeholder meeting on March 21<sup>st</sup>. We received comments from several stakeholders, including the Save Our Springs Alliance (SOS), the 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, 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 A, item 12, and Attachment B, pages 5 and 10.)
- **Land Use Commission findings of fact**  
SOS was concerned that staff's preliminary revisions to the findings of fact made 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 worked with the Environmental Commission to refine the wording to ensure that the historical interpretation is both clarified and preserved. (See Attachment A, item 11, and Attachment B, page 4.)

The Environmental Commission reviewed the proposed amendments on April 5<sup>th</sup> and May 3<sup>rd</sup>, 2017 and recommended approval of the amendments with several revisions. Attachment B reflects the changes recommended by the Environmental Commission as well as some subsequent clarifications made by staff.

### **Attachments**

- A Summary of Proposed Code Amendments
- B Draft Markup of Proposed Code Amendments

Description	Type of Change	Current Status/Concern	Proposed Improvement	Anticipated Impacts	
				Advantages	Disadvantages
1. <i>§25-1-21 and §30-1-21, Definitions</i>  <i>§25-8-321 and §30-5-321, Clearing of Vegetation</i>	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. Revise §25-8-321 and §30-5-321 to reference agricultural operations.	Clarity.	None.
2. <i>Chapter 25-2 Subchapter B Article 2 Division 5 §2.3, PUD Tier One Requirements</i>	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. <i>Chapter 25-2 Subchapter B Article 2 Division 5 §2.4, PUD Tier Two Requirements</i>	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. <i>§25-7-32 and §30-4-32, Director/Single Office Authorized to Require Erosion Hazard Zone Analysis</i>	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.	Clarifies the original intent of the Watershed Protection Ordinance (WPO).	None.
5. <i>§25-8-1 and §30-5-1, Definitions</i>	Clarification	The term floodplain modification (§25-8-261, §25-8-364, §30-5-261, §30-5-364) is not defined and can be interpreted to mean any development within the floodplain.	Define floodplain modification to mean development that results in any vertical or horizontal change in the cross section of the 100-year floodplain.	Clarity.	None.

Description	Type of Change	Current Status/Concern	Proposed Improvement	Anticipated Impacts	
				Advantages	Disadvantages
6. <i>§25-8-2 and §30-5-2, Descriptions of Regulated Areas</i>	Clarification	Subsection C doesn't specify which boundary needs a 1,500-foot verification zone.	Revise language to clarify that WPD may require boundary verification for any area described in Subsection (D), and that property within 1,500 feet of an Edwards Aquifer recharge zone boundary may require a certified report from a geologist or hydrologist for boundary verification.	Clarity. Codifies current practice.	None.
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 specify whether an environmental resource inventory (ERI) is required to identify potential CEFs.	Specify that properties using the redevelopment exception must provide an ERI if applicable under §25-8-121.	Helps implement the existing requirement to demonstrate no increase in non-compliance for CEFs. Codifies current practice.	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	The water quality treatment requirements for partial site redevelopment are not clear.	Reword standards to clarify that the redevelopment project must provide new water quality treatment for an untreated impervious area at least the size of the redeveloped impervious area, up to the point that the entire site is treated.	Clarity.	None.
10. <i>§25-8-26/27, Redevelopment Exception in the Barton Springs Zone and Water Supply Watersheds</i>	Clarification	One of the current factors for Council approval is whether a proposed redevelopment is compatible with the City's "long range planning goals," which is a vague term.	Replace "long range planning goals" with "comprehensive plan."	Clarity.	None.
11. <i>§25-8-41 and §30-5-41, 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.

Description	Type of Change	Current Status/Concern	Proposed Improvement	Anticipated Impacts	
				Advantages	Disadvantages
12. <i>§25-8-42 and §30-5-42, Administrative Variances</i>  <i>§25-8-341/342 and §30-5-341/342, 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.
13. <i>§25-8-63 and §30-5-63, 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 a large portion of the building to be exempted.	Argument that impact of rooftop swimming pool is eliminated due to freeboard.
14. <i>§25-8-65 and §30-5-65, 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.
15. <i>§25-8-92 and §30-5-92, 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.
16. <i>§25-8-92 and §30-5-92, 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.

Description	Type of Change	Current Status/Concern	Proposed Improvement	Anticipated Impacts	
				Advantages	Disadvantages
17. <i>§25-8-92 and §30-5-92, 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.
18. <i>§25-8-121 and §30-5-121, 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.
19. <i>§25-8-121 and §30-5-121, 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.
20. <i>§25-8-211 and §30-5-211, 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.
21. <i>§25-8-261 and §30-5-261, 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 and §30-5-262.	Clarify that trail crossings are allowed pursuant to §25-8-262 and §30-5-262, and trails that do not cross the CWQZ are allowed pursuant to the listed conditions.	Clarity.	None.
22. <i>§25-8-261 and §30-5-261, Critical Water Quality Zone Development</i>	Clarification	Requirements for certain uses (e.g., trails, urban agriculture, utilities) 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.

Description	Type of Change	Current Status/Concern	Proposed Improvement	Anticipated Impacts	
				Advantages	Disadvantages
23. <i>§25-8-261 and §30-5-261, 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 is unnecessary.	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.
24. <i>§25-8-261 and §30-5-261, Critical Water Quality Zone Development</i>  <i>§25-8-364 and §30-5-364, 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.
25. <i>§25-8-261 and §30-5-261, 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.
26. <i>§25-8-261 and §30-5-261, Critical Water Quality Zone Development</i>	Clarification	Subsection J is not necessary, because there is not a CWQZ on the described waterways per §25-8-92 and §30-5-92.	Delete subsection J.	Clarity.	None.
27. <i>§25-8-262 and §30-5-262, 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.
28. <i>§25-8-341 and §30-5-341, 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.
29. <i>§25-8-361 and §30-5-361, 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.

Description	Type of Change	Current Status/Concern	Proposed Improvement	Anticipated Impacts	
				Advantages	Disadvantages
30. <i>§25-8-361 and §30-5-361, 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.
31. <i>§25-8-364 and §30-5-364, Floodplain Modification</i>	Clarification	The relationship between the floodplain modification criteria in §25-8-261/§30-5-261 and §25-8-364/§30-5-364 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)/§30-5-364(C) only apply to floodplain modifications outside of a CWQZ, and that the conditions in §25-8-364(D)/§30-5-364(D) apply to all floodplain modifications.	Clarity.	None.
32. <i>§25-8-453 and §30-5-453, 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) and §30-5-213(C)(3).	Add a reference to §25-8-213(C)(3) and §30-5-213(C)(3), allowing water quality controls under certain conditions.	Consistency.	None.
33. <i>§25-8-514 and §30-5-514, 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.
34. <i>§25-8-516 and §30-5-516, 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.
35. <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.



Description	Type of Change	Current Status/Concern	Proposed Improvement	Anticipated Impacts	
				Advantages	Disadvantages
36. §25-8-643, <i>Land Use Commission Variance</i>  §25-8-644, <i>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.
37. §25-8-692, <i>Endangered Species</i>  §25-8-696, <i>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.
38. §25-8-696, <i>Notice</i>	Clarification	It is not clear whether staff can ask the 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.
39. §25-8-696, <i>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.
40. §30-5-41, <i>Land Use Commission Variances</i>	Clarification	The supplemental findings of fact in §25-8-41(B) apply to variances from WQTZ requirements in the water supply and Barton Springs Zone watersheds. However, §30-5-41(B) only applies to WQTZ requirements in the water supply watersheds; the BSZ section was inadvertently omitted during the WPO.	Add a reference to §30-5-482 to ensure that the land use commission variance process is the same within the City limits and the extraterritorial jurisdiction (ETJ).	Consistency. Clarifies the original intent of the WPO.	None.
41. §30-5-341, <i>Cut Requirements</i>	Clarification	§25-8-341(A) and §30-5-341(A) are written slightly differently. Under §25-8-341(A), cut for a wastewater drain field must be restored to natural grade. §30-5-341(A) does not include that requirement.	Clarify that cut for a wastewater drain field must be restored to natural grade to ensure that the cut requirements are the same within the City limits and the ETJ.	Consistency.	None.
42. §30-5-514, <i>Pollution Prevention Required</i>	Clarification	The WPO removed fecal streptococci from the list of pollutants in §25-8-514 but not §30-5-514.	Remove fecal streptococci from the list of pollutants to ensure that water quality treatment standards are the same within the City limits and the ETJ.	Consistency. Clarifies the original intent of the WPO.	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 <u>Energy</u> Green Build <u>ing</u> Program	Provides an <u>rating under the</u> Austin <u>Energy</u> Green Build <u>ing</u> Program <u>Rating</u> of three stars or above.
---	--

**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) The director of the Watershed Protection Department may require an applicant to verify the boundary of an area described in Subsection (D). 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.

(~~D~~) 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.

[...]

- (E) The requirements of this subchapter do not apply to the redevelopment of property if the redevelopment meets all of the following conditions: [...]
- (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). [...]
- (G) City Council shall consider the following factors in determining whether to approve a proposed redevelopment: [...]
- (4) compatibility with the ~~Ceity's long-range planning goals~~comprehensive plan. [...]

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

[...]

- (D) The requirements of this subchapter do not apply to the redevelopment of property if the redevelopment meets all of the following conditions: [...]
- (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~~the area required to be treated under Subsection (4).

- (65) The property owner must mitigate the effects of the redevelopment, if required by and in accordance with Subsection (G).
- (76) 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 shall consider the following factors in determining whether to approve a proposed redevelopment: [...]
- (4) compatibility with the City's ~~long-range planning goals~~ comprehensive plan. [...]
- (G) Redevelopment of property under this section requires the purchase or restriction 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 of gross site area if in a water supply rural watershed or 40 ~~percent%~~ of gross site area if in a water supply suburban watershed. [...]

#### § 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 ~~or the safety of property given available to 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, layout, construction method, or other design decision made by the applicant ~~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 deviation from the code requirement 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 deviation from the code requirement 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.

~~(DG)~~ 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.

~~(ED)~~ 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:

(a) for Lake Travis, coincides with the 681.0 foot contour line;

(b) for Lake Austin, coincides with the 492.8 foot contour line; ~~and~~

(c) for Lady Bird Lake, coincides with the 429.0 foot contour line; ~~and~~

(d) 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:

(a) 100 feet; or

(b) for a detached single-family residential use, 75 feet.

~~(FE)~~ Critical water quality zones are established along and parallel to the shorelines of the Colorado River downstream of Lady Bird Lake.

(1) 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).

(2) 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 serving 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.

#### § 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;
  - ~~(db)~~ designed in accordance with the Environmental Criteria Manual; and
  - ~~(ee)~~ 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 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 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; [...]

*Renumber sections (2) through (4)*

- (F) ~~In-channel~~ ~~Detention~~ basins and wet ponds are ~~prohibited~~ allowed in the critical water quality zone ~~if 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 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;
- ~~(42)~~ located outside the 100 year floodplain; and
- ~~(53)~~ 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 or~~ collector streets, except:
  - (a) a collector street crossing must be at least ~~1,000~~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.

#### § 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)~~ 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) ~~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 - THREATENED OR 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 threatened or 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.

### CHAPTER 30-1. - GENERAL PROVISIONS AND PROCEDURES.

#### § 30-1-21 - DEFINITIONS.

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

- (1) 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 (1) through (20)*

- (2422) 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 30-5-321 ~~(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. [...]

*Renumber sections (22) through (88)*

#### **CHAPTER 30-4. - DRAINAGE.**

##### **§ 30-4-32 - SINGLE OFFICE AUTHORIZED TO REQUIRE EROSION HAZARD ZONE ANALYSIS.**

- (A) The single office 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. [...]

#### **CHAPTER 30-5. - ENVIRONMENT.**

##### **§ 30-5-1 - 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)*

##### **§ 30-5-2 - DESCRIPTIONS OF REGULATED AREAS.**

[...]

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

##### **§30-5-41 - 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 ~~or the safety of property given available to 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, layout, construction method, or other design decision made by the applicant~~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-deviation from the code requirement 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 30-5-422 (Water Quality Transition Zone), Section 30-5-452 (Water Quality Transition Zone), Section 30-5-482 (Water Quality Transition Zone), 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-deviation from the code requirement 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.

#### § 30-5-42 - ADMINISTRATIVE VARIANCES.

[...]

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

~~(6) Section 30-5-341 (Cut Requirements) or Section 30-5-342 (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)*

#### § 30-5-63 - IMPERVIOUS COVER CALCULATIONS.

[...]

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

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

#### § 30-5-65 - 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 that 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.

§ 30-5-92 - 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 30-5-91 (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 30-5-91 (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.
- (CF) 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.
- (DE) 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.
- (ED) 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:
  - (a) for Lake Travis, coincides with the 681.0 foot contour line;
  - (b) for Lake Austin, coincides with the 492.8 foot contour line; ~~and~~
  - (c) for Lady Bird Lake, coincides with the 429.0 foot contour line; ~~and~~
  - (d) 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:
  - (a) 100 feet; or
  - (b) for a detached single-family residential use, 75 feet.
- (FE) Critical water quality zones are established along and parallel to the shorelines of the Colorado River downstream of Lady Bird Lake.
- (1) 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).

- (2) 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 serving a public roadway right-of-way that does not possess any natural and traditional character and cannot reasonably be restored to a natural condition.~~

#### § 30-5-121 - ENVIRONMENTAL RESOURCE INVENTORY REQUIREMENT.

(A) An applicant shall file an environmental resource inventory with the Watershed Protection Department 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. [...]

#### § 30-5-211 - 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.

#### § 30-5-261 - 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 director, 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 30-5-262 (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 30-5-92; 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 30-5-92;
  - (c) located not less than 100 feet from the ordinary high water mark of the Colorado River downstream from Longhorn Dam;
  - (~~db~~) designed in accordance with the Environmental Criteria Manual; and
  - (~~ee~~) 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 Lady Bird Lake and Lake Walter E. Long, as defined in Section 30-5-92;
  - (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 Lady Bird Lake and Lake Walter E. Long, as defined in Section 30-5-92;

(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~~ allowed in the critical water quality zone if designed in accordance with the Environmental Criteria Manual unless the requirements of Section 30-5-364 (Floodplain Modification), Chapter 30-4 (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 Watershed Protection Department director; [...]

(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 Lady Bird Lake and Lake Walter E. Long, as defined in Section 30-5-92;

(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.~~

## § 30-5-262 - 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 or collector street, except:

- (a) a collector street crossing must be at least ~~1,000~~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. [...]

## § 30-5-321 - 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. [...]

## § 30-5-341 - 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; [...]

(45) for utility construction or a wastewater drain field, if the area is restored to natural grade;~~(5) for a wastewater drain field;~~

## § 30-5-342 - 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 sections (4) and (5)*

## § 30-5-361 - WASTEWATER RESTRICTIONS.

(A) ~~Wastewater treatment by land application~~ Land 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 30-5-281 (Critical Environmental Features); or
- (6) during wet weather conditions. [...]

#### § 30-5-364 - FLOODPLAIN MODIFICATION.

- (A) Floodplain modification within a critical water quality zone is prohibited except as allowed under Section 30-5-261 (Critical Water Quality Zone Development).
- ~~(B) Floodplain modification outside a critical water quality zone is prohibited except as allowed in this section.~~
- ~~(B)~~ 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 Watershed Protection Department director;
  - (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 30-5-261 (Critical Water Quality Development) or 30-5-262 (Critical Water Quality Zone Street Crossings).
- ~~(C)~~ 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 30-4 (Drainage), the Drainage Criteria Manual, and the Environmental Criteria Manual. [...]

*Reletter section (E)*

#### § 30-5-453 - 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 30-5-213(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 30-5-213(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.

##### § 30-5-514 - 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, ~~fecal streptococci~~, 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. [...]

##### § 30-5-516 - 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.



# **Proposed Land Development Code Amendments**

**Codes and Ordinances Joint Committee  
May 17, 2017**



# 42 Proposed Code Amendments

Watershed Protection Ordinance (WPO) clean-up	<b>40</b>
Clarification of Land Use Commission findings of fact	<b>1</b>
Clarification of regulations applicable to agricultural activities	<b>1</b>

*Amendments to the Barton Springs Zone Redevelopment Exception and a provision exempting some agricultural facilities from water quality control requirements are being processed separately.*

# WPO Clean-up

- Clarify code requirements and correct inconsistencies identified post-WPO
- Revisions to:
  - Chapters 25-8/30-5
  - Chapters 25-7/30-4
  - Chapter 25-2, Planned Unit Development requirements for green building ratings
- 40 clean-up amendments
  - 26 clarifications consistent with historical interpretation
  - 14 changes to correct inconsistencies or improve standards

# WPO Clean-up

- Examples of clarifications:
  - Add definition of floodplain modification
  - Clarify that an ERI is required for projects using the redevelopment exception
  - Clarify that rooftop swimming pools are not excluded from impervious cover calculations
  - Clarify that impervious cover and water quality treatment exceptions only apply to listed roadway improvements
  - Clarify what site conditions trigger an ERI
  - Clarify requirements for wastewater disposal
  - Clarify requirements for floodplain modifications inside vs. outside of a CWQZ

# WPO Clean-up

- **§25-7-32, Erosion Hazard Zone (EHZ) analysis** 4
  - Require EHZ analysis within 100 feet of the ordinary high water mark of the Colorado River downstream from Longhorn Dam
- **§25-8-25, Redevelopment exception in urban and suburban watersheds** 7
  - Allow the redevelopment exception to be used if subdivision and site plan applications are filed concurrently

# = item number in Attachment A: Summary of Proposed Code Amendments.  
Title 25 citations listed for brevity; equivalent amendments proposed to Title 30.

# WPO Clean-up

- **§25-8-42, §25-8-341/342, Administrative variance for cut and fill for ponds**

- Allow cut and fill greater than 4 feet by right if necessary for function of pond and drainage infrastructure

12

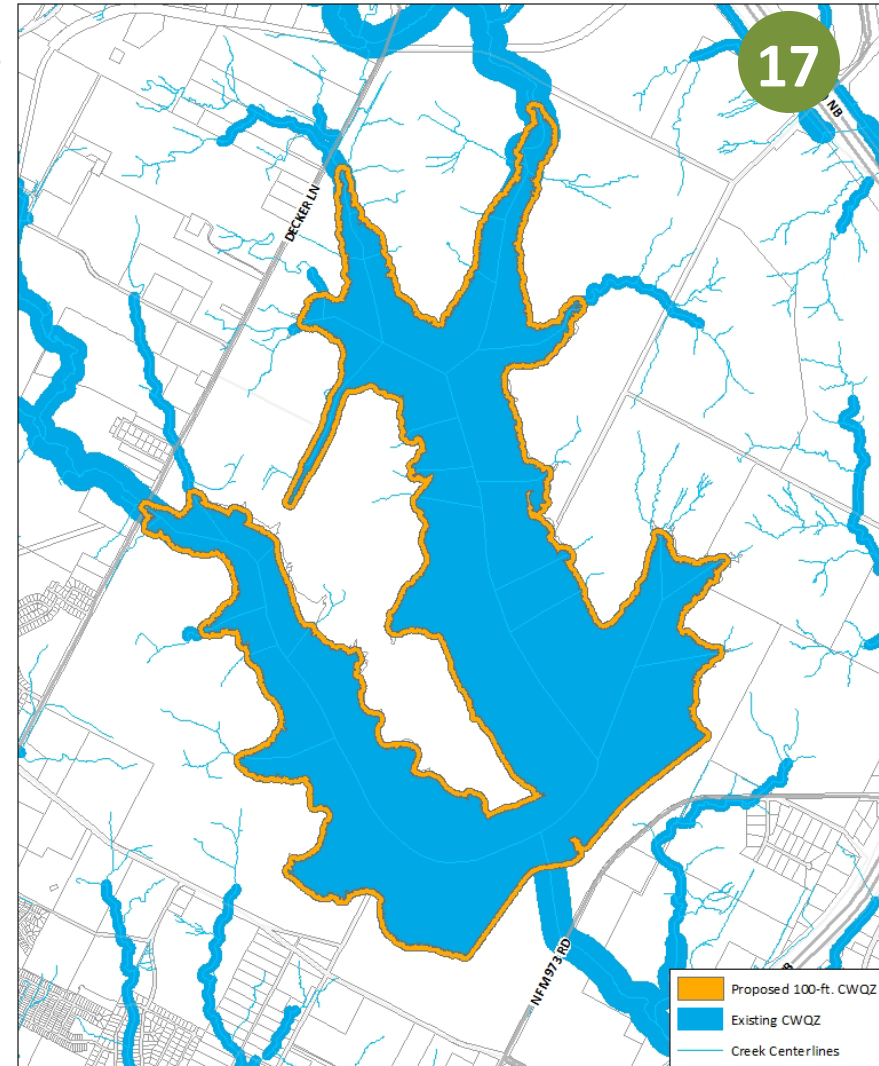
- **§25-8-92, Critical water quality zone (CWQZ) exemption for ditches**

- Add exemption for railroad right-of-way in addition to public roadway right-of-way

15

# WPO Clean-up

- **§25-8-92, CWQZ for Lake Long**
  - Establish a 100-foot CWQZ from the shoreline of Lake Long



# Shoreline CWQZ for Lake Long

## §25-8-92, Critical Water Quality Zones Established

- (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.
- (D) Critical water quality zones are established along and parallel to the shorelines of Lake Travis, Lake Austin, and Lady Bird Lake.
  - 1. The shoreline boundary of a critical water quality zone:
    - a) for Lake Travis, coincides with the 681.0 foot contour line;
    - b) for Lake Austin, coincides with the 492.8 foot contour line; and
    - c) for Lady Bird Lake, coincides with the 429.0 foot contour line.
  - 2. The width of a critical water quality zone, measured horizontally inland, is:
    - a) 100 feet; or
    - b) for a detached single-family residential use, 75 feet.

# Shoreline CWQZ for Lake Long

## §25-8-92, Critical Water Quality Zones Established

- (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.
- (D) 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:
    - a) for Lake Travis, coincides with the 681.0 foot contour line;
    - b) for Lake Austin, coincides with the 492.8 foot contour line; ~~and~~
    - c) for Lady Bird Lake, coincides with the 429.0 foot contour line; ~~and~~
    - d) 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:
    - a) 100 feet; or
    - b) for a detached single-family residential use, 75 feet.



# WPO Clean-up

- **§25-8-261, Development in a CWQZ**

- For development allowed in the outer half of the CWQZ, specify that the minimum setback is 50 feet from the shoreline along lakes and 100 feet from the ordinary high water mark of the Colorado River
- Allow development associated with the Decker Creek Power Station to be located within the CWQZ

22

25

- **§25-8-262, CWQZ street crossings**

- Change minimum spacing for collector street crossings to 900 feet for minor waterways

27

# WPO Clean-up

- **§25-8-453, Water quality controls in 40% buffer**
  - Clarify that water quality controls are allowed in the 40% buffer in compliance with §25-8-213(C)(3)
- **§25-8-514, SOS regulated pollutants**
  - Remove total organic carbon from list of pollutants
- **§25-8-692/696, Endangered species notification requirements**
  - Require notification for the threatened Jollyville Plateau salamander

32

33

37

# WPO Clean-up

- **§30-5-41, Land Use Commission variances**
  - Amend applicability of §30-5-41(B) to match §25-8-41(B)
- **§30-5-341, Cut requirements**
  - Amend cut requirements in §30-5-341 to match §25-8-341
- **§30-5-514, SOS regulated pollutants**
  - Removal fecal streptococci from the list of pollutants in §30-5-514 to match §25-8-514

40

41

42

# LUC Findings of Fact

- **§25-8-41, Land Use Commission findings of fact**
  - Revise language to better reflect intent and historical interpretation

## §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 or the safety of property given to owners of other similarly situated property with approximately contemporaneous development;
  - 2) the variance:
    - a) is not based on a condition caused by the method chosen by the applicant to develop the property, unless the 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.

## §25-8-41, Land Use Commission Variances

- (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.

# LUC Findings of Fact

## Existing

- (A)(1) the requirement will deprive the applicant of a privilege or the safety of property given to owners of other similarly situated property with approximately contemporaneous development;

## Proposed

- (A)(1) the requirement will deprive the applicant of a privilege ~~or the safety of property given~~ available to owners of other similarly situated property ~~with approximately contemporaneous development~~ subject to similar code requirements;



# LUC Findings of Fact

## Existing

- (A)(2)(a) [the variance] is not based on a condition caused by the method chosen by the applicant to develop the property, unless the development method provides greater overall environmental protection than is achievable without the variance;

## Proposed

- (A)(2)(a) [the variance] is not ~~based on a condition caused necessitated~~ by the ~~scale, layout, construction method, or other design decision made by the applicant~~ ~~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;

# LUC Findings of Fact

## Existing

(A)(2)(b) [the variance] 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

## Proposed

(A)(2)(b) [the variance] is the minimum **change deviation from the code requirement** necessary ~~to avoid the deprivation of a privilege given to other property owners and~~ to allow a reasonable use of the property; and

# LUC Findings of Fact

## Existing

(B)(3) [the variance] is the minimum change necessary to allow a reasonable, economic use of the entire property.

## Proposed

(B)(3) [the variance] is the minimum ~~change~~ **deviation from the code requirement** necessary to allow a reasonable, economic use of the entire property.

# Regulations Applicable to Agricultural Activities

- **§25-1-21, Definitions**

- Revise definition of development to clarify that development does not include removal of vegetation or cultivating the soil for agricultural operations
- Add definition of agricultural operations

# Regulations Applicable to Agricultural Activities

## §25-1-21, Definitions

29) 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: [...]

c) agricultural activity that is not prohibited by Section 25-8-321 (Clearing Of Vegetation); or

# Regulations Applicable to Agricultural Activities

## §25-1-21, Definitions

- 29) 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: [...]
- c) ~~agricultural activity that is not~~ removal of vegetation or cultivating the soil for agricultural operations, unless prohibited by Section 25-8-321 (Clearing Of Vegetation); or

# Regulations Applicable to Agricultural Activities

## §25-1-21, Definitions

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.



# 42 Proposed Code Amendments

Watershed Protection Ordinance (WPO) clean-up	<b>40</b>
Clarification of Land Use Commission findings of fact	<b>1</b>
Clarification of regulations applicable to agricultural activities	<b>1</b>

*Amendments to the Barton Springs Zone Redevelopment Exception and a provision exempting some agricultural facilities from water quality control requirements are being processed separately.*

# Contact Information

**Andrea Bates**

Watershed Protection Department

City of Austin

(512) 974-2291

[andrea.bates@austintexas.gov](mailto:andrea.bates@austintexas.gov)