



## MEMORANDUM

**TO:** Mayor and Council Members

**FROM:** Mike Trimble, PFMP, CNUA, Director, Corridor Program Office  
Jorge Morales, P.E., CFM, Director, Watershed Protection Department

**DATE:** May 19, 2022

**SUBJECT:** Code Amendments for Public Mobility Projects in the Right-of-Way - Staff  
Response to Council Resolution No. 20220303-028

The purpose of this memorandum is to provide an update on Council Resolution No. 20220303-028, which directs the City Manager to initiate amendments to City Code Title 25 (Land Development Code) to address the staff-identified challenges to the successful design and construction of public mobility and transit projects and associated utility projects in the right-of-way. As part of this action, Council further directed the City Manager to examine to what extent any of these challenges can be addressed administratively, such as via Criteria Manual updates, have these items heard by the appropriate Boards and Commissions, and bring them back to Council for consideration by May 19, 2022.

Following Council passage of this Resolution, the Corridor Program Office (CPO), in partnership with the Law Department, Watershed Protection Department (WPD), Project Connect Office (PCO), and Development Services Department (DSD) identified common obstacles to public mobility projects and evaluated options to address them.

City staff has completed this analysis. The Code amendments proposed (see Attachment A) were identified as solutions that would reduce public mobility project timelines and expenses while maintaining appropriate environmental protections and stewardship. Staff recommendations for which items should be addressed in the Land Development Code and which items should be addressed through updates to the Environmental Criteria Manual are as follows:

### Land Development Code Amendments:

- In consultation with the Law Department, CPO is pursuing the following amendments to the Land Development Code related to the Resolution's items. Partnering and supporting departments include WPD, PCO, and DSD.
  - Allow roadways sufficient maximum impervious cover limits for street cross-sections
  - Clarify that zoning regulations (Chapter 25-2, Subchapter E) do not apply to linear mobility and transit projects located in the right of way
  - Develop water quality calculations specific to projects in the right-of-way that cannot provide on-site water quality. Provide water quality credit for the removal of existing

- impervious cover, and allow payment-in-lieu of water quality treatment if other feasible solutions have been exhausted in all watershed regulation areas except the Barton Springs Zone
  - Clarify that railways should have the same applicable environmental requirements as roadways
- As part of the Land Development Code amendment process, CPO presented the proposed amendments to the Environmental Commission on May 4, 2022. On May 5, the Codes and Ordinances Joint Committee recommended these amendments to the Planning Commission on a 5-0 vote with Commissioner Barrera-Ramirez absent, with additional recommendation to get input from Environmental Commission, if possible. On May 10, the Planning Commission unanimously recommended these amendments on a 13-0 vote.
- On May 19, 2022, Council will consider the ordinance to adopt these amendments and conduct a public hearing. Public notice of the initiation of these amendments has been provided, along with information about the opportunity to participate in the required public hearing.

#### Environmental Criteria Manual Updates:

- In consultation with the Law Department, WPD will pursue the following Environmental Criteria Manual changes related to items listed in the Resolution. Partnering and supporting departments include CPO, PCO, and DSD.
  - Updates required to align with Code Amendments
  - Provide a definition of a site area for projects in the right-of-way
  - Establish consistency in determining what construction in the right-of-way is considered maintenance versus redevelopment, and clarify that maintenance of existing roadways does not trigger water quality requirements
  - Develop water quality calculations specific to projects in the right-of-way that cannot provide on-site water quality. Provide water quality credit for the removal of existing impervious cover, and allow payment-in-lieu of water quality treatment if other feasible solutions have been exhausted in all watershed regulation areas except the Barton Springs Zone
  - Clarify when bike lanes are exempt from watershed impervious cover limits and water quality requirements
- CPO and WPD staff recognize the rules adoption process related to Criteria Manual changes may not align with the Council's mandated completion deadline of May 19, 2022, but are committed to an efficient and timely process to initiate criteria changes no later than 30 days after returning to Council for Code Amendment adoption on May 19, 2022, to align with the intent of the Resolution.

Please contact Susan Daniels ([Susan.Daniels@austintexas.gov](mailto:Susan.Daniels@austintexas.gov)), Deputy Director, Corridor Program Office, if you have further questions.

#### Attachment A: Summary of Proposed Code Amendments

cc: Spencer Cronk, City Manager  
 Gina Fiandaca, Assistant City Manager  
 Rey Arellano, Assistant City Manager

## ATTACHMENT A: Summary of Proposed Amendments

	Description	Type of Change	Current Status/Concern	Proposed Improvement	Advantage
1	25-1-112 Fiscal Security, add a new Subsection (F)	Clarify	Fiscal security is primarily intended for private development. The City has other existing mechanisms in place to accomplish the intent of this section for public projects.	Clarify that a public project is not required to post fiscal security under this title.	Provides clarity for project sponsors, design teams, and Code reviewers.
2	Section 1.2.4. (Exemptions) of City Code Chapter 25-2, amend Subchapter E	Clarify	Public right-of-way is not zoned land.	Clarify that roadway rights-of-way are not subject to zoning and land use rules.	Provides clarity for project sponsors, design teams, and Code reviewers.
3	25-8-211 (Water Quality Control Requirement)	Policy	Current requirements for calculating impervious cover do not allow a credit for removal of existing impervious. Calculations are done on a "site" basis, translation of site to linear projects in the right-of-way needed. A single mobility project may cross multiple watersheds.	Revise procedure for water quality calculations to be determined on a watershed basis rather than for the total mobility project area and to allow for a credit for the removal of existing impervious cover.	Removes barriers to the delivery of critical safety and mobility improvements. Reduces reliance on waivers and variances. Translates code written for commercial development to mobility projects in the right-of-way.
4	25-8-214 (Optional Payment Instead of Structural Controls in Urban Watersheds)	Policy	Roadway projects have limited land area available to provide space for water quality controls within the right-of-way and vacant land is not always available for purchase.	Creates a Public Mobility Projects Structural Control Fund for payment-in-lieu of built improvements in all watersheds of the City except the Barton Springs Zone. The payment shall be based on a formula established by the Council. As funds accumulate, they City can best direct the use of funds for the design and construction of water quality control facilities.	Reduces reliance on waivers and variances by creating an additional tool to deliver projects successfully where otherwise not feasible due to limited available area in the right-of-way. Allows for a more flexible use of funds to address water quality needs in the City.
5	25-8-262 (Critical Water Quality Zone Street Crossings)	Clarify	Current requirements are not clear that rail lines, like roadways, are able to cross critical water quality zones.	Clarify definitions of types of roadways and that railways have the same ability to cross critical water quality zones as roadways.	Provides clarity for project sponsors, design teams, and Code reviewers. Provides consistency of Code application across roadway network and public mobility projects. Supports the ASMP and the Climate Equity Plan, both of which call for significant reductions in single-occupancy vehicle trips, and an increase in active transportation and mass transit use.
6	25-8-341 (Cut Requirements)	Clarify	Current requirements are not clear that rail lines, like roadways, are able to cross critical water quality zones.	Clarify that railways have the same exceptions to cut requirements as roadways. Aligns with clarifications to definitions in 25-8-262 (Critical Water Quality Zone Street Crossings).	Provides clarity for project sponsors, design teams, and Code reviewers. Provides consistency of Code application across roadway network and public mobility projects. Supports the ASMP and the Climate Equity Plan, both of which call for significant reductions in single-occupancy vehicle trips, and an increase in active transportation and mass transit use.
7	25-8-342 (Fill Requirements)	Clarify	Current requirements are not clear that rail lines, like roadways, are able to cross critical water quality zones.	Clarify that railways have the same exceptions to fill requirements as roadways. Aligns with clarifications to definitions in 25-8-262 (Critical Water Quality Zone Street Crossings).	Provides clarity for project sponsors, design teams, and Code reviewers. Provides consistency of Code application across roadway network and public mobility projects. Supports the ASMP and the Climate Equity Plan, both of which call for significant reductions in single-occupancy vehicle trips, and an increase in active transportation and mass transit use.

## Summary of Proposed Changes

	Description	Type of Change	Current Status/Concern	Proposed Improvement	Advantage
8	25-8-372 (Uplands Zone), amend Article 8 (Urban Watershed Requirements)	Clarify	Current language allows for roadways to have 100% maximum impervious cover in Urban Watersheds, but does not explicitly state this.	Clarify that public mobility projects in the right-of-way are allowed 100% maximum impervious cover in the Uplands Zone Urban Watersheds of the City.	Provides clarity for project sponsors, design teams, and Code reviewers. Provides consistency of Code application across roadway network and public mobility projects.
9	25-8-392 (Uplands Zone), amend in Article 9 (Suburban Watershed Requirements)	Policy	Mobility infrastructure by its nature must be impervious and should be allowed sufficient maximum impervious cover in Suburban Watersheds to perform its intended purpose.	Allow 90% maximum impervious cover in the Uplands Zone Suburban Watersheds of the city for public mobility projects in the right-of-way.	Removes barriers to the delivery of critical safety and mobility improvements. Reduces reliance on waivers and variances.
10	25-8-422 (Water Quality Transition Zone), amend Article 10 (Water Supply Suburban Watershed Requirements)	Clarify	Current requirements are not clear that rail lines, like roadways, are able develop in water quality transition zones.	Clarify that streets, rail lines, and public mobility projects have the same exceptions to develop in all water quality transition zones.	Provides clarity for project sponsors, design teams, and Code reviewers. Provides consistency of Code application across roadway network and public mobility projects. Supports the ASMP and the Climate Equity Plan, both of which call for significant reductions in single-occupancy vehicle trips, and an increase in active transportation and mass transit use.
11	25-8-423 (Uplands Zone), amend Article 10 (Water Supply Suburban Watershed Requirements)	Policy	Mobility infrastructure by its nature must be impervious and should be allowed sufficient maximum impervious cover in Water Supply Suburban Watersheds to perform its intended purpose.	Allow 65% maximum impervious cover in the Uplands Zone Water Supply Suburban Watersheds of the City for public mobility projects in the right-of-way, and align with clarifications to definitions in 25-8-262 (Critical Water Quality Zone Street Crossings).	Removes barriers to the delivery of critical safety and mobility improvements. Reduces reliance on waivers and variances.
12	25-8-452 (Water Quality Transition Zone), amend Article 11 (Water Supply Rural Watershed Requirements)	Clarify	Current requirements are not clear that rail lines, like roadways, are able develop in water quality transition zones.	Clarify that streets, rail lines, and public mobility projects have the same exceptions to develop in all water quality transition zones.	Provides clarity for project sponsors, design teams, and Code reviewers. Provides consistency of Code application across roadway network and public mobility projects. Supports the ASMP and the Climate Equity Plan, both of which call for significant reductions in single-occupancy vehicle trips, and an increase in active transportation and mass transit use.
13	25-8-453 (Uplands Zone), amend Article 11 (Water Supply Rural Watershed Requirements)	Policy	Mobility infrastructure by its nature must be impervious and should be allowed sufficient maximum impervious cover in Water Supply Rural Watersheds to perform its intended purpose.	Allow 55% maximum impervious cover in the Uplands Zone Water Supply Rural Watersheds of the City for public mobility projects in the right-of-way, and align with clarifications to definitions in 25-8-262 (Critical Water Quality Zone Street Crossings).	Removes barriers to the delivery of critical safety and mobility improvements. Reduces reliance on waivers and variances.