



## 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:** March 6, 2023

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

The purpose of this memorandum is to provide an update on 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.

On May 19, 2022, [Ordinance No. 20220519-094](#) was adopted, which successfully amended the Land Development Code in several areas to reduce public mobility project timelines and expenses while maintaining appropriate environmental protections and stewardship, specifically:

- 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

Since then, City staff have been focused on determining the best path forward for the associated Environmental Criteria Manual (ECM) changes to further improve delivery mechanisms for public mobility projects in the right-of-way, specifically:

- 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

The Watershed Protection Department (WPD), as the owner of the Environmental Criteria Manual, is responsible for managing the ECM update process, with support from CPO as the initiator. WPD is currently developing draft revisions for review and concurrence by effected mobility departments. WPD and the Corridor Program Office (CPO) have agreed to initiate the rules posting process in May 2023 (Third Quarter), subject to [Section 1-2](#) of the City Code.

A draft schedule based on the current FY2022-23 Rule Adoption Calendar is below:

| Phase – Description   | 3 <sup>rd</sup> Quarter - Date |
|---|--------------------------------|
| <b>1 – Develop Rules:</b><br><br>Initiating Dept prepares new rule by working with Law department, other City of Austin departments that may be affected by the new rule, and conducting external stakeholder meetings to allow for input.  | <i>Set by each department</i>  |
| <b>2 - Interdepartmental Review:</b><br><br>Initiating Dept Special Point of Contact (SPOC) submits required documents to Rule Manager (RM) for publishing in RPPS which notifies all SPOCs and begins the interdepartmental review process | 5/2/23 by 10 AM                |
| All SPOCS submit comments in RPPS ( <i>10 business days</i> )   | 5/16/23 by 5 PM                |
| All SPOC approvals must be entered in RPPS, else rule will not move forward ( <i>15 business days</i> )   | 6/7/23 by 5 PM                 |
| Send director-signed hard copy to Law Dept for signature  | 6/20/23                        |
| <b>3 – Notice of Proposed Rule:</b><br><br>Initiating Dept SPOC submits required documents to RM for Official Posting with City Clerk (32-70 days after posting). (This date <u>must</u> be used on the Notice of Proposed Rule)            | 7/5/23 by 10 AM                |
| Send director signed hard copy to Law Dept for Signature  | <i>2 weeks before adoption</i> |

|                                    |   |
|------------------------------------|---|
| <b>4 – Notice of Rule Adoption</b> | <b>By Appointment</b><br><br>Not before 8/7/23 and not after 9/13/23 (by 10 AM)         |
| <b>5 – Public Appeal Period</b>    | <i>Ends 30 days after adoption</i><br><br>(~9/4/23 – 10/11/23)                          |
| <b>6 – Publishing</b>              | <i>Allow approximately 2 weeks for review and approval</i><br><br>(~9/18/23 – 10/25/23) |

Concurrently, Watershed Protection Department (WPD) is working to establish the payment-in-lieu collection mechanism for suburban and water supply watersheds, which is typically adopted through the City's budget cycle. These modifications will align the approved code amendments with the payment collection process and approved rates.

Please contact Susan Daniels ([Susan.Daniels@austintexas.gov](mailto:Susan.Daniels@austintexas.gov)), Deputy Director, Corridor Program Office, or Katie Coyne ([Katie.Coyne@austintexas.gov](mailto:Katie.Coyne@austintexas.gov)), Environmental Officer and Assistant Director, Watershed Protection Department, if you have further questions.

cc: Susan Daniels, Deputy Director, Corridor Program Office  
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