

## **ORDINANCE AMENDMENT REVIEW SHEET**

**Amendment:** C20-2016-009, Land Development Code Amendments

**Description:** Consider an ordinance amending City Code Section 25-1-21 (Definitions) and 30-1-21 (Definitions), amending City Code Chapter 25-2 relating to Planned Unit Development green building criteria, amending City Code Chapters 25-7 (Drainage) and 30-4 (Drainage), and amending City Code Chapters 25-8 (Environment) and 30-5 (Environment). This ordinance will amend Chapter 25-8, Subchapter A, Article 13 (Save Our Springs Initiative) and Chapter 30-5, Subchapter A, Article 13 (Save Our Springs Initiative). This action concerns land located within the Barton Springs Zone.

**Proposed Language:** See attached draft ordinance.

**Summary of proposed code changes:** The proposed amendments fall into three categories:

**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.

**Background:** 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.

The Watershed Protection Ordinance was a major update to Austin's watershed regulations that was adopted by City Council in October 2013. Now that the WPO has been in place for a few years, staff has identified some code sections that are either confusing for applicants or not working as intended. The purpose of these code amendments is to clarify and improve existing code requirements. A summary of each proposed amendment, including the current status or concern to be addressed, the proposed improvement, and any anticipated impacts, is attached.

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>. Staff 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 remove the administrative variance requirement for cut and fill for water quality controls and detention ponds (see Sections 25-8-42(B)(6), 25-8-341(A)(4), and 25-8-342(A)(4)). The amendment would allow cut and fill greater than four feet without an administrative variance, if the applicant proves that the cut or fill is necessary for the function of the water quality or drainage facility. This is the same condition that an applicant must currently meet to receive an administrative variance, but SOS was concerned that there would no longer be a clear remedy if staff and the applicant disagreed about whether the condition was met. However, this standard requires a level of discretion similar to many other code provisions. If staff determined that the proposed cut and fill was not necessary, the remedy would be the same as denying an administrative variance request: the applicant would need to redesign the facility or request a Land Use Commission variance.

***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. To address this concern, staff worked closely with the Environmental Commission to refine the proposed language to ensure that the historical interpretation is both preserved and clarified. The Environmental Commission and Planning Commission support the revised amendments included in the draft ordinance (see Section 25-8-41).

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. The Codes and Ordinances Joint Committee reviewed the proposal on May 17<sup>th</sup>, 2017 and recommended approval pending additional review of several code sections. Staff addressed the questions raised by Codes and Ordinances, and the Planning Commission recommended approval of the amendments on May 23<sup>rd</sup>, 2017.

**Staff Recommendation:** Staff recommends approval of the proposed code amendments.

**Board and Commission Actions:**

**May 3, 2017:** Recommended for approval by the Environmental Commission on a 6-0 vote (four members absent).

**May 17, 2017:** Recommended for approval by the Codes and Ordinances Joint Committee on a 5-0 vote (two members absent), with direction that staff look into the following:

- The use of “cross-section” in the floodplain modification definition;
- Using the term “whole site” for the redevelopment exception;
- The potential cost of no longer requiring a fee for certain types of cut and fill; and
- Whether fecal streptococci should be removed from the list of pollutants.

**May 23, 2017:** Recommended for approval by the Planning Commission on an 8-0 vote (four members absent and one recused).

**Council Action:**

**May 18, 2017:** A public hearing was set for June 15, 2017.

**Ordinance Number:** N/A

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