

## ORDINANCE AMENDMENT REVIEW SHEET

**Amendment:** C20-2022-001

**Description:**

Amend certain provisions to Title 25 of the City Code to address challenges to the successful design and construction of public mobility and transit projects and associated utility projects in the City's right-of-way.

- 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;
- 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; and,
- Clarify that railways should have the same applicable environmental requirements as roadways.

The draft ordinance is attached.

**Staff Recommendation:**

Staff recommends approval of this amendment.

**Board and Commission Actions**

Codes and Ordinances Joint Committee **recommended** to full Planning Commission on a **X-0 vote on May 5, 2022.**

**City Council Action**

City Council initiated code amendments per Resolution No. 20220303-028 on March 3, 2022.

**Ordinance Number:** NA

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**PART 1.** City Code Section 25-1-112 (*Fiscal Security*) is amended to add a new Subsection (F) to read as follows:

(F) A public project is not required to post fiscal security under this title.

**PART 2.** Section 1.2.4. (*Exemptions*) of City Code Chapter 25-2, Subchapter E is amended to read as follows:

**1.2.4. Exemptions.**

A. General Exemptions. Except as otherwise provided in this Subchapter, the following types of development are exempt from the requirements of this Subchapter:

1. Development that does not require a site plan under Chapter 25-5, except that Section 2.5 (*Exterior Lighting*) shall apply;
2. Development in the following zoning districts:
  - a. Agricultural (AG) district;
  - b. Aviation (AV) district; and
  - c. Traditional neighborhood (TN) district;
3. Development built pursuant to the overlay district provisions of the University Neighborhood Overlay (UNO) district;
4. Development of a public primary or secondary educational facility;
5. Development built pursuant to the Robert Mueller Municipal Airport Redevelopment Plan;
6. Development of an industrial use or unmanned communication services, construction sales and service, drop-off recycling collection facility, equipment repair or scrap and salvage services use that is not located on a Core Transit Corridor;
7. Interior remodeling of a building.
8. Development for which public access is prohibited due to health, safety and welfare reasons;

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- 1           9.     Development of a warehouse if less than 25% of the gross floor  
2                 area is used for a non-industrial use;
- 3           10.    Sidewalk, shared use and urban trail projects managed by the City  
4                 of Austin and processed under the City's General Permit program  
5                 which are undertaken for the purpose of bringing existing facilities  
6                 into compliance with the Americans With Disabilities Act;
- 7           11.    A public mobility project in the right-of-way; and
- 8           12.~~[44-]~~   Development built pursuant to any of the following adopted  
9                 regulating plans:
  - 10               a. Transit-Oriented District Station Area Plan;
  - 11               b. North Burnet/Gateway (NBG) District;
  - 12               c. East Riverside Corridor;
  - 13               d. Waller Creek District;
  - 14               e. Downtown Austin Plan; or
  - 15               f. Airport Boulevard Corridor Plan.

16 **PART 3.** City Code Section 25-8-42 (*Administrative Variances*) is amended to read as  
17 follows:

18 **§ 25-8-42 ADMINISTRATIVE VARIANCES.**

- 19           (A)    A variance under this section may not vary the requirements of Article 13  
20                 (*Save Our Springs Initiative*) and may not be granted for development of a  
21                 property if any portion of the property abuts or is within 500 feet of the  
22                 shoreline of Lake Austin, measured horizontally.
- 23           (B)    The director of the Watershed Protection Department may grant a  
24                 variance from a requirement of:
  - 25               (1)   Section 25-8-261 (*Critical Water Quality Zone Development*), only  
26                     if:

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- (a) necessary to protect public health and safety, or if it would provide a significant, demonstrable environmental benefit, as determined by a functional assessment of floodplain health as prescribed by the Environmental Criteria Manual,
  - (b) necessary to allow an athletic field in existence on October 28, 2013, to be maintained, improved, or replaced,
  - (c) necessary to allow an athletic field to be located in an area not otherwise allowed under Section 25-8-261(B)(5), or
  - (d) necessary to allow a hard surfaced trail to be located in an area not otherwise allowed under Section 25-8-261(B)(3);
- (2) Section 25-8-261 (*Critical Water Quality Zone Development*), for development within an urban watershed, only if the proposed development:
  - (a) is located not less than 25 feet from the centerline of a waterway,
  - (b) is located outside the erosion hazard zone, unless protective works are provided as prescribed in the Drainage Criteria Manual,
  - (c) 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
  - (d) restores native vegetation and soils if development is removed from the Critical Water Quality Zone;
- (3) Subsection 25-8-262(B) (*Critical Water Quality Zone Street Crossings*), only outside the Barton Springs Zone;
- (4) Section 25-8-281 (*Critical Environmental Features*);
- (5) Section 25-8-322 (*Clearing for a Roadway*);

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- (6) Section 25-8-341 (*Cut Requirements*) or Section 25-8-342 (*Fill Requirements*), for a cut or fill of not more than eight feet in the desired development zone and, for a public primary or secondary educational facility, within the desired development zone or the drinking water protection zone;
  - (7) Subsection 25-8-343(A) (*Spoil Disposal*);
  - (8) Section 25-8-365 (*Interbasin Diversion*);
  - (9) Subsection 25-8-392(B)(6) (*Uplands Zone*), Subsection 25-8-392(C)(6) (*Uplands Zone*), Subsection 25-8-423(D) (*Uplands Zone*), or Subsection 25-8-453(E) (*Uplands Zone*).
- (C) It is the applicant's burden to establish that the findings described in this Section have been met.
- (D) The director of the Watershed Protection Department may grant a variance described in Subsection (B) only after determining that development in accordance with the variance meets the objective of the requirement for which the variance is requested and:
- (1) for property in the Barton Springs Zone, the variance will result in water quality that is at least equal to the water quality achievable without the variance;
  - (2) for a variance from Section 25-8-261(B)(5), that the proposed work on or placement of the athletic field will have no adverse environmental impacts;
  - (3) for a variance from Section 25-8-281, that the proposed measures preserve all characteristics of the critical environmental feature;
  - (4) for a variance from Section 25-8-341 or Section 25-8-342 the cut or fill is not located on a slope with a gradient of more than 15 percent or within 100 feet of a classified waterway;
  - (5) for a variance from Section 25-8-343(A), use of the spoil provides a necessary public benefit. Necessary public benefits include:
    - (a) roadways;

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- (b) stormwater detention facilities;
  - (c) public or private park sites; and
  - (d) building sites that comply with Section 25-8-341 (*Cut Requirements*), Section 25-8-342 (*Fill Requirements*), and Chapter 25-7 (*Drainage*); and
- (6) for a variance from Section 25-8-365, there are no adverse environmental or drainage impacts;
- (7) for a variance from Subsection 25-8-392(B)(6), Subsection 25-8-392(C)(6), Subsection 25-8-423(D), or Subsection 25-8-453(E), the variance:
- (a) is located outside the Barton Springs Zone;
  - (b) is the minimum deviation needed to provide necessary improvements to a public mobility project; and
  - (c) does not create a significant probability of adverse environmental impacts.
- (E) The Watershed Protection Department director shall prepare written findings to support the grant or denial of a variance request under this section.

**PART 4.** City Code Section 25-8-211 (*Water Quality Control Requirement*) is amended to read as follows:

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

- (A) In the Barton Springs Zone, water quality controls are required for all development.
- (B) In a watershed other than a Barton Springs Zone watershed, water quality controls are required for development:
  - (1) located in the water quality transition zone;
  - (2) of a golf course, play field, or similar recreational use, if fertilizer, herbicide, or pesticide is applied; or

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- 1 (3) if the total of new and redeveloped impervious cover exceeds 8,000  
2 square feet.
- 3 (C) All new development must provide for removal of floating debris from  
4 stormwater runoff.
- 5 (D) The water quality control requirements in this division do not require  
6 water quality controls on a single-family or duplex lot but apply to the  
7 residential subdivision as a whole.
- 8 (E) The water quality control requirements in this division do not require  
9 water quality controls for a roadway improvement with less than 8,000  
10 square feet of new impervious cover. For the purposes of this Section,  
11 roadway improvements are limited to intersection upgrades, low-water  
12 crossing upgrades, additions for curb-separated bicycle lanes, and  
13 additions for mass transit stops.
- 14 (F) For public roadway projects, the calculation of new impervious cover for  
15 compliance with Subsection (B)(3) or Subsection (E) in any watershed  
16 shall:
- 17 (1) be determined on a watershed basis rather than for the total project  
18 area; and
- 19 (2) deduct existing impervious cover that is removed by the same  
20 project if the area with removed impervious cover is:
- 21 (i) decompacted and revegetated as prescribed in the  
22 Environmental Criteria Manual and the Standard  
23 Specifications Manual; and
- 24 (ii) located within the same watershed.

25 **PART 5.** City Code Section 25-8-214 (*Optional Payment Instead of Structural Controls*  
26 *in Urban Watersheds*) is amended to read as follows:

27 **§ 25-8-214 OPTIONAL PAYMENT INSTEAD OF STRUCTURAL CONTROLS**  
28 **[~~IN URBAN WATERSHEDS~~].**

- 29 (A) The director of the Watershed Protection Department shall identify and  
30 prioritize water quality control facilities for the urban, suburban, water



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1        supply suburban, and water supply rural watersheds in a ~~[an Urban]~~  
2        Watersheds Structural Control Plan. The Environmental Board shall  
3        review the plan in January of each year.

- 4        (B)    An Urban Watersheds Structural Control Fund is established for use in the  
5        design and construction of water quality control facilities in the urban  
6        watershed.
- 7        (C)    Instead of providing the water quality controls required under Section 25-  
8        8-211 (*Water Quality Control Requirement*), in an urban watershed a  
9        developer may request approval to deposit with the City a nonrefundable  
10       cash payment, based on a formula established by the council. The director  
11       shall review the request and accept or deny the request based on the  
12       standards in the Environmental Criteria Manual.
- 13       (D)    The director shall deposit a payment made under Subsection (C) ~~[this~~  
14       ~~section]~~ in the Urban Watersheds Structural Control Fund.
- 15       (E)    A Public Mobility Projects Structural Control Fund is established for use  
16       in the design and construction of water quality control facilities.
- 17       (F)    For a public mobility project in the right-of-way that is located in an  
18       urban, suburban, water supply suburban, or water supply rural watershed,  
19       an applicant may request approval to deposit a nonrefundable cash  
20       payment with the City instead of providing the water quality controls  
21       required under Section 25-8-211 (*Water Quality Control Requirement*).  
22       The payment shall be based on a formula established by the council. The  
23       director shall review the request and accept or deny the request based on  
24       the standards in the Environmental Criteria Manual.
- 25       (G)    The director shall deposit a payment made under Subsection (F) in the  
26       Public Mobility Projects Structural Control Fund.

27       **PART 6.** City Code Section 25-8-262 (*Critical Water Quality Zone Street Crossings*)  
28       is amended to read as follows:

29       **§ 25-8-262 CRITICAL WATER QUALITY ZONE STREET AND MOBILITY**  
30       **CROSSINGS.**



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- 1 (A) In an urban watershed, an arterial street, collector street, [Ø] residential  
2 street, rail line, or public mobility project may cross a critical water  
3 quality zone of any waterway.
- 4 (B) This subsection applies in a watershed other than an urban watershed.
- 5 (1) A major waterway critical water quality zone may be crossed by an  
6 arterial street, rail line, or public mobility project identified in the  
7 Transportation Plan.
- 8 (2) An intermediate waterway critical water quality zone may be crossed  
9 by an arterial street, [Ø] collector street, rail line, or public mobility  
10 project, except:
- 11 (a) a collector street crossing must be at least 2,500 feet from a  
12 collector or arterial street crossing on the same waterway; or  
13 (b) in a water supply suburban or water supply rural watershed,  
14 or the Barton Springs Zone, a collector street crossing must  
15 be at least one mile from a collector or arterial street crossing  
16 on the same waterway.
- 17 (3) A minor waterway critical water quality zone may be crossed by an  
18 arterial street, [Ø] collector street, or rail line, except:
- 19 (a) a collector street crossing must be at least 900 feet from a  
20 collector or arterial street crossing on the same waterway; or  
21 (b) in a water supply suburban or water supply rural watershed,  
22 or the Barton Springs Zone, a collector street crossing must  
23 be at least 2,000 feet from a collector or arterial street  
24 crossing on the same waterway.
- 25 (4) A minor waterway critical water quality zone may be crossed by a  
26 residential or commercial street if necessary to provide access to  
27 property that cannot otherwise be safely accessed.
- 28 (C) In all watersheds, multi-use trails may cross a critical water quality zone  
29 of any waterway.
- 30 (D) Notwithstanding subsections (A) and (B) and except in the Barton Springs  
31 Zone, a street or driveway may cross the critical water quality zone if the

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street or driveway is located in a center or corridor as identified on the growth concept map of the Imagine Austin Comprehensive Plan, as adopted by Ordinance No. 20120614-058, and if the proposed crossing:

- (1) is necessary to facilitate the development or redevelopment of a designated corridor or center as recommended in the Imagine Austin Comprehensive Plan, Chapter 4 (*Shaping Austin: Building the Complete Community*), growth concept map and related definitions; and
- (2) maintains the quality and quantity of recharge if located in a center or corridor designated as a sensitive environmental area in the Edwards Aquifer recharge zone, Edwards Aquifer contributing zone, or the South Edwards Aquifer recharge zone, as determined by the director of the Watershed Protection Department.

**PART 7.** City Code Section 25-8-341 (*Cut Requirements*) is amended to read as follows:

**§ 25-8-341 CUT REQUIREMENTS.**

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

- (1) in an urban watershed;
- (2) in a roadway or rail line right-of-way;
- (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:
  - (a) the design and location of the facility within the site minimize the amount of cut over four feet;
  - (b) the cut is the minimum necessary for the appropriate functioning of the facility; and
  - (c) the cut is not located on a slope with a gradient of more than 15 percent or within 100 feet of a classified waterway;

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- (5) for utility construction or a wastewater drain field, if the area is restored to natural grade;
- (6) in a state-permitted sanitary landfill or a sand or gravel excavation located in the extraterritorial jurisdiction, if:
  - (a) the cut is not in a critical water quality zone;
  - (b) the cut does not alter a 100-year floodplain;
  - (c) the landfill or excavation has an erosion and restoration plan approved by the City; and
  - (d) all other applicable City Code provisions are met.
- (7) for any cut associated with construction of a multi-use trail, if:
  - (a) the cut is not located on a slope with a gradient of more than 15 percent or within 100 feet of a classified waterway;
  - (b) the cut is limited to no more than eight feet in depth;
  - (c) the cut is located in a public right-of-way or public easement; and
  - (d) the trail is designed in accordance with the Environmental Criteria Manual.

**PART 8.** City Code Section 25-8-342 (*Fill Requirements*) is amended to read as follows:

**§ 25-8-342 FILL REQUIREMENTS.**

- (A) Fill on a tract of land may not exceed four feet of depth, except:
  - (1) in an urban watershed;
  - (2) in a roadway or rail line right-of-way;
  - (3) under a foundation with sides perpendicular to the ground, or with pier and beam construction;

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- 1 (4) for construction of a water quality control or detention facility and  
2 appurtenances for conveyance such as swales, drainage ditches, and  
3 diversion berms, if:
  - 4 (a) the design and location of the facility within the site  
5 minimize the amount of fill over four feet;
  - 6 (b) the fill is the minimum necessary for the appropriate  
7 functioning of the facility; and
  - 8 (c) the fill is not located on a slope with a gradient of more than  
9 15 percent or within 100 feet of a classified waterway;
- 10 (5) for utility construction or a wastewater drain field;
- 11 (6) in a state-permitted sanitary landfill located in the extraterritorial  
12 jurisdiction, if:
  - 13 (a) the fill is derived from the landfill operation;
  - 14 (b) the fill is not placed in a critical water quality zone or a 100-  
15 year floodplain;
  - 16 (c) the landfill operation has an erosion and restoration plan  
17 approved by the City; and
  - 18 (d) all other applicable City Code provisions are met; or
- 19 (7) for fill associated with construction of a multi-use trail, if:
  - 20 (a) the fill is not located on a slope with a gradient of more than  
21 15 percent or within 100 feet of a classified waterway;
  - 22 (b) the fill is limited to no more than eight feet in depth;
  - 23 (c) the fill is located in a public right-of-way or public easement;  
24 and
  - 25 (d) the trail is designed in accordance with the Environmental  
26 Criteria Manual.

- 27 (B) A fill area must be restored and stabilized.

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- (C) Fill for a roadway must be contained within the roadway clearing width described in Section 25-8-322 (*Clearing For A Roadway*).

**PART 9.** City Code Section 25-8-372 (*Uplands Zone*) in Article 8 (*Urban Watershed Requirements*) is amended to read as follows:

**§ 25-8-372 UPLANDS ZONE.**

- (A) This section applies to development in an uplands zone. Impervious cover limits in this section are expressed as percentages of gross site area.
- (B) Maximum impervious cover for development within the City's zoning jurisdiction is established in Section 25-2-492 (*Site Development Regulations*).
- (C) Maximum impervious cover for development outside the City's zoning jurisdiction is 80 percent.
- (D) Maximum impervious cover for a public mobility project in the right-of-way is 100 percent.

**PART 10.** City Code Section 25-8-392 (*Uplands Zone*) in Article 9 (*Suburban Watershed Requirements*) is amended to read as follows:

**§ 25-8-392 UPLANDS ZONE.**

- (A) This section applies to development in an uplands zone. Impervious cover limits in this section are expressed as percentages of gross site area.
- (B) This subsection applies in the extraterritorial jurisdiction and in the portions of the Lake, Rattan, Buttercup, South Brushy, and Brushy Creek watersheds that are in the zoning jurisdiction.
- (1) Impervious cover for a single-family residential use with a minimum lot size of 5,750 square feet may not exceed:
- (a) 45 percent; or
- (b) if development intensity is transferred under Section 25-8-393 (*Transfer Of Development Intensity*), 50 percent.

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- (2) Impervious cover for a duplex or single-family residential use with a lot smaller than 5,750 square feet in size may not exceed:
  - (a) 55 percent; or
  - (b) if development intensity is transferred under Section 25-8-393 (*Transfer Of Development Intensity*), 60 percent.
- (3) Impervious cover for a multifamily residential use may not exceed:
  - (a) 60 percent; or
  - (b) if development intensity is transferred under Section 25-8-393 (*Transfer Of Development Intensity*), 65 percent.
- (4) Impervious cover for a commercial use may not exceed:
  - (a) 65 percent; or
  - (b) if development intensity is transferred under Section 25-8-393 (*Transfer Of Development Intensity*), 70 percent.
- (5) Impervious cover for mixed use may not exceed:
  - (a) the limits in subsection (B)(3) for the portion of the ground floor that is multifamily residential;
  - (b) the limits in subsection (B)(4) for the portion of the ground floor that is commercial; and
  - (c) impervious cover for the entire site shall be based on the ratios determined on the ground floor.
- (6) Impervious cover for a public mobility project in the right-of-way may not exceed 90 percent.

(C) This subsection applies in the portion of the zoning jurisdiction that is outside the Lake, Rattan, Buttercup, South Brushy, and Brushy Creek watersheds.

- (1) Impervious cover for a single-family residential use with a minimum lot size of 5,750 square feet may not exceed:

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- (a) 50 percent; or
  - (b) if development intensity is transferred under Section 25-8-393 (*Transfer Of Development Intensity*), 60 percent.
- (2) Impervious cover for a duplex or single-family residential use with a lot smaller than 5,750 square feet in size may not exceed:
  - (a) 55 percent; or
  - (b) if development intensity is transferred under Section 25-8-393 (*Transfer Of Development Intensity*), 60 percent.
- (3) Impervious cover for a multifamily residential use may not exceed:
  - (a) 60 percent; or
  - (b) if development intensity is transferred under Section 25-8-393 (*Transfer Of Development Intensity*), 70 percent.
- (4) Impervious cover for a commercial use may not exceed:
  - (a) 80 percent; or
  - (b) if development intensity is transferred under Section 25-8-393 (*Transfer Of Development Intensity*), 90 percent.
- (5) Impervious cover for mixed use may not exceed:
  - (a) the limits in subsection (C)(3) for the portion of the ground floor that is multifamily residential;
  - (b) the limits in subsection (C)(4) for the portion of the ground floor that is commercial; and
  - (c) impervious cover for the entire site shall be based on the ratios determined on the ground floor.
- (6) Impervious cover for a public mobility project in the right-of-way may not exceed 90 percent.



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**PART 11.** City Code Section 25-8-422 (*Water Quality Transition Zone*) in Article 10 (*Water Supply Suburban Watershed Requirements*) is amended to read as follows:

**§ 25-8-422 WATER QUALITY TRANSITION ZONE.**

- (A) Development is prohibited in a water quality transition zone that lies over the South Edwards Aquifer recharge zone, except for:
- (1) development described in Article 7, Division 1 (*Critical Water Quality Zone Restrictions*); and
  - (2) minor drainage facilities or water quality controls that comply with Section 25-8-364 (*Floodplain Modification*) and the floodplain modification criteria in the Environmental Criteria Manual.
- (B) In a water quality transition zone that does not lie over the South Edwards Aquifer recharge zone, the impervious cover of the land area of a site may not exceed 18 percent. This limit on impervious cover does not apply to a street, rail line, or public mobility project allowed to cross a critical water quality zone under Section 25-8-262 (*Critical Water Quality Zone Street Crossings*). In determining land area, land in the 100 year floodplain is excluded.
- (C) Water quality controls may be located in a water quality transition zone that does not lie over the South Edwards Aquifer recharge zone.

**PART 12.** City Code Section 25-8-423 (*Uplands Zone*) in Article 10 (*Water Supply Suburban Watershed Requirements*) is amended to read as follows:

**§ 25-8-423 UPLANDS ZONE.**

- (A) This section applies to development in an uplands zone. Impervious cover limits in this section are expressed as percentages of net site area.
- (B) Impervious cover for a duplex or single-family residential use may not exceed:
- (1) 30 percent; or
  - (2) if development intensity is transferred under Section 25-8-424 (*Transfer Of Development Intensity*), 40 percent.

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(C) Impervious cover for a commercial, multifamily residential use, or mixed use may not exceed:

(1) 40 percent; or

(2) if development intensity is transferred under Section 25-8-424 (*Transfer Of Development Intensity*), 55 percent.

(D) Impervious cover for a public mobility project in the right-of-way may not exceed 65 percent.

**PART 13.** Subsection (B) of City Code Section 25-8-452 (*Water Quality Transition Zone*) in Article 11 (*Water Supply Rural Watershed Requirements*) is amended to read as follows:

(B) Development is prohibited in a water quality transition zone that lies outside the South Edwards Aquifer recharge zone, except for:

(1) development described in Article 7, Division 1 (*Critical Water Quality Zone Restrictions*);

(2) streets, rail lines, or public mobility projects;

(3) minor drainage facilities or water quality controls that comply with Section 25-8-364 (*Floodplain Modification*) and the floodplain modification guidelines of the Environmental Criteria Manual; and

(4) duplex or single-family residential development with a minimum lot size of two acres and a density of not more than one unit for each three acres, excluding acreage in the 100 year flood plain.

**PART 14.** City Code Section 25-8-453 (*Uplands Zone*) in Article 11 (*Water Supply Rural Watershed Requirements*) is amended to read as follows:

**§ 25-8-453 UPLANDS ZONE.**

(A) This section applies to development in an uplands zone. Density and impervious cover limits are based on net site area.

(B) For a duplex or single family residential use, density may not exceed:

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- (1) one unit for each two acres, with a minimum lot size of three-quarters acre; or
  - (2) if development intensity is transferred under Section 25-8-454 (*Transfer of Development Intensity*), one unit for each acre, with a minimum lot size of one-half acre.
- (C) This subsection applies to cluster housing.
  - (1) Density may not exceed:
    - (a) one unit for each acre; or
    - (b) if development intensity is transferred under Section 25-8-454 (*Transfer of Development Intensity*), two units for each acre.
  - (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 Subdivision 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.
  - (1) Impervious cover may not exceed:
    - (a) 20 percent; or
    - (b) if development intensity is transferred under Section 25-8-454 (*Transfer Of Development Intensity*), 25 percent.
  - (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

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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 Subdivision 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.

- (E) Impervious cover for a public mobility project in the right-of-way may not exceed 55 percent.

	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.

	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.



**RESOLUTION NO. 20220303-028**

**WHEREAS**, in August 2016, City Council approved Resolution No. 20160818-074 that expressed Council's intent to contract with voters for a Mobility Bond election in November 2016 and directed the City Manager to analyze existing capital project delivery systems and processes in order to recommend potential changes and resource requirements to complete the bond program within eight years from initiation; and

**WHEREAS**, in March 2019, City Council approved Resolution No. 20190328-040 that affirmed the City of Austin's desire to construct as many miles of progressive multi-modal mobility infrastructure as quickly as it can to facilitate congestion relief, safety, and environmental stewardship, and encouraged the City Manager to form a steering committee of representatives from relevant departments to align resources, priorities, and policies that support an accelerated timetable for planned bicycle, scooter, transit, sidewalks, and tier one urban trail infrastructure projects; and,

**WHEREAS**, in August 2019, City Council approved Resolution No. 20190808-081 that directed the City Manager to analyze and report on options for the City to leverage resources to support the creation, operation, and maintenance of a high-capacity transit system; and,

**WHEREAS**, in August 2020, City Council approved Resolution No. 20200807-003 that expressed Council's intent to contract with the voters for a citywide rapid transit system (to be known as "Project Connect") that will include four MetroRapid lines to be constructed and operational within five years, and two light rail lines to be constructed and operational within ten years; and,



**WHEREAS**, in August 2020, City Council approved Resolution No. 20200812-011 that expressed Council's intent to contract with the voters for a Mobility Bond election in November 2020, and directed the City Manager to analyze existing capital project delivery systems and processes in order to recommend potential changes and resource requirements to accelerate project delivery and maximize the number of projects to be completed within six years; and,

**WHEREAS**, in October 2021, City Council approved Resolution No. 20211029-003 that directed the City Manager to review City Code, including, but not limited to, the Land Development Code, Criteria Manuals, and permitting procedures to identify impediments to the design, construction, implementation, and operation of Project Connect, and to present any Code amendments necessary to City Council no later than April 2022; and,

**WHEREAS**, public mobility projects in the right-of-way offer tremendous community benefits, including improved multimodal access and accessibility for individuals with disabilities, enhanced life safety, greater and more equitable economic opportunity, improved air quality, and strengthened climate resilience, and, yet, often require waivers and variances from the Land Development Code; and,

**WHEREAS**, reducing ambiguity and conflicts in the Land Development Code will reduce the number of waivers and variances that the Corridor Program Office and the Project Connect Office must seek and will support the efficient completion of these major mobility and transit projects in the timeframes that Council committed to the voters; and

**WHEREAS**, the Corridor Program Office, the Project Connect Office, and the Watershed Protection Department, with assistance from other departments, have reviewed existing City Code and identified the following challenges to successful design and construction of mobility and transit projects and associated utility projects in the right-of-way:

- (a) The Land Development Code does not account for the unique nature of public mobility and associated utility projects in the right-of-way and the constraints of constructing long, linear projects;
- (b) The Land Development Code's definition of a site is challenging for mobility and associated utility projects in the right-of-way, as it was primarily intended for lot-by-lot private development on zoned property;
- (c) Compliance with impervious cover limits is challenging for transportation construction projects because the area within a transportation right-of-way is often constrained and the existing roadway footprint frequently exceeds current impervious cover limits;
- (d) Mobility and associated utility construction projects in the right-of-way have limited land area available to provide adequate space for water quality controls within existing rights-of-way, and need additional options to address water quality requirements and the need for pollutant removal from stormwater; and,
- (e) A roadway project may consist of maintenance, such as curb and roadway repair, redevelopment, such as to address substandard

streets or safety issues, or a combination of the two, while code is written only for redevelopment and new development; **NOW,**

**THEREFORE,**

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

Council initiates amendments to City Code Title 25 (Land Development Code) to address the staff-identified challenges to successful design and construction of public mobility and transit projects and associated utility projects in the right-of-way, including, but not limited to, amendments to:

- (1) Allow roadways sufficient maximum impervious cover limits for street cross-sections;
- (2) Clarify that zoning regulations (Chapter 25-2, Subchapter E) do not apply to linear mobility and transit projects located in the right of way;
- (3) Provide a definition of a site area for projects in the right-of-way;
- (4) 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;
- (5) 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; and,
- (6) Clarify that railways should have the same applicable environmental requirements as roadways.

The amendments shall be collaboratively developed by the relevant departments and offices, heard by the appropriate Boards and Commissions, and brought back to Council for consideration by May 19, 2022. To the extent any of these challenges can be addressed administratively, such as via Criteria Manual updates, the City Manager is directed to do so and to report back to Council by May 19, 2022.

ADOPTED: March 3, 2022

ATTEST: 

Myrna Rios  
City Clerk