



October 31, 2017

**To:** Mayor Adler and Austin City Council

**CC:** Mike Personnet, Mike Kelly, Matt Hollon, Erin Wood, Sue Barnett, Ashley Greenstein, Marisa Flores Gonzalez, Sharlene Leurig, Environmental Commission, Planning Commission, Zoning and Platting Commission

**RE: Watershed Issues in CodeNEXT Draft 2**

We, the undersigned organizations hold that CodeNEXT must uphold and improve watershed and flood protection measures in the old code and bring Austin into our more sustainable future. As Austin continues to grow, it is the city's responsibility to ensure that residents are not affected by increased localized flooding events, inadequate infrastructure, and diminished water quality. We applaud the attention to these issues in the current draft but also see significant need for improvements in order to maintain and increase Austin's livability for all of its residents.

**We support that the code:**

- Maintains protections from the 2013 Watershed Protection Ordinance and voter-approved Save Our Springs Initiative including standards in the Barton Springs Zone of the Edwards Aquifer. (23-3D-9)
- Adds a new requirement for beneficial use of stormwater that requires sites to keep rainfall from smaller storms on-site. "A portion of the required capture volume for water quality must be retained and beneficially used on-site through practices that infiltrate, evapotranspire, or harvest and use rainwater." (23-3D-6030(C))
- Adds the Functional Green Requirement to require green infrastructure in urban settings where traditional landscape requirements are not possible. (23-4E-4120) We are still expectantly waiting to see the specific options presented by this new program.
- Adds new requirement that sites performing grading must protect soils from compaction or restore compacted soils after construction. (23-3D-7050(C))
- No longer allows an exception to flood mitigation requirements for redevelopments that are not increasing impervious cover (23-3D-2050-D-1). Instead, the code adds a provision that development "Reduces the post-development peak flow rate of discharge to match the peak flow rate of discharge for undeveloped conditions as prescribed in the Drainage Criteria Manual" (23-10E-3010(A)(5)(f)).
- Adds Green Stormwater Infrastructure methods to landscaping requirements, including (1) Front Yard Planting may comply with Section 23-3D-6030 (Water Quality Control and Beneficial Use Standards) "by integrating green stormwater infrastructure into landscape design and/or using stormwater for irrigation of landscaped areas," (23-4E-4040); and (2)



the parking lot standards state that new tree planting, surface parking islands, medians and peninsulas, and new planting in parking lot perimeter landscape “shall be graded to receive stormwater in accordance with the Environmental Criteria Manual.” (23-4E-4060; 23-4E-4070; 23-4E-4080)

**We believe the following improvements must be incorporated into the next draft of the code:**

Flooding

1. The current draft of the code recognizes the importance of preventing localized flooding by including the rule that “post-development peak flow rate of discharge to match the peak flow rate of discharge for undeveloped conditions” (hereafter referred to as the “pre-post conditions rule”) (23-10E-301(5)(f)). However, there are still developments that would be exempt from this requirement under the current draft rules and in aggregate have the potential to significantly increase impervious cover and potential flooding. Missing middle housing types and lot by lot development must also be held to this standard.

The pre-post conditions rule should be expanded to also be applied (1) to all lots with greater than 45% impervious cover developed or redeveloped on a lot by lot basis and (2) on Residential Heavy Site Plans. Practically, this means that in *Table 23-6A-2010 (A) Site Plan Exemptions*, “construction or alteration of a single-family residential structure, duplex, residential structure, or an accessory structure” while it may not trigger a full site plan, must still trigger flood provisions. Also, in section 23-6B-2020, language must be altered to “The Development Services Director may waive *some* Site Plan submittal requirements for residential applications of three to nine units located within an Urban Watershed, that meet the following: Dwelling units must be contained within a maximum of two buildings on a single lot, or up to six building on a cottage court lot.” Adding, “*This waiver does not apply to flood requirements in section 23-10E-301 including the pre-post conditions rule and Beneficial Use of Stormwater requirements.*”

2. It is essential that flood controls are requirements, not options. Therefore, it must be clear that the density bonus program does not waive compliance with flood provisions. In the Density Bonus Program (23-3E-5010) after the statement “The maximum impervious cover is 50 percent if the Watershed Director determines that the development will not result in additional identifiable adverse flooding on other property,” it should be added that “*the development must still comply with all flood provisions in section 23-10E-301 including the “pre-post conditions rule.”*”

Landscape Requirements

3. While many plants require permanent irrigation and many others require irrigation for variable length establishment periods, irrigation needs are diverse. In order to meet water conservation goals, we recommend removing the requirement that “at a minimum plants and all new trees must be irrigated for establishment during the first 18 months by one of the following” (23-4E-4170 (A)) because not all drought tolerant plants will take a full 18 months to establish. By requiring irrigation for such an extended duration, most developers



will likely opt to put in a permanent irrigation system, which undermines water conservation goals.

4. Also for water conservation reasons, the landscape guidelines should encourage beneficial re-use of non-potable water. To this end, replace section 23-4E-4170 (B)(5) with *“Landscape irrigation needs for new development or redevelopment must be met by either the city’s reclaimed water system or by water captured or stored on-site, including but not limited to stormwater, air conditioning condensate, greywater, treated black water, or groundwater seepage.”* Also add *“No permanent irrigation is required for the following: (1) undisturbed natural areas; (2) undisturbed natural trees; (3) areas that have been revegetated with native seed and that are irrigated by temporary irrigation during the establishment period; and (4) areas that have been revegetated with drought tolerant native landscapes, have inlets to receive stormwater, and are irrigated by temporary irrigation during the establishment period.”*
5. In tandem with encouraging less irrigation and inlets into planting beds, drought-tolerant native or adaptive plants should be encouraged. In section 24-4E, all landscape categories must include a provision that *“areas that receive stormwater and are not irrigated must be planted with drought tolerant native landscaping consistent with plants in the Grow Green Guide.”* Landscape practices that would have the effect of increasing the urban heat island effect, for example, use of rock in planting areas, must be prohibited.

#### Water Quality

6. The current 8,000 sq ft trigger for water quality control requirements is arbitrary, while 5,000 sq ft was originally recommended by Austin Watershed Protection Staff in 2013. The previous COA requirement of was 20% impervious cover on the net site area. We recommend the “applicability of water quality control standards” requirement be changed to *“(3)if the total of new and redeveloped impervious cover exceeds 5,000 square feet or new and redeveloped impervious cover is equal to or exceeds 20% of the net site area.”* (23-3D-6010). By layering these requirements, water quality controls will be required of any development with significant impervious cover.
7. Current City policy considers sand filters to be the go-to method of water quality control. While sand filters do perform well, they should not be the only explicitly allowed method. Green Stormwater Infrastructure can perform very highly and be more context appropriate in some situations. Currently, developers wanting to do a GSI style treatment must make the extra effort to prove the efficacy of their “innovative management practice.” This has the effect of discouraging these alternatives. For this reason, remove section 23-3D-6110 on Innovative Management Practices and replace with specific Green Stormwater Infrastructure methods being explicitly allowed in the Environmental Criteria Manual. For example, in new residential subdivisions and commercial developments water quality credit should be given for GSI methods such as well-designed bioswales created in the public right of way or easements.



8. There are still far too many special exceptions throughout CodeNEXT. This complicates the development process and takes valuable time from City staff and developers alike. Just as exemptions, special exceptions, and variances are disallowed in the Barton Springs Zone, (23-3D-9050) remove exceptions from watershed regulations in section 23-3D-2010 (A) which states, "Except as prohibited by Division 23-3D-9 (Save Our Springs Initiative), a special exception from the standards of this Article may be granted in compliance with Chapter 23-2 (Administration And Procedures)."

#### Other Issues

9. We recommend issuing Functional Green style options for water quality as well as flooding that would apply to a broader swath of our city than the 80% impervious cover targeted by Functional Green. Features such as green roofs and rainwater collection are not just useful in our most urbanized areas and have benefits beyond their current classification as landscaping.
10. The Environmental Criteria Manual (ECM), Drainage Criteria Manual (DCM), and other technical manuals must be updated to be consistent with CodeNEXT and be improved to allow new green methods of water quality and flood control.

We ask that the City of Austin and consultants take the above recommendations seriously so that as other Imagine Austin priorities are met our future land development code is truly green and protects residents and ecological systems from the dangers of flooding, erosion, and ecological degradation.

We look forward to your response on these issues.

Sincerely,

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