

Administration and Procedures



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Contents**Article 23-2A: Purpose and Applicability**

Division 23-2A-1: Purpose and Applicability

- 23-2A-1010 Purpose
 - 23-2A-1020 Applicability of Land Development Code
 - 23-2A-1030 Overview of Legislative and Administrative Approvals
-

Division 23-2A-2: Development Process

- 23-2A-2010 Order of Process
- 23-2A-2020 Concurrent Applications
- 23-2A-2030 Transfer of Approval

Article 23-2B: Application Review and Fees

Division 23-2B-1: Application Requirements

- 23-2B-1010 Application Requirements and Deadlines
 - 23-2B-1020 Authority to File Application
 - 23-2B-1030 Application Completeness
 - 23-2B-1040 Update and Expiration
 - 23-2B-1050 Tolling of Expiration Period
 - 23-2B-1060 Effect of Expiration on Related Applications
-

Division 23-2B-2: Review Procedures

- 23-2B-2010 Review and Processing
 - 23-2B-2020 Sequence of Review
 - 23-2B-2030 Application Approval
 - 23-2B-2040 Disapproval and Denial
 - 23-2B-2050 Development Assessment
-

Division 23-2B-3: Fees and Fiscal Surety

- 23-2B-3010 Fees
- 23-2B-3020 Fiscal Security

Article 23-2C: Notice

Division 23-2C-1: General Provisions

- 23-2C-1010 Purpose and Applicability
- 23-2C-1020 Summary of Notice Requirements

Division 23-2C-2: Notice Requirements

23-2C-2010	Notice Required
23-2C-2020	Interested Parties
23-2C-2030	Courtesy Notice
23-2C-2040	Staff Briefings

Division 23-2C-3: General Notice Procedures

23-2C-3010	Published Notice
23-2C-3020	Mailed Notice
23-2C-3030	Notification by Email
23-2C-3040	Notification Signs

Division 23-2C-4: Notice of Public Hearings

23-2C-4010	Contents of Public Hearing Notice
23-2C-4020	Type 1 Public Hearing Notice
23-2C-4030	Consolidated Notification
23-2C-4040	Type 2 Public Hearing Notice

Division 23-2C-5: Notice of Applications and Administrative Decisions

23-2C-5010	Notice of Application
23-2C-5020	Notice of Administrative Decision

Article 23-2D: Public Hearings

Division 23-2D-1: Conduct of Public Hearings

23-2D-1010	Order of Presentations
23-2D-1020	Speaker Requirements
23-2D-1030	Order and Decorum
23-2D-1040	Record of Public Hearings

Division 23-2D-2: Timing and Location of Public Hearings

23-2D-2010	Scheduling Public Hearings
23-2D-2020	Postponement and Continuation of Public Hearings
23-2D-2030	Change of Location of Public Hearings

Article 23-2E: Legislative Amendments

Division 23-2E-1: Text Amendments

23-2E-2010	Purpose, Applicability, and Policy Statement
23-2E-2020	Initiation of Text Amendments
23-2E-2030	Review and Recommendation
23-2E-2030	Adoption by Council

Division 23-2E-2: Plan and Map Amendments

23-2E-2010	Amendment to the Zoning Map
23-2E-2020	Comprehensive Plan Amendment
23-2E-2030	Neighborhood Plan Amendment

Article 23-2F: Quasi-Judicial and Administrative Relief

Division 23-2F-1: Variances and Special Exceptions

23-2F-1010	Purpose and Overview
23-2F-1020	Limitations and Legal Effect
23-2F-1030	Application Requirements
23-2F-1040	Public Hearing and Notification
23-2F-1050	Decision on Variance or Special Exception
23-2F-1060	Conditions and Modifications
23-2F-1070	Expiration

Division 23-2F-2: Administrative Relief Procedures

23-2F-2010	Purpose and Applicability
23-2F-2020	Exempt Residential Uses and Structures
23-2F-2030	Minor Adjustments
23-2F-2040	Alternative Equivalent Compliance

Division 23-2F-3: Limited Adjustments

23-2F-3010	Purpose and Applicability
23-2F-3020	Application for Limited Adjustment
23-2F-3030	Initial Determination on Limited Adjustment
23-2F-3040	Notice and Public Hearing
23-2F-3050	Final Action on Limited Adjustment

Article 23-2G: Nonconformity

Division 23-2G-1: General Provisions

23-2G-1010	Purpose and Applicability
23-2G-1020	Nonconforming Status
23-2G-1030	Determination of Nonconforming Status
23-2G-1040	Appeal of Decision on Nonconforming Status
23-2G-1050	Continuation of Nonconformity
23-2G-1060	Termination of Nonconforming Use
23-2G-1070	Alteration of Nonconforming Structures
23-2G-1080	Effect of Conditional Use Permit

Division 23-2G-2: Specific Types of Nonconformity

23-2G-2010	Nonconforming Uses Near Hazardous Pipelines
23-2G-2020	Order of Process
23-2G-2030	Nonconforming Parking
23-2G-2040	Termination of Nonconforming Use

Article 23-2H: Construction Management and Certificates

Division 23-2H-1: General Provisions

23-2H-1010	Purpose and Applicability
23-2H-1020	Preconstruction Conference
23-2H-1030	Inspection Requests
23-2H-1040	Inspection Record Card
23-2H-1050	Erosion, Sedimentation, and Tree Protection Measures
23-2H-1060	Reinspection Fee

Division 23-2H-2: Subdivision Construction

23-2H-2010	Distribution of Approved Plans
23-2H-2020	Substantial Completion Notice
23-2H-2030	Final Inspection
23-2H-2040	Acceptance by the City

Division 23-2H-3: Site Construction and Inspection

23-2H-3010	Onsite Retention of Approved Plans
23-2H-3020	Grading, Drainage, and Water Quality Facilities
23-2H-3030	Connection of Utilities

Division 23-2H-4: Certificates of Compliance and Occupancy

- 23-2H-4010 Certificate Required
- 23-2H-4020 Certificate of Occupancy
- 23-2H-4030 Certificate of Compliance
- 23-2H-4040 Temporary Certificate of Occupancy

Article 23-2I: Appeals

Division 23-2I-1: General Provisions

- 23-2I-1010 Purpose and Applicability
- 23-2I-1020 Appeal of Administrative Decisions
- 23-2I-1030 Deadline for Appeal
- 23-2I-1040 Development Not Permitted During Appeal
- 23-2I-1050 Appeals Process and Forms

Division 23-2I-2: Initiation and Processing of Appeals

- 23-2I-2010 Notice of Appeal
- 23-2I-2020 Assignment of Appeals Board
- 23-2I-2030 Meeting to Resolve Issues
- 23-2I-2040 Tolling and Correction of Application
- 23-2I-2050 Ex Parte Contacts Prohibited

Division 23-2I-3: Notification and Conduct of Public Hearing

- 23-2I-3010 Notification of Applicant and Presiding Officer
- 23-2I-3020 Scheduling and Notice of Public Hearing
- 23-2I-3030 Prehearing Submittals
- 23-2I-3040 Staff Report and Case File
- 23-2I-3050 Conduct of Appeal Hearing

Division 23-2I-4: Action on Appeal

- 23-2I-4010 Action on Appeal
- 23-2I-4020 Appellate Burden

Article 23-2J: Enforcement

Division 23-2J-1: General Provisions

- 23-2J-1010 Authority to Enforce
- 23-2J-1020 General Offenses and Violations
- 23-2J-1030 Criminal Offenses
- 23-2J-1040 Inspection and Entry
- 23-2J-1050 Copy of Approved Plans

Division 23-2J-2: Suspension and Revocation

23-2J-2010	Purpose and Applicability
23-2J-2020	Suspension of Development Approval
23-2J-2030	Revocation After Suspension
23-2J-2040	Notice of Intent to Suspend or Revoke

Division 23-2J-3: Enforcement Orders

23-2J-3010	Stop Work Order
23-2J-3020	Order to Remove or Restore
23-2J-3030	Order to Clear Public Right-of-Way

Division 23-2J-4: Appeal Procedures

23-2J-4010	Purpose and Applicability
23-2J-4020	Appeal of Enforcement Orders
23-2J-4030	Notice and Hearing on Enforcement Appeal
23-2J-4040	Action by Board on Enforcement Appeal
23-2J-4050	Compliance Pending Appeal

Article 23-2K: Vested Rights

Division 23-2K-1: Petition and Review Procedures

23-2K-1010	Definitions
23-2K-1020	Purpose and Applicability
23-2K-1030	Vested Rights Petition Required
23-2K-1040	Contents of Vested Rights Petition
23-2K-1050	Fair Notice Application
23-2K-1060	Completeness Review for Vested Rights Petition

Division 23-2K-2: Vested Rights Determinations

23-2K-2010	Vested Rights Determination
23-2K-2020	Criteria for Approval
23-2K-2030	Effect of Vested Rights Determination
23-2K-2040	Project Consent Agreements
23-2K-2050	Administrative Guidelines

Division 23-2K-3: Expiration

23-2K-3010	General Expiration Requirements
23-2K-3020	Expiration of Projects Begun on or After June 23, 2014
23-2K-3030	Managed Growth Agreements
23-2K-3040	Dormant Projects

Article 23-2L: Miscellaneous Provisions

Division 23-2L-1: Interlocal Development Agreements

23-2L-1010	Purpose and Authorization
23-2L-1020	Initiation of Interlocal Development Agreement
23-2L-1030	Land Use Commission Hearing and Recommendation
23-2L-1040	City Council Hearing and Action
23-2L-1050	Notification Requirements

Division 23-2L-2: General Development Agreements

23-2L-2010	Purpose and Applicability
23-2L-2020	Agreement Initiation and Framework
23-2L-2030	Boards and Commission Review
23-2L-2040	City Council Hearing and Action
23-2L-2050	Execution and Terms of Agreement

Division 23-2L-3: Closed Municipal Landfills

23-2L-3010	Applications Relating to a Closed Municipal Solid Waste Landfill
------------	--

Article 23-2M: Definitions and Measurements

Division 23-2M-1: Terms

23-2M-1010	Purpose
23-2M-1020	Applicability
23-2M-1030	General Terms and Phrases

Division 23-2M-2: Land Uses

23-2M-2010	Purpose
23-2M-2020	Applicability
23-2M-2030	Land Uses

Division 23-2M-3: Measurements

23-2M-3010	Purpose
23-2M-3020	Applicability
23-2M-3030	Measurements

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Article 23-2A: Purpose and Applicability

Contents

Division 23-2A-1: Purpose and Applicability

- 23-2A-1010 Purpose
 - 23-2A-1020 Applicability of Land Development Code
 - 23-2A-1030 Overview of Legislative and Administrative Approvals
-

Division 23-2A-2: Development Process

- 23-2A-2010 Order of Process
- 23-2A-2020 Concurrent Applications
- 23-2A-2030 Transfer of Approval

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Division 23-2A-1: Purpose and Applicability

Contents

23-2A-1010	Purpose.....	2A-1-1
23-2A-1020	Applicability of Land Development Code	2A-1-1
23-2A-1030	Overview of Legislative and Administrative Approvals.	2A-1-2

23-2A-1010 Purpose

- (A) The purpose of this Chapter is to:
 - (1) Establish common requirements for the review and submittal of applications for development permits and other determinations authorized by the Land Development Code; and
 - (2) Provide an overview of the different categories of development permits and other administrative decisions established under this Title.
- (B) More detailed requirements for particular categories of permits and approvals may be found throughout this Title, as well as in administrative rules and policy memos adopted by the responsible director(s) listed in Table 23-1-B010.A (Designated Department and Areas of Expertise).

23-2A-1020 Applicability of Land Development Code

- (A) Except as otherwise provided in this Title, the regulations of the Land Development Code apply as follows:
 - (1) Within the zoning jurisdiction, land use and development must comply with all applicable regulations of this Title;
 - (2) Within the planning jurisdiction, development must comply with all applicable regulations of:
 - (a) Chapter 23-2 (Administration and Procedures);
 - (b) Article 23-3D (Water Quality);
 - (c) Chapter 23-6 (Site Plan);
 - (d) Chapter 23-8 (Signage); and
 - (e) Chapters 23-5 (Subdivision) and 23-10 (Infrastructure), except that Title 30 (Austin/Travis County Subdivision Regulations) applies to the portion of the City's extraterritorial jurisdiction located within Travis County;

- (3) Division 23-11B-4 (Electrical Code) applies to a structure served by the City's electric utility; and
- (4) Division 23-11B-6 (Plumbing Code) applies to a structure served by the City's water utility; and
- (5) Land use development standards otherwise applicable only within the zoning jurisdiction, when applied through a Development Agreement approved under Division 23-2L-2 (Development Agreements), in compliance with Texas Local Government Code, Chapters 43 and 212, Subchapter G.

23-2A-1030 Overview of Legislative and Administrative Approvals

- (A) This Section provides an overview of the most significant categories of legislative, quasi-judicial, and administrative approvals established by the Land Development Code. Other approvals may also be required in compliance with this Title, depending on the nature and extent of a proposed development.
- (B) The following table is intended as an aid for using the Land Development Code, but is superseded by other provisions of this Title in the event of a conflict:

Table 23-2A-1030.A Overview of Legislative, Quasi-Judicial and Administrative Approvals

Approval Type	Section, Article or Division	Recommended¹	Decision	Appeal
Legislative Decision				
Establishing Citywide Policies & Requirements for Land Use and Development				
Original Zoning	Section 23-4B-1010	Land Use Commission	City Council	—
Map Amendments (Rezoning)	Division 23-4B-3	Land Use Commission	City Council	—
Text Amendments	Division 23-2E-1	Planning Commission	City Council	—
Comprehensive Plan Amendments	Section 23-2E-2020	Planning Commission	City Council	—
Neighborhood Plan Amendments	Section 23-2E-2030	Planning Commission	City Council	—
Original Zoning	Section 23-4B-1010	Land Use Commission	City Council	—
Quasi-Judicial Decisions				
Determining Rights or Entitlements Based on Evidentiary Hearing and Discretionary Application or Interpretation of Code Requirements				
Zoning Variance	Section 23-4B-4010	—	Board of Adjustment	District Court
Environmental Variance	Division 23-2F-1	Environmental Commission	Land Use Commission	—
Subdivision Variance	Section 23-5B-1050	Development Services Director	Land Use Commission	—
Special Exception	Section 23-4B-4020	Planning Director	Board of Adjustment	District Court
Administrative Appeals:				
Zoning Regulations	Article 23-2I	Planning Director	Board of Adjustment	District Court
Technical Codes	Article 23-2I	Building Official	Building & Fire Code Board of Appeals	—
Conditional Use Permit	Section 23-4B-1020	Planning Director	Land Use Commission	City Council
Limited Adjustment	Division 23-2F-3	Development Services Director	City Council	—
Project Consent Agreement	Section 23-2K-2040	Development Services Director	City Council	—
Original Zoning	Section 23-4B-1010	Land Use Commission	City Council	—

Table 23-2A-1030.A Overview of Legislative, Quasi-Judicial and Administrative Approvals				
Approval Type	Section, Article or Division	Recommended ¹	Decision	Appeal
Administrative Decisions Decisions Applying & Interpreting the Land Development Code to Development Applications				
(1) Level of Discretion: High – see Subsection 23-2A-1030(C)(2)(a) for Level of Discretion details				
Use Determination	Section 23-4B-2020	—	Planning Director	Board of Adjustment
Code Interpretation	Section 23-4B-2010	—	Planning Director	Board of Adjustment
Alternative Equivalent Compliance	Section 23-2F-2040	—	Development Services Director	—
(2) Level of Discretion: Medium – see Subsection 23-2A-1030(C)(2)(b) for Level of Discretion details				
Site Plan & Land Use Approvals				
Minor Use Permit	Section 23-4B-1030	—	Development Services Director	Land Use Commission
Temporary Use Permit	Section 23-4B-1050	—	Development Services Director	—
Site Plan Review	Chapter 23-6	—	Development Services Director	—
Decisions Applicability of Regulations				
Residential Exemption (Amnesty)	Section 23-2F-2020	—	Development Services Director	—
Land Status Determination	Chapter 23-5	—	Development Services Director	—
Vested Rights Approvals	Division 23-2K-2	—	Development Services Director	—
(3) Level of Discretion: Ministerial – see Subsection 23-2A-1030(C)(2)(c) for Level of Discretion details				
Subdivision Approvals				
Preliminary Plan	Division 23-5B-2	Development Services Director	Land Use Commission	—
Final Plat	Division 23-5B-3	Development Services Director	Land Use Commission	—
Subdivision Construction Plans	Division 23-5B-4	—	Development Services Director	—
Construction Approvals				
Building Permit	Article 23-7B	—	Development Services Director	—
Certificate of Occupancy or -Compliance	Division 23-2H-4	—	Development Services Director	—
Trade Permits		—	Development Services Director	Building & Fire Code Board of Appeals

- (C) **Reference Notes.** The following explanations correspond to the reference notes shown in Table 23-2A-1030.A (Overview of Legislative, Quasi-Judicial and Administrative Approvals).
- (1) **Recommendation.** In each case where a board or commission makes a recommendation to Council or takes final action on an application, a recommendation from the appropriate Director is also required.
 - (2) **Levels of Discretion.** Administrative decisions are categorized according to “level of discretion” for informational purposes only, in order to generally indicate the potential complexity of the review process and the range of actions available to the responsible director tasked with making the decision. Within each category, there may be particular applications that more closely resemble decisions that fall within a higher or lower level of discretion.
 - (a) Level of Discretion: High. Decisions within this category generally involve issues of code interpretation that may affect overall administration of this Title or the imposition of site-specific conditions consistent with general review criteria or planning policies.
 - (b) Level of Discretion: Medium. Decisions within this category may involve application review for moderate to large-scale projects, as well as projects of any scale that require board or commission approval. Code interpretation or legal review may also be required, but the effect of a decision is generally limited to a particular application and there is little, if any, authority for site-specific conditions to be imposed administratively.
 - (c) Level of Discretion: Ministerial. Decisions within this category are generally limited to construction-level permits that do not require board or commission approval. A ministerial decision may require professional judgement, including technical review, but is generally limited to approval or disapproval.
 - (3) **Code Interpretations and Use Determinations.** As provided in Chapter 23-4B (Zoning Administration and Procedures), decisions regarding the interpretation or application of site development and land use regulations may be appealed in connection with a building permit or site plan or, if applicable, as general interpretations unrelated to a particular project. An Appeal may only be filed where authorized by this Title and must meet the requirements of Article 23-2I (Appeals).

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Division 23-2A-2: Development Process

Contents

23-2A-2010	Order of Process	1
23-2A-2020	Concurrent Applications.....	1
23-2A-2030	Transfer of Approval	2

23-2A-2010 Order of Process

- (A) If a development requires two or more approvals in compliance with this Title, an applicant must obtain approvals in the following order:
 - (1) For legislative approvals:
 - (a) Comprehensive Plan amendments; and
 - (b) Zoning or rezoning.
 - (2) For quasi-judicial approvals:
 - (a) Zoning Variances and Special Exceptions;
 - (b) Environmental Variances; and
 - (c) Conditional Use Permits.
 - (3) For administrative approvals:
 - (a) Subdivision;
 - (b) Site plan;
 - (c) Building Permits; and
 - (d) Certificates of Occupancy.
- (B) The responsible director shall assign priority to different types of applications within the same category and require an applicant to obtain higher level approvals before subordinate approvals. If an application is not listed in Subsection (A), the director shall prioritize it one level below the application type to which it is most similar.

23-2A-2020 Concurrent Applications

- (A) If a proposed development requires two or more approvals under this Title, the responsible director may allow the applications to be submitted concurrently except as provided in Subsection (B). If concurrent applications are accepted, the responsible director shall approve the applications in the order established under Section 23-2A-2010 (Order of Process).
- (B) A zoning or rezoning application may not be submitted concurrently with an application for a quasi-judicial approval or an administrative approval below a planning-level Site Plan under Section 23-2A-2010(A)(3)(b).

23-2A-2030 Transfer of Approval

A permit or other land use approval issued in compliance with this Title applies to the property or structure for which the approval was issued. If a permit or other approval issued in compliance with this Title grants a right to use or develop property, that right transfers with ownership of the land or structure for which the approval was issued.

Article 23-2B: Application Review and Fees

Contents

Division 23-2B-1: Application Requirements

- 23-2B-1010 Application Requirements and Deadlines
 - 23-2B-1020 Authority to File Application
 - 23-2B-1030 Application Completeness
 - 23-2B-1040 Update and Expiration
 - 23-2B-1050 Tolling of Expiration Period
 - 23-2B-1060 Effect of Expiration on Related Applications
-

Division 23-2B-2: Review Procedures

- 23-2B-2010 Review and Processing
 - 23-2B-2020 Sequence of Review
 - 23-2B-2030 Application Approval
 - 23-2B-2040 Disapproval and Denial
 - 23-2B-2050 Development Assessment
-

Division 23-2B-3: Fees and Fiscal Surety

- 23-2B-3010 Fees
- 23-2B-3020 Fiscal Security

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Division 23-2B-1: Application Requirements

Contents

23-2B-1010	Application Requirements and Deadlines.	1
23-2B-1020	Authority to File Application	1
23-2B-1030	Application Completeness	1
23-2B-1040	Update and Expiration	2
23-2B-1050	Tolling of Expiration Period	2
23-2B-1060	Effect of Expiration on Related Applications.	3

23-2B-1010 Application Requirements and Deadlines

- (A) The responsible director shall establish requirements for applications required by the Land Development Code, including timelines for completing staff review provided in Section 23-2B-2010 (Review and Processing) and requirements for updating applications provided in Section 23-2B-1040 (Update and Expiration) to comply with the requirements of this Title.
- (B) The responsible director may adopt application requirements under this Section by administrative rule, or by policy memo, and shall post required application forms on the City's website.

23-2B-1020 Authority to File Application

A record owner or the record owner's agent may file an application for a permit or other approval, as required or authorized by this Title. The responsible director may require an applicant to provide evidence of the applicant's authority to file an application.

23-2B-1030 Application Completeness

- (A) The responsible director may not accept an application for review unless the application is determined to be complete in compliance with this Subsection.
 - (1) The responsible director shall accept an application as complete if the applicant has paid the required fee and provided the information required to be included in the application no later than the 45th day after the application is submitted.
 - (2) If an application is rejected as incomplete, the responsible director shall provide the applicant a written explanation identifying the deficiencies and the information required to complete the application within 14 days after receipt of the application.
 - (3) An application expires if it is not complete on or before the 45th day after the application is submitted. An applicant may submit an update with additional information required to complete an application at any time before the application expires.

- (B) The responsible director may allow an applicant to omit required information from an application if the director determines that the information is not material to a decision on the application.

23-2B-1040 Update and Expiration

- (A) Following acceptance of an application as complete in compliance with Section 23-2B-1030 (Application Completeness), the responsible director shall provide written comments to the applicant identifying any changes or corrections required for development proposed in the application to comply with the Land Development Code. The responsible director shall, to the greatest extent possible, provide comments on or before the deadlines for staff review established in compliance with Section 23-2B-2010 (Review and Processing).
- (B) An applicant may submit an update to an application in response to the responsible director's comments at any time before the application expires under Subsection (C), except that an update may not be submitted after an application is approved in compliance with Section 23-2B-2030 (Application Approval). An update must be submitted in a manner required by the responsible director.
- (C) An application expires if the responsible director does not approve the application under Section 23-2A-2020 (Application Approval) within one year from the date the application is submitted, unless:
 - (1) The responsible director determines that an application was sufficient to comply with the requirements of this Title on or before the one-year expiration date, in which case the application shall be deemed approved; or
 - (2) The update deadline is extended under Section 23-2B-1050 (Tolling of Expiration Period), in which case the application expires unless the applicant submits an update sufficient to comply with the requirements of this Title on or before the date of the extended deadline.

23-2B-1050 Tolling of Expiration Period

- (A) If the time required for staff review of an application exceeds the review time established by the responsible director under Section 23-2B-1010 (Application Requirements and Deadlines), the responsible director shall extend the one-year expiration period in compliance with Section 23-2B-1040 (Update and Expiration) by the number of days that staff exceeded the review time and shall notify the applicant, in writing, of the new deadline for submitting an update.

- (B) This Subsection establishes a “stop the clock” requirement for applications requiring one or more public hearings under this Title.
- (1) The one-year expiration period established by Section 23-2B-1040 (Update and Expiration) is tolled, and stops running, if the responsible director determines that:
 - (a) The application requires a public hearing before a board or commission or the Council; and
 - (b) Before the one-year expiration date established by Section 23-2B-1040 (Update and Expiration), the application is deemed to comply with all applicable regulations other than:
 - (i) The approval or recommendation for which a public hearing is required;
 - (ii) Payment of fees or fiscal surety; and
 - (iii) Other requirements of this Title, as determined by the responsible director in compliance with Section 23-2B-1010 (Application Requirements and Deadlines).
 - (2) If an application has received all discretionary approvals for which a public hearing is required, the applicant must submit all updates necessary for approval of the application no later than 120 days after the expiration period established by Section 23-2B-1040 (Update and Expiration).
 - (3) If a decision by a board or commission is appealed, the expiration period established by Section 23-2B-1040 (Update and Expiration) remains tolled pending a final decision on the Appeal.

23-2B-1060 Effect of Expiration on Related Applications

If an application expires, all other unapproved applications for that project, which are listed below the expired application under Section 23-2A-2010 (A) (Order of Process), also expire.

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Division 23-2B-2: Review Procedures

Contents

23-2B-2010	Review and Processing	1
23-2B-2020	Sequence of Review	1
23-2B-2030	Application Approval	1
23-2B-2040	Disapproval and Denial	2
23-2B-2050	Development Assessment	2

23-2B-2010 Review and Processing

- (A) The responsible director shall establish requirements for staff review and comment on pending applications, including deadlines for issuing comments on pending applications for purposes of determining when an application expires in compliance with Division 23-2B-1 (Application Requirements).
- (B) The responsible director may adopt review deadlines under this Section by administrative rule, or by policy memo, and shall post the deadlines on the City's website.

23-2B-2020 Sequence of Review

- (A) The responsible director shall require an applicant to obtain approvals in the order prescribed by Section 23-2A-2010 (Order of Process). If proposed development requires two or more approvals in the same category, such as quasi-judicial or administrative, the director may specify the order in which the approvals must be obtained.
- (B) If approval of an application requires a public hearing before the Council or a board or commission, the responsible director may not place the application on the agenda for hearing unless staff review is complete and a recommendation, if required, will be available for consideration prior to the hearing.

23-2B-2030 Application Approval

The responsible director shall approve an application if development proposed in the application meets the requirements of the Land Development Code and has received all discretionary approvals, if any, required from the Council or a City board or commission. An application may not be updated or modified following approval, except as otherwise provided by the Title.

23-2B-2040 Disapproval and Denial

- (A) An application is disapproved if the responsible director issues comments requiring an applicant to make changes or corrections for development proposed in the application to comply with the Land Development Code. If an application is disapproved, the applicant may submit an update in response to the director's comments prior to the deadline established in compliance with Section 23-2B-1040 (Update and Expiration).
- (B) An application that does not comply with the requirements of the Land Development Code on the date of the deadline required by Section 23-2B-1040 (Update and Expiration) is denied and cannot be updated.

23-2B-2050 Development Assessment

- (A) **Purpose and Limitations**
 - (1) A development assessment is a preliminary review by City staff to assist an applicant in complying with the requirements of the Land Development Code. The purpose of a development assessment is to identify problems and concerns prior to submittal of a permit application and to obtain an estimate of required fees.
 - (2) A development assessment is not a permit and is not required to initiate, continue, or complete development. However, the City encourages applicants to seek a development assessment for residential projects of more than 200 acres and for commercial or mixed use projects of more than 50 acres.
- (B) **Scope of Assessment.** Any person may request a development assessment for property located within the planning jurisdiction. Depending on the nature and extent of proposed development, a development assessment may be requested to:
 - (1) Explain the requirements and procedures of this Title regarding approvals required that may be required, including:
 - (a) Discretionary approvals, such as zoning, rezoning, or Variances;
 - (b) Subdivision or resubdivision; and
 - (c) Site Plan and Building Permits.
 - (2) Estimate fees required for necessary approvals; and
 - (3) Identify significant issues with a proposed development, including whether:
 - (a) Proposed land uses are consistent with the Comprehensive Plan and applicable zoning regulations;
 - (b) Proposed densities and site design is consistent with applicable site development standards;
 - (c) Existing transportation infrastructure is sufficient to accommodate project traffic generated by a proposed development consistent with the Transportation Plan and applicable regulations;
 - (d) Proposed development is required to provide water quality controls or is affected by critical environmental features; and
 - (e) Adequate utilities are available to serve the development consistent with long-term capacity of utility providers.

- (C) **Timing of Assessment.** The responsible director shall provide a development assessment within 15 days of receiving a completed application. Following receipt of a development assessment, an applicant is entitled to at least one meeting with staff to review the assessment.
- (D) **Vested Rights Determinations.** An applicant may submit a development assessment as part of a Fair Notice Application or a Vested Rights Petition in compliance with Article 23-2K (Vested Rights).

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Division 23-2B-3: Fees and Fiscal Surety

Contents

23-2B-3010	Fees	1
23-2B-3020	Fiscal Security.	1

23-2B-3010 Fees

Fees required under this Title shall be established by separate ordinance. All required fees must be paid before the responsible director may act on an application.

23-2B-3020 Fiscal Security

- (A) An applicant must post fiscal surety required by this Title with the responsible director. The amount of the fiscal security posted must be:
 - (1) Equal the estimated cost to the City to conduct the work for which the fiscal surety is secured;
 - (2) Provided by a qualified professional, and
 - (3) Approved by the responsible director.
- (B) An applicant shall post as fiscal security a cash deposit, a performance bond, or a letter of credit.
- (C) The responsible director shall return fiscal security to the applicant if it is determined that:
 - (1) The applicant obtained a Certificate of Occupancy, Certificate of Compliance, or final acceptance letter for the work for which the fiscal security was posted; or
 - (2) The obligation to do the work for which the fiscal security was posted has terminated.
- (D) The responsible director may draw on the fiscal security and pay the cost of fulfilling the applicant's obligations if the director determines that an applicant has breached the obligations secured by the fiscal security. The director shall pay the balance of the fiscal security, if any, to the applicant. The applicant is liable for the cost that exceeds the amount of fiscal surety, if any, to the City.

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Article 23-2C: Notice

Contents

Division 23-2C-1: General Provisions

- 23-2C-1010 Purpose and Applicability
 - 23-2C-1020 Summary of Notice Requirements
-

Division 23-2C-2: Notice Requirements

- 23-2C-2010 Notice Required
 - 23-2C-2020 Interested Parties
 - 23-2C-2030 Courtesy Notice
 - 23-2C-2040 Staff Briefings
-

Division 23-2C-3: General Notice Procedures

- 23-2C-3010 Published Notice
 - 23-2C-3020 Mailed Notice
 - 23-2C-3030 Notification by Email
 - 23-2C-3040 Notification Signs
-

Division 23-2C-4: Notice of Public Hearings

- 23-2C-4010 Contents of Public Hearing Notice
 - 23-2C-4020 Type 1 Public Hearing Notice
 - 23-2C-4030 Consolidated Notification
 - 23-2C-4040 Type 2 Public Hearing Notice
-

23-2C-5: Notice of Applications and Administrative Decisions

- 23-2C-5010 Notice of Application
- 23-2C-5020 Notice of Administrative Decision

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Division 23-2C-1: General Provisions

Contents

23-2C-1010	Purpose and Applicability	1
23-2C-1020	Summary of Notice Requirements	1

23-2C-1010 Purpose and Applicability

- (A) The purpose of this Article is to establish notice procedures for the most common types of actions for which notice is required in compliance with the Land Development Code. Additional notice procedures may be required by other provisions of this Title or by state law.
- (B) The requirements of this Article apply all notice procedures established under this Title, unless a specific provision of this Title establishes a separate notice requirement.

23-2C-1020 Summary of Notice Requirements

- (A) The following table summarizes the requirements for each type of notice as required under this Title:

Table 23-2C-1010.A Summary of Notice Requirements			
Type of Notice	LDC Section	Published Notice Deadline	Mailed Notice Deadline
Related to Specific Site or Project			
Public Hearing Before a Board or Commission	Section 23-2C-4020 (Type 1)	12 Days before Hearing	7 Days before Hearing
Public Hearing before the Council	Section 23-2C-4020 (Type 1)	12 Days before Hearing	12 Days before Hearing
Filing of Development Application	Section 23-2C-5020	—	10 Days after Application
Issuance of Administrative Decision	Section 23-2C-5030		1 Day after Decision
Unrelated to Specific Site or Project			
Public Hearing Before a Board or Commission	Section 23-2C-4040 (Type 2)	12 Days before Hearing	7 Days before Hearing
Public Hearing Before the Council	Section 23-2C-4040 (Type 2)	12 Days before Hearing	12 Days before Hearing
Application for Non-Project Code Interpretation	Section 23-2C-5020		10 Days after Formal Application
Non-Project Code Interpretation	Section 23-2C-5030		1 Day after Decision

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Division 23-2C-2: Notice Requirements

Contents

23-2C-2010	Notice Required	1
23-2C-2020	Interested Parties	1
23-2C-2030	Courtesy Notice	2
23-2C-2040	Staff Briefings	2

23-2C-2010 Notice Required

- (A) A person or organization is entitled to notice of a public hearing, application, or administrative decision under this Title if a provision of this Title requires the responsible director to provide the person or organization with notice of the public hearing, application, or administrative decision.
- (B) The responsible director shall, to the greatest extent possible, ensure compliance with the notice requirements of this Title. Failure to receive notice does not invalidate a legislative, quasi-judicial, or administrative approval, except as otherwise provided by state law.

23-2C-2020 Interested Parties

- (A) A person or organization must qualify as an interested party in compliance with this Section in order to be entitled to notice required by this Title, except as otherwise provided by this Title or state law.
- (B) An interested party is:
 - (1) An applicant for a development approval that is the subject of a public hearing or administrative decision under this Title;
 - (2) A record owner of property included in an application for a development approval that is the subject of a public hearing or administrative decision under this Title; or
 - (3) A person who:
 - (a) Occupies a primary residence that is within 500 feet of the site of the proposed development;
 - (b) Is the record owner of property within 500 feet of the site of the proposed development;
 - (c) Is an officer of an environmental or neighborhood organization that has an interest in the site of a proposed development or whose declared boundaries are within 500 feet of the site of the proposed development; or
 - (d) Has a utility account address located within 500 feet of the site of the proposed development, as shown in the City utility records on the date of the filing of the application.

23-2C-2030 **Courtesy Notice**

- (A) Any person or group may request that the responsible director provide notice of public meetings, hearings, or administrative decisions regarding an application for development approval, regardless of whether the person or group qualifies as an interested party in compliance with Section 23-2C-2020 (Interested Parties) or is otherwise entitled to notice under this Title.
- (B) In order to receive notice under this Section, a person must provide contact information as required by the responsible director. The director may provide notice under this Section in whatever manner is deemed appropriate, including by email.

23-2C-2040 **Staff Briefings**

The responsible director may schedule staff briefings before a board or commission, or before the Council, on items unrelated to a pending development application. Notice for a staff briefing must comply with the Government Code, Chapter 551 (Open Meetings Act).

Division 23-2C-3: General Notice Procedures

Contents

23-2C-3010	Published Notice	1
23-2C-3020	Mailed Notice	1
23-2C-3030	Notification by Email	2
23-2C-3040	Notification Signs	2

23-2C-3010 Published Notice

If this Title requires the responsible director to provide notice by publication, the notice is effective on the date a notice is published in a newspaper of general circulation in the City.

23-2C-3020 Mailed Notice

- (A) Mailed notice required to be provided by this Title is effective on the date a letter is deposited in a depository of the U.S. Post Office, postage paid, and addressed:
- (1) To an applicant, by mailing notice to the property owner or agent at the address shown on the application or on a written change of address form filed with responsible director;
 - (2) To a notice owner of real property, by mailing notice to the owner shown on the records of the county tax appraisal district;
 - (3) To a record owner of real property, by mailing notice to the owner at the street address of the property or, if the property does not have a street address, to the return address shown on the deed;
 - (4) To a neighborhood association or environmental organization, by mailing notice to the agent or officer of the organization at the mailing address specified in the City registration information;
 - (5) To a utility account addresses, by mailing addresses as shown in the City utility records on the date of the filing of the application; and
 - (6) To an interested party, by mailing to the address on file.
- (B) Notice by certified mail, return receipt requested, is not required unless specifically prescribed in this Title.
- (C) Notice by hand delivery may be substituted for notice by mail if the addressee provides a receipt of delivery.

23-2C-3030 Notification by Email

- (A) The responsible director may allow a person entitled to mailed notice under this Title to submit a written request to receive notification by email instead of mailed notice in compliance with Section 23-2C-3020 (Mailed Notice), except as otherwise provided by state law. The requirements of this Section apply only if the director accepts a request for notification by email.
- (B) The responsible director shall provide notice to a person who submits a request for email notification under this Section by sending one or more emails containing the information required to be provided by this Title no later than the applicable deadline required for mailed notice. A person may revoke a request for email notice submitted under this Section, or provide an updated mail address, in writing at any time.

23-2C-3040 Notification Signs

- (A) If this Title requires notice to be provided by posting a sign, the responsible director shall post the sign in compliance with this Section.
- (B) A sign must be in a form approved by the responsible director and must:
 - (1) Specify the type of action pending, the file number, the name and telephone number of the person to contact for additional information;
 - (2) Be reasonably readable from the street; and
 - (3) Be spaced not more than 200 feet apart from another sign for the same application.
- (C) If the street frontage of the subject property is less than 200 feet in length, only one sign is required. Not more than three signs are required regardless of the length of the street frontage.
- (D) Signs must be posted at least 15 days prior to the action for which notice is required.
- (E) A person may not remove a sign before the earliest date on which action may be taken on the application.
- (F) If requested by an applicant, the responsible director may allow the applicant to post a sign required by this Title. An applicant permitted to post a sign must:
 - (1) Place and maintain the sign on the property in compliance with this Section;
 - (2) Verify placement of the sign in a manner prescribed by the responsible director;
 - (3) Respond within 24-hours of receiving a complaint that a sign has been removed or altered in violation of this Section; and
 - (4) Remove the sign within seven days after the public hearing is closed and final action is taken on the matter for which notification is required, or pay costs incurred by the City in removing the sign.

Division 23-2C-4: Notice of Public Hearings

Contents

23-2C-4010	Contents of Public Hearing Notice	1
23-2C-4020	Type 1 Public Hearing Notice.....	1
23-2C-4030	Consolidated Notification	2
23-2C-4040	Type 2 Public Hearing Notice.....	2

23-2C-4010 Contents of Public Hearing Notice

- (A) Notice of a public hearing required by the Land Development Code must be in a form approved by the responsible director and must meet the requirements of this Section.
- (B) Notice of a public hearing must:
 - (1) Generally describe the subject matter of the public hearing;
 - (2) For notice required in compliance with Section 23-2C-4020 (Type 1 Public Hearing Notice), identify the applicant and the location of the subject property;
 - (3) Identify the body holding the public hearing and the date, time, and place of the public hearing;
 - (4) If the decision of the body holding the public hearing may be appealed, describe the procedure and standards for an Appeal; and
 - (5) Include the address and telephone number of the office from which additional information may be obtained.

23-2C-4020 Type 1 Public Hearing Notice

- (A) **Purpose and Applicability.** Throughout this Title, Type 1 Public Hearing Notice is the primary type of notice required for public hearings that pertain to specific properties or parties. A public hearing requires a Type 1 Public Hearing Notice in compliance with this Section only where specifically required by this Title.
- (B) **Notice Recipients.** When a Type 1 Public Hearing Notice is required by this Title, the responsible director shall mail notice in compliance with this Section to persons who qualify as interested parties in compliance with Section 23-2C-2020 (Interested Parties).

(C) **Deadlines for Mailing & Publication**

- (1) For a public hearing before a board or commission, the responsible director shall mail Type 1 Public Hearing Notice no later than seven days before the date of the public hearing.
 - (2) For a public hearing before the Council, the responsible director shall mail and publish Type 1 Public Hearing Notice no later than 12 days before the date of the public hearing.
- (D) **Posting Signs.** The responsible director is not required to post signs for a Type 1 Public Hearing Notice under this Section except where this Title specifically requires signs to be posted. Examples of a Type 1 Public Hearing Notice that requires posting signs include Variance applications and public hearings under Division 23-2F-1 (Variances and Special Exceptions).

23-2C-4030 Consolidated Notification

- (A) For public hearings on two or more matters related to the same property or development, only one notice in compliance with Section 23-2C-4020 (Type 1 Public Hearing Notice) is required if the hearings are scheduled on the same date before the same body or before two or more bodies not later than 35 days after the date of a notice.
- (B) The responsible director shall provide notice in compliance with this Section no later than the date that the earliest notice is required to be provided.

23-2C-4040 Type 2 Public Hearing Notice

- (A) **Purpose and Applicability.** Throughout this Title, Type 2 Public Hearing Notice is the primary type of notice required for public hearings that pertain to broader areawide planning or legislative issues that are not directly related to a specific property or development proposal. A public hearing requires Type 2 Public Hearing Notice in compliance with this Section only where specifically required by this Title.
- (B) **Notice Recipients.** The responsible director shall provide notice of a public hearing for issues without a subject property address by mailing notice to registered neighborhood and environmental organizations and by publication.
- (C) **Deadlines for Mailing & Publication**
 - (1) For a public hearing before a board or commission, the responsible director shall mail Type 2 Public Hearing Notice no later than seven days before the date of the public hearing.
 - (2) For a public hearing before the Council, the responsible director shall mail and publish Type 2 Public Hearing Notice no later than 12 days before the date of the public hearing.
- (D) **Posting Signs Not Required.** This Title does not require posting signs for Type 2 Public Hearing Notice under this Section.

Division 23-2C-5: Notice of Applications and Administrative Decisions

Contents

23-2C-5010	Notice of Application.	1
23-2C-5020	Notice of Administrative Decision	1

23-2C-5010 Notice of Application

- (A) **Applicability.** If a provision of this Title requires the responsible director to provide notice of the filing of an application, the director shall provide mailed notice in compliance with this Section to persons who qualify as interested parties in compliance with Section 23-2C-2020 (Interested Parties).
- (B) **Contents of Notice.** Notice of an application provided under this Section must:
 - (1) Describe the nature of the application;
 - (2) Identify the applicant and the location of the site;
 - (3) Generally describe the proposed development;
 - (4) Identify the entity that may approve the application and whether or not approval of the application requires a public hearing;
 - (5) Provide a means for submitting comments on the application;
 - (6) State the earliest date that approval on the application may occur; and
 - (7) Include the address and telephone number of the responsible director from whom additional information may be obtained.
- (C) **Deadline for Mailing Notice.** The responsible director shall mail notice of an application under this Section no later than 10 days after the application is filed.
- (D) **Action on Application.** Unless otherwise provided by this Title, the responsible director may not approve an application for which notice is required under this Section sooner than 10 days after the date that notice is provided.

23-2C-5020 Notice of Administrative Decision

- (A) **Applicability.** If a provision of this Title requires the responsible director to provide notice of an administrative decision, the director shall mail notice in compliance with this Section to:
 - (1) The applicant;
 - (2) The record owner of the subject property; and
 - (3) Interested parties in compliance with Section 23-2C-2020 (Interested Parties).

- (B) **Contents of Notice.** Notice of an administrative decision in compliance with this Section must:
- (1) Describe the nature of the administrative decision;
 - (2) Identify the applicant and the location of the site, unless the decision is a general code interpretation unrelated to a particular site; and
 - (3) If applicable, provide information regarding the appeals process in compliance with Article 23-2I (Appeals).
- (C) **Deadline for Mailing Notice.** Notice of an administrative decision under this Section must be provided no later than one day after the decision is issued.

Article 23-2D: Public Hearings

Contents

23-2D-1: Conduct of Public Hearings

- 23-2D-1010 Order of Presentations
 - 23-2D-1020 Speaker Requirements
 - 23-2D-1030 Order and Decorum
 - 23-2D-1040 Record of Public Hearings
-

23-2D-2: Timing and Location of Public Hearings

- 23-2D-2010 Scheduling Public Hearings
- 23-2D-2010 Postponement and Continuation of Public Hearings
- 23-2D-2010 Change of Location of Public Hearings

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Division 23-2D-1: Conduct of Public Hearings

Contents

23-2D-1010	Order of Presentations.....	1
23-2D-1020	Speaker Requirements.....	1
23-2D-1030	Order and Decorum	2
23-2D-1040	Record of Public Hearings	2

23-2D-1010 Order of Presentations

- (A) Except for an Appeal hearing under Article 23-2I (Appeals), a public hearing required by this Title shall proceed as follows:
 - (1) Presentation of a report by City staff;
 - (2) Presentation by the applicant, for a hearing on an application related to a specific property;
 - (3) Presentation by persons supporting the application or proposal;
 - (4) Presentation by persons opposing the application or proposal; and
 - (5) Rebuttal by the applicant, for a hearing on an application.
- (B) A member of the body conducting the public hearing may ask questions of a person at any time during a presentation. With the approval of the chair, a presenter may ask questions of another person at the hearing.

23-2D-1020 Speaker Requirements

- (A) To speak at a public hearing required by this Title, a person must follow the process established in this Section unless the body holding the public hearing authorizes a departure from these requirements.
- (B) A person must register to speak at a public hearing with the presiding officer of the body conducting the hearing in the manner provided by the presiding officer.
- (C) A person who registers before a public hearing may speak during the appropriate portion of the hearing, as established under Section 23-2D-1010 (Order of Presentations). A person who registers after the beginning of a hearing may speak before the close of the hearing with the permission of the presiding officer.
- (D) A speaker shall state his or her name at the beginning of a presentation and include it on the speaker registration form, which must also include the mailing address of the speaker and the matter to be addressed.
- (E) The body conducting a public hearing may limit a speaker's time to address the body. The presiding officer may request that a speaker eliminate repetitious or irrelevant testimony.

23-2D-1030 Order and Decorum

Speakers and members of a body conducting a public hearing should follow the standards of decorum established under Section 2-1-48 (Rules of Order).

23-2D-1040 Record of Public Hearings

- (A) A body conducting a public hearing shall create a video or audio recording of each public hearing.
- (B) The official record of a public hearing includes:
 - (1) The audio or video recording of the public hearing;
 - (2) Written staff reports; and
 - (3) Documentary evidence submitted during a public hearing.
- (C) A person may review the official record of a public hearing.
- (D) The custodian of the records of the body conducting the hearing may establish rules regarding the time and location for review of the record.

Division 23-2D-2: Timing and Location of Public Hearings

Contents

23-2D-2010	Scheduling Public Hearings	1
23-2D-2020	Postponement and Continuation of Public Hearings	1
23-2D-2030	Change of Location of Public Hearings	2

23-2D-2010 Scheduling Public Hearings

- (A) If an application or legislative proposal requires a public hearing under this Title, the public hearing shall be scheduled in compliance with this Section once the responsible director determines that the application or legislative proposal is complete and ready to be considered.
- (B) For a public hearing before a board or commission, the responsible director shall select a place and a time certain for the hearing, after consulting with the chair of the body conducting the hearing; and provide notice of the hearing as required by this Article.
- (C) For a hearing before the Council, the City Manager shall select a place and a time certain for the hearing unless the Council sets the public hearing.

23-2D-2020 Postponement and Continuation of Public Hearings

- (A) The body conducting a public hearing may postpone a public hearing by announcing the postponement on the date and at the time and location stated in the notice for the scheduled hearing and continue a public hearing to a later date by announcing the continuance after the hearing begins.
- (B) If the body conducting a public hearing postpones or continues a hearing to a specific date and time not later than 60 days after the date on which the postponement or continuance is announced, the announcement is adequate notice of the next hearing and additional notice is not required.
- (C) When a body conducting a public hearing postpones or continues a hearing, the next hearing shall be held at the same location as the original hearing unless a change in location is announced at the time of the postponement or continuance.
- (D) If a body does not specify a hearing date and time at the time that a postponement or continuance is announced, notice of the next hearing shall be provided in the manner required for the original hearing.

23-2D-2030 Change of Location of Public Hearings

- (A) The presiding officer of the body conducting a public hearing may, for good cause, change the location of a hearing after notification for the hearing has been provided.
- (B) To change the location of a public hearing, the presiding officer shall post a sign notifying the public of the change of location. The sign must:
 - (1) Be prominently displayed at the original location of the hearing on the date and at the time of the original hearing;
 - (2) Identify the hearing being relocated;
 - (3) State the time, date, and new location of the hearing; and
 - (4) Provide an explanation for relocation.
- (C) If the location of a hearing is changed, the body conducting a public hearing shall delay opening the hearing a sufficient period of time to provide a reasonable opportunity for persons planning to participate or observe the hearing to travel from the original location to the new location of the hearing.

Article 23-2E: Legislative Amendments

Contents

Division 23-2E-1: Text Amendments

23-2E-2010	Purpose, Applicability, and Policy Statement
23-2E-2020	Initiation of Text Amendments
23-2E-2030	Review and Recommendation
23-2E-2030	Adoption by Council

Division 23-2E-2: Plan and Map Amendments

23-2E-2010	Amendment to the Zoning Map
23-2E-2020	Comprehensive Plan Amendment
23-2E-2030	Neighborhood Plan Amendment

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Division 23-2E-1: Text Amendments

Contents

23-2E-2010	Purpose, Applicability, and Policy Statement	1
23-2E-2020	Initiation of Text Amendments	1
23-2E-2030	Review and Recommendation.	2
23-2E-2030	Adoption by Council	3

23-2E-2010 Purpose, Applicability, and Policy Statement

- (A) The requirements of this Division establish uniform procedures for amending the text of this Title. Procedures for amending the Zoning Map are specified in Division 23-4B-3 (Zoning Map Designations and Amendments).
- (B) While the Council has legislative authority to amend the Land Development Code at any time, consistent with the requirements of state law, the City Charter, and this Division, the preferred policy of the City is to avoid:
 - (1) The frequent initiation of amendments to this Title;
 - (2) The use of code amendments to address unique or unusual circumstances that are unlikely to recur on a regular basis or are specific to a narrow category of properties or developments; and
 - (3) Initiating amendments to individual code sections or requirements, apart from a broader and more holistic review of related regulations bearing on the same overall topic.

23-2E-2020 Initiation of Text Amendments

- (A) Before a public hearing may be held on a proposed text amendment to this Title, the amendment must be initiated by Council, the Planning Commission, or for an amendment to Chapter 23-11 (Technical Codes), the Building Official. This Section establishes the process required for initiating a text amendment.
- (B) To initiate a text amendment:
 - (1) The Council may approve a resolution that describes the purpose of the proposed amendment and specifies particular provisions, if any, that the Council considers essential to that purpose;
 - (2) The Planning Commission may approve a motion that incorporates a staff report or describes, on the record, the purpose of the proposed amendment and particular provisions, if any, that the Commission considers essential to that purpose; and
 - (3) The Building Official may initiate an amendment to Chapter 23-11 (Technical Codes) by memorandum sent to the appropriate technical code board describing the proposed amendment.

- (C) After a text amendment has been initiated, the responsible director shall:
- (1) Prepare a draft amendment, in consultation with affected City departments, if any, that is generally consistent with the terms of the initiation;
 - (2) Prepare a report describing the amendment and making a staff recommendation, which must include:
 - (a) Analysis of whether the amendment is consistent with applicable goals and policies of the Comprehensive Plan and any prior Council resolutions or City policies relevant to the proposed amendment; and
 - (b) Any concerns the responsible director has regarding implementation of the proposed amendment, including suggested alternatives, if any, for achieving the objective of the initiation; and
 - (3) Schedule the proposed amendment for public hearing before the appropriate board in compliance with Section 23-2D-2010 (Scheduling Public Hearing).

23-2E-2030 Review and Recommendation

- (A) The responsible director shall schedule a public hearing on a proposed amendment to this Title before the Planning Commission or, for a proposed amendment to Chapter 23-11 (Technical Codes), the appropriate technical code board, except as provided in Subsection (C). Notice for a public hearing shall be provided in compliance with Section 23-2C-4040 (Type 2 Public Hearing Notice).
- (B) Before presenting a proposed code amendment to the Planning Commission, the responsible director shall provide the following boards and commissions an opportunity to review a summary of the amendment and make a recommendation to the Planning Commission:
- (1) The Codes & Ordinances Joint Committee or, for an amendment affecting only historic zoning regulations, the Historic Landmark Commission; and
 - (2) The Environmental Commission, for an amendment to Article 23-3C (Urban Forest Protection and Replenishment) and Article 23-3D (Water Quality) or other environmental regulation.
- (C) In addition to the review required by this Section, a proposed code amendment may be presented to one or more additional boards or commissions at the direction of the Council, the Planning Commission, or the responsible director.
- (D) The Council may, in the resolution initiating a code amendment, waive review required by this Section, except for an amendment to Chapter 23-4 (Zoning), Chapter 23-5 (Subdivision), or other regulation for which review is required by state law.

23-2E-2030 Adoption by Council

- (A) The responsible director shall present a proposed amendment to this Title to the Council for consideration at a public hearing after completing board and commission review under Section 23-2D-2030 (Review and Recommendation). If the Planning Commission or appropriate technical code board does not make a recommendation within a reasonable time after conducting a public hearing, the director may forward the amendment to Council without recommendation.
- (B) The responsible director shall provide notice of a public hearing before Council under Section 23-2C-4040 (Type 2 Public Hearing Notice). In advance of the public hearing, the director shall provide Council with a staff report, addressing the review criteria listed in Section 23-2D-2020(C)(2) (Initiation of Amendment) and summarizing the recommendation or deliberations of the boards and commissions review.
- (C) After conducting a public hearing, the Council shall consider whether the proposed amendment is consistent with applicable goals and policies of the Comprehensive Plan based on the recommendations of the responsible director, City boards and commissions, and testimony at the public hearing. The Council may adopt, deny, or modify the proposed amendment, consistent with applicable requirements of the City Charter and state law.

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Division 23-2E-2: Plan and Map Amendments

Contents

23-2E-2010	Amendment to the Zoning Map	1
23-2E-2020	Comprehensive Plan Amendment	1
23-2E-2030	Neighborhood Plan Amendment	1

23-2E-2010 Amendment to the Zoning Map

An amendment to the Zoning Map may be initiated in compliance with the procedures in Chapter 23-4 (Zoning Code).

23-2E-2020 Comprehensive Plan Amendment

An amendment to the Comprehensive Plan is subject to the review and adoption procedures specified in the City Charter, Article X, Sec. 5.

23-2E-2030 Neighborhood Plan Amendment

- (A) **Purpose.** This Section establishes procedures for amending a Neighborhood Plan. For purposes of this Section, there are two types of Neighborhood Plan Amendments:
 - (1) A Neighborhood Plan Amendment regarding an individual property; and
 - (2) A Neighborhood Plan Amendment regarding an area-wide or subzone-wide recommendation.
- (B) **Applicability**
 - (1) **Individual Property.** A Neighborhood Plan Amendment regarding an individual property may be initiated by:
 - (a) The owner of the subject property;
 - (b) The Council;
 - (c) The Planning Commission;
 - (d) The responsible director; or
 - (e) The neighborhood plan contact team for the planning area in which the property is located.
 - (2) **Area-Wide or Subzone-Wide Recommendation.** A Neighborhood Plan Amendment regarding an area-wide or subzone-wide recommendation may be initiated by:
 - (a) The Council;
 - (b) The Planning Commission;
 - (c) The responsible director; or
 - (d) The neighborhood plan contact team for the affected neighborhood plan area.

- (C) **Review Authority.** The Council may approve a Neighborhood Plan Amendment Application after considering the recommendations of the responsible director and Land Use Commission, as well as the goals and policies of the Comprehensive Plan.
- (D) **Meetings, Hearings, and Notice**
- (1) **Application.** The responsible director shall give notice of the filing of a Neighborhood Plan Amendment in compliance with Section 23-2C-5010 (Notice of Application).
 - (2) **Community Meeting.** The responsible director shall conduct a community meeting on a proposed Neighborhood Plan Amendment prior to the date on which the Land Use Commission is scheduled to consider the amendment.
 - (3) **Land Use Commission**
 - (a) The Land Use Commission shall hold a public hearing on a Neighborhood Plan Amendment application not later than the 90th day after the date the application is filed.
 - (b) The responsible director shall provide notice of the public hearing in compliance with Division 23-2C-4 (Notice of Public Hearings).
 - (4) **Council**
 - (a) The Council shall hold a public hearing on a Neighborhood Plan amendment application not later than the 40th day after the date of the Land Use Commission recommendation.
 - (b) The responsible director shall provide notice of the public hearing before Council in compliance with Division 23-2C-4 (Notice of Public Hearings).
 - (5) **Responsibility for Cost of Notice**
 - (a) **Individual Property**
 - (i) For a Neighborhood Plan Amendment regarding an individual property, the applicant is responsible for the cost of notice, unless the applicant is a neighborhood plan contact team.
 - (ii) If the applicant is a neighborhood plan contact team, the City is responsible for the cost of notice.
 - (b) **Area-Wide or Subzone-Wide Recommendation.** For a Neighborhood Plan amendment regarding an area-wide or subzone-wide recommendation, the City is responsible for the cost of notice.
- (E) **Pre-Application Meeting.** A pre-application meeting between the responsible director's staff and an applicant is required before the applicant may submit an application to amend a neighborhood plan to the director. At the meeting:
- (1) The staff shall describe the application process to the applicant;
 - (2) The applicant shall describe the proposed neighborhood plan amendment to the staff;

- (3) If the applicant is proposing a change to the future land use map, the applicant shall provide the staff with information regarding the proposed change, including the address, boundaries, acreage, current and proposed future land use map categories, and current and proposed uses; and
- (4) If the applicant is proposing a text change, the applicant shall provide the proposed language and an explanation of the change.

(F) Application Review

- (1) **Individual Property Timing.** For an application regarding an individual property, except as provided in Subsection (F)(2):
 - (a) The responsible director may accept an application to amend a neighborhood plan not earlier than one year after the adoption of the plan;
 - (b) After the one-year anniversary of a neighborhood plan's adoption, the responsible director may accept an application to amend a plan recommendation relating to an individual property not more frequently than once every 12 months; and
 - (c) An application may be filed only during the month established by the responsible director in compliance with Subsection (K) (Map and Filing Dates) if:
 - (i) The application is submitted by a neighborhood plan contact team for the planning area in which the property is located; or
 - (ii) A neighborhood plan contact team for the planning area in which the property is located has given written approval of the application.
 - (d) An applicant may not file an application for an amendment that is substantially the same as an application denied by council until one year after the council action denying the prior application.
- (2) **Individual Property Timing Exception.** The responsible director may accept an application regarding an individual property at a time other than as provided in Subsection (F)(1) if it is determined that:
 - (a) Prohibiting the filing would result in a hardship to the applicant, and the development proposed by the applicant will not adversely affect public health, safety, and welfare;
 - (b) A clerical error regarding the designated use of the subject property exists on the future land use map of the neighborhood plan or in the text of the plan;
 - (c) The person submitting the application has received a letter from the responsible director of the appropriate City department stating that the development:
 - (i) Is not subject to current City environmental standards, but is proposed to be developed in compliance with current City environmental standards;
 - (ii) Promotes the recruitment or retention of an employment center with 100 or more employees; or
 - (iii) Qualifies as an affordable housing project under Chapter 23-3E (Affordable Housing Incentive Program); or
 - (iv) Council has initiated the application.
 - (d) An applicant may appeal a decision of the responsible director made under Subsection (F)(2)(a) to the Planning Commission.

(3) **Area-Wide or Subzone-Wide Application.** For an area-wide or subzone-wide application:

- (a) The responsible director may accept an application to amend a neighborhood plan not earlier than two years after the adoption of the plan;
- (b) The responsible director may accept an application not earlier than two years after the most recent Council action on the plan; and
- (c) An application initiated by Council may be filed at any time.

(G) Expiration of Application and Extension

- (1) A Neighborhood Plan Amendment application expires if the responsible director does not schedule the application for a public hearing:
 - (a) By the Planning Commission before the 181st day after the date of filing; or
 - (b) By the Planning Commission or Council before the 181st day after the date on which the Planning Commission or Council grants an indefinite postponement of a scheduled public hearing.
- (2) A Neighborhood Plan Amendment application expires if the Council does not adopt an ordinance before the 361st day after Council closes the public hearing on the application.
- (3) A Neighborhood Plan Amendment application initially submitted before the effective date of this Section expires 180 days after the effective date of this Title, except as provided in Subsection (G)(4).
- (4) An applicant may file one request with the responsible director and one request with Council to extend an application that will expire in compliance with Subsection (G)(1) or (G)(2). The request must be in writing, be filed before the application expires, state good cause for the extension, and be for not more than 180 days.

(H) Director's Recommendation. The responsible director may recommend approval of the Neighborhood Plan Amendment if the criteria in Subsections (H)(1)-(2) are met:

- (1) The applicant demonstrates that:
 - (a) The proposed amendment is appropriate because of a mapping or textual error or omission made when the original plan was adopted or during subsequent amendments;
 - (b) The denial of the proposed amendment would jeopardize public health, safety, or welfare;
 - (c) The proposed amendment is appropriate because of a material change in circumstances since the adoption of the plan and denial would result in a hardship to the applicant;
 - (d) The proposed development:
 - (i) Provides environmental protection that is superior to the protection that would otherwise be achieved in compliance with existing zoning and development standards; or
 - (ii) Promotes the recruitment or retention of an employment center with 100 or more employees;

- (e) The proposed amendment is consistent with the goals and objectives of the neighborhood plan; or
- (f) The proposed amendment promotes additional affordable housing opportunities.
- (g) The applicant demonstrates that proposed amendment complies with applicable standards and standards established by this Title, the objectives of Chapter 23-4 (Zoning Code), and the purposes of the zone for the subject property and the proposed amendment is consistent with sound planning principles.

(I) **Land Use Commission's Recommendation**

- (1) The Land Use Commission shall make a recommendation to the Council on a Neighborhood Plan Amendment application not later than the 14th day after the Land Use Commission closes the public hearing on the application.
- (2) The Land Use Commission shall consider the responsible director's recommendation before acting on the Neighborhood Plan Amendment application.
- (3) If the Land Use Commission does not adopt a recommendation on an application, the responsible director shall forward the application to Council without a Land Use Commission recommendation.
- (4) If the Land Use Commission does not hold a public hearing in compliance with Subsection (I)(1), the applicant may file a written request for a hearing.
- (5) The responsible director shall report the Land Use Commission's recommendation on each Neighborhood Plan Amendment application to the Council.

(J) **Council's Decision.** The Council must consider the responsible director's recommendation and the Land Use Commission's recommendation before acting on the Neighborhood Plan Amendment application.

(K) **Map and Filing Date.** The responsible director shall establish a map designating the area of the City for which a Neighborhood Plan Amendment must be submitted in February and the area for which an application must be submitted in July.

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Article 23-2F: Quasi-Judicial and Administrative Relief

Contents

Division 23-2F-1: Variances and Special Exceptions

- 23-2F-1010 Purpose and Overview
 - 23-2F-1020 Limitations and Legal Effect
 - 23-2F-1030 Application Requirements
 - 23-2F-1040 Public Hearing and Notification
 - 23-2F-1050 Decision on Variance or Special Exception
 - 23-2F-1060 Conditions and Modifications
 - 23-2F-1070 Expiration
-

Division 23-2F-2: Administrative Relief Procedures

- 23-2F-2010 Purpose and Applicability
 - 23-2F-2020 Exempt Residential Uses and Structures
 - 23-2F-2030 Minor Adjustments
 - 23-2F-2040 Alternative Equivalent Compliance
-

Division 23-2F-3: Limited Adjustments

- 23-2F-3010 Purpose and Applicability
- 23-2F-3020 Application for Limited Adjustment
- 23-2F-3030 Initial Determination on Limited Adjustment
- 23-2F-3040 Notice and Public Hearing
- 23-2F-3050 Final Action on Limited Adjustment

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Division 23-2F-1: Variances and Special Exceptions

Contents

23-2F-1010	Purpose and Overview	1
23-2F-1020	Limitations and Legal Effect.	2
23-2F-1030	Application Requirements	2
23-2F-1040	Public Hearing and Notification	2
23-2F-1050	Decision on Variance or Special Exception	3
23-2F-1060	Conditions and Modifications	3
23-2F-1070	Expiration	4

23-2F-1010 Purpose and Overview

(A) **Purpose.** The purpose of this Division is to establish common procedures for the submittal and review of applications for Variances or Special Exceptions for consideration by the Board of Adjustment or Land Use Commission. Specific criteria for obtaining a Variance or Special Exception depend on the regulations from which the Variance or Special Exception is requested. A Variance or Special Exception may only be approved where specifically authorized by this Title.

(B) **Overview of Variances and Special Exceptions**

(1) **Variances**

(a) A Variance is a quasi-judicial decision relaxing regulations or standards applicable to development under this Title. The requirements for obtaining a Variance depend on the regulations from which the Variance is requested, but in general a Variance may only be approved if site conditions unique to a particular property create a hardship that makes strict compliance with a regulation impossible or unreasonable.

(b) Under this Title:

(i) The Board of Adjustment may consider a request for a Variance from a zoning district regulation, consistent with the requirements of Section 23-4B-4010 (Variances); and

(ii) The Land Use Commission may consider a request for a Variance from subdivision regulations under Section 23-5B-1050 (Variance Filing and Consideration) and watershed regulations under Division 23-3D-2 (Exceptions and Variances).

(2) **Special Exceptions.** A Special Exception is a quasi-judicial decision relaxing development standards applicable to development under this Title. The requirements for obtaining a Special Exception depend on the regulations from which the Special Exception is requested, but unlike a Variance, the criteria for a Special Exception generally include factors unrelated to a site-specific hardship.

23-2F-1020 Limitations and Legal Effect

- (A) A Variance or Special Exception may not be used as a means to amend the text of the Land Development Code or to change a zoning district or other legislative classification of property or contest the responsible director's decision regarding the applicability or interpretation of a development regulation.
- (B) Approval of a Variance or Special Exception authorizes an applicant to submit a development application for review under the modified development standards established by the Variance or exception. The responsible director shall review an application against the standards established in a Variance or Special Exception unless the Variance or exception expires under Section 23-2F-1070 (Expiration).
- (C) A Variance or Special Exception applies only to the use for which the Variance or exception is approved. Once development requiring approval of a Variance or Special Exception is complete, any further development or redevelopment requires a new application.

23-2F-1030 Application Requirements

- (A) A request for a Variance must be submitted on a form approved by the responsible director in compliance with Division 23-2B-1 (Application Requirements). Depending on the nature and extent of proposed development, the director may require that a complete development application be submitted prior to requesting a Variance or may allow an applicant to defer submitting detailed construction and site-level information pending a decision on the Variance request.
- (B) An application for a Variance or Special Exception may include one or more Variances or Special Exceptions from regulations applicable to the same site or similar Variances or Special Exceptions on two or more adjacent parcels with similar characteristics.
- (C) The responsible director shall provide notice of an application for a Variance request in compliance with Section 23-2C-5010 (Notice of Application).

23-2F-1040 Public Hearing and Notification

- (A) The responsible director shall schedule a public hearing on a Variance application before the appropriate board or commission if the director determines that the application complies with all applicable requirements other than those for which the Variance is requested.
- (B) The responsible director shall provide notice of a public hearing on a Variance application in compliance with Section 23-2C-4020 (Type 1 Public Hearing Notice) and post signs in compliance with Section 23-2C-3040 (Notification Signs).

23-2F-1050 Decision on Variance or Special Exception

- (A) **Timeliness of Decision.** The Board of Adjustment or the Land Use Commission shall act on an application for a Variance or Special Exception not later than the next meeting after the public hearing is closed, except as otherwise provided in this Chapter.
- (B) **Findings Required for Approval.** In approving a Variance or Special Exception, the Board of Adjustment or Land Use Commission shall read into the record or incorporate by reference any findings required by the regulations of this Title authorizing the Variance or Special Exception.
- (C) **Possible Actions on Application**
 - (1) In acting on an application for a Variance, the Board of Adjustment or Land Use Commission may:
 - (a) Approve the application;
 - (b) Approve the application, subject to conditions or modifications required in compliance with Section 23-2F-1060 (Conditions and Modifications); or
 - (c) Deny the application.
 - (2) The Board of Adjustment shall act on a request for a Special Exception in the manner provided for Variances under Subsection (C)(1).
- (D) **Documentation of Decision.** The executive liaison assigned by the responsible director to support the Board of Adjustment and Land Use Commission under Section 2-1-7 (Staff Support) shall document decisions on Variances and Special Exceptions in a clear and uniform manner, including any conditions to approval of an application under Section 23-2F-1060 (Conditions and Modifications).

23-2F-1060 Conditions and Modifications

- (A) **Modifications.** In acting on an application for a Variance or Special Exception, the Board of Adjustment or Land Use Commission may reduce a numeric standard imposed under this Title by a lesser amount than requested by an applicant, but may not approve a greater increase than is stated in the public hearing notice provided in compliance with Section 23-2F-1040 (Public Hearing and Notification). For example, if public notice for a zoning Variance describes an increase in maximum height from 40 feet to 60 feet, the Board of Adjustment could approve a Variance increasing the height to 50 feet, but could not approve height above 60 feet without additional notification.

- (B) **Conditions.** The Board of Adjustment or Land Use Commission may require that a Variance or Special Exception be:
- (1) Made revocable;
 - (2) Effective for a specified time period, other than the one-year expiration period established in Section 23-2F-1070 (Expiration); or
 - (3) Subject to one or more conditions that are:
 - (a) Reasonably related to the impacts of proposed development on adjoining property; and
 - (b) Consistent with the purpose of the regulation from which the Variance or Special Exception is approved.

23-2F-1070 **Expiration**

- (A) A Variance or Special Exception expires if:
- (1) A complete development application is not submitted within one year after the Variance or Special Exception is approved;
 - (2) A development application associated with the Variance or Special Exception expires; or
 - (3) An approved Site Plan, Building Permit, or Preliminary Plan associated with the Variance or Special Exception expires.

Division 23-2F-2: Administrative Relief Procedures

Contents

23-2F-2010	Purpose and Applicability	1
23-2F-2020	Exempt Residential Uses and Structures.	1
23-2F-2030	Minor Adjustments	2
23-2F-2040	Alternative Equivalent Compliance.	3

23-2F-2010 Purpose and Applicability

This Division establishes procedures by which the responsible director may, under limited circumstances, relax development standards imposed under this Title administratively. The responsible director's authority under this Division may only be used for the purposes described herein.

23-2F-2020 Exempt Residential Uses and Structures

- (A) **Purpose.** This Section authorizes the Building Official to issue a Certificate of Occupancy for certain noncompliant residential structures established before the effective date of this Title. The purpose of this Section is to avoid the unnecessary loss of residential housing opportunities available to Austin residents and reduce the costs to homeowners associated with remedying longstanding code violations which do not threaten public health and safety. This Section further seeks to minimize the costs to the City associated with enforcing residential code violations that predate the advent and implementation of electronic property records and tracking methods.
- (B) **Applicability.** This Section applies to a single-family, single-family Attached, two-family residential, multi-family, manufactured home, townhouse, NP special use, and accessory dwelling unit use or occupancy that is located:
 - (1) Within a structure that existed on before January 1, 2008; and
 - (2) On a site that contains no more than nine dwelling units.
- (C) **Standard for Approval.** The Building Official shall issue a Certificate of Occupancy in compliance with this Section if the Building Official determines that the use or occupancy meets the requirements in Subsection (B) and the structure containing the use or occupancy does not pose a hazard to public health, safety, or welfare. Compliance with applicable technical codes or zoning regulations is not required to obtain a Certificate of Occupancy under this Section.

- (D) **Status of Affected Properties.** If the Building Official approves a Certificate of Occupancy under this Section:
- (1) A structure that does not comply with applicable site development regulations on the date it receives a Certificate of Occupancy becomes a nonconforming structure in compliance with Article 23-2G (Nonconformance); and
 - (2) A use or occupancy becomes a nonconforming use under Article 23-2G (Nonconformance) if it is unpermitted in the applicable base zoning district at the time the structure in which the use or occupancy is located receives a Certificate of Occupancy under this Section.
- (E) **Supporting Documentation.** An applicant requesting a Certificate of Occupancy under this Section must, in addition to submitting a standard application form, provide additional information required by the Building Official to substantiate that the use or occupancy meets the criteria in Subsections (B)-(C).

23-2F-2030 Minor Adjustments

- (A) **Purpose and Applicability.** In order to avoid unduly penalizing permittees for minor, inadvertent, and unforeseen errors in construction, this Section authorizes the Director to grant de minimis adjustments to specified development regulations prior to issuance of a Certificate of Occupancy or compliance under Division 23-2H-4 (Certificates of Compliance and Occupancy).
- (B) **Authority and Limitations.** If a structure exceeds the maximum height or building coverage allowed by this Title, or encroaches into a required yard setback, the Director may grant an adjustment relaxing the applicable regulation consistent with the requirements of this Subsection.
- (1) **Ten Percent Maximum.** The Director may not approve an adjustment reducing a height, building coverage, or setback limitation required by this Title by more than 10 percent.
 - (2) **Limited to Field Inspections.** The Director may not grant an adjustment under this Section in connection with approval of a Building Permit or Site Plan. An adjustment may only be approved to address errors in construction:
 - (a) Performed under an approved Building Permit or Site Plan; and
 - (b) Discovered during an inspection required under this Title for issuance of a Certificate of Occupancy or compliance.
 - (3) **Criteria for Approval.** The Director may only approve an adjustment under this Section if the adjustment is the minimum amount necessary to address errors made inadvertently, and in good faith, due to unforeseen site conditions or other circumstances beyond the permittee's control.
- (C) **Prerequisite to Variance or Special Exception.** If a deviation from the requirements of this Title falls within the scope of relief authorized by this Section, a permittee must request a minor adjustment before seeking approval of a Variance or Special Exception from the Board of Adjustment.

23-2F-2040 Alternative Equivalent Compliance**(A) Purpose and Applicability**

- (1) Alternative Equivalent Compliance encourages creative and original design and accommodates developments where particular site conditions or the nature of a proposed use prevent strict compliance with this Title. This Section authorizes the Development Services Director to approve minor changes to certain design standards relating to building placement and site configuration in order to facilitate development that meets the intent of this Title through alternative design that does not strictly adhere to particular standards or requirements.
- (2) Alternative Equivalent Compliance may only be used for development located in General to Commercial Non-Transect zones as authorized in this Section, and may not be used to vary or modify zoning district regulations, such as height, setbacks, impervious cover, building coverage, or floor-to-area ratio.

- (B) Application Process.** An applicant may request Alternative Equivalent Compliance under this Section during review of a development application that is subject to one or more of the design standards listed in Subsection (C). A request must be submitted in a manner approved by the Development Services Director and include any information required by the Director to determine whether the request meets the requirements for approval under this Section.

(C) Modification Thresholds

- (1) If the Development Services Director finds that a request for Alternative Equivalent Compliance request meets the criteria in Subsection (D), the numeric standard for the design feature listed in Table 23-2F-2040.A (Types of Alternative Equivalent Compliance Allowed) may be modified by:
 - (a) Up to 10 percent, for any design purpose;
 - (b) Up to 20 percent, if necessary to protect an existing natural site feature; or
 - (c) Any amount, if necessary to preserve a Heritage Tree.
- (2) Table 23-2F-2040.A lists the design standards that may be modified under this Section:

Table 23-2F-2040.A Types of Alternative Equivalent Compliance**Sidewalks**

Decrease in minimum sidewalk width consistent with standards established in the Transportation Criteria Manual

Planting Zone

Reduction in the minimum width of required landscape buffers

Increase in the maximum plant spacing requirements

Decrease in the minimum depth, width, or total area of landscaped area

Minor changes to approved landscape plans

Alternative configurations for landscaping required in off-street parking lots

A reduction in landscape requirements for expansions or intensification of a use for existing developments

Table 23-2F-2040.A Types of Alternative Equivalent Compliance
Utilities
Decrease in the minimum distance between a building and installed utilities
Drive Through Circulation Lane
Decrease in minimum drive-through circulation lane width
Building Frontage
Decrease in minimum portion of a frontage consisting of continuous building facade
Sidewalks and Sidewalk Tree Spacing
Increase in maximum sidewalk tree spacing
Increase in maximum shaded sidewalk tree spacing
Decrease in minimum shaded sidewalk width
Decrease in minimum shaded sidewalk tree spacing
Building Entryways
Increase in the maximum entryway spacing
Private Common Open Space and Pedestrian Amenities
Decrease in minimum depth, width, or total area of play area
Increase of the portion of open space above ground level that may be counted towards compliance
Decrease in maximum Covered Open Space
Decrease in minimum open space adjacent to BRT stations
Additional Options for Sites ≥ 5 Acre
Increase in maximum block area
Increase in maximum block length.
Decrease in minimum width of sidewalks with building frontage
Decrease in maximum tree spacing on sidewalks with building frontage

(D) **Criteria for Approval.** The Development Services Director may approve a request for Alternative Equivalent Compliance under Subsection (C) only upon finding that the requested modification:

- (1) Is necessary due to unusual site features, such as slopes, size, shape, and vegetation, or design difficulties that are not typical of similar projects;
- (2) Is necessary because of physical design characteristics unique to the proposed use, or type of use, that make strict compliance with a design standard impracticable or unreasonable;
- (3) Complies with all other applicable regulations of this Title, including zoning, drainage, water quality, and technical codes; and
- (4) Does not adversely impact on health, safety, or general welfare of surrounding residents or the general public.

- (E) **Conditions of Approval.** The Development Services Director may impose reasonable conditions on approval of a request for Alternative Equivalent Compliance, as needed to mitigate direct impacts of the modification consistent with the purpose of the applicable regulation. Conditions imposed under this Subsection must be limited to onsite design features or modifications and may not include requirements for offsite improvements or dedications.
- (F) **Decision on Alternative Equivalent Compliance Request.** The Director shall document a decision to approve a request for Alternative Equivalent Compliance on the Site Plan or Building Permit to which the modification applies and ensure that the decision is easily accessible in the event that a subsequent application is submitted for the same property.
- (G) **Effect of Alternative Equivalent Compliance Approval.** A decision to approve Alternative Equivalent Compliance applies only to the specific application for which it is approve and does not establish a precedent for approval of other requests.

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Division 23-2F-3: Limited Adjustments

Contents

23-2F-3010	Purpose and Applicability	1
23-2F-3020	Application for Limited Adjustment	1
23-2F-3030	Initial Determination on Limited Adjustment	2
23-2F-3040	Notice and Public Hearing	2
23-2F-3050	Final Action on Limited Adjustment	3

23-2F-3010 Purpose and Applicability

- (A) This Division establishes procedures by which the Council may adjust the requirements of Article 23-3D (Water Quality) if the Council concludes, or a court of competent jurisdiction renders a final judgment concluding, that the application of Chapter 23-3D (Water Quality) to a specific development project or proposal violates or conflicts with:
 - (1) The United States Constitution or the Texas Constitution; or
 - (2) A state or federal statute that preempts the City Code or City Charter.
- (B) This Division does not apply to the responsible director's decision on a vested rights petition in compliance with Division 23-2L-1 (Vested Rights).

23-2F-3020 Application for Limited Adjustment

- (A) An application for a limited adjustment in compliance with this Division must be filed on a form approved by the responsible director and may be considered only in connection with the review of:
 - (1) A Site Plan;
 - (2) A Subdivision; or
 - (3) Other specific development proposal.
- (B) In addition to standard information required by the responsible director in compliance with Division 23-2B-1 (Application Requirements), an application for limited adjustment must:
 - (1) Identify the Section of Article 23-3D (Water Quality) which the applicant claims would violate the laws referenced in 23-2F-3010(A) (Purpose and Applicability), as applied to the applicant's property;
 - (2) State the factual basis for the applicant's claims;
 - (3) Include a legal brief supporting the applicant's claims;
 - (4) Describe the adjustment requested; and
 - (5) Demonstrate that the requested adjustment is the minimum required to comply with the constitutional or statutory requirements on which the request is based and provides maximum protection of water quality.

23-2F-3030 Initial Determination on Limited Adjustment

- (A) This Subsection establishes the process by which the Council shall assess the validity of an applicant's claim that Article 23-3D (Water Quality), as applied to the applicant's property, violates one or more of the laws referenced in Section 23-2F-3010(A) (Purpose and Applicability).
- (B) If the responsible director determines that an application for limited adjustment is complete:
 - (1) The Law Department shall review the application and advise the responsible director on the legal validity of the applicant's claims; and
 - (2) The responsible director shall present the application and the director's recommendation to the Council.
- (C) After receiving the responsible director's recommendation, the Council shall determine whether Article 23-3D (Water Quality), as applied to the applicant's property, violates one or more of the laws referenced in Section 23-2F-3010(A) (Purpose and Applicability). If a request for limited adjustment pertains to development that is subject to Division 23-3C-13 (Save Our Springs Initiative), an affirmative determination requires the concurring vote of three-quarters of the Council.
- (D) If the Council does not make an affirmative determination under Subsection (C), the application for limited adjustment is denied and shall not be scheduled for public hearing under Section 23-2F-3040 (Public Hearing on Limited Adjustment).

23-2F-3040 Notice and Public Hearing

- (A) The responsible director shall schedule a public hearing on an application for limited adjustment before the Council if:
 - (1) The Council makes an affirmative determination on the validity of a request for limited adjustment under Section 23-2F-3030 (Initial Determination on Limited Adjustment); and
 - (2) The responsible director determines that the application complies with all requirements of this Title, other than those for which the limited adjustment is requested.
- (B) The responsible director shall provide notice of a public hearing on a limited adjustment request in compliance with Section 23-2C-4020 (Type 1 Public Hearing Notice) and shall post signs in compliance with Section 23-2C-3040 (Notification Signs).
- (C) At the public hearing on a request for limited adjustment, the responsible director shall present a recommendation to the Council regarding the minimum adjustment required to comply with the conflicting laws on which the adjustment is based and provide maximum water quality protection.

23-2F-3050 Final Action on Limited Adjustment

After making an affirmative determination under Section 23-2F-3030 (Initial Determination) and conducting a public hearing in compliance with Section 23-2F-3040 (Notice and Public Hearing), the Council shall determine the minimum adjustment required to comply with the conflicting laws on which the adjustment is based and provide maximum water quality protection and grant the limited adjustment.

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Article 23-2G: Nonconformity

Contents

Division 23-2G-1: General Provisions

23-2F-3010	Purpose and Applicability
23-2G-1020	Nonconforming Status
23-2G-1030	Determination of Nonconforming Status
23-2G-1040	Appeal of Decision on Nonconforming Status
23-2G-1050	Continuation of Nonconformity
23-2G-1060	Termination of Nonconforming Use
23-2G-1070	Alteration of Nonconforming Structures
23-2G-1080	Effect of Conditional Use Permit

Division 23-2G-2: Specific Types of Nonconformity

23-2G-2010	Nonconforming Uses Near Hazardous Pipelines
23-2A-2010	Order of Process
23-2G-2030	Nonconforming Parking
23-2G-2030	Termination of Nonconforming Use

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Division 23-2G-1: General Provisions

Contents

23-2G-1010	Purpose and Applicability	1
23-2G-1020	Nonconforming Status	2
23-2G-1030	Determination of Nonconforming Status	2
23-2G-1040	Appeal of Decision on Nonconforming Status	3
23-2G-1050	Continuation of Nonconformity	3
23-2G-1060	Termination of Nonconforming Use.	5
23-2G-1070	Alteration of Nonconforming Structures.	5
23-2G-1080	Effect of Conditional Use Permit.	6

23-2G-1010 Purpose and Applicability

- (A) **Purpose.** This Article provides standards for nonconforming land uses, structures, and lots established under Section 23-2G-1020 (Nonconforming Status). The purpose of this Article is to:
- (1) Generally allow nonconformities to continue until they cease by abandonment or through conformance with applicable regulations; but
 - (2) Discourage the long-term continuation of nonconformities by limiting investments in them and restricting expansions or alterations that increase their degree of noncompliance or otherwise impact adjoining properties or neighborhoods; and
 - (3) Seek to phase-out or amortize, where appropriate, those nonconformities that are deemed to be especially incompatible with the Comprehensive Plan or applicable regulations of this Title or which pose a threat to public health, safety, and welfare.
- (B) **Applicability.** This Article applies to:
- (1) A use, structure, or lot within the zoning jurisdiction that is nonconforming to land use or site development regulations under Chapter 23-4 (Zoning) or a separately adopted zoning ordinance; and
 - (2) A structure or lot within the planning jurisdiction that is nonconforming to other applicable regulations of this Title.

23-2G-1020 Nonconforming Status

(A) Nonconforming Uses

- (1) A use of land or buildings that does not conform with the applicable use regulations of Chapter 23-4 (Zoning), or a separately adopted zoning ordinance, is a nonconforming use if:
 - (a) The use existed lawfully, in conformance or legal nonconformance with applicable use regulations, on the date that a zoning restriction prohibiting or restricting the use became effective; and
 - (b) The use has continued to exist since the zoning restriction prohibiting or restricting the use became effective, without cessation or abandonment in violation of applicable regulations.
- (2) A use that is not a nonconforming use is in violation of this Title if it does not conform to the use regulations of Chapter 23-4 (Zoning Code) or a separately adopted zoning ordinance.
- (3) Nonconforming uses are declared to be incompatible with permitted uses in the zoning district in which they are located.

(B) Nonconforming Structures

- (1) A building, structure, or developed area, including a parking or loading area, that does not comply with site development regulations applicable under this Title, or a separately adopted zoning ordinance, is a nonconforming structure if it existed lawfully, in conformance or legal nonconformance with applicable site development regulations, at the time it was constructed.
- (2) A building, structure, or developed area that is not a nonconforming structure is in violation of this Title if it does not comply with applicable site development regulations.

(C) Nonconforming Lots

- (1) A platted lot that does not comply with the applicable regulations of this Title is a nonconforming lot if the lot existed lawfully, in compliance or legal noncompliance with applicable regulations, on the date the lot was platted.
- (2) A platted lot that is not a nonconforming lot is in violation of this Title if it does not comply with applicable regulations of this Title.

23-2G-1030 Determination of Nonconforming Status

- (A) **Purpose and Applicability.** This Section establishes a process for obtaining a formal determination on whether an existing use or structure is nonconforming under Section 23-2G-1020 (Nonconforming Status). The responsible director may also recognize a use, structure, or lot as nonconforming during review of a development application, without issuing an administrative determination under this Section.

(B) Application Requirement

- (1) An applicant may request a determination from the responsible director under this Section at any time on whether an existing use or structure is nonconforming in compliance with Section 23-2G-1020 (Nonconforming Status).
- (2) A request must be submitted on a form approved by the responsible director and include whatever information the director requires to substantiate the history of the use or structure for which the determination is requested.
- (3) The responsible director shall provide notice of an application for a determination of nonconforming status in compliance with Section 23-2C-5010 (Notice of Application).

(C) Determination Requirements

- (1) No later than 14 days after receiving a request under this Section, the responsible director shall issue a written determination stating whether the use or structure is nonconforming in compliance with Section 23-2G-1020 (Nonconforming Status).
- (2) The responsible director shall provide notice of the determination in compliance with Section 23-2C-5020 (Notice of Administrative Decision).

23-2G-1040 Appeal of Decision on Nonconforming Status

- (A) Any person who meets the requirements of Section 23-2I-1010 (Right to Appeal) may appeal the responsible director's determination of nonconforming status in compliance with Section 23-2G-1030 (Determination of Nonconforming Status) to the Board of Adjustment in compliance with Article 23-2I (Appeals).
- (B) If the responsible director issues a determination in compliance with Section 23-2G-1030 (Determination of Nonconforming Status), that determination may not subsequently be challenged by appealing the director's approval or disapproval of a development application for the use or structure.

23-2G-1050 Continuation of Nonconformity

- (A) **Purpose and Applicability.** This Section specifies general requirements and limitations applicable to nonconforming uses and structures. Additional requirements for particular types of nonconformity may also apply, as specified by this Article.
- (B) **Continuation of Nonconforming Use and Structures.** A nonconforming use or structure may continue to be used, operated, or occupied in compliance with the regulations under which it was established, but may not be expanded or converted except in compliance with the requirements of this Subsection.
 - (1) **Expansion of Use Prohibited.** A nonconforming use may not be expanded or extended beyond the floor area or lot area that it occupied on the date it became a nonconforming use, except as otherwise provided by this Article.
 - (2) **Conversion to Conforming Use Terminates Nonconformity.** If a nonconforming use is converted to a conforming use, a nonconforming use of the property or structure may not be resumed.

- (3) **Conversion to Other Nonconforming Use Prohibited.** A nonconforming use may not be established or replaced by another nonconforming use, except as provided in Subsection (B)(4).
- (4) **Conversion of Nonconforming Uses in Residential Buildings.** A nonconforming use operating within a single- or multi-family building may be replaced by another nonconforming use if the responsible director determines that the requested use is of comparable or lesser intensity to the original nonconforming use; and the original use was not abandoned in compliance with Section 23-2G-1060 (Termination of Nonconforming Use).
- (5) **Conversion to Allowed or Conditional Use.** A nonconforming use may be converted to an allowed use or a conditional use for the zone in which the property is located.

(C) Modification to Nonconforming Structures

- (1) **General Standard.** A nonconforming structure may be maintained and repaired as necessary to allow its continued use and occupancy. However, a nonconforming structure may not be altered or expanded in a manner that increases its nonconformity with the requirements of this Title, except as otherwise provided in this Subsection.
- (2) **Height Requirements.** The height of a nonconforming structure may only be increased if:
 - (a) The height increase is limited to a portion of the structure that complies with the maximum height required by this Title and will not cause the modified portion of the structure to exceed the maximum height requirement;
 - (b) The height increase is limited to a portion of the structure that is located outside of a setback required by this Title;
 - (c) The height increase does not exceed 15 percent of the building's existing height, as measured at the tallest point; and
 - (d) The height increase will not cause the modified portion of the structure to exceed the existing height of the building, as measured at its tallest point.
- (3) **Setback Requirements.** A structure that is nonconforming with a setback required by this Title may only be altered if:
 - (a) The alteration is a vertical change in finished floor elevation allowed in compliance with Section 23-2G-1070(C)(2) (Alteration of Nonconforming Structures); or
 - (b) The modified portion of the structure does not exceed:
 - (i) The maximum height allowed by this Title;
 - (ii) The existing height of the tallest portion of the structure that extends or encroaches into a required setback, other than a street setback; or
 - (iii) If a structure is expanded horizontally, the lesser of 50 percent of the length of the nonconforming portion of the structure or 25 feet measured from the existing structure, parallel to the lot line.

23-2G-1060 Termination of Nonconforming Use

- (A) **Purpose and Applicability.** This Section specifies circumstances under which a nonconforming use is terminated due to a change or abandonment of the use or the destruction of, or damage to, the structure in which the use occurs.
- (B) **Termination by Change of Use.** A nonconforming use may not continue or resume if the use changes to a conforming use.
- (C) **Termination by Abandonment or Discontinuance of Use**
 - (1) If a nonconforming use is discontinued for 90 or more consecutive days, then that use shall be deemed abandoned and may not be renewed or reestablished. Any subsequent use of the parcel of land or structure must conform to the standards of the zone in which it is located.
 - (2) A seasonal discontinuance of a use, or a temporary discontinuance of a use for maintenance or repair, is excluded from a calculation of the 90-day period established under Subsection (C)(1).
- (D) **Termination by Destruction**
 - (1) A damaged structure used for a nonconforming use may be repaired and the nonconforming use continued only if the Building Official determines that the cost of repair does not exceed 50 percent of the value of the structure immediately before the damage, as determined by a licensed appraiser in a manner approved by the Building Official.
 - (2) Approval of a Site Plan is not required to repair a structure under Subsection (D)(1) unless the Building Official determines that a substantial change to the structure or lot is proposed and that a Site Plan would be required by this Title for initial construction of a similar structure.
 - (3) If the cost of repairing a damaged structure containing a nonconforming use exceeds the limitation established in Subsection (D)(1), the nonconforming use may not continue or resume.
 - (4) If a nonconforming use is located within a structure that is also nonconforming with the requirements of this Title, any repair or alteration of the structure is also subject to Section 23-2G-1070 (Alteration of Nonconforming Structures).

23-2G-1070 Alteration of Nonconforming Structures

- (A) **Purpose and Applicability.** The alteration, repair, or replacement of a nonconforming structure must comply with the applicable requirements of this Section, in addition to the requirements of Section 23-2G-1050 (Continuation of Nonconformity).
- (B) **Involuntary Damage or Destruction.** A nonconforming structure that is damaged or destroyed involuntarily by such acts as fire, explosion, flood, tornado, riot, act of the public enemy, or accident may be rebuilt or replaced with a new structure, provided that the new structure:
 - (1) Is located in the same footprint and does not exceed the height or number of units as the original nonconforming structure;

- (2) Complies with current requirements of Division 23-11B-1 (Building Code) and Division 23-11B-7 (Fire Code); and
 - (3) Does not exceed the degree of nonconformity with the requirements of this Title as the original structure.
- (C) **Alteration, Demolition, and Replacement of Residential Structures.** Except for repair or replacement allowed under Subsection (B), any alteration to a nonconforming residential structure must comply with the requirements of this Subsection.
- (1) Demolition or removal of walls must comply with the following requirements:
 - (a) No more than 50 percent of exterior walls and supporting structural elements of the existing structure may be demolished or removed, including load bearing masonry walls, and in wood construction, studs, sole plate, and top plate. For purposes of this requirement, exterior walls and supporting structural elements are measured in linear feet and do not include the roof of the structure or interior or exterior finishes.
 - (b) Replacement or repair of structural elements, including framing, is allowed if required by the Building Official to meet minimum health and safety standards.
 - (2) Replacement or alteration of an original foundation may not change the finished floor elevation by more than one foot vertically, in either direction.
 - (3) For any residential use other than a single-family use in Low to Medium Intensity Residential Zones established in Section 23-4D-3030(A), the following standards must be met in order to add square footage or convert accessory space into conditioned or habitable space:
 - (a) If the lot is nonconforming with current lot size or lot width standards, the cost of improvements may not exceed 20 percent of the value of the structure before the improvements; and
 - (b) Compliance with current parking and occupancy standards is required.
 - (4) If a nonconforming portion of a residential structure is demolished, it loses its nonconforming status and may only be rebuilt in compliance with the applicable requirements of this Title.

23-2G-1080 **Effect of Conditional Use Permit**

- (A) **Purpose and Applicability.** This Section establishes requirements for uses that are nonconforming with this Title based on a requirement to obtain a Conditional Use Permit or on the prior issuance of a Conditional Use Permit for the use. If a use that is nonconforming under this Section is located within a nonconforming structure, additional restrictions may apply as specified in this Article.
- (B) **Absence of Conditional Use Permit.** If an existing use was established as a permitted or allowed use, the use becomes nonconforming if it would require approval of a Conditional Use Permit under this Title and may not be expanded beyond its existing site area boundaries or changed to another conditional use without obtaining a Conditional Use Permit as required by this Title.

- (C) **Previous Conditional Use Permit.** A use that was authorized by a Conditional Use Permit, but is not allowed by this Title in its current location may be:
- (1) Continued within its existing site area boundaries, subject to any conditions imposed by the Conditional Use Permit; or
 - (2) Replaced by a similar nonconforming conditional use approved by the Land Use Commission, which may grant such approval only if it finds that the replacement use will not more adversely affect surrounding uses than the original use based on traffic generation, noise, hours of operation, number of employees, and other relevant factors as determined by the Land Use Commission.

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Division 23-2G-2: Specific Types of Nonconformity

Contents

23-2G-2010	Nonconforming Uses Near Hazardous Pipelines.....	1
23-2G-2020	Order of Process	1
23-2G-2030	Nonconforming Parking.....	2
23-2G-2040	Termination of Nonconforming Use.....	2

23-2G-2010 Nonconforming Uses Near Hazardous Pipelines

If a use or structure is nonconforming with this Title solely because it does not meet the proximity requirements in Section 23-4E-6030 (Development Near a Hazardous Pipeline), the use or structure must comply with the requirements of Section 23-2G-1050 (Continuation of Nonconformity) and Section 23-2G-1080 (Effect of Conditional Use Permit), but is otherwise exempt from the requirements of this Article.

23-2G-2020 Order of Process

- (A) **Purpose and Applicability.** The requirements of this Section apply to development or use of a legally platted lot that does not meet the minimum lot area requirements of this Title. If a nonconforming lot contains a use or structure that is also nonconforming with requirements of this Title, additional restrictions may apply under Division 23-2G-1 (General Provisions).
- (B) **Nonresidential Uses.** A nonconforming lot may be used for a nonresidential use that is allowed in the zone in which the lot is located if, except for minimum lot area, the use and development complies with the requirements of this Title.
- (C) **Residential Uses.** A nonconforming lot may be used for a single-family residential use if the use is allowed in the zone in which the lot is located and the lot complies with the requirements of this Subsection.
 - (1) A nonconforming lot recorded in the county real property records before March 15, 1946 must:
 - (a) Have an area of not less than 4,000 square feet; and
 - (b) Be not less than 33 feet wide at the street or at the building line, or have access to a street by an easement that is:
 - (i) Not less than ten feet wide if it serves one lot, or not less than 18 feet wide if it serves more than one lot;
 - (ii) Not more than 150 feet in length; and
 - (iii) Maintained for access by the property owner.
 - (2) A nonconforming lot recorded in the county real property records after March 14, 1946 must have an area of not less than 5,750 square feet and be not less than 50 feet wide at the street or at the building line.

- (D) If a nonconforming lot is used with one or more contiguous lots for a single use or unified development, the standards of this Title apply to the aggregation of lots as if the aggregation were a single lot.
- (E) A nonconforming lot that is aggregated with other property to form a site may not be disaggregated after August 6, 2007 to form a site that is smaller than the minimum lot area required by this Title.

23-2G-2030 Nonconforming Parking

If a use or structure ceases to be nonconforming due to abandonment or discontinuance under Section 23-2G-1060 (Termination of Nonconforming Use), a subsequent conforming use or structure located on the same property must comply with Division 23-4E-3 (Parking and Loading) to the maximum extent the responsible director determines to be feasible. The responsible director may reduce the requirements of Division 23-4E-3 (Parking and Loading) if strict compliance is determined to be infeasible.

23-2G-2040 Termination of Nonconforming Use

- (A) **Purpose and Applicability.** This Section applies to a dock, bulkhead, or shoreline access that is nonconforming with the requirements of this Title. If a nonconforming dock, bulkhead, or shoreline access is associated with a nonconforming use or located on a nonconforming lot, additional restrictions may apply as specified in this Article.
- (B) **Nonconformity Limited to Accessory Uses.** A nonconforming dock, bulkhead, or shoreline access may be repaired, reinforced, modified, or maintained under Subsection (C) only if it is an accessory use under Section 23-4E-6040 (Accessory Use). Compliance with this Title is required in order to repair, reinforce, modify, or maintain a dock, bulkhead, or shoreline access that is a principal use of the property.
- (C) **Limitations on Repair Reinforcement, Modification, and Maintenance.** A nonconforming dock, bulkhead, or shoreline access that is accessory to a principal use, as required in compliance with Subsection (B), may be repaired, reinforced, modified, or maintained without coming into compliance with this Title if the requirements of this Subsection are met.
 - (1) The location and footprint may not be altered and the degree of nonconformance may not be increased, except as allowed under Section 23-3D-8120 (Restrictions on Development Impacting Lake Austin, Lady Bird Lake, and Lake Walter E. Long).
 - (2) Dock structural components, including load bearing beams, walls, piers, and roofs, may be altered or replaced without reducing the nonconforming length, height, or horizontal footprint of the dock, provided that the dock complies with Division 23-4E-5 (Docks, Bulkheads, and Shoreline) and Section 23-4E-6040 (Accessory Uses).
 - (3) A dock may not be altered or modified to increase:
 - (a) The number of walls;
 - (b) The height, width or depth; or
 - (c) The number of slips or mooring capacity.

(D) Application Requirements

- (1) In order to repair, reinforce, modify, or maintain a dock, bulkhead, or shoreline access under this Section, an applicant must provide a survey of existing conditions with the Site Plan or Building Permit application that depicts current elevations, contours, trees, and any other information required by the responsible director.
- (2) For a dock, bulkhead, or shoreline access constructed after January 1, 1984, the applicant must provide evidence of a prior permit authorizing the construction in order to substantiate that the dock, bulkhead, or shoreline access meets the requirements of Section 23-2C-1020 (Nonconforming Status).
- (3) For a dock, bulkhead, or shoreline access constructed prior to January 1, 1984, no unpermitted additions or alterations that occurred after January 1, 1984 are allowed.

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Article 23-2H: Construction Management and Certificates

Contents

Division 23-2H-1: General Provisions

- 23-2H-1010 Purpose and Applicability
 - 23-2H-1020 Preconstruction Conference
 - 23-2H-1030 Inspection Requests
 - 23-2H-1040 Inspection Record Card
 - 23-2H-1050 Erosion, Sedimentation, and Tree Protection Measures
 - 23-2H-1060 Reinspection Fee
-

Division 23-2H-2: Subdivision Construction

- 23-2H-2010 Distribution of Approved Plans
 - 23-2H-2020 Substantial Completion Notice
 - 23-2H-2030 Final Inspection
 - 23-2H-2040 Acceptance by the City
-

Division 23-2H-3: Site Construction and Inspection

- 23-2H-3010 Onsite Retention of Approved Plans
 - 23-2H-3020 Grading, Drainage, and Water Quality Facilities
 - 23-2H-3020 Connection of Utilities
-

Division 23-2H-4: Certificates of Compliance and Occupancy

- 23-2H-4010 Certificate Required
- 23-2H-4020 Certificate of Occupancy
- 23-2H-4030 Certificate of Compliance
- 23-2H-4040 Temporary Certificate of Occupancy

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Division 23-2H-1: General Provisions

Contents

23-2H-1010	Purpose and Applicability	1
23-2H-1020	Preconstruction Conference	1
23-2H-1030	Inspection Requests	2
23-2H-1040	Inspection Record Card	2
23-2H-1050	Erosion, Sedimentation, and Tree Protection Measures	2
23-2H-1060	Reinspection Fee	3

23-2H-1010 Purpose and Applicability

- (A) This Article applies to development occurring under an approved Subdivision Construction Plan or Site Plan. It establishes uniform requirements to facilitate the efficient inspection and approval of development that may require review by multiple City departments or work groups.
- (B) The responsible director may adopt additional requirements as needed to implement this Article.

23-2H-1020 Preconstruction Conference

- (A) **Preconference Required.** Unless the Development Services Director determines that a preconference is unnecessary, an applicant or applicant's representative must:
 - (1) Participate in a preconstruction conference with the Development Services Director before starting construction under an approved Subdivision Construction Plan or approved Site Plan; and
 - (2) Schedule the preconference at the time inspection fees are paid.
- (B) **Notification.** No later than seven days before a preconstruction conference, the Development Services Director shall provide notice of the conference to appropriate parties, including the applicant and the applicant's representatives, consulting engineer, and contractors, as well as the County engineer and any affected utility providers or City departments. The notice must state the date, time, and place of the conference and describe the development.
- (C) **Conference Procedures**
 - (1) The participants shall exchange contact information and discuss the start dates and schedule of events, erosion and sedimentation controls, traffic control barricades, site supervision, emergency response, special conditions or provisions of plans or specifications, final acceptance guidelines, and publishing and distribution of minutes of the conference.
 - (2) Before construction begins, the applicant's consulting engineer must prepare and distribute minutes of the preconstruction conference. Conference participants may file exceptions to the minutes, which the engineer shall distribute to conference participants and include in the inspection file.

23-2H-1030 Inspection Requests

- (A) A central dispatcher for the City shall coordinate contact between a permittee and an inspector. A permittee must contact the central dispatcher in order to request an inspection.
- (B) The Development Services Director may specify the manner in which an inspection must requested and may require that a request be made 48 hours before the date the inspection is requested.

23-2H-1040 Inspection Record Card

A permittee may not begin work under a Site Plan or Subdivision Construction Plan until an inspection card is posted on the site, in a readily accessible location, on a form approved by the Development Services Director. City inspectors shall note each inspection on the card, which must remain posted onsite until the Development Services Director determines that the development meets all applicable requirements.

23-2H-1050 Erosion, Sedimentation, and Tree Protection Measures

- (A) **Purpose and Applicability.** This Section establishes requirements for inspection of erosion and sedimentation controls and tree protection measures required by this Title, as well as changes to approved plans required to address deficiencies identified as a result of field inspections or plan review.
- (B) **Inspection Requirement**
 - (1) The Development Services Director shall schedule an inspection of erosion and sedimentation controls and tree protection measures, which must be attended by the permittee or the permittee's representative.
 - (2) To pass inspection, the permit holder must:
 - (a) Demonstrate that erosion and sedimentation controls and tree protection measures comply with the City's Environmental Criteria Manual; and
 - (b) Present a plan to the inspector that includes future erosion and sedimentation controls, drainage, utility and street layout.
 - (3) Construction under a Site Plan or Subdivision Construction Plan may not begin unless the Development Services Director:
 - (a) Determines that the erosion and sedimentation controls and tree protection measures comply with City standards, as required under Subsection (B)(2); or
 - (b) Does not conduct an inspection on or before the fifth day after receiving the request.
- (C) **Changes to Erosion Control Sequencing.** After two days' notice to the permittee, the inspector may modify the approved erosion control and construction sequencing if the Development Services Director determines the plans are inadequate.

23-2H-1060 Reinspection Fee

- (A) The Development Services Director may charge a reinspection fee if, at the time the Director attempts to conduct an inspection, the permittee:
 - (1) Has not finished the work to be inspected;
 - (2) Has not finished corrections previously required by an inspector;
 - (3) Has not posted the Record Inspection Card;
 - (4) Does not make approved plans readily available to the inspector; or
 - (5) Does not provide access to the work on the scheduled inspection date.
- (B) Work that was rejected at the first inspection for failure to comply with a technical code may be reinspected without payment of a reinspection fee.
- (C) If a reinspection fee is due, additional inspections may not be performed until the reinspection fee is paid.

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Division 23-2H-2: Subdivision Construction

Contents

23-2H-2010	Distribution of Approved Plans.....	1
23-2H-2020	Substantial Completion Notice.....	1
23-2H-2030	Final Inspection.....	1
23-2H-2040	Acceptance by the City.....	2

23-2H-2010 Distribution of Approved Plans

The responsible director shall distribute two copies of the released Subdivision Construction Plans and approved plan revisions to City departments responsible for inspections.

23-2H-2020 Substantial Completion Notice

- (A) Within nine days before work under a Subdivision Construction Plan is finished, the permittee shall notify the Development Services Director in writing that the work is substantially complete and request a list of work to be completed.
- (B) On the day that the permittee provides notice under Subsection (A), the consulting engineer will submit a construction summary report to the Development Services Director.

23-2H-2030 Final Inspection

- (A) Not later than seven days after the applicant gives written notice that work performed under a Subdivision Construction Plan is substantially complete, the Development Services Director must review the work and prepare a report identifying:
 - (1) Work that does not comply with the construction plans; and
 - (2) Work that must be performed before the final acceptance letter is issued.
- (B) When the permittee finishes the work listed in the report issued under Subsection (A), the Development Services Director shall modify the report to reflect that the required work is finished.

23-2H-2040 Acceptance by the City

- (A) **Purpose and Applicability.** This Section establishes requirements for the City's final acceptance of infrastructure and other improvements completed under a Subdivision Construction Plan.
- (B) **Onsite Meeting.** Prior to acceptance of work performed under a Subdivision Construction Plan, the Development Services Director shall schedule a final acceptance meeting at the site and shall invite appropriate parties, including the permittee, consulting engineer, and contractors, as well as staff from affected utility providers and City departments.
- (C) **Final Acceptance Letter.** The Development Services Director shall issue the final acceptance letter only after:
 - (1) Work identified in the Development Services Director's report is complete;
 - (2) The following items have been submitted:
 - (a) Construction summary report;
 - (b) Consulting engineer's concurrence letter;
 - (c) Reproducible plans, certified "as built" by the consulting engineer;
 - (d) Required one-year warranty bonds;
 - (e) Appropriate forms of payment for balances due, if any; and
 - (3) If the applicant executed a developer contract, the conditions of the contract have been satisfied.
- (D) If the applicant has not satisfied all requirements, the Development Services Director shall issue a list of requirements that the applicant must satisfy.

Division 23-2H-3: Site Construction and Inspection

Contents

23-2H-3010	Onsite Retention of Approved Plans	1
23-2H-3020	Grading, Drainage, and Water Quality Facilities.....	1
23-2H-3030	Connection of Utilities	2

23-2H-3010 Onsite Retention of Approved Plans

The permittee shall retain copies of the approved plans at the site until all required inspections have been completed and the Development Services Director determines that the development complies with this Title.

23-2H-3020 Grading, Drainage, and Water Quality Facilities

- (A) During construction, the Development Services Director shall inspect land grading, drainage, detention and water quality control facilities to determine whether the facilities comply with the released Site Plan.
- (B) After completion of land grading, drainage, detention, and water quality control facilities, the design engineer must submit a letter to the Development Services Director stating that the project substantially complies with the approved construction plans before requesting final inspection.
- (C) The Development Services Director shall perform final inspection of the facilities after the design engineer submits the certification letter required under Subsection (B).
- (D) The Development Services Director may issue a Certificate of Occupancy or Certificate of Compliance only if:
 - (1) The land grading, drainage, detention, and water quality control facilities have been completed according to the approved plans and comply with the requirements of this Title and all applicable administrative criteria manuals; or
 - (2) Except in the Barton Springs Zone, before construction is complete if:
 - (a) The Development Services Director determines that the unfinished work is minor and that all site facilities can, as constructed, perform the functions for which they are required; and
 - (b) The permittee executes an agreement, on a form prescribed by the Development Services Director, requiring completion of all unfinished construction and posts fiscal surety in an amount and duration required by the Director.

23-2H-3030 Connection of Utilities

- (A) Except as provided in Subsection (B), City utilities may be provided to a property if:
 - (1) For property located in the zoning jurisdiction, the Development Services Director issues a Certificate of Occupancy for the building; or
 - (2) For a property located in the extraterritorial jurisdiction, the Development Services Director issues a Certificate of Compliance for the development and signs a final acceptance letter for the subdivision infrastructure.
- (B) If required erosion and sedimentation controls are complete, the Development Services Director may authorize a temporary electrical connection:
 - (1) To test building service equipment before a Certificate of Occupancy or Certificate of Compliance has been issued; or
 - (2) To provide electrical service to a building for which a temporary Certificate of Occupancy has been issued.

Division 23-2H-4: Certificates of Compliance and Occupancy

Contents

23-2H-4010	Certificate Required	1
23-2H-4020	Certificate of Occupancy	1
23-2H-4030	Certificate of Compliance.....	2
23-2H-4040	Temporary Certificate of Occupancy	2

23-2H-4010 Certificate Required

- (A) In the zoning jurisdiction and in a municipal utility district that has a consent agreement with the City requiring the issuance of a Building Permit, a person may not use, occupy, or change the existing use or occupancy of a structure unless the Building Official has issued a Certificate of Occupancy for the structure.
- (B) In the Planning Jurisdiction
 - (1) For development that requires a Site Plan, a person may not use or occupy the development included in the Site Plan unless the responsible director has issued Certificates of Compliance for the Site Plan and subdivision infrastructure; and
 - (2) For development that does not require a Site Plan, a person may not use or occupy a structure unless the responsible director has issued a Certificate of Compliance for the subdivision infrastructure.

23-2H-4020 Certificate of Occupancy

- (A) Except as provided in Section 23-2H-4040 (Temporary Certificate of Occupancy), the Building Official shall issue a Certificate of Occupancy if:
 - (1) The development has passed required inspections;
 - (2) The permittee provides required fiscal surety;
 - (3) The development has been completed in compliance with:
 - (a) The released Site Plan and other approved construction plans, as applicable; and
 - (b) All applicable provisions of this Title, except as provided under Section 23-2F-2030 (Exempt Residential Uses and Structures), and with any separately adopted ordinance requirements; and
 - (4) The Building Official has signed a final acceptance letter for any required subdivision infrastructure or, if applicable, the permittee has executed a developer agreement approved by the Development Services Director.

23-2H-4030 Certificate of Compliance

- (A) For development completed under a released Site Plan, the Development Services Director shall issue a Certificate of Compliance if the development complies with the Site Plan and with all applicable requirements of this Title.
- (B) For subdivision infrastructure, the Development Services Director shall issue a Certificate of Compliance if:
 - (1) In the extraterritorial jurisdiction, the responsible director has signed a final acceptance letter; or
 - (2) In the zoning jurisdiction, the Development Services Director has signed a final acceptance letter or, if applicable, the permittee has executed a developer agreement approved by the Director.

23-2H-4040 Temporary Certificate of Occupancy

- (A) A person may file an application with the Building Official for:
 - (1) A Temporary Certificate of Occupancy, for a building or structure that does not meet the requirements of Section 23-2H-4020 (Certificate of Occupancy); or
 - (2) A Temporary Certificate of Retail Occupancy, for a retail occupancy associated with a Temporary Use Permit for a retail use approved under Section 23-4B-1050 (Temporary Use Permit).
- (B) The Building Official may issue a Temporary Certificate of Occupancy if the Building Official determines that the proposed use or occupancy is not a hazard to life, health, or public safety.
- (C) The Development Services Director may adopt rules or guidelines for the issuance of temporary certificates under this Section, including limitations on the duration and number of temporary certificates that may be issued for a project.

Article 23-2I: Appeals

Contents

Division 23-2I-1: General Provisions

23-2I-1010	Purpose and Applicability
23-2I-1020	Appeal of Administrative Decisions
23-2I-1030	Deadline for Appeal
23-2I-1040	Development Not Permitted During Appeal
23-2I-1050	Appeals Process and Forms

Division 23-2I-2: Initiation and Processing of Appeals

23-2I-2010	Notice of Appeal
23-2I-2020	Assignment of Appeals Board
23-2I-2030	Meeting to Resolve Issues
23-2I-2040	Tolling and Correction of Application
23-2I-2050	Ex Parte Contacts Prohibited

Division 23-2I-3: Notification and Conduct of Public Hearing

23-2I-3010	Notification of Applicant and Presiding Officer
23-2I-3020	Scheduling and Notice of Public Hearing
23-2I-3030	Prehearing Submittals
23-2I-3040	Staff Report and Case File
23-2I-3050	Conduct of Appeal Hearing

Division 23-2I-4: Action on Appeal

23-2I-4010	Action on Appeal
23-2I-4020	Appellate Burden

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Division 23-2I-1: General Provisions

Contents

23-2I-1010	Purpose and Applicability	1
23-2I-1020	Appeal of Administrative Decisions	1
23-2I-1030	Deadline for Appeal	2
23-2I-1040	Development Not Permitted During Appeal.	2
23-2I-1050	Appeals Process and Forms.	3

23-2I-1010 Purpose and Applicability

This Article establishes uniform procedures for the initiation, conduct, and disposition of administrative Appeals authorized under this Title. The purpose of these requirements is to fairly accommodate Appeal rights of persons aggrieved by City decisions, while also ensuring that Appeals are conducted fairly and expeditiously in a manner that protects the rights of all parties and ensures finality in development permitting and other land use decisions.

23-2I-1020 Appeal of Administrative Decisions

- (A) A person may appeal an administrative decision only if the person is an interested party under Section 23-2C-2020 (Interested Parties) and:
 - (1) This Title specifically provides a Right of Appeal for the decision;
 - (2) The person provides comments as required under Subsection (B); and
 - (3) A notice of Appeal under Section 23-2I-2010 (Notice of Appeal) is submitted not later than the deadline specified under Section 23-2I-1030 (Deadline for Appeal).
- (B) In order to appeal an administrative decision for which public notice is provided, a person must have provided comments regarding the decision as required by this Subsection.
 - (1) For a matter that is subject to a public hearing before a board or commission, a person must communicate an interest in the matter that is the subject of a public hearing by:
 - (a) Delivering a written statement that generally identifies the issues of concern to the body conducting the hearing, either before or during the public hearing; or
 - (b) Appearing and speaking on the record at the public hearing.
 - (2) For a matter that is subject to an administrative decision that requires notice under Section 23-2C-5010 (Notice of Application), a person must communicate an interest in the matter by delivering a written statement to the responsible director that:
 - (a) Generally identifies the issues of concern;
 - (b) Includes the person's name, telephone phone number, and mailing address; and
 - (c) Is delivered before the earliest date on which action on the application may occur.

- (3) Written comments provided under this Subsection are deemed to be delivered to the responsible director on the date that the comments are:
 - (a) Received by the responsible director or designated case manager, or
 - (b) Submitted by email if authorized by the responsible director.
- (C) If the responsible director determines that an applicant has failed to meet the requirements of this Section, the Appeal may not be considered.

23-2I-1030 Deadline for Appeal

- (A) In order to appeal an administrative decision, a notice of Appeal that meets the requirements of this Division and Section 23-2I-2010 (Notice of Appeal) must be filed with the responsible director no later than:
 - (1) The 14th day after the date of:
 - (a) An appealable decision by a board or commission;
 - (b) An appealable administrative decision for which notice is required to be provided under Section 23-2C-5020 (Notice of Administrative Decision); or
 - (2) The 7th day after an appealable administrative decision for which notice is not required.
- (B) The responsible director may not accept an Appeal submitted past the deadline required by this Section.

23-2I-1040 Development Not Permitted During Appeal

- (A) Development under an approved Site Plan may not occur during the time period in which an Appeal of the Site Plan may be initiated under Section 23-2I-1030 (Deadline for Appeal), except for site clearing.
- (B) Development under a Site Plan or Building Permit that is subject to an administrative Appeal may not occur pending final disposition of the Appeal, except for development activity that:
 - (1) Is necessary to protect public health and safety, as a determined by the Building Official; or
 - (2) Is limited to site clearing and minor construction that is unaffected by the issues under appeal.
- (C) A Site Plan or Building Permit is automatically suspended on the timely filing of an Appeal of the Site Plan or Building Permit under this Article. The responsible director may post a stop work order on the property, if necessary, to enforce this requirement.

23-2I-1050 Appeals Process and Forms

The responsible director shall designate one or more department staff to receive administrative Appeals and shall make relevant information regarding the Appeals process, including forms required by Section 23-2I-2010 (Notice of Appeal), available on the City of Austin website.

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Division 23-2I-2: Initiation and Processing of Appeals

Contents

23-2I-2010	Notice of Appeal	1
23-2I-2020	Assignment of Appeals Board	1
23-2I-2030	Meeting to Resolve Issues	2
23-2I-2040	Tolling and Correction of Application	2
23-2I-2050	Ex Parte Contacts Prohibited	2

23-2I-2010 Notice of Appeal

- (A) To initiate an Appeal under this Article, a notice of Appeal must be filed on a form prescribed by the responsible director and must include:
 - (1) The name, address, and telephone number of the appellant;
 - (2) The name of the applicant, if the decision sought to be appealed is a Site Plan or Building Permit and the appellant is not the applicant;
 - (3) The decision being appealed;
 - (4) The date of the decision;
 - (5) A description of the appellant's status as an interested party under Section 23-2C-2020 (Interested Parties);
 - (6) A statement of the reasons the appellant believes the decision does not comply with the applicable code requirements or approval criteria, including citations to relevant sections of this Title; and
 - (7) An Appeal fee established by separate ordinance.
- (B) A notice of Appeal may not be accepted as timely unless it meets the requirements in Subsection (A) on or before the deadline specified under Section 23-2I-1030 (Deadline for Appeal). The responsible director may allow an appellant to supplement a notice of Appeal after the applicable deadline has passed only if the additional information is not required to satisfy the requirements of this Section.

23-2I-2020 Assignment of Appeals Board

- (A) If a notice of Appeal meets the requirements of Sections 23-2I-1020 (Appeal of Administrative Decisions), 23-2I-1030 (Deadline for Appeal) and 23-2I-2010 (Notice of Appeal), the responsible director shall assign the Appeal to the appropriate board in compliance with this Section.
- (B) An Appeal that challenges the responsible director's interpretation or application of Chapter 23-4 (Zoning Code), or a separately adopted zoning ordinance, shall be heard by the Board of Adjustment.

- (C) An Appeal that challenges the responsible director's interpretation or application of the Building Code, Residential Code, Mechanical Code, Plumbing Code, or Solar Energy Code, as adopted under Chapter 23-11 (Technical Codes), shall be heard by the Building and Fire Code Board of Appeals or other appropriate technical code board, as determined by the responsible director.
- (D) An Appeal that challenges the responsible director's interpretation of requirements other than zoning regulations or technical codes shall be heard by the Land Use Commission.
- (E) If an Appeal challenges the responsible director's interpretation or application of multiple codes falling within the jurisdiction of more than one body, the responsible director may divide the Appeal into separate cases and assign each case to the appropriate board.
- (F) An Appeal authorized to be heard by the Council shall be assigned to the Council in compliance with the applicable requirements.

23-2I-2030 Meeting to Resolve Issues

The responsible director may meet with interested parties to an Appeal of an administrative decision, individually or jointly, to discuss and attempt to resolve issues raised by the Appeal.

23-2I-2040 Tolling and Correction of Application

- (A) A timely filed Appeal tolls the expiration period for the administrative decision under Article 23-2I (Appeals).
- (B) An applicant for a Site Plan or Building Permit that is subject to Appeal may process changes to the application as an administrative correction, without further notification, in order to address issues raised in an administrative Appeal or by comments submitted from interested parties under Section 23-2I-1020 (Appeal of Administrative Decisions).

23-2I-2050 Ex Parte Contacts Prohibited

- (A) A member of a board assigned to hear an Appeal under Section 23-2I-2020 (Assignment of Appeals Board) shall follow the requirements of this Section prior to final disposition of the Appeal and the expiration of any applicable period for seeking reconsideration or judicial review.
- (B) A board member may not communicate regarding issues relevant to an Appeal with interested parties or members of the public outside of a public meeting. Communications with a staff or executive liaison designated under Section 2-1-7 (Staff Support) or with legal counsel are permitted.
- (C) A board member that receives material information regarding an Appeal that is not made available to other board members and to interested parties is disqualified from participating in the case unless the board member publicly discloses the information and its source as soon as reasonably possible.

- (D) A board member may disqualify him or herself if an interested party or other individual has sought to influence the member's vote other than at a public meeting on the Appeal.
- (E) A board member may not investigate an Appeal other than routine site visits.

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Division 23-2I-3: Notification and Conduct of Public Hearing

Contents

23-2I-3010	Notification of Applicant and Presiding Officer	1
23-2I-3020	Scheduling and Notice of Public Hearing	1
23-2I-3030	Prehearing Submittals	2
23-2I-3040	Staff Report and Case File	2
23-2I-3050	Conduct of Appeal Hearing	2

23-2I-3010 Notification of Applicant and Presiding Officer

- (A) The responsible director shall notify an applicant in writing if an interested party has provided comments under Section 23-2I-1020 (Appeal of Administrative Decisions) on a pending application for which a Right of Appeal is provided under this Title. If practicable, the notification shall be provided before the responsible director approves or denies the application.
- (B) On receipt of a timely filed notice of Appeal under Section 23-2I-1030 (Deadline for Appeal), the responsible director shall promptly notify the applicant, if the applicant is not the appellant, and the presiding officer or staff liaison of the body to which the Appeal is assigned.

23-2I-3020 Scheduling and Notice of Public Hearing

- (A) A public hearing on an Appeal shall be scheduled for the first available meeting for which notice of the hearing can be timely provided, except that a permit holder may agree to a later date if a permit or other development approval is appealed by an interested party or is subject to suspension or revocation under Division 23-2J-2 (Suspension and Revocation).
- (B) If an Appeal challenges a development approval or other administrative decision associated with a particular address, the responsible director shall provide notice of the public hearing under Section 23-2C-4020 (Type 1 Public Hearing Notice).
- (C) If an Appeal challenges a code interpretation or other administrative decision that is not associated with a particular address, the responsible director shall provide notice of the public hearing under Section 23-2C-4040 (Type 2 Public Hearing Notice).
- (D) If an Appeal concerns issues with potential to impact particular individuals or groups who are not parties to the Appeal or otherwise entitled to notification, the responsible director may provide additional notice as deemed appropriate.

23-2I-3030 Prehearing Submittals

- (A) The executive liaison designated under Section 2-1-7 (Staff Support) for a board with authority to hear an administrative Appeal shall establish an orderly process for the submittal of materials to be considered at a public hearing on an Appeal. The process must be posted on the city website along with Appeal forms and other materials as required by Section 23-2I-1050 (Appeals Process and Forms).
- (B) The process adopted under this Section must, to the greatest extent possible, require that materials be submitted in a timely manner so that parties to the Appeal and members of the board have an opportunity review the materials in advance of the public hearing.

23-2I-3040 Staff Report and Case File

- (A) After an Appeal is assigned to the appropriate board under Section 23-2I-2020 (Assignment of Appeals Board), the responsible director shall make the case file available for inspection and copying by the board chair.
- (B) The responsible director shall submit a staff report to the board liaison prior to the hearing in compliance with guidelines adopted under Section 23-2I-3030 (Prehearing Submittals). The report must explain the basis of the responsible director's decision and reference relevant documents in support of the decision.
- (C) A use determination issued by the Planning Director under Section 23-4B-2010 (Use Determinations) or a code interpretation issued under Section 23-4B-2010 (Code Interpretations) satisfies the requirement for a staff report under Subsection (B). A supplemental report may be provided, but is not required.

23-2I-3050 Conduct of Appeal Hearing

- (A) Before opening a public hearing, a body hearing an Appeal shall decide preliminary issues raised by the parties, including requests:
 - (1) To postpone or continue the hearing; or
 - (2) To allow the submittal of evidence not timely provided to the board liaison as required by Section 23-2I-3030 (Prehearing Submittals).
- (B) A public hearing on an Appeal must be conducted to ensure a full airing of the relevant issues and to minimize irrelevant or redundant testimony. To the extent practicable, an Appeal must follow the order prescribed in this Subsection.
- (C) Presentations must occur in the following order if an Appeal is brought by an applicant for a development approval, other administrative decision, or a party challenging the issuance of an enforcement order:
 - (1) A report from City staff explaining the basis of the responsible director's decision;
 - (2) Comments by individuals in support of the responsible director's decision;
 - (3) A main presentation by the appellant or the appellant's representative in opposition to the responsible director's decision; and
 - (4) Comments by other individuals opposed to the responsible director's decision.

- (D) Presentations must occur in the following order if an Appeal is brought by an interested party, other than the applicant, challenging the approval of a permit or Site Plan:
 - (1) A report from city staff explaining the basis for the responsible director's decision;
 - (2) A main presentation by the appellant or the appellant's representative in opposition to the responsible director's decision;
 - (3) Comments by other individuals opposed to the responsible director's decision;
 - (4) A main presentation by the permit applicant or the applicant's representative in support of the responsible director's decision; and
 - (5) Comments by other individuals in support of the responsible director's decision.
- (E) In conducting a public hearing under the Section, the chair of a body considering an Appeal may:
 - (1) Impose appropriate time limits on testimony, provided that both parties to an Appeal, or their representatives, are given approximately equal time;
 - (2) If an Appeal is filed by multiple interested parties who share a common position, require a consolidated presentation or limit the amount of time available to each appellant;
 - (3) Limit comments by non-parties to minimize irrelevant or testimony; and
 - (4) Allow rebuttal by an appellant.

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Division 23-2I-4: Action on Appeal

Contents

23-2I-4010	Action on Appeal	1
23-2I-4020	Appellate Burden.	1

23-2I-4010 Action on Appeal

- (A) The After closing a public hearing on an Appeal, the body considering an Appeal may uphold, modify, or reverse the decision under Appeal. Unless otherwise provided by this Title, the body considering an Appeal may exercise the authority of the decision-maker whose decision is under appeal.
- (B) In acting on an Appeal, a board shall:
 - (1) State whether the decision is upheld, reversed, or modified; and
 - (2) Include other findings as may be required under this Title, the body's rules of procedure, or state law.

23-2I-4020 Appellate Burden

- (A) Except as provided in Subsection (B), a body considering an Appeal may not reverse or modify a decision under Appeal unless the appellant establishes by clear and convincing evidence that the decision is contrary to applicable regulations within the jurisdiction of the board considering the Appeal.
- (B) In considering an Appeal of an enforcement order under Section 23-2J-4020 (Appeal of Enforcement Orders), the responsible director who issued the order bears the burden of proving the violations cited in the order by clear and convincing evidence. A board considering an Appeal of an enforcement order may reverse or modify the order, as appropriate, if the responsible director fails to demonstrate the violations.

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Article 23-2J: Enforcement

Contents

Division 23-2J-1: General Provisions

23-2J-1010	Authority to Enforce
23-2J-1020	General Offenses and Violations
23-2J-1030	Criminal Offenses
23-2J-1040	Inspection and Entry
23-2J-1050	Copy of Approved Plans

Division 23-2J-2: Suspension and Revocation

23-2J-2010	Purpose and Applicability
23-2J-2020	Suspension of Development Approval
23-2J-2030	Revocation After Suspension
23-2J-2040	Notice of Intent to Suspend or Revoke

Division 23-2J-3: Enforcement Orders

23-2J-3010	Stop Work Order
23-2J-3020	Order to Remove or Restore
23-2J-2030	Order to Clear Public Right-of-Way

Division 23-2J-4: Appeal Procedures

23-2J-4010	Purpose and Applicability
23-2J-4020	Appeal of Enforcement Orders
23-2J-4030	Notice and Hearing on Enforcement Appeal
23-2J-4040	Action by Board on Enforcement Appeal
23-2J-4050	Compliance Pending Appeal

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Division 23-2J-1: General Provisions

Contents

23-2J-1010	Authority to Enforce	1
23-2J-1020	General Offenses and Violations	1
23-2J-1030	Criminal Offenses	2
23-2J-1040	Inspection and Entry	2
23-2J-1050	Copy of Approved Plans	3

23-2J-1010 Authority to Enforce

- (A) This Article authorizes the responsible director or Building Official to suspend and revoke permits and other development approvals issued under this Title, and to order that construction activity cease, if the responsible director or Building Official determines that a violation of this Title exists.
- (B) In addition to the administrative remedies authorized under this Article, the responsible director, Building Official, and other City staff charged with enforcement of this Title may take any lawful and appropriate action to prevent or abate the violation of this Title, including:
 - (1) The issuance of issue municipal court citations;
 - (2) The institution of legal action in a court of competent jurisdiction; and
 - (3) Termination of utility service.

23-2J-1020 General Offenses and Violations

- (A) **Unpermitted Development Prohibited.** In addition to offenses and violations which are generally declared and established under Section 1-1-99 (Offenses; General Penalty) of the City Code, it is an offense and a violation of this Title:
 - (1) To use, occupy, construct, alter, convert, or maintain any building or structure:
 - (a) For which a permit or other development approval required by this Title has not been properly issued; or
 - (b) In violation of a permit or other development approval issued under this Title.
 - (2) To use or develop land:
 - (a) For which a permit or other development approval required by this Title has not been issued; or
 - (b) In violation of a permit or other development approval issued under this Title.

- (B) **Conditions of Development Approval.** For purposes of Subsection (A), a “violation of a permit or other development approval issued under this Title” includes any use, occupancy, construction, alteration, or conversion that is inconsistent with:
- (1) Development approved by a permit or other development approval; or
 - (2) Any condition imposed on a permit or other development approval, whether or not the condition is codified or uncoded.

23-2J-1030 Criminal Offenses

- (A) A person who violates a provision of this Title commits a separate offense for each day the violation continues.
- (B) A person who violates this Title commits a misdemeanor punishable by a fine not to exceed \$2,000.
- (C) A culpable mental state is not required, and need not be proved, for fines of \$500 or less.
- (D) A person who violates Chapter 23-11 (Technical Codes) commits a misdemeanor punishable by a fine not to exceed \$2,000 and not less than:
- (1) \$150 for a first conviction;
 - (2) \$250 for a second conviction; and
 - (3) \$500 for a third or subsequent conviction.

23-2J-1040 Inspection and Entry

- (A) **Authority to Inspect and Enter.** A person must, as a condition to the issuance of any permit or development approval under this Title, agree to allow City inspectors to enter and inspect any land, facilities, and structures included in the permit application. Submittal of an application for a permit or other development approval that authorizes construction of structures or improvements shall be construed as a grant of authority to the responsible director or Building Official to enter on land subject to the application for purposes of enforcement and inspection in connection with an approved permit.
- (B) **Termination of Authorization.** The City’s authorization to enter and inspect land, facilities, and structures under Subsection (A) ceases when all inspections required for compliance with this Title have been approved and the responsible director or Building Official issues a final Certificate of Occupancy or Certificate of Compliance.
- (C) **Manner of Inspection and Entry.** In conducting inspections authorized by this Section, a City inspector shall present the inspector’s credentials and limit inspections to reasonable times at or near normal working hours, except in cases of emergency. If the premises are unoccupied, the inspector shall attempt to contact a responsible person before entering the property.

23-2J-1050 Copy of Approved Plans

- (A) **Released Site Plan.** A copy of a released Site Plan must be kept on the premises included in the Site Plan application until all required Certificates of Occupancy or Certificates of Compliance have been approved. A permittee or contractor shall keep a copy of the released Site Plan onsite and allow a City inspector to examine it on request.
- (B) **Right-of-Way Use Permit.** If work authorized by this Title requires a right-of-way use permit, the permittee or contractor shall keep a copy of the Right-of-Way Use Permit in an accessible place on the construction site or business premises during the period in which the permit authorizes use of the right-of-way. The permit must state the name of the site manager, supervisor, project superintendent, or prime contractor to be contacted by the inspector or police officer if problems exist.
- (C) **Evidence of Violation.** A permittee or contractor's failure to produce a copy of a released Site Plan or right-of-way use permit on request by a City inspector, as required by this Section, is prima facie evidence that a Site Plan or Right-of-Way Use Permit does not exist.

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Division 23-2J-2: Suspension and Revocation

Contents

23-2J-2010	Purpose and Applicability	1
23-2J-2020	Suspension of Development Approval	1
23-2J-2030	Revocation After Suspension.	2
23-2J-2040	Notice of Intent to Suspend or Revoke	3

23-2J-2010 Purpose and Applicability

- (A) This Division establishes procedures by which the responsible director or Building Official may suspend or revoke a permit or other development approval to stop construction from occurring or continuing in violation of this Title and to terminate occupancy of a structure which violates this Title.
- (B) The purpose of these procedures is to prevent violations of this Title from occurring and, where violations exist, require permittees and landowners to take actions necessary to achieve compliance.
- (C) The procedures established in this Division apply to all development approvals and permits issued under this Title, whether or not the permit or approval is specifically listed.

23-2J-2020 Suspension of Development Approval

- (A) **Authority to Suspend.** The responsible director or Building Official may suspend a development approval issued under this Title, including an approved or released Site Plan, a Building Permit, a license, Subdivision Construction Plans, Variance or Special Exception, Right-of-Way Use Permit, or a Certificate of Occupancy, if the responsible director or Building Official determines that:
 - (1) The site has been developed in a manner not authorized by the approval or otherwise in violation of this Title;
 - (2) The permit holder has not complied with a condition of the approval;
 - (3) The approval was secured with false or misleading information; or
 - (4) The approval was issued in error.

(B) Contents and Notice of Suspension

- (1) A suspension order issued under this Section:
 - (a) Must generally describe the applicable grounds for the suspension under Subsection (A) of this Section, including the nature of any violations found to exist on the site or errors in development approvals previously issued;
 - (b) May include a notice of intent to revoke under Section 23-2J-2040 (Notice of Intent to Suspend or Revoke) if compliance is not achieved by a specified date; and
 - (c) May be tied to a Stop Work Order posted on the site consistent with Section 23-2J-3010 (Stop Work Order).
- (2) The responsible director or Building Official shall give notice by certified mail, return receipt requested, in compliance with Division 23-2C-2 (Notice Requirements), of a suspension under this Division and may post the order at the affected property if the suspension is associated with a Stop Work Order issued under Section 23-2J-3010 (Stop Work Order).

(C) Effect of Suspension Order

- (1) Development may not occur on a site that is subject to a suspension order unless approved by the responsible director or Building Official to protect public health and safety or to complete previously approved work that is unaffected by the violations cited in the order.
- (2) A suspension order is effective immediately upon mailing or posting under Subsection (B)(2) and remains in effect unless lifted by the responsible director or Building Official.

- (D) Corrections or Revisions Authorized.** The responsible director or Building Official may allow an applicant to make corrections or revisions to a Site Plan or other development approval that is subject to a suspension order under this Section, as needed to achieve compliance with the requirements of this Title.

23-2J-2030 Revocation After Suspension

- (A) Authority to Revoke.** The responsible director or Building Official may immediately revoke a permit or other development approval that has been suspended under Section 23-2J-2020 (Suspension of Development Approval) if the responsible director or Building Official determines that the permittee or landowner:
- (1) Did not comply with the applicable requirements of this Title by the date required under Section 23-2J-2040 (Notice of Intent to Suspend or Revoke) or, if a compliance date was not specified, within a reasonable time as determined by the responsible director or Building Official; or
 - (2) During the suspension, did not comply with other requirements of this Title besides those cited in the original suspension.
- (B) Contents and Notice of Revocation.** A revocation order must include the same information and be mailed or posted in the same manner as a suspension order under Section 23-2J-2020(B) (Contents and Notice of Suspension).

- (C) **Effect of Revocation.** A permit or other development approval that is revoked under this Section is void and may not be reactivated or corrected, except as provided under Section 23-2J-4020 (Appeal of Enforcement Order). Following issuance of a revocation order, no corrections can be made to the permit or other development approval to which the revocation applies and a new application is required to further develop the property.

23-2J-2040 Notice of Intent to Suspend or Revoke

- (A) The responsible director or Building Official may give written notice to the person affected by the official's intent to suspend or revoke a permit or other development approval issued under this Title.
- (B) A notice of intent issued under this Section:
- (1) Must explain the basis for suspension or revocation and specify the corrective actions required to achieve compliance with this Title; and
 - (2) May specify a reasonable time in which corrective actions must be taken to avoid suspension or revocation.
- (C) If a notice of intent issued in compliance with this Section specifies a time for compliance, the responsible director or Building Official may not issue a suspension or revocation order before the time for compliance has expired. The responsible director or Building Official may extend the time for compliance specified in notice of intent for good cause, including demonstrated efforts by a landowner or permittee to achieve compliance with this Title.

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Division 23-2J-3: Enforcement Orders

Contents

23-2J-3010	Stop Work Order	1
23-2J-3020	Order to Remove or Restore	2
23-2J-3030	Order to Clear Public Right-of-Way	2

23-2J-3010 Stop Work Order

- (A) **Authority to Stop Work.** If the responsible director or Building Official determines that a person required to obtain a Site Plan, Building Permit, Subdivision Construction Plan, or other development approval has not complied with a requirement of this Title, the responsible director may issue a Stop Work Order requiring the person to stop the development of, or transportation of construction material to, the site until the person complies with the requirements of this Title.
- (B) **Contents and Notice of Stop Work Order.** A Stop Work Order must generally describe the violations of this Title found to exist and the actions required to achieve compliance. The responsible director or Building Official shall post the Stop Work Order at the affected property and mail a copy of the order to the permittee or landowner.
- (C) **Effect of Stop Work Order.** Except for remedial actions authorized by the responsible director or Building Official under Subsection (D), the limitations established in this Subsection apply immediately upon posting a Stop Work Order and remain effective until the order is lifted by the responsible director or Building Official.
- (1) While a Stop Work Order remains in effect a City inspection may not be performed, work requiring an inspection may not be approved, and a person may not connect a utility at the site.
 - (2) If a Stop Work Order is based on a failed inspection, a person may not further develop the site unless the development passes a re-inspection and the Stop Work Order is lifted.
 - (3) If a Stop Work Order is based on a pending appeal in compliance with Article 23-2I (Appeals), a person may not further develop the site unless the appeal is finally resolved and the Stop Work Order is lifted.
 - (4) If a Stop Work Order is based on a health or safety hazard, a person may not further develop the site unless the responsible director or Building Official determines that the development complies with the requirements of this Title and the Stop Work Order is lifted.

- (5) If a Stop Work Order is based on a violation of the requirements of this Title for a right-of-way use permit, the order must:
 - (a) State that no work may be performed at the site if traffic is obstructed, unless the person obtains a right-of-way use permit;
 - (b) State that noncompliance may result in the immediate removal of an obstruction from the right-of-way and the arrest of an equipment operator; and
 - (c) Require the immediate removal of an obstruction or traffic control device in the public right-of-way.
- (D) **Remedial Actions Authorized.** While a Stop Work Order remains in effect, the responsible director or Building Official may allow a permittee or landowner to take actions required to secure the site and to achieve compliance with requirements of this Title necessary to protect public health and safety.

23-2J-3020 Order to Remove or Restore

- (A) **Authority to Require Removal or Restoration.** If the Building Official determines that building service equipment regulated by Chapter 23-11 (Technical Codes) is hazardous to life, health, or property, the Building Official may order that the equipment be removed or restored to a safe condition.
- (B) **Contents and Notice of Order to Remove or Restore.** A restoration or removal order issued under this Section must generally describe the violations found to exist, the actions required to comply, and the date by which compliance must be achieved. The Building Official shall post a restoration or removal order at the affected property and mail a copy of the order to the permittee or landowner.
- (C) **Effect of Order to Remove or Restore.** If a removal or restoration order is posted under this Section, a person may not use or maintain building service equipment unless the Building Official lifts the order.

23-2J-3030 Order to Clear Public Right-of-Way

- (A) If a person fails to comply with Chapter 23-9B (Right-Of-Way and Transportation Improvements), or with the terms of a right-of-way use permit issued under that Chapter, a police officer may order the person to immediately stop obstructing traffic and remove the obstruction from the public right-of-way. The police officer may:
 - (1) Impound a vehicle, machinery, or equipment;
 - (2) Order the driver to proceed to the Police Department;
 - (3) Remove a barricade or traffic diverting device;
 - (4) Issue a citation to a person who authorized or caused the violation; and
 - (5) Arrest a person who does not comply with the order.
- (B) A warning under this Section is effective immediately and may be made orally or in writing.

Division 23-2J-4: Appeal Procedures

Contents

23-2J-4010	Purpose and Applicability	1
23-2J-4020	Appeal of Enforcement Orders	1
23-2J-4030	Notice and Hearing on Enforcement Appeal	2
23-2J-4040	Action by Board on Enforcement Appeal	3
23-2J-4050	Compliance Pending Appeal	3

23-2J-4010 Purpose and Applicability

- (A) This Division establishes procedures for administrative appeals of suspensions, revocations, Stop Work Orders, and other enforcement actions authorized under this Article. These procedures afford due process to property owners and other persons affected by the issuance of enforcement orders, while ensuring that decisions which affect development permits are resolved in a timely and efficient manner.
- (B) An appeal of an enforcement action under this Article must meet the requirements of Division 23-2I (Appeals), except as provided in this Division.

23-2J-4020 Appeal of Enforcement Orders

- (A) **Right to Appeal.** A person who is subject a suspension, revocation, stop work, or other order under this Article may appeal the order consistent with the requirements of this Section. A warning letter or a notice of intent issued under Section 23-2J-2040 (Notice of Intent to Suspend or Revoke) may not be appealed.
- (B) **Requirements for Appeal**
 - (1) An appeal of an enforcement order under this Article must be initiated and processed in the manner provided in compliance with Article 23-2I (Appeals). The responsible director or Building Official shall assign an appeal to the appropriate board or commission, as determined in compliance with Section 23-2I-2020 (Assignment of Appeals Board).
 - (2) The 14-day appeal deadline required in compliance with Section 23-2I-1030 (Deadline for Appeal) begins to run on:
 - (a) The date the responsible director or Building Official decides a request for reconsideration under Subsection (C); or
 - (b) If reconsideration is waived or is not requested, the later of the following dates:
 - (i) The date the order is received by the permittee or landowner; or
 - (ii) The date the order is posted at the property.

(C) **Reconsideration Prior to Appeal.** A person must request that the responsible director or Building Official reconsider an enforcement order before the order may be appealed to a board or commission, except as provided in Subsection (C)(4).

- (1) A request for reconsideration must be delivered to the responsible director or Building Official not later than the third day after the order is posted at the property or received by the permittee or landowner. The notice must identify the name of the permittee or landowner, the order for which reconsideration is sought, and the reasons the permittee believes the order is incorrect or was issued erroneously.
- (2) The responsible director or Building Official shall schedule a hearing with the permittee or landowner for not later than the third working day after reconsideration is requested, unless the applicant waives the right to a hearing or agrees to a later date. At the hearing, the landowner or permittee and City staff may offer testimony regarding the order for which reconsideration is requested.
- (3) The responsible director or Building Official shall affirm or reverse the order under review not later than the second working day after the hearing. The responsible director or Building Official shall give written notice of the decision and a statement or reasons to the permittee or landowner.
- (4) The responsible director or Building Official may waive the requirement to request reconsideration under this Subsection or may extend the 3-day deadline based on good cause shown.

(D) **Consolidation of Related Appeals**

- (1) If a Stop Work Order is associated with a suspension or revocation order, an appeal of the Stop Work Order or the suspension or revocation order constitutes an appeal of both orders and the cases shall be heard as a consolidated appeal.
- (2) A Stop Work Order may not be separately appealed if it is posted under Section 23-2I-1040 (Development Not Permitted During Appeal) in order to prohibit development pending final disposition of an appeal of the Site Plan or Building Permit associated with the property.

23-2J-4030 Notice and Hearing on Enforcement Appeal

- (A) Unless the appellant agrees to a later time, the responsible director or Building Official shall schedule a public hearing on an enforcement appeal before the appropriate board or commission no later than the next regular meeting for which notice may be timely provided under Subsection (B).
- (B) Notice of a hearing on an appeal shall be given by mailing notice before the tenth day of the date of the hearing to:
 - (1) The appellant;
 - (2) The notice owner of the subject property, if any; and
 - (3) Individuals or organizations who made complaints leading to issuance of the enforcement order or who have registered an interest in the matter.
- (C) A board hearing an appeal under this Section is subject to Section 23-2I-2050 (Ex Parte Contacts Prohibited) and shall conduct the hearing in compliance with Section 23-2I-3050(C) (Conduct of Appeal Hearing).

23-2J-4040 Action by Board on Enforcement Appeal

- (A) **Action on Appeal.** After conducting a hearing under Section 23-2J-4030 (Hearing on Enforcement Appeal), the board shall:
 - (1) Uphold the order, if the board finds that each violation alleged in the order is supported by substantial evidence;
 - (2) Modify the order, if the board finds that some of the violations alleged in the order are supported by substantial evidence and others are not;
 - (3) Reverse the order, if the board finds that none of the violations alleged in the order are supported by substantial evidence; or
 - (4) Postpone action on the appeal in order to allow the appellant additional time to comply or for other reasons as the board deems just.
- (B) **Limitations on Board Authority.** A body considering an appeal under this Section may only exercise the authority of the official whose decision is appealed, except as provided in Subsection (C).
- (C) **Board of Adjustment Variance or Special Exception.** In addition to the actions authorized in compliance with Subsection (A), the Board of Adjustment may grant a Variance or Special Exception in compliance with Division 23-4B-4 (Variances and Special Exceptions) for any zoning regulation alleged to be violated by the order under appeal.
- (D) **Effect of Action Upholding Suspension.** If a board acts to uphold a suspension or revocation order in compliance with Subsection (A), the permit or other approval subject to the order is automatically revoked without further action by the responsible director or Building Official.

23-2J-4050 Compliance Pending Appeal

- (A) Prior to final action by a board assigned to hear an appeal in compliance with Section 23-2I-2020 (Assignment of Appeals Board), the responsible director or Building Official may attempt to resolve the alleged violations by meeting with the appellant or other parties with an interest in the matter, conducting site inspections, or taking other actions deemed appropriate to achieve compliance.
- (B) If the responsible director or Building Official determines that compliance has been achieved, the responsible director may rescind the order and withdraw the matter from consideration by the board previously assigned to hear the appeal.
- (C) If the responsible director or Building Official determines that partial compliance has been achieved or that additional violations exist on the property, the responsible director may amend the original order to:
 - (1) Eliminate violations alleged in the original order; or
 - (2) No later than three days prior to a hearing scheduled on the appeal, add additional violations not cited in the original order.

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Article 23-2K: Vested Rights

Contents

Division 23-2K-1: Petition and Review Procedures

- 23-2K-1010 Definitions
- 23-2K-1020 Purpose and Applicability
- 23-2K-1030 Vested Rights Petition Required
- 23-2K-1040 Contents of Vested Rights Petition
- 23-2K-1050 Fair Notice Application
- 23-2K-1060 Completeness Review for Vested Rights Petition

Division 23-2K-2: Vested Rights Determinations

- 23-2K-2010 Vested Rights Determination
- 23-2K-2020 Criteria for Approval
- 23-2K-2030 Effect of Vested Rights Determination
- 23-2K-2040 Project Consent Agreements
- 23-2K-2050 Administrative Guidelines

Division 23-2K-3: Expiration

- 23-2K-3010 General Expiration Requirements
- 23-2K-3020 Expiration of Projects Begun on or After June 23, 2014
- 23-2K-3030 Managed Growth Agreements
- 23-2K-3040 Dormant Projects

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Division 23-2K-1: Petition and Review Procedures

Contents

23-2K-1010	Definitions.	1
23-2K-1020	Purpose and Applicability	2
23-2K-1030	Vested Rights Petition Required	2
23-2K-1040	Contents of Vested Rights Petition.	2
23-2K-1050	Fair Notice Application	3
23-2K-1060	Completeness Review for Vested Rights Petition	3

23-2K-1010 Definitions

- (A) In this Article, "permit," "project," and "regulatory agency" have the meanings assigned to them by Chapter 245 of the Local Government Code.
- (B) **TYPE 1 (CHAPTER 245) PETITION** means a vested rights petition that alleges rights under Chapter 245 of the Local Government Code to develop property under ordinances, regulations, or rules other than those in effect on the date the permit application is submitted.
- (C) **TYPE 2 (CONTINUING USE) PETITION** means a vested rights petition that alleges rights under Section 43.002 of the Local Government Code to continue or begin a land use that was begun or planned prior to annexation of the land by the City of Austin.
- (D) **VESTING DATE** means the date on which a project accrued development rights under Chapter 245 or use rights under Section 43.002 of the Local Government Code.
- (E) **VESTED RIGHTS** means a right conferred by state law to develop property under ordinances, regulations, or rules other than those in effect on the date a permit application is submitted. The term includes statutory development rights under Chapter 245 and use rights under Section 43.002 of the Local Government Code, but does not include a right existing under common law.
- (F) **VESTED RIGHTS PETITION** or **PETITION** means a petition requesting a determination of development rights under Chapter 245 or use rights under Section 43.002 of the Local Government Code.

23-2K-1020 Purpose and Applicability

- (A) This Article establishes requirements for determining whether a project is entitled to vested rights under Chapter 245 or Section 43.002 of the Local Government Code. To the extent a project is entitled to vested rights, a permit necessary to initiate, continue, or complete the project may be exempt from current regulations.
- (B) The purpose of this Article is to:
 - (1) Establish a clear and consistent process for evaluating vested rights claims;
 - (2) Ensure that vested rights determinations are based on accurate and complete information, including the nature and scope of the original project for which vested rights are asserted and actual development, if any, that has occurred over time; and

- (3) Recognize legitimate claims of vested rights under state law, while ensuring that new development complies to the greatest extent possible with current regulations.
- (C) The requirements of this Article apply within the planning jurisdiction.

23-2K-1030 Vested Rights Petition Required

A petition for vested rights that meets the requirements of Section 23-2K-1040 (Contents of Vested Rights Petition) must be submitted by a landowner or a landowner's agent in order to request that an application for a permit be reviewed under ordinances, regulations, or rules other than those in effect on the date the application is filed.

23-2K-1040 Contents of Vested Rights Petition

- (A) Except as provided in Subsection (B), a petition for vested rights required by Section 23-2K-1030 (Vested Rights Petition Required) must be submitted on a form approved by the responsible director and must include, at a minimum, the following information:
 - (1) Reference to one of the following applications, which must be submitted concurrent with the vested rights petition:
 - (a) A permit application for development of the property; or
 - (b) A development plan, on a form provided by the responsible director, that establishes the nature of the permit sought, including the scope and intensity of proposed development and the type of land use, but need not include construction-level detail;
 - (2) A summary of the basis on which the applicant claims vested rights;
 - (3) The date on which the applicant claims that vested rights accrued and any permit or Fair Notice application that was submitted on that date; and
 - (4) A complete chronological history of the project for which vested rights are claimed, including:
 - (a) A list of permits for development of the property, along with supporting documents, that were issued or applied for after the date the applicant claims that vested rights accrued;
 - (b) A description of any permitted or unpermitted development that occurred on the property after the date the applicant claims that vested rights accrued;
 - (c) A description of existing development on the property, regardless of whether the development is permitted or unpermitted;
 - (d) A list of all annexations and zoning changes affecting the property, if any;
 - (e) Any covenants, conditions, or restrictions recorded in the deed records for the property; and
 - (f) If deemed relevant by the director, evidence regarding progress towards completion of the project under Section 23-2K-3040 (Dormant Projects).

- (B) The responsible director may allow an applicant to omit information required under this Section if, in the sole judgment of the director, an application is associated with a project for which vested rights have been conclusively established by a prior vested rights determination or by a court order, settlement agreement, or Project Consent Agreement approved by the Council.

23-2K-1050 Fair Notice Application

- (A) A Fair Notice Application may be used in lieu of a permit application to establish vested rights for a new project.
- (B) The responsible director shall adopt a Fair Notice Application, which may be used to establish a vesting date for a new project that is filed for review under current regulations and for which no prior permits have been sought. The application must include a proposed plan for development of the property, including the scope and intensity of development and the nature of the land use, but need not include construction-level detail.
- (C) Acceptance of a Fair Notice Application does not authorize construction or have any effect other than that prescribed by this Article.

23-2K-1060 Completeness Review for Vested Rights Petition

A vested rights petition and associated development permit or Fair Notice application are treated as a single application for purposes of completeness review and expiration in compliance with Division 23-2B-1 (Application Requirements).

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Division 23-2K-2: Vested Rights Determinations

Contents

23-2K-2010	Vested Rights Determination.	1
23-2K-2020	Criteria for Approval	2
23-2K-2030	Effect of Vested Rights Determination.	3
23-2K-2040	Project Consent Agreements.	4
23-2K-2050	Administrative Guidelines	5

23-2K-2010 Vested Rights Determination

- (A) **Deadline for Determination.** Not later than 14 days after acceptance of a complete vested rights petition, the responsible director shall review the petition under Section 23-2K-2020 (Criteria for Approval) and make a determination consistent with the requirements of this Section.
- (B) **Action on Petition**
 - (1) In making a determination on a vested rights petition, the responsible director may:
 - (a) Approve the petition and require the development applications necessary to initiate, continue, or complete the project to be reviewed in compliance with regulations in effect on the vesting date, except for those regulations exempt from vesting under state law;
 - (b) Deny the petition and require the development application associated with the project to be reviewed under current regulations of this Title; or
 - (c) Approve the petition in part, as authorized by Subsection (B)(2).
 - (2) The responsible director may approve a petition in part if a project is legally entitled to some, but not all, of the rights asserted in the petition, or if a change in the scale or intensity of development is necessary to maintain conformity with the original project. A vested rights determination may not waive or modify applicable regulations or provide relief not required by Chapter 245 or Section 43.002 of the Local Government Code.
- (C) **Contents of Determination.** The responsible director shall provide a written determination to the applicant, which must state:
 - (1) Whether the petition is approved or denied, in whole or in part, and the basis for the decision;
 - (2) Findings of fact in support of the determination and information sufficient to identify the permit or Fair Notice application on which the petition is based; and
 - (3) If the petition is approved:
 - (a) A description of the project for which vested rights are recognized; and
 - (b) A vesting date.

- (D) **Reconsideration.** An applicant may request that the responsible director reconsider a vested rights determination at any time before the application expires under Section 23-2B-1040 (Update and Expiration). A request for reconsideration tolls the expiration date, as provided in Section 23-2B-1050 (Tolling of Expiration Period).
- (E) **Administrative Remedies Not Affected.** A vested rights determination under this Section does not affect the availability of a Variance or other administrative remedy authorized by this Title.
- (F) **Posting of Vested Rights Determinations.** The responsible director shall post vested rights petitions and vested rights determinations under this Article on the City's website.

23-2K-2020 Criteria for Approval

- (A) **Type 1 Petition.** The responsible director shall review a Type 1 (Chapter 245) petition for vested rights under the criteria described in this Subsection.
 - (1) **General Standard.** A permit application is entitled to development rights under Chapter 245 of the Local Government Code if the permit is required to initiate, continue, or complete a project for which a prior application was submitted to the City of Austin. An application is not entitled to development rights if it is unrelated to or inconsistent with the original project or if the original project has been completed, changed, or expired.
 - (2) **Review Criteria.** In determining whether a petition meets the standard for approval under this Subsection, the responsible director shall consider the following factors:
 - (a) The nature and extent of proposed development shown on the prior permit or other application that initiated the original project on which the vested rights claim is based;
 - (b) Whether the permit application for which vested rights are claimed is related to and consistent with the original project;
 - (c) The nature and extent of prior development of the property, including any permitting or construction activity that occurred subsequent to the vesting date requested by the applicant;
 - (d) Any prior vested rights determinations made for development of the property; and
 - (e) Whether the project has expired in compliance with Division 23-2K-3 (Expiration) of this Article or other applicable regulations.

- (B) **Type 2 Petition.** The responsible director shall review a Type 2 (Continuing Use) petition for vested rights under the criteria described in this Subsection.
- (1) **General Standard.** A permit application is entitled to use rights under Section 43.002 of the Local Government Code to the extent that current regulations would prohibit:
- (a) Continuing to use the land in the manner in which it was being used on the date the annexation proceedings were instituted, if the land use was legal at that time; or
 - (b) Beginning to use land in the manner that was planned before the 90th day before the effective date of the annexation if:
 - (i) One or more licenses, certificates, permits, approvals, or other forms of authorization by a governmental entity were required by law for the planned land use; and
 - (ii) A completed application for the initial authorization was filed with the governmental entity before the date the annexation proceedings were instituted.
- (2) **Review Criteria.** In determining whether a petition meets the standard for approval under this Subsection, the responsible director shall consider the nature and extent of development that:
- (a) Occurred on the property prior to initiation of annexation proceedings, including photographs or other evidence substantiating the use; or
 - (b) Was proposed in one or more required applications submitted to a governmental entity.
- (3) **Date of Annexation.** For purposes of this Subsection, annexation proceedings are deemed to have been instituted on the date of the first public hearing before the Council on the annexation ordinance for the property.
- (C) **Other Considerations.** The criteria in this Section are intended to assist the responsible director in reviewing Type 1 (Chapter 245) and Type 2 (Continuing Use) petitions for vested rights, but do not limit the director from considering other factors relevant to the determination of rights for a particular project. The responsible director may consider whether a project is entitled to common law vested rights if the project is not entitled to rights under Chapter 245 or Section 43.002 of the Local Government Code.

23-2K-2030 Effect of Vested Rights Determination

If the responsible director approves a vested rights petition, any permit required to initiate, continue, or complete the project shall be entitled to the development or continuing use rights recognized by the vested rights determination, unless the project expires under Division 23-2L-3 (Expiration) or other applicable regulations.

23-2K-2040 Project Consent Agreements

- (A) **Purpose and Applicability.** This Section provides a voluntary mechanism for determining applicable regulations where the extent of a project's vested rights are unclear and for incentivizing projects with clearly established vested rights to achieve greater compliance with current regulations.
- (B) **Application Requirements.** An applicant may submit a request for a Project Consent Agreement to the responsible director, in writing, after the director issues a vested rights determination under Section 23-2K-2010 (Vested Rights Determination). The request must identify:
- (1) Current regulations for which compliance would be required, other than regulations exempt from vested rights protections under state law;
 - (2) Additional restrictions on the nature and intensity of the proposed development; and
 - (3) Any modifications or waivers requested as a condition to the agreement, including but not limited to provisions for the transfer or averaging of impervious cover to include additional property or changes to the original project that increase compatibility with adjacent land uses.
- (C) **Criteria for Recommendation**
- (1) The responsible director may recommend a Project Consent Agreement for approval to the Council if the director finds that the agreement achieves a greater degree of environmental protection and compatibility with adjacent land uses than would occur if a project developed to the full extent of vested rights that have been verified or are reasonably likely to exist for the project.
 - (2) In making a determination under this Subsection, the responsible director shall consider:
 - (a) The degree to which vested rights for the project have been established;
 - (b) The importance of particular regulations to achieving adopted planning goals or policies for the area in which the project is located; and
 - (c) A recommendation from the environmental officer regarding the environmental benefits of the proposed agreement, if vested rights from the regulations of Chapter 23-8 (Environment) are asserted for the project.
- (D) **Recommendation Required.** The Council may consider approval of a Project Consent Agreement under this Section only if the agreement is recommended by the responsible director or initiated by the Council. Before the Council acts on a consent agreement, the responsible director shall seek a recommendation from the Environmental Board and the Land Use Commission, and the Council shall hold a public hearing. The responsible director shall provide notice of the hearing under Section 23-2C-4020 (Type 1 Public Hearing Notice).
- (E) **Action on Project Consent Agreement.** In acting on a Project Consent Agreement, the Council may approve, deny, or modify the agreement based on the standard applicable to the responsible director's review under Subsections (C) and (D). A Project Consent Agreement may waive or modify site development regulations applicable to a project as deemed appropriate by the Council.

- (F) **Inclusion of Development Agreement for ETJ Projects.** A Project Consent Agreement for a project located in the extraterritorial jurisdiction may include a Development Agreement as authorized under Section 212.172 of the Local Government Code. The responsible director shall review a proposed Development Agreement concurrent with an application for a Project Consent Agreement, but Council may consider the agreements separately or as a single agreement.
- (G) **Expiration.** A Project Consent Agreement is subject to the expiration requirements specified in this Subsection.
- (1) A Project Consent Agreement expires on the 90th day after approval by the Council, unless:
- (a) The applicant has submitted a complete Site Plan application for review by the responsible director under the terms of the agreement; or
 - (b) In approving the agreement, the Council authorizes a later expiration date.
- (2) Following submittal of a Site Plan application, a Project Consent Agreement expires if:
- (a) The Site Plan application expires under Section 23-2B-1040 (Update and Expiration); or
 - (b) The Site Plan expires under Division 23-6C-1 (Expiration).

23-2K-2050 Administrative Guidelines

- (A) The responsible director may adopt guidelines to assist in reviewing applications under Section 23-2K-2010 (Vested Rights Determination), Section 23-2K-2040 (Project Consent Agreements), and Section 23-2K-3030 (Managed Growth Agreements).
- (B) Guidelines adopted under this Section may be used to help address common questions that arise in determining vested rights, including but not limited to:
- (a) Whether a permit application is required to continue, complete, or initiate the project for which vested rights are claimed;
 - (b) Whether the project for which vested rights are claimed has been completed, changed, or expired; and
 - (c) Whether progress towards completion of a project has been made under Section 23-2K-3040 (Dormant Projects).
- (C) Guidelines adopted under this Section shall be posted on the department's website and made available to the public, but need not be adopted by administrative rule under Section 1-2 (Adoption of Rules) of the City Code.

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Division 23-2K-3: Expiration

Contents

23-2K-3010	General Expiration Requirements	1
23-2K-3020	Expiration of Projects Begun on or After June 23, 2014	1
23-2K-3030	Managed Growth Agreements	2
23-2K-3040	Dormant Projects	3

23-2K-3010 General Expiration Requirements

- (A) A vested rights determination for a project approved under Section 23-2K-2010 (Vested Rights Determination) applies to any permit application required to initiate, continue, or complete the project.
- (B) If the vesting date approved for a project under Section 23-2K-2010 (Vested Rights Determination) is based on a permit application that is submitted on or after June 23, 2014, the project is subject to the expiration periods specified in Section 23-2K-3020 (Expiration of Projects Begun On or After June 23, 2014).
- (C) If all permits for a project expire, the project expires.
- (D) A permit application submitted after a project expires constitutes a new project and is subject to the current regulations of this Title, except that:
 - (1) If a Site Plan associated with a project remains active at the time the project expires, the vested rights determination for the project applies to any application for a Building Permit necessary to complete construction of the Site Plan for as long as the Site Plan remains active; and
 - (2) An application to extend a Site Plan associated with a project may be approved in compliance with Section 23-6B-3030 (Extension of a Released Site Plan).
- (E) The expiration of a project associated with a preliminary plan or a final plat does not affect the validity of a platted lot under this Title.

23-2K-3020 Expiration of Projects Begun on or After June 23, 2014

- (A) The project expiration period established by this Section applies if the vesting date approved for a project under Section 23-2K-2010 (Vested Rights Determination) is based on a permit application that is submitted on or after June 23, 2014.
- (B) Except as provided in Subsection (C) of this Section or Section 23-2K-3010 (General Expiration Requirements), a project expires nine years after the vesting date approved for the project under Section 23-2K-2010 (Vested Rights Determination).

- (C) If the vesting date approved for a project under Section 23-2K-2010 (Vested Rights Determination) is based on a Fair Notice application (new project) submitted under Section 23-2K-1050 (Fair Notice Application):
- (1) The project expires one year after the date the application was submitted; or
 - (2) If a permit application is submitted before the Fair Notice application expires, the project expires on the date applicable to the permit under this Section.

23-2K-3030 Managed Growth Agreements

- (A) **Purpose and Applicability.** This Section provides a voluntary mechanism to request longer project expiration periods than those established under Section 23-2K-3020 (Expiration of Projects Begun On or After June 23, 2014) for large-scale projects or projects located within a planned development center.
- (B) **Application Requirements.** To be accepted for review, an application for a proposed Managed Growth Agreement must include all information required by the responsible director, including a proposed expiration date, and must meet the requirements of this Subsection.
- (1) An application for a Managed Growth Agreement may be submitted concurrent with the first permit application, or before the review period expires, if the project associated with the proposed agreement:
 - (a) Is filed for review under current regulations;
 - (b) Does not require a Variance approved by the Land Use Commission or Board of Adjustment, unless the project is limited to residential uses that do not require a Site Plan;
 - (c) Includes only property located within the zoning jurisdiction, outside of the Barton Springs Zone; and
 - (d) Includes at least 10 acres of land.
 - (2) An application for a Managed Growth Agreement may be submitted after approval of the first permit application, but no later than one year before the project expires, if the project associated with the proposed agreement:
 - (a) Complies with the regulations in effect on the date the application for a Managed Growth Agreement was submitted or, in extraordinary circumstances, includes community benefits or superior development features that mitigate noncompliance with current regulations;
 - (b) Does not require a Variance approved by the Land Use Commission or Board of Adjustment, unless the project is limited to residential uses that do not require a Site Plan under Section 23-6A-2010 (Exemptions from Site Plan Review);
 - (c) Includes only property located within the zoning jurisdiction, outside of the Barton Springs Zone; and
 - (d) Does not impede or delay official City economic development or sustainability initiatives.

- (C) **Public Hearing Required.** If an application meets the requirements in Subsection (B), the responsible director shall:
- (1) Schedule a public hearing on the proposed agreement and provide notice of the hearing under Section 23-2C-4020 (Type 1 Public Hearing Notice); and
 - (2) Make a recommendation to approve or deny the agreement based on whether the project:
 - (a) Requires a longer period of time to construct than the timeframes established under Section 23-2K-3020 (Expiration of Projects Begun On or After June 23, 2014);
 - (b) Furthers the goals and policies of the Austin Comprehensive Plan; and
 - (c) Is environmentally superior to the minimum standards applicable to the project under Article 23-3C (Urban Forest Protection and Replenishment) and Article 23-3D (Water Quality), as determined based on a recommendation from the environmental officer.
- (D) **Council Action.** The Council may approve or deny a proposed Managed Growth Agreement based on the criteria in Subsection (C) of this Section and may establish whatever expiration period the Council deems appropriate, but may not waive or modify current regulations applicable to the project.
- (E) **Effect of Managed Growth Agreement.** If a managed growth agreement is approved under this Section, the responsible director shall treat the project as vested to the regulations in effect on the date of the first application until the date the agreement expires.

23-2K-3040 Dormant Projects

- (A) **Purpose and Applicability.** This Section is adopted under Section 245.005 of the Local Government Code to provide expiration dates for permits that lack an expiration date under applicable regulations. This Section does not apply to a permit that is subject to an expiration date under the regulations applicable to the permit. For purposes of this Section, a permit that is not subject to an expiration date is an "unexpired permit."
- (B) **Dormancy Timeframes**
- (1) If an unexpired permit was approved prior to May 11, 2000, then the permit expired on May 11, 2004, unless the applicant submits evidence sufficient to show that progress towards completion of the project was made under Subsection (C) prior to May 11, 2000.
 - (2) If an application for an unexpired permit was submitted after September 5, 2005, then the permit expires five years after the permit was approved unless the applicant submits evidence sufficient to show that progress towards completion of the project was made prior to that date under Subsection (C).

- (C) **Progress Towards Completion.** For purposes of this Section, progress towards completion of a project includes any one of the following:
- (1) An application for a final plat or plan is submitted to a regulatory agency;
 - (2) A good-faith attempt is made to file with a regulatory agency an application for a permit necessary to begin or continue towards completion of the project;
 - (3) Costs have been incurred for developing the project including, without limitation, costs associated with roadway, utility, and other infrastructure facilities designed to serve, in whole or in part, the project (but exclusive of land acquisition) in the aggregate amount of five percent of the most recent appraised market value of the real property on which the project is located;
 - (4) Fiscal security is posted with a regulatory agency to ensure performance of an obligation required by the regulatory agency; or
 - (5) Utility connection fees or impact fees for the project have been paid to a regulatory agency.
- (D) **Effect of Dormancy on Permit Series.** If the first permit in a series of permits for a project expires based on dormancy of the project, then it cannot form the basis of a vested rights petition.

Article 23-2L: Miscellaneous Provisions

Contents

Division 23-2L-1: Interlocal Development Agreements

23-2L-1010	Purpose and Authorization
23-2L-1020	Initiation of Interlocal Development Agreement
23-2L-1030	Land Use Commission Hearing and Recommendation
23-2L-1040	City Council Hearing and Action
23-2L-1050	Notification Requirements

Division 23-2L-2: General Development Agreements

23-2L-2010	Purpose and Applicability
23-2L-2020	Agreement Initiation and Framework
23-2L-2030	Boards and Commission Review
23-2L-2040	City Council Hearing and Action
23-2L-2050	Execution and Terms of Agreement

Division 23-2L-3: Closed Municipal Landfills

23-2L-3010	Applications Relating to a Closed Municipal Solid Waste Landfill
------------	--

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Division 23-2L-1: Interlocal Development Agreements

Contents

23-2L-1010	Purpose and Authorization	1
23-2L-1020	Initiation of Interlocal Development Agreement	1
23-2L-1030	Land Use Commission Hearing and Recommendation	2
23-2L-1040	City Council Hearing and Action	2
23-2L-1050	Notification Requirements.	2

23-2L-1010 Purpose and Authorization

- (A) **Purpose.** This Division establishes procedures by which the Council may approve Interlocal Development Agreements with other governmental entities. The purpose of an Interlocal Development Agreement is to adopt reasonable development regulations that balance the needs of other governmental entities with the requirements of this Title and the goals and policies of the Comprehensive Plan.
- (B) **Authorization**
- (1) The City may enter into an Interlocal Development Agreement under this Division with any governmental entity, municipal corporation, or political subdivision.
 - (2) An Interlocal Development Agreement, including an amendment to an existing agreement, may establish or modify regulations for the use, maintenance, development, or construction of property containing one or more existing or proposed structures to be used for a governmental purpose.

23-2L-1020 Initiation of Interlocal Development Agreement

The Council or the responsible director may initiate the negotiation of an Interlocal Development Agreement, subject to the review and approval procedures established in this Division.

23-2L-1030 Land Use Commission Hearing and Recommendation

- (A) **Public Hearing Required.** Before the Council considers a proposed Interlocal Development Agreement, the responsible director shall schedule a public hearing on the proposed agreement before the Land Use Commission and provide notice of the public hearing under Section 23-2L-1050 (Notification Requirements).
- (B) **Commission Recommendation & Deadline.** Not later than the 14th day after the public hearing on a proposed agreement is closed, the Land Use Commission shall recommend that the Council:
 - (1) Approve the Interlocal Development Agreement as proposed;
 - (2) Approve the Interlocal Development Agreement with modifications; or
 - (3) Reject the proposed Interlocal Development Agreement.

23-2L-1040 City Council Hearing and Action

- (A) **Council Public Hearing & Notice.** After the Land Use Commission makes its recommendation, the Council shall hold a public hearing on the proposed Interlocal Development Agreement. The responsible director shall provide notice of the public hearing under Section 23-2L-1050 (Notification Requirements).
- (B) **Council Action.** After a public hearing on a proposed Interlocal Development Agreements, the Council may authorize the City Manager to:
 - (1) Execute the agreement as proposed;
 - (2) Execute a modified agreement, which may include different use, development, or construction regulations, or other conditions, than those included in the proposed agreement recommended by the Land Use Commission or the responsible director;
 - (3) Initiate the negotiation of a new agreement, which shall be subject to review by the Land Use Commission under Section 23-2L-1030 (Land Use Commission Hearing and Recommendation); or
 - (4) Reject the proposed agreement and discontinue negotiations.

23-2L-1050 Notification Requirements

- (A) **Type of Notice Required**
 - (1) **Site-Specific Interlocal Development Agreements.** If a proposed Interlocal Development Agreement establishes or modifies use, development, or construction regulations applicable to a particular site or structure, the responsible director shall provide:
 - (a) Notice by publication under Section 23-2C-3010 (Published Notice); and
 - (b) Mailed notice to the governmental entity that is party to the proposed agreement and to persons who qualify as interested parties under Section 23-2C-2020 (Interested Parties).

- (2) **Areawide Interlocal Development Agreements.** If a proposed Interlocal Development Agreement establishes or modifies general use, construction, or development regulations contained in a master plan or agreement applicable to a governmental entity, municipal corporation, or political subdivision, the responsible director shall provide notice by publication under Section 23-2C-3010 (Published Notice).
- (B) **Deadlines for Notification.** The deadline for providing mailed and published notice of a public hearing on a proposed Interlocal Development Agreement is:
 - (1) The 11th day before the date of the Land Use Commission hearing; and
 - (2) The 16th day before the date of the Council hearing.
- (C) **Contents of Notice.** Mailed and published notice of a public hearing required by this Division must:
 - (1) Describe the general nature of the proposed Interlocal Development Agreement;
 - (2) Identify the governmental entity, municipal corporation, or political subdivision that is to be a party to the agreement;
 - (3) Generally describe the proposed agreement;
 - (4) Identify the entities that may approve the proposed agreement;
 - (5) State the earliest date that action on the proposed agreement may occur; and
 - (6) Include the address and telephone number of the responsible director or staff from whom additional information may be obtained.

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Division 23-2L-2: General Development Agreements

Contents

23-2L-2010	Purpose and Applicability	1
23-2L-2020	Agreement Initiation and Framework	1
23-2L-2030	Boards and Commission Review.	2
23-2L-2040	City Council Hearing and Action	2
23-2L-2050	Execution and Terms of Agreement.	3

23-2L-2010 Purpose and Applicability

- (A) This Division establishes procedures by which the Council may consider a Development Agreement, as authorized under Section 212.172 of the Texas Local Government Code, in order to achieve a higher standard of development for land located in the City's extraterritorial jurisdiction.
- (B) A Development Agreement may only be considered for land located in the City's extraterritorial jurisdiction. A Development Agreement may include a transfer of development intensity if the sending or receiving site, or both, are located outside the City limits at the time the agreement is executed.

23-2L-2020 Agreement Initiation and Framework

- (A) **Council Initiation Required.** A Development Agreement may only be considered if the Council initiates the agreement by adopting a resolution directing the City Manager to begin negotiating the terms of a proposed agreement with an owner of property in the City's extraterritorial jurisdiction. A public hearing on a proposed Development Agreement may not be held unless the Council has initiated negotiations under this Section.
- (B) **Framework for Agreement.** In initiating negotiation of a Development Agreement, the Council may specify goals or objectives to be considered in negotiations regarding any of the following elements:
 - (1) **Annexation Status.** Continuation of the extraterritorial status of the land and immunity from annexation.
 - (2) **Land Use Plan.** Extension of the City's planning authority over the land through a development plan authorizing general lands uses and development standards, which may be tied to annexation under Subsection (B)(5).
 - (3) **Enforcement Authority.** Authorization to enforce:
 - (a) Specified land use and development regulations in the same manner the regulations are enforced within the zoning jurisdiction; and
 - (b) Environmental regulations.
 - (4) **Infrastructure.** Provisions for infrastructure, including streets and roads; street and road drainage; land drainage; and water, wastewater, and other utility systems.

- (5) **Annexation.** The terms of annexation, in whole in part, if annexation agreed to by the parties.
- (6) **General Conditions.** Other lawful terms and considerations deemed appropriate.

23-2L-2030 **Boards and Commission Review**

(A) **Planning Commission Review and Recommendation**

- (1) Before presenting the terms of a proposed Development Agreement to the Council for consideration under Section 23-2L-2040 (Council Hearing and Action), the responsible director shall schedule a public hearing on the terms of a proposed agreement before the Planning Commission and provide notice of the hearing under Section 23-2C-4020 (Type 1 Public Hearing Notice).
- (2) No later than the 14th day after closing the public hearing, the Planning Commission shall make a recommendation to approve, conditionally approve, or reject the terms of a proposed Development Agreement based on the following criteria:
 - (a) The extent to which the proposed terms further the goals and policies of the Comprehensive Plan, including those related to Conservation and Environment, Affordability, and Land Use and Transportation.
 - (b) Whether the proposed terms further public health, safety, and welfare.
- (3) If the Planning Commission does not make a recommendation as required under Subsection (A)(2), the responsible director shall forward the terms of the proposed agreement to the Council for consideration in compliance with Section 23-2L-2040 (Council Hearing and Action).

- (B) **Additional Review & Criteria.** The Council may require that the terms of a proposed Development Agreement be presented for review to additional City boards or commissions, other than as required by Subsection (A), and may specify additional review criteria to be considered in determining whether to recommend the terms of a proposed agreement.

23-2L-2040 **City Council Hearing and Action**

- (A) **Council Hearing.** Not later than the 60th day after the Land Use Commission makes its recommendation, the Council shall hold a public hearing on the terms of a proposed Development Agreement, which must include a complete Land Use Plan and any other elements agreed to by the City Manager and the landowner under Section 23-2L-2020 (Agreement Initiation and Framework). The responsible director shall provide notice of the public hearing under Section 23-2C-4020 (Type 1 Public Hearing Notice).
- (B) **Council Action.** After a public hearing on a proposed Development Agreement, the Council may authorize the City Manager to:
 - (1) Execute the agreement as proposed, with the concurrence of the landowner;
 - (2) Execute a modified agreement, with the concurrence of the landowner;

- (3) Initiate the negotiation of a new agreement, which shall be subject to review by the Land Use Commission under Section 23-2L-2030 (Boards and Commission Review); or
- (4) Reject the proposed agreement and discontinue negotiations.

23-2L-2050 Execution and Terms of Agreement

- (A) **Authority to Execute.** If the Council approved the terms of a proposed Development Agreement under Section 23-2L-2040 (Council Hearing and Action), the City Manager shall execute the agreement on behalf of the City subject to approval and execution by the landowner.
- (B) **Agreement Terms.** In addition to terms approved by the Council and the landowner for the elements listed in Section 23-2L-2020 (Agreement Initiation and Framework), a Development Agreement must include provisions for each of the following:
 - (1) **Effect of Agreement.** A Development Agreement must include binding terms:
 - (a) Putting into effect the regulations specified in the Development Agreement and Land Use Plan;
 - (b) Authorizing the provision of City services in compliance with the agreement;
 - (c) Authorizing the property owner to make application for subordinate development permits under the agreement; and
 - (d) Requiring the Development Agreement and Land Use Plan to be recorded in the real property records of each county in which the land subject to the agreement is located.
 - (2) **Term of Agreement.** A Development Agreement must specify the duration of the contract and any successive amendments or renewals, which may not exceed 45 years.
 - (3) **Other Provisions.** A Development Agreement may include other general contract provisions that are determined to be necessary to the lawful execution and administration the agreement.

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Division 23-2L-3: Closed Municipal Landfills

Contents

23-2L-3010	Applications Relating to a Closed Municipal Solid Waste Landfill	1
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23-2L-3010 Applications Relating to a Closed Municipal Solid Waste Landfill

(A) Applicability

- (1) This Section applies to development of a residential, commercial, or public enclosed structure that is designed for use by humans and that is located on closed municipal solid waste landfill (CMSWL) site over 1 acre in size or a CMSWL site located within a landfill area.
- (2) This Section does not apply to the remodel of or addition to a single-family or two-family residential use allowed in Low to Medium Intensity Residential Zones established in Section 23-4D-3030(A).

(B) **Application Requirements.** The responsible director may not approve a Subdivision, Site Plan, or Building Permit application including land within a CMSWL unless the applicant has submitted:

- (1) Certification from a licensed professional engineer that the site does not overlie a CMSWL; or
- (2) If the site is located on a CMSWL, the following documents are required:
 - (a) A development permit from the Texas Commission on Environmental Quality or written notification from the Texas Commission on Environmental Quality that a development permit is not required; or
 - (b) Certification from a licensed professional engineer that the applicant will conduct soil testing in compliance with the standards of the Texas Commission on Environmental Quality during construction of the foundations to determine whether the site overlies a CMSWL.

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Article 23-2M: Definitions and Measurements

Contents

Division 23-2M-1: Terms

- 23-2M-1010 Purpose
 - 23-2M-1020 Applicability
 - 23-2M-1030 General Terms and Phrases
-

Division 23-2M-2: Land Uses

- 23-2M-2010 Purpose
 - 23-2M-2020 Applicability
 - 23-2M-2030 Land Uses
-

Division 23-2M-3: Measurements

- 23-2M-3010 Purpose
- 23-2M-3020 Applicability
- 23-2M-3030 Measurements

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Division 23-2M-1: Terms

Contents

23-2M-1010	Purpose	1
23-2M-1020	Applicability	1
23-2M-1030	General Terms and Phrases.....	1

23-2M-1010 Purpose

This Division provides definitions of terms and phrases used in Title 23 that are technical or specialized, or that may not reflect common usage.

23-2M-1020 Applicability

The definitions in Section 23-2M-1030 (General Terms and Phrases) apply to all chapters of the Land Development Code, unless otherwise specified. If any of the definitions in this Division conflict with definitions in other provisions of the Austin Municipal Code, these definitions shall control for the purposes of this Title. If a word is not defined in this part, or in other provisions of the Austin Municipal Code, the responsible director shall determine the correct definition.

23-2M-1030 General Terms and Phrases

A. A- Definitions

ACCOUNTABLE OFFICIAL. The City officer or employee designated by this Title or the City Manager with a particular administrative or enforcement responsibility.

ACTIVITY NODE. A concentration of ground floor retail, restaurants, and services, with additional offices and housing located above, within a larger area called a pedestrian shed.

ADDITION. The enlargement or creation of any new portion of a structure which results in a vertical or horizontal extension of the structure, or results in any new gross floor area that was not present in the structure prior to construction of the addition.

ADDITIONAL PEDESTRIAN ACCESS. A pedestrian path that meets City standards for a new sidewalk or trail, is established to connect a new street in a subdivision to an existing street on adjoining property, and is at least 300 feet from an access street.

ADJACENT. Sharing a common lot line.

ADJACENT BUILDINGS. Two or more buildings located upon adjacent lots.

ADULT. A person 18 years of age or older.

ADULT ORIENTED BUSINESS. An adult arcade, adult bookstore, adult cabaret, adult lounge, adult novelty shop, adult service business, or adult theater.

ADULT SPECIFIED ANATOMICAL AREAS. Less than completely and opaquely covered including but not limited to:

1. Human genitals or pubic region;
2. Buttock;
3. Female breast below a point immediately above the top of the areola; or
4. Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

ADULT SPECIFIED SEXUAL ACTIVITIES:

1. Human genitals in a state of sexual stimulation or arousal;
2. Acts of human masturbation, sexual intercourse, or sodomy; or
3. Erotic touching of human genitals, the pubic region, the buttock, or the female breast.

ADVERSE FLOODING IMPACT. An increase in flood risk or hazards, as defined in the Drainage Criteria Manual.

ADVISORY BODY. A City board, commission, or other appointed body that does not make a final decision and whose review is not required by state law.

AGGREGATE. Creating a site on which a structure has been built across two or more lots, at least one of which is substandard.

AGGREGATE CALIPER INCHES (ACI). A measure of the total combined number of inches of existing and proposed trees used to meet landscape requirements.

ALLEY. A public or private way to be used primarily for vehicular access to the back or side of a parcel of real property that abuts a thoroughfare.

ALLOWED USE. Uses that are allowed by right and are not subject to the conditions of approval, mandatory review periods, or expiration periods as required for Conditional Use Permits or Minor Use Permits.

ALTERATION. Any exterior change, demolition, or modification to a historic landmark or to a property, including, but not limited to:

1. Exterior changes to or modifications of structures, architectural details, or visual characteristics;
2. Construction of new structures;
3. Disturbance of archaeological sites or areas; or
4. Placement or removal of exterior objects that affect the exterior qualities of the property.

AMENDING PLAT. A plat that is controlling over the preceding plat without vacation of that plat, does not create any new lots, and complies with Sec. 212.016 of the Local Government Code, as amended.

AMPHITHEATER. An outdoor or open-air structure or man made area specifically designed and used for assembly of 50 or more people and the viewing of an area capable of being used for entertainment and performances.

ANNUAL OCCUPANCY RATE. The hotel-motel occupancy rate for the City of Austin, as reported annually by the Texas Economic Development & Tourism Office.

APPROVAL. A final decision granting or approving an application; or an approval granted subject to modifications or conditions.

APPROVAL AUTHORITY. The City officer, employee, or body charged with reviewing and determining whether to approve an application.

APPROVED USE AREA. A site designated in a reclaimed water agreement to receive reclaimed water for an approved use.

ARCADE. See Table 23-4D-3070(A) (Austin Private Frontage Types Overview).

ARCHITECTURAL FEATURE. An architectural element, which alone or as part of a pattern, embodies the style, design, or general arrangement of the exterior of a building or structure, including but not limited to the kind, color, and texture of building materials, and style and type of windows, doors, lights, porches, and signs.

ATTACHED. When used with reference to two or more buildings, means having one or more common walls or being joined by a covered porch, loggia, or passageway.

AUTOMATIC RAIN SHUT-OFF DEVICE. A component which automatically suspends an irrigation event when it rains.

AWNING. A roof or cover which projects from a wall of a building over a window or door, made of canvas, aluminum or similar material, which may be fixed in place or be retractable.

B. B-Definitions

BALCONY. An exterior floor system projecting from a structure and supported by that structure, with no additional independent supports.

BARTON SPRINGS. The springs that comprise the Barton Springs complex associated with Barton Springs Pool, and includes Upper Barton, Old Mill, Eliza, and Parthenia Springs.

BARTON SPRINGS ZONE. The Barton Creek watershed and all watersheds that contribute recharge to Barton Springs, including those portions of the Williamson, Slaughter, Onion, Bear and Little Bear Creek watersheds located in the Edwards Aquifer recharge or contributing zones.

BASE ZONE. A zone established by this Title to prescribe basic regulations governing land use and site development.

BASEMENT. That portion of a building between floor and ceiling, which is below or partly below and partly above grade (see Grade), but so located that the vertical distance from grade to the floor below is less than the vertical distance from grade to ceiling. If the finished floor level directly above a basement is more than six feet above natural grade for more than 50 percent of the total perimeter, it is a story, not a basement.

BASEWALL. The vertical surface of a building beginning at the finished grade up to a level defined by a setback or an architectural treatment, including a cornice or similar projection or demarcation, that visually separates the base of the building from the upper portion of the building.

BLOCK. One or more lots, tracts, or parcels of land bounded by streets, railroads, or subdivision boundary lines.

BLOCK LENGTH. The horizontal distance measured from one end of the block to the other end along the same right-of-way.

BLOCK SCALE, BUILDING. A building that is individually as large as a block or collectively arranged along a thoroughfare to form a continuous facade as long as most or all of a block.

BLUFF. A vertical change in elevation of more than 40 feet and an average gradient greater than 400 percent.

BUFFER ZONE. A strip of land used to separate one land use from another land use.

BUILDING AREA. The area in which development subject to this Title may occur, and which is defined by the side and rear setback planes required by this Title, together with the area defined by the front, side, and rear yard setbacks and the maximum height limit.

BUILDING. A habitable structure requiring a Certificate of Occupancy, which consists of one or more of the following foundations that surround an interior space: floors, walls, and roofs. May include exterior appurtenant structures such as porches and decks.

BUILDING, EXISTING. See Structure, Existing.

BUILDING COVERAGE. The area of a lot covered by buildings or roofed areas, but excludes ground level paving, landscaping, open recreational facilities, incidental projecting eaves, balconies, and similar features.

BUILDING ELEVATION. The exterior wall of a building not adjacent to a public right-of-way, the front or side along a private street, or civic space.

BUILDING ENTRANCE. A point of pedestrian ingress and egress to a building.

BUILDING FACADE. The exterior wall of a building adjacent to a public right-of-way, the front or side along a private street, or civic space.

BUILDING FORM. The overall shape and dimensions of a building.

BUILDING FRONTAGE. The length of the property line of any one premises parallel to and along each public right-of-way which it borders and is identified by an address. See Table 23-4D-3070(A) (Austin Private Frontage Types Overview)

BUILDING, PRIMARY. A building in which is conducted the principal use of the lot on which it is situated.

BUILDING SERVICE EQUIPMENT. The plumbing, mechanical, electrical, and elevator equipment necessary for the occupancy or use of a building.

BUILDING TYPE. A structure defined by its combination of configuration, disposition and function.

BUILD-TO LINE (BTL). A line parallel to a lot line or right-of-way where it is required for a building facade to be placed.

BULKHEAD. A revetment or wall constructed for the purpose of stabilizing or modifying the shoreline.

BY RIGHT, APPROVAL. Approval by administrative staff of certain uses, improvements and projects not requiring further review and in compliance with all applicable requirements.

C. C-Definitions

CAMP COTTAGE. A building in a recreational vehicle park used by a single-family as living or sleeping quarters.

CANYON RIMROCK. A rock substrate that:

1. Has a gradient that exceeds 60 percent for a vertical distance of at least four feet; and
2. Is exposed for at least 50 feet horizontally along the rim of the canyon.

CAPITOL DOME. The part of the State Capitol located more than 653 feet above sea level at Texas Plane Coordinate X-2818555.07, Y-230595.65, being the center of the dome. (23-2 Appendix A Boundaries of the Capitol View Corridor)

CARPORT. A roofed space used as shelter for a parked vehicle.

CARRIAGE HOUSE. See Table 23-4D-3060 (Building Types Overview).

CERTIFICATE OF APPROPRIATENESS. A certificate of appropriateness issued by the City approving work on, relocation of, or demolition of a historic structure, historic or archaeological site, or a contributing structure within a Historic Area (HD) Overlay Zone.

CENTRAL BUSINESS AREA. The area bounded by Interstate Highway 35, Riverside Drive, Barton Springs Road, Lamar Boulevard, and 15th Street.

CHANGE OF USE. When used in reference to a land use, means the replacement of an existing use with a new use, or a change in the nature of an existing use. A change of ownership, tenancy, name, or management, or a change in product or service within the same use classification where the previous nature of the use, line of business, or other function is substantially unchanged is not a change of use.

CITY. The City of Austin, Texas.

CIVIC. A term defining not-for-profit organizations that are dedicated to arts, culture, education, religious activities, recreation, government, transit, and public parking facilities.

CIVIC BUILDING. A structure operated by governmental or not-for-profit organizations and limited to civic and related uses including, but not limited to:

1. College or University Facilities;
2. Community Recreation (Public);
3. Cultural Services;
4. Local Utility Services;
5. Parks and Recreation Services (General);
6. Postal Services;
7. Public Primary Education Facilities;
8. Public Secondary Education Facilities;
9. Safety Services; and
10. Transportation Terminal.

CIVIC SPACE. An outdoor area intended for public gathering and civic activities. **CLEAR ZONE.** The area dedicated for an unobstructed sidewalk. See Section 23-4C-4040.

CLOSED MUNICIPAL SOLID WASTE LANDFILL (CMSWL). An area defined as a closed municipal solid waste landfill in Texas Administrative Code, Title 30, Section 330.951.

CLUSTER DOCK. A dock not used for commercial purposes that is associated with:

1. Dwelling units in a multi-family development with lake frontage; or
2. Principal residential buildings in a subdivision with perpetual use rights to a common area that fronts a lake.

CLUSTER HOUSING. A residential housing development that maximizes common open space by grouping housing units to minimize individual yards and has a maximum lot area of 15,000 square feet for detached residential development.

COMMERCIAL. A term defining service and retail uses collectively.

COMMERCIAL BASIN. A required detention basin or appurtenance that receives storm water runoff from commercial development.

COMMERCIAL DEVELOPMENT. All development other than open space and residential development.

COMMERCIAL POND. A required water quality control or appurtenance that receives stormwater runoff from commercial development.

COMMERCIAL ZONES. Neighborhood shopping and service, linear commercial, pedestrian shopping and service, waterfront shopping and service, freeway shopping and service, and general commercial.

COMMON AREAS. A portion of a residential development held in common and/or single ownership and not reserved for the exclusive use or benefit of an individual tenant or owner and is available for use by all persons who reside in a dwelling unit within the building or on the lot.

COMMON YARD. Section 23-4E-1040 (Common Yard).

COMMON SIDE LOT LINE. A side lot line between two or more lots.

COMPREHENSIVE PLAN. The plan adopted by the Council in compliance with Article X, Section 5, of the City Charter.

CONDITIONAL USE. A use that is allowed on a discretionary and conditional basis in compliance with the conditional use process established in Chapter 23-6 (Site Plans).

CONDEMNATION. A purchase or donation of property under the threat of condemnation, but excludes a dedication of property as a condition of zoning, Subdivision, Site Plan, or Building Permit approval.

CONSTRUCT. Placing or replacing a structure and structurally altering an existing structure.

CONTRACTOR. A person employed by an owner to develop property.

CONTRIBUTING STRUCTURE. A building, structure, site, feature, or object within a designated Historic Area (HD) Overlay Zone which has been designated as a contributing structure by the ordinance creating the Zone, or within a National Register District.

CORE TRANSIT CORRIDORS. The following roadways:

1. South First Street, north of Ben White Boulevard;
2. East Seventh Street, west of Pleasant Valley Road;
3. East Fifth Street, from I-35 to Pleasant Valley Road;
4. West Fifth Street, from Guadalupe Street to Mocap Expressway;

5. East Sixth Street, from I-35 to Pleasant Valley Road;
6. West Sixth Street, from Guadalupe Street to Presser Street;
7. West Thirty-Fifth Street, from Mopac Expressway eastward until becoming West Thirty-Fifth Street Cutoff, and continuing eastward until becoming West Thirty-Eighth Street, and continuing eastward to Guadalupe Street;
8. Airport Boulevard from Lamar Boulevard to I-35;
9. Anderson Lane, from Burnet Road to Mopac Expressway;
10. Barton Springs Road, east of Robert E. Lee Drive;
11. Burnet Road, from 45th Street to Anderson Lane;
12. South Congress Avenue, north of Stassney Lane;
13. Guadalupe Street;
14. Lamar Boulevard, from Banyon Street to Ben White Boulevard;
15. Martin Luther King, Jr. Boulevard, from Pearl Street to Airport Boulevard;
16. Riverside Drive from Lamar Boulevard to E. Ben White Boulevard/Highway 71;
17. Cameron Road, from 51st Street to U.S. Highway 290;
18. Fifty-first Street, from Cameron Road to Manor Road;
19. Gaston Place, from Westminster Drive to Wellington Drive; and
20. Briarcliff Boulevard, from Berkman Drive to Westminster Drive.

CORE TRANSIT CORRIDORS, FUTURE. The following roadways are considered “future core transit corridors” (including all lots with frontage on the listed intersections):

1. South Congress Avenue from Stassney Lane to Slaughter Lane;
2. Slaughter Lane from I-35 to Mopac;
3. Seventh Street from Pleasant Valley Road to U.S. Highway 183;
4. North Lamar Boulevard from Banyon Street to Howard Lane;
5. Manor Road from Dean Keaton Street to 183;
6. Airport Boulevard from Manor Road to I-35;
7. Fifty-First Street from Cameron Road to Airport Boulevard;
8. Far West Boulevard from Mopac to western side of Chimney Corner;
9. Cameron Road from U.S. Highway 290 to U.S. Highway 183;
10. Mesa Drive from Spicewood Springs to Steck; and
11. Jollyville Road from Great Hills Trail to U.S. Highway 183.

CORNER LOT. See Lot.

COST PARTICIPATION. A calculated percentage, as set forth in Section 23-9-62 (Amount of Cost Participation), of hard costs, plus up to 15 percent of the calculated percentage of hard costs to reimburse soft costs. The City would pay the sum of these amounts to the entity executing the agreement identified in Section 23-9-67 (Agreement).

COTTAGE COURT. See Table 23-4D-3060 (Building Types Overview).

COUNCIL. The Austin City Council.

COURTYARD. An unroofed area that is completely or partially enclosed by walls or buildings and often shared by multiple residential units or commercial spaces.

COURTYARD BUILDING. See Table 23-4D-3060 (Building Types Overview).

CRAWL SPACE. A shallow unfinished uninhabitable space beneath the floor or under the roof of a building, that provides access to utility, structural and other building components not readily accessible from the habitable portions of the building.

CRITERIA MANUAL. A manual containing administrative rules adopted in compliance with Chapter 1-2 (Adoption Of Rules) of the City Code.

CRITICAL ENVIRONMENTAL FEATURES (CEF). Features that are of critical importance to the protection of environmental resources, and includes bluffs, canyon rimrocks, caves, faults and fractures, seeps, sinkholes, springs, and wetlands.

CURB. A vertical sloping structure located along the edge of a roadway, normally constructed integrally with the gutter, that strengthens and protects the pavement edge and clearly defines the pavement edge.

D. D-Definitions

DCM STANDARDS. The provisions in the Drainage Criteria Manual regarding maintenance of a required detention basin or appurtenance.

DECENTRALIZED WASTEWATER SYSTEM. A wastewater system other than one that is connected to a City wastewater treatment plant, and includes an on-site wastewater disposal system, a cluster wastewater system, or a small wastewater treatment plant.

DEFENSIBLE SPACE. An area either natural or man made, where material capable of allowing a fire to spread unchecked has been treated, cleared or modified to slow the rate and intensity of an advancing wildfire and to create an area for fire suppression operations to occur.

DEFICIENT PARK AREA MAP. A map depicting areas that the Parks Director has determined lack sufficient parkland based on locational criteria established by the Parkland Dedication Operating Procedures Chapter 23-3B (Parkland Dedication) and the parkland policies of the Comprehensive Plan.

DEMOLITION BY NEGLECT. Lack of maintenance of any building or structure designated as a Historic Landmark (H) or any building or structure designated by ordinance as contributing to a Historic Area (HD) overlay zone that results in deterioration and threatens the preservation of the structure.

DENIAL. A final decision denying an application, or as provided under Section 23-2B-2040 (Disapproval and Denial), lack of approval at the time an application expires

DESIRED DEVELOPMENT ZONE (DDZ). The area not within the drinking water protection zone.

DETACHED. Separate or unconnected.

DEVELOPMENT. The construction or reconstruction of a building or thoroughfare; the placement of a structure on land; the excavation, mining, dredging, grading, or filling of land; the removal of vegetation from land; or the deposit of refuse or waste on land. Development does not include lawn and yard care, including mowing, gardening, tree

care, and maintenance of landscaped areas; removal of trees or vegetation damaged by natural forces; agricultural activity that is not prohibited by Section 23-3D-8040 (Clearing Of Vegetation); or the repair, maintenance, or installation of a utility, drainage or street system that does not disturb land or increase impervious cover.

DEVELOPMENT AGREEMENT. An agreement authorized under Section 212.172 of the Texas Local Government Code and Division 23-2L-2 (General Development Agreements of this Title).

DEVELOPMENT APPLICATION. An application required under this Title for development, such as an application for Subdivision, Site Plan, or Building Permit.

DISPOSITION, FORMAL. Composed in a formal arrangement, in a regular, classical, and typically symmetrical manner.

DISPOSITION, INFORMAL. Composed in an informal character with a mix of formal and natural characteristics.

DISPOSITION, NATURAL. A preservation of the existing natural condition or a composition of elements arranged as they would appear in nature, with irregular shapes and asymmetry.

DISTANCE BETWEEN ENTRIES. The horizontal distance measured parallel to the facade between entrances to a building or buildings.

DISTANCE FROM A STRUCTURE. A distance from a structure to a line or location is measured from the exterior face of the nearest wall or vertical support of the structure to the line or location. For a structure that does not have a wall or support, the Building Official shall determine the point of measurement.

DISTRICT. A district or authority, including a municipal utility district and a water control and improvement district, created in compliance with:

1. Section 52, Article III, or Section 59, Article XVI, Texas Constitution;
2. Title 4, Texas Water Code;
3. Chapters 49, 50 and 54, Texas Water Code; or
4. Special legislation authorized under the Special District Local Laws Code.

DOCK. A wharf, pier, float, floating dock, island, boat dock, boat slip, boat lift, stationary platform, or other similar structure.

DOMESTIC PARTNERSHIP. Adults living in the same household and sharing common resources of life in a close, personal, and intimate relationship.

DOORYARD. See Section 23-4E-1080 (Dooryard).

DRAINAGE EASEMENT. An easement or right-of-way for a drainage facility required by Section 23-9B-1050 (Dedication and Reservation of Right-Of-Way).

DRAWINGS. Plans, working drawings, detail drawings, profiles, typical cross sections, or reproductions that show locations, character, dimensions, or details of work related to a reclaimed water system and its components.

DRINKING WATER PROTECTION ZONE (DWPZ). The areas within the Barton Springs Zone, the Barton Creek watershed, all water supply rural watersheds, and all water supply suburban watersheds, as described in Section 25-8-2 (Descriptions of Regulated Areas), that are in the planning jurisdiction.

DRIPLINE. When used in reference to a tree, means a line on the ground encircling the tree that is directly beneath the outermost portion of the tree canopy.

DRIVE-IN SERVICE. The sale of products or the provision of services to occupants in vehicles.

DRIVEWAY APPROACH. An area between the right-of-way and private property designed for and intended to provide vehicular access from the roadway to private property.

DRIVEWAY. A surfaced area providing vehicular access within a lot, or shared between two lots, usually leading to a garage, other parking or loading area.

DUPLEX. A structure containing two dwelling units attached by a common wall, where both dwelling units are located on the same lot. There are three types:

1. **FRONT-AND-BACK.** See Table 23-4D-3060 (Building Types Overview);
2. **SIDE-BY-SIDE.** See Table 23-4D-3060 (Building Types Overview); and
3. **STACKED.** See Table 23-4D-3060 (Building Types Overview).

DWELLING UNIT. A single unit providing complete facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation.

E. E-Definitions

ECM STANDARDS. The provisions in the Environmental Criteria Manual regarding maintenance of a required water quality control or appurtenance.

EDWARDS AQUIFER. The water-bearing substrata that includes the stratigraphic rock units known as the Edwards Group and Georgetown Formation.

1. **EDWARDS AQUIFER CONTRIBUTING ZONE.** All land generally to the west and upstream of the Edwards Aquifer recharge zone that provides drainage into the Edwards Aquifer recharge zone.
2. **EDWARDS AQUIFER RECHARGE ZONE.** All land over the Edwards Aquifer that recharges the aquifer, as determined by the surface exposure of the geologic units comprising the Edwards Aquifer, including the areas overlain with quaternary terrace deposits.

EFFICIENCY. When used in reference to a dwelling unit, means a dwelling unit containing not more than 400 square feet of floor area, and not having a bedroom or sleeping area separate from the principal living area.

EFFICIENCY UNIT. A dwelling unit containing not having a bedroom or sleeping area separate from the principal living area.

ELEVATED GROUND FLOOR. A ground floor situated above the grade plane of the adjacent sidewalk.

ENCLOSED. A roofed or covered space fully surrounded by walls, including windows, doors, and similar openings or architectural features, or an open space of less than 100 square feet fully surrounded by a building or walls exceeding eight feet in height.

ENCROACHMENT. Any architectural feature, structure or structural element, such as a gallery, fence, garden wall, porch, stoop, balcony, oriel window, bay window, terrace or deck, that breaks the plane of a vertical or horizontal regulatory limit extending into a setback, or beyond the build-to-line into the public frontage, or above a height limit.

ENGINEER. A person licensed to engage in the practice of engineering in the State of Texas.

ENTRY. An opening, such as a door, passage, or gate, that allows access to a building.

EROSION HAZARD ZONE. An area where future stream channel erosion is predicted to result in damage to or loss of property, buildings, infrastructure, utilities, or other valued resources.

EXTERNAL EMPLOYEES. An employee who does not reside at his or her place of employment.

F. F-Definitions

FACADE. See Building Facade.

FACADE RELIEF. Other non-glass materials that differ in texture from the adjacent facade material and made to be set in frames, as in windows and doors. Examples include, but are not limited to, metal panels, shutters, glass block, and wood panels.

FACADE ZONE. The area between the minimum and maximum setback lines along the front of a parcel and along the side street of a corner parcel.

FACILITY. An apparatus or improvement that is used in conjunction with a water or wastewater main that provides water or wastewater service to a property, regardless of where the facility is located. The term includes a lift station, force main, wastewater treatment plant, pump station, reservoir, pressure reducing valve station, a decentralized wastewater system component, alternative wastewater system, or an addition to an existing facility that increases the capability of the existing facility to provide water or wastewater service.

FAMILY. Any of the following:

1. One or more persons living together as a single housekeeping unit in a dwelling unit; or
2. The occupants of a residential facility serving six or fewer persons and licensed by the Director of the State Department of Social Services. For the purposes of this definition, "six or fewer persons" does not include the licensee, nor members of the licensee's family nor persons employed as facility staff.

FAMILY-FRIENDLY PLAY AREA. See Section 23-4C-4160 (Family-Friendly Play Area).

FAULTS AND FRACTURES. Significant fissures or cracks in rock that may permit infiltration of surface water to underground cavities or channels.

FEMA. The Federal Emergency Management Agency.

FENCE. A structure made of wire, wood, metal, masonry or other material, and typically used as a screen or enclosure for a yard or open space or as a divider along a lot line.

FESTOON. A strip or string of balloons which includes clusters or strings of balloons connected to a fixed object or vehicle on at least one end of the festoon.

FINISH LEVEL, GROUND FLOOR. The height difference between the finished floor on the ground floor and the adjacent public walk. In the case of a loading dock frontage that serves as the public right-of-way, the floor finish level is the height of the walk above the adjacent street. Regulations for ground floor finish level for ground floor residential uses do not apply to ground floor lobbies and common areas in multi-unit buildings.

FIRE PROTECTION PLAN. A document prepared for a specific project or development proposed for the wildland-urban interface area. It describes ways to minimize and mitigate the fire problems created by the project or development, with the purpose of reducing impact on the community's fire protection delivery system.

FLAG LOT. See Lot.

FLEX SPACE. A room or group of internally connected rooms designed to accommodate an evolution of use over time in response to an evolving market demand. Typically designed to accommodate future commercial uses, while accommodating less intense short-term uses, such as residential or live/work, until the commercial demand has been established.

FLOOD INSURANCE RATE MAP. An official map of a community on which FEMA has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

FLOODPLAIN

1. **100-YEAR.** The 100-year floodplain calculated under fully developed conditions as prescribed by the Drainage Criteria Manual.
2. **25-YEAR.** The 25-year floodplain calculated under fully developed conditions as prescribed by the Drainage Criteria Manual.
3. **FEMA.** A special flood hazard area that the Federal Emergency Management Agency has delineated on a flood insurance rate map.

FLOORPLATE. An area measurement in square feet of either the gross or the rentable floor area of a typical floor in a building.

1. **COMMERCIAL.** The area measurement of a floorplate dedicated to commercial uses.
2. **RESIDENTIAL.** The area measurement of a floorplate dedicated to residential uses.

FOOTPRINT. The outline of the area of ground covered by the foundations of a building or structure.

FOOTPRINT AREA. The total area contained within a footprint measured in square feet.

FORECOURT. See Section 23-4E-1090 (Forecourt).

FREESTANDING WALL. A wall that is separate from a building and supported by independent means.

FRONT. See Lot Line, Front.

FRONT LOADED (Front Access). Lots that provide vehicular access from the front of the lot.

FRONTAGE. A strip or extent of land abutting a thoroughfare, civic space or other public right-of-way.

1. **PRIVATE.** The area between the building facade and the shared lot line between the public right-of-way and the lot.
2. **PUBLIC.** The area between the curb of the vehicular lanes and the edge of the right-of-way.

FRONTAGE BUILDOUT. The length of a front building facade compared to the length of the front lot line, expressed as a percentage.

FRONTAGE LINE. The lot line(s) of a lot fronting a thoroughfare or other public way, or a civic space.

FRONTAGE TYPE. See Table 23-4D-3070(A) (Private Frontage Types Overview).

FULL CUT-OFF. A luminaire light distribution where zero candela intensity occurs at or above an angle of 90 degrees above nadir. Additionally, the candela per 1000 lamp lumens does not numerically exceed 100 (10 percent) at or above a vertical angle of 80 degrees above nadir. This applies to all lateral angles around the luminaire.

FULLY-SHIELDED LIGHT FIXTURE. A lighting fixture constructed in such a manner that the light source is not visible when viewed from the side and all light emitted by the fixture, either directly from the lamp or a diffusing element, or indirectly by reflection or refraction from any part of the luminaire, is projected below the horizontal as determined by photometric test or certified by the manufacturer. Any structural part of the light fixture providing this shielding must be permanently affixed.

FURNITURE AREA. An area of space that allows for the placement of furniture without restricting the movement of pedestrians.

G. G-Definitions

GABLE. A vertical wall in the shape of a triangle formed between the cornice or eave and the ridge of the roof.

GALLERY. See Section 23-4E-1130 (Gallery).

GARAGE. A structure, or part thereof, used or intended to be used for the parking and storage of motor vehicles.

GARDEN

1. **CITY-SUPPORTED COMMUNITY.** See Section 23-2M (Definitions).

2. **COMMUNITY.** See 23-4C-4170 (Community Garden).

GLAZING. The panes or sheets of glass set in frames, as in windows or doors. Glass includes tinted, fritted, vision, spandrel, and other forms of sheet formed glass.

GRADE

1. **FINISHED.** The finished ground level at any point along the exterior walls of a structure. In case walls are parallel to and within five feet of a sidewalk, alley or other public way, the level above ground shall be measured at the elevation of the sidewalk, alley or public way.
2. **EXISTING.** The grade of a site before it is modified by moving earth, adding or removing fill, or installing a berm, retaining wall, or architectural or landscape feature or for a site with a grade that was legally modified before October 1, 2006, the grade that existed on October 1, 2006. The Development Services Director may require an applicant to provide a third-party report that shows the natural grade of a site.

GREAT STREETS STREETSCAPE STANDARDS. Design standards for streets within the boundaries of the Great Streets Master Plan.

GREEN. See 23-4C-4100 (Green).

GREENFIELD DEVELOPMENT. Development on an undeveloped parcel located outside the Urban Roadway boundary.

GREENWAY. See 23-4C-4090 (Greenway).

GROSS FLOOR AREA. The total enclosed area of all floors in a building with a clear height of more than six feet, measured to the outside surface of the exterior walls. The term includes loading docks and excludes atria airspace, parking facilities, driveways, and enclosed loading berths and off-street maneuvering areas.

GROSS LEASABLE AREA. The total floor area designed for tenant occupancy in a shopping center or regional shopping mall, including areas used for storage and areas within mall walkways that are used for sales. The area of tenant occupancy is measured from the center lines of joint partitions to the outside of the tenant walls.

GROSS SITE AREA. The total site area.

GROUND FLOOR. The floor of a building located nearest to the level of the ground around the building.

GUTTER. A shallow water drainage area adjacent to a curb.

H. H-Definitions

HABITABLE SPACE. The portion of a building that is suitable for human occupancy.

HARD COSTS. The actual cost of construction and materials determined after completion and final acceptance of a project.

HARDSCAPE. Nonliving components of a streetscape or landscape design, such as paved walkways, walls, sculpture, patios, stone and gravel areas, benches, fountains, and similar hard-surface areas and objects.

HAZARDOUS PIPELINE. A pipeline designed for the transmission of a “hazardous liquid”, as defined by Title 49, Code of Federal Regulations, Section 195.2, that has an inside diameter of eight inches or more.

HEIGHT. When used in reference to a building, means the vertical distance from the average of the highest and lowest finished grades adjacent to the building to: for a flat roof, the highest point of the coping; for a mansard roof, the deck line; for a pitched or hip roof, the average height of the highest gable; or for other roof styles, the highest point of the building.

1. **TRANSECT ZONES, PRIMARY STRUCTURE.** Height is determined in two ways: number of stories; and maximum overall height.
 - a. **OVERALL.** The vertical distance between grade and the highest part of the structure directly above.
 - b. **TO EAVE/PARAPET.** The vertical distance between grade and the highest eave of the building or top of parapet wall.
2. **NON-TRANSECT ZONES, PRIMARY STRUCTURE.** Height is the vertical distance measured from the midpoint of the lowest and highest points of the structure along the finished grade to the highest point on the roof.
3. **ACCESSORY STRUCTURE.** Height, for the purpose of establishing required setbacks, shall be defined for every point within the footprint area of an accessory structure, including a tree house, as the vertical distance between grade and the highest part of the structure directly above. Height in all cases shall include any slab, platform, pad, mound or similar elevated base above pre-existing grade.

4. **FLOOR-TO-CEILING, GROUND FLOOR.** Height from finished floor to finished ceiling of primary rooms on the ground floor, not including secondary rooms such as bathrooms, closets, utility rooms and storage spaces.
5. **FLOOR-TO-CEILING, UPPER FLOOR(S).** Height from finished floor to finished ceiling of primary rooms on the floor(s) above the ground floor, not including secondary rooms such as bathrooms, closets, utility rooms and storage spaces.

HIGHWAYS. All freeways, parkways, expressways, and frontage roads identified in the Austin Area Metropolitan Transportation Plan, except for Core Transit Corridors.

HIGH-RISE/TOWER. See Table 23-4D-3060 (Building Types Overview).

HILL COUNTRY ROADWAY AREA. An area described in Division 23-4D-7060 (Hill Country Roadway Overlay Zone).

HILL COUNTRY ROADWAY. A roadway described in Division 23-4D-7060 (Hill Country Roadway Overlay Zone).

HISTORIC DISTRICT. An area included in a Historic Area (HD) Overlay Zone.

HISTORIC PROPERTY. Property zoned historic or listed in the City's historic building survey on October 6, 2008.

HISTORIC LANDMARK. A structure or site designated as a Historic Landmark (H) Overlay Zone.

HOUSE

1. **COMPACT.** See Table 23-4D-3060 (Building Types Overview).
2. **MEDIUM.** See Table 23-4D-3060 (Building Types Overview).
3. **SMALL.** See Table 23-4D-3060 (Building Types Overview).

HOUSING COSTS

1. For an owner-occupied dwelling unit, the average monthly cost for mortgage, utilities, and, if applicable, condominium dues; or
2. For a dwelling unit for lease, the average monthly cost for rent and utilities.

I. I-Definitions

IGNITION-RESISTANT BUILDING MATERIAL. A type of building material that resists ignition or sustained flaming combustion sufficiently so as to reduce losses from wildland-urban interface conflagrations under worst-case weather and fuel conditions with wildfire exposure of burning embers and small flames.

IMPERVIOUS COVER. The total area of any surface that prevents the infiltration of water into the ground, such as roads, parking areas, concrete, and buildings. Impervious cover shall be calculated in compliance with the Environmental Criteria Manual and Section 23-3D-3040 (Impervious Cover Calculations).

INDUSTRIAL USE. An approved use of reclaimed water for industrial or commercial processes as defined by 30 Texas Administrative Code, Chapter 210.

INFILL. The development of vacant land that was bypassed by earlier waves of development and is now largely surrounded by developed land.

IN-HEAD CHECK VALVE. A sprinkler head that contains a valve to hold water in the system to prevent drainage from sprinkler heads when the sprinkler is off.

INTENDED TO BE OCCUPIED AS A RESIDENCE. A dwelling unit that can or will be used all or part of the time as the occupant's place of abode.

INTERESTED PARTY. A person who meets the criteria established by Section 23-2C-2020 (Interested Parties).

INTERLOCAL DEVELOPMENT AGREEMENT. An agreement between the City and any governmental entity, municipal corporation or political Subdivision that establishes or modifies standards for the use, maintenance, development, or construction of property containing one or more existing or proposed structures. The term includes new agreements and amendments to existing agreements.

INTERNAL BLOCK. One or more lots, tracts, or parcels of land bounded by Internal Circulation Routes, railroads, or Subdivision boundary lines.

INTERNAL CIRCULATION ROUTE. A public street or a publicly-accessible private drive that is constructed to satisfy the requirements in Section 2.2.5 (Internal Circulation Routes Connectivity, Parking, and Sidewalk Requirements for Large Sites).

IRRIGATION USE. An approved use of reclaimed water for landscape, horticultural, or agricultural irrigation as defined by 30 Texas Administrative Code, Chapter 210.

J. J-Definitions

JOINT-USE DRIVEWAY. A driveway located entirely or partially on a tract of land that is available for use by an adjoining tract of land as ingress and egress to a public street.

K. K-Definitions

No specialized terms beginning with the letter K are defined at this time.

L. L-Definitions

LAND USE COMMISSION. The Planning Commission or the Zoning and Platting Commission, as determined under Section 23-1B-2030 (Land Use Commission).

LAND USE PLAN. A map showing proposed and existing land uses in a water district.

LANDFILL AREA. An area marked on a map created by the City and maintained in the Watershed Protection and Development Review Department showing all known CMSWL and including property within the known boundary of a CMSWL, 200 feet around the estimated boundary of a CMSWL if the boundary is not known, or 1,500 feet from the estimated center of the CMSWL if neither a known boundary nor an estimated boundary is known.

LANDING. A level area at the top or bottom of a staircase or between one flight of stairs and another.

LANDSCAPED AREA. An area devoted to plant material, planters, brick, stone, water, aggregate, and other landscape features, excepting smooth concrete or asphalt, where the use of inorganic materials does not predominate over the use of plants.

LANDSCAPING. Flowers, shrubs, trees or other decorative material of natural origin.

LIGHT FIXTURE. The complete lighting assembly (including the lamp, housing, reflectors, lenses and shields), less the support assembly (pole or mounting bracket).

LIGHTWELL. See Section 23-4E-1110 (Lightwell).

LINER STORE. A commercial use on the ground floor of a building located not more than 30 feet from the street right-of-way with an entrance facing the street.

LIVE/WORK (BUILDING TYPE). See Table 23-4D-3060 (Building Types Overview).

LOADING DOCK(S). See Terrace/Loading Dock.

LOADING SPACE. An area used for loading or unloading goods from a vehicle in connection with the use of the site on which the loading space is located.

LOT. A parcel of real property with a unique designation shown on a plat, record of survey, parcel map, or Subdivision map recorded in the office of the County Clerk; or a parcel of real property established in compliance with zoning or subdivision regulations.

1. **CORNER.** A lot located at the intersection of two streets, or of two segments of a curved street, forming an angle of not more than 135 degrees.
2. **FLAG.** A lot that abuts a street by means of a strip of land that does not comply with the requirements of this Title for minimum lot width.
3. **INTERIOR.** A lot other than a corner lot.
4. **THROUGH.** A lot, other than a corner lot, abutting more than one street.
5. **LARGE.** A lot of at least 10,000 square feet.
6. **NONCONFORMING.** A legally created lot which does not conform with current standards for area, width, frontage or other such standards for the zone in which the lot is located because of annexation or amendments to this Title.
7. **SMALL.** A lot with an area at least 3,600 square feet and less than 5,750 square feet.
8. **STANDARD.** A lot of at least 5,750 square feet and less than 10,000 square feet.
9. **SUBSTANDARD.** A lot or tract recorded by deed or plat that does not comply with current area, width, or depth requirements, but that complied with the requirements in effect when it was placed on record.

LOT AREA. The net horizontal area within the lot lines, excluding the portion of the lot that provides street access, if the lot is a flag lot; or that is located below 492.8 feet of elevation above sea level, if the lot is adjacent to Lake Austin.

LOT DEPTH. The horizontal distance between the mid-point of the front lot line and the midpoint of the rear lot line.

LOT LINE. A line or series of connected line segments bounding a lot.

1. **FRONT**
 - a. For an interior lot, the lot line abutting the street;
 - b. For a corner lot, the lot line designated as the front lot line by a Subdivision or parcel map, or, if none, the shorter lot line abutting a street;
 - c. For a through lot, the lot line abutting the street that provides the primary access to the lot; and
 - d. For a flag lot, the lot line designated as the front lot line by a Subdivision or parcel map, or if none, the line determined by the Building Official to be the front lot line.
2. **REAR.** The lot line that does not intersect the front lot line, or that is determined in compliance with Division 23-2M-3 (Measurements).
3. **SIDE.** A lot line intersecting the front lot line.

4. **COMMON SIDE.** A side lot line between two or more lots.

5. **INTERIOR.** A lot line not abutting a street.

LOT WIDTH. The distance between side lot lines.

LOW-RISE. See Table 23-4D-3060 (Building Types Overview).

LOW WATER CROSSING. A roadway that provides a bridge when water flow is low. Under high flow conditions, water runs over the roadway and precludes vehicular traffic.

M. M-Definitions

MAIN BODY. The primary massing of a building.

MAIN FACADE. The front facade of a main building.

MAIN STREET (BUILDING TYPE). See Table 23-4D-3060 (Building Types Overview).

MAINTENANCE EASEMENT. When used in reference to a small lot, means an easement granted by the owner of one lot to the owner of an adjoining lot for maintenance of a dwelling within five feet of a common side lot line.

MAJOR. A greater size, scope, effect, characteristic or quality relative to the other corresponding sizes, scopes, effects, characteristics or qualities; or being the greater of two or more.

MAJOR PRIVATE OPEN SPACE IMPROVEMENTS. Swimming pools, tennis courts, basketball courts, sports fields, recreation centers, and community meeting halls.

MASSING. The overall shape or arrangement of the bulk or volume of a building.

MASTER VALVE. A remote valve control valve located after the backflow prevention device that controls the flow of water to the irrigation system mainline.

MEDIAN FAMILY INCOME. The median family income for the Austin statistical metropolitan area as determined by the Housing Director.

MID-RISE. See Table 23-4D-3060 (Building Types Overview).

MINOR. Having a lesser size, scope, effect, characteristic or quality relative to the average size, scope, effect, characteristic or qualities; or being the lesser of two or more.

MINOR MODIFICATION. A process to ensure that minor modifications are only approved in compliance with certain circumstances.

MIRRORED GLASS. Glass with a reflectivity index greater than 20 percent.

MOBILE HOME. A movable dwelling constructed on a chassis, designed for use without a permanent foundation, and designed to be connected to utilities. The term excludes manufactured modular housing designed to be set on a permanent foundation and recreational vehicles.

MOBILE HOME SPACE. An area in a mobile home park that is designed for and designated as the location for a single mobile home and the exclusive use of its occupants.

MOBILE HOME STAND. That portion of a mobile home space on which the mobile home is placed.

MOBILE HOME PARK. A unified development of mobile home spaces for rent or lease, including common areas and facilities for management, recreation, laundry and utility services, storage, and similar services for the convenience of residents.

MOTORBOAT. A watercraft propelled by an internal combustion engine or electric motor.

MULTIPLEX

1. **LARGE.** See Table 23-4D-3060 (Building Types Overview).
2. **MEDIUM.** See Table 23-4D-3060 (Building Types Overview).

MULTI-USE TRAIL. A facility designated for the use of pedestrians, bicycles, and/or other non-motorized users and associated bridges.

MUNICIPAL UTILITY DISTRICT. A district created in compliance with Chapters 50 and 54 of the Texas Water Code.

MUNICIPAL WASTEWATER. Wastewater collected from dwelling units, commercial buildings, and institutions including process wastes of industry, groundwater infiltration, miscellaneous waste liquids, spent water from building water supply, and waste materials from bathrooms, kitchens and laundries.

N. N-Definitions

NATIONAL REGISTER HISTORIC DISTRICT. An area designated in the Federal Register in compliance with the National Historic Preservation Act of 1966, as amended, for which maps depicting the area are available for inspection by the public at the Planning and Zoning Department.

NATURAL CONTEXT TYPE. Undeveloped areas whose primary characteristic is nature (e.g. Sulphur Mountain, marshes, and wetlands).

NATURAL AREA. That portion of Town Lake Park that is preserved as a natural environment with limited human activity.

NEIGHBORHOOD CENTER. A walkable urban environment that provides a concentrated mix of civic, institutional and/or commercial uses.

NEIGHBORHOOD ORGANIZATION. An association that has registered as a neighborhood organization in compliance with this Title.

NEIGHBORHOOD PLAN CONTACT TEAM. The individuals designated to implement an adopted neighborhood plan. The neighborhood plan contact team is a neighborhood organization that qualifies as an interested party for purposes of notice, appeal, and other processes if all other qualifications for interested party status are satisfied. The neighborhood plan contact team is a separate body apart from any other existing or future neighborhood organization.

NONCONFORMING LOT. A lot of record that does not meet the lot area or lot width requirements of these regulations for the zoning in which it is located.

NONCONFORMING STRUCTURE. A structure legally constructed which does not conform with current height, setback, coverage or other measurable standards for the zone in which the structure is located because of annexation or amendments to this Title; or a building, structure, or area, including off-street parking or loading areas, that does not comply with currently applicable site development regulations for the zone in which it is located, but did comply with applicable regulations at the time it was constructed.

NONCONFORMING USE. A land use or activity that does not conform to current use regulations, but did conform to the use regulations in effect at the time the use was

established. The land use or activity meets the requirements of Section 23-2G-1020 (Nonconforming Status).

NORMAL POOL ELEVATION. For the following lakes:

1. Lake Austin, 492.8 feet above mean sea level;
2. Lady Bird Lake, 429 feet above mean sea level; and
3. Lake Walter E. Long, 554.5 feet above mean sea level.

NOTICE OWNER. The owner of real property as shown on the records of the tax appraisal district in the county in which the property is located.

O. O-Definitions

OCCUPANCY. A building or portion of a building is used or intended to be used. The term also includes the building or room housing such use. Change of occupancy is not intended to include change of tenants or owners.

OCCUPANT SPACE. Space in a building used for a use other than a parking facility or a mechanical facility.

OFFSITE FACILITIES. Reclaimed water distribution, storage, or delivery facilities upstream of the Reclaimed Water Point of Connection to a Reclaimed Water Approved Use Area.

ONSITE FACILITIES. Reclaimed water distribution facilities downstream of the Reclaimed Water Point of Connection to a Reclaimed Water Approved Use Area.

OPEN SPACE

1. **COMMUNITY.** Open space that is available for use by the public, and includes (but is not limited to) a plaza, square, park, playground, greenbelt or similar area.
2. **PRIVATE COMMON.** A privately-owned outdoor or unenclosed area intended for use by the residents, employees, and/or visitors to a development.
3. **PRIVATE PERSONAL.** A privately-owned outdoor or unenclosed area intended for use solely by the individual residents of a multifamily dwelling unit.

OPEN ZONE. A sub-zone within a transect zone that allows for a greater range of uses within the transect zone's same building form standards.

OPERATOR. A person who operates a mobile retail establishment.

ORDINARY REPAIR OR MAINTENANCE. Any work that does not constitute an exterior change in design, material, or outward appearance, and includes in-kind replacement or repair with the same original material.

OVERHEAD DOORS. Doors constructed in horizontally hinged sections that are equipped with hardware that rolls the sections into an overhead position, clear of the opening.

OVERLAY ZONE. A zone established by this Title to prescribe regulations to be applied to a site in combination with regulations applicable to a base zone.

OVERSIZE. With reference to a water or wastewater main or facility, means an increase in the size or capacity of the main or facility above the minimum size or capacity required by the Utilities Criteria Manual, including fire flow requirements, that is necessary to provide utility service to meet the projected demands of the property to be served.

OWNER OR PROPERTY OWNER. The record owner of a property or an agent of the property owner.

P. P-Definitions

PAD-SITE BUILDING. A building that is intended for a single commercial use and that is physically separate from the other buildings on the site. Typically used in the context of retail shopping center development, a building or building site that is physically separate from and smaller than the principal building and reserved for free-standing commercial uses. Typical pad site uses include, by way of illustration only, free-standing restaurants, banks, and service stations.

PARAPET. A wall along the edge of a roof or the portion of a wall that extends above the roof line.

PARCEL. A piece of land that might have been split many years ago, but is not part of a subdivision.

PARK

1. **COMMUNITY.** A park intended for citywide use and designed to accommodate large numbers of people involved in a variety of activities. See 23-4C-4040 (Civic Space Overview).
2. **CULTURAL.** A park that is intended for cultural facilities, including museums, botanical gardens, and performance areas.
3. **DISTRICT.** A park of 31 to 100 acres with a two-mile service area. See Section 23-4C-4070 (District Park).
4. **PARK, METRO.** A park of 200 or more acres that serves the entire City. See Section 23-4C-4060 (Metropolitan Park).
5. **PARK, NEIGHBORHOOD.** A park of two to 30 acres with a one-mile service area; or a portion of Town Lake Park that is small, informal, is less intensely used than the developed areas of Town Lake Park, and serves adjacent neighborhoods.
6. **PARK, POCKET.** A park of no more than two acres with a one-quarter mile service area. See Section 23-4C-4150 (Pocket Park).
7. **PARK, RIPARIAN.** See 23-4C-4040 (Civic Space Overview).

PARK CLASSIFICATION MAP. The map that is on file with the Parks Director and that is Exhibit "B" to Ordinance No. 890126-P.

PARKING AND TRANSPORTATION MANAGEMENT DISTRICT. An area defined by separate ordinance, consisting of a geographic area that may include a mix of retail, entertainment, commercial, medical, educational, civic, and residential uses, in which Council finds that traffic flow on the public streets requires a higher level of management than commonly provided, and where Council finds parking meters will aide traffic flow goals. Council also finds a percentage of funds from paid on-street parking and off-street paid public parking within the District may be used to undertake improvement projects that assist in managing the flow or demand for travel to confer public benefits within the District.

PARKING

1. **SHARED.** Any parking spaces assigned to more than one user, where different persons utilizing the spaces are unlikely to need the spaces at the same time of day.
2. **SPACE.** An area designated for parking a motor vehicle, excluding an area in a public right-of-way.
3. **STRUCTURE.** A structure that includes five or more off-street parking spaces together with driveways, maneuvering areas, and similar features.
4. **TANDEM.** A parking space deep enough to allow two cars to park, one behind the other.

PARKLAND DEDICATION URBAN CORE. An area bound by Highway 71/Ben White Boulevard to the south; Highway 183 to the east and north; Loop 1 (MOPAC) on the west to FM 2222; FM 2222 on the north to Loop 360; Loop 360 on the west to Lake Austin; Lake Austin on the west to Loop 1 (MOPAC); and Loop 1 (MOPAC) on the west to Highway 71 (Ben White); [A copy of map can be found in City offices.]

PASSIVE RECREATION. See "Recreation, Passive."

PATH OF TRAVEL. A continuous, unobstructed way of pedestrian passage.

PEDESTRIAN SHED. An area centered on a destination such as a civic space, civic building, or main street. Its size is limited by an average distance that may be traversed at an easy walking pace in a given amount of time from its center to its edge. Pedestrian sheds are used for planning Walkable Urban areas.

PEDESTRIAN WAY. The portion of a street right-of-way not used for a roadway.

PERMIT HOLDER. The person to whom the Health Authority issues a permit for a mobile food establishment permit required by Chapter 10-3 (Food and Food Handlers) of the City Code.

PERMITTED USE. A use of property authorized by this Title.

PERSONAL WATERCRAFT. Jet skis and means a type of motorboat specifically designed to be operated by a person or persons sitting, standing or kneeling on the vessel rather than in the conventional manner of sitting or standing inside the vessel and that is less than 13 feet in length.

PETITION. The written request to the City for consent to the creation of or annexation to a water district required by the Texas Water Code and any document required by City rules.

1. **TYPE 1 (CHAPTER 245).** A vested rights petition that alleges rights under Chapter 245 of the Local Government Code to develop property under ordinances, regulations, or rules other than those in effect on the date the permit application is submitted.
2. **TYPE 2 (CONTINUING USE).** A vested rights petition that alleges rights under Section 43.002 of the Local Government Code to continue or begin a land use that was begun or planned prior to annexation of the land by the City.
3. **VESTED RIGHTS PETITION.** A petition requesting a determination of development rights under Chapter 245 or use rights under Section 43.002 of the Local Government Code.

PLANNED DEVELOPMENT AREA. An overlay zone authorized by this Title or an area subject to a planned development area agreement approved by the City.

PLANNED UNIT DEVELOPMENT. Land developed as a single unit under unified control.

PLANNING JURISDICTION. The City and its extraterritorial jurisdiction.

PLANTING STRIPS. A landscaped or grassy area located between a street and a sidewalk.

PLANTING ZONE. An area adjacent to the curb in which street trees are planted and street furniture such as benches, bicycle racks, and newspaper boxes are placed.

PLAT. A map of specific land showing the location and boundaries of individual parcels of land subdivided into lots, with streets, alleys and easements drawn to scale. "Plat" is synonymous with "Final Plat".

PLAZA. See Section 23-4C-4130 (Plaza).

POCKET PLAZA. See Section 23-4C-4140 (Pocket Plaza).

PODIUM. A continuous projecting base or pedestal under a building often occupied by parking.

PODIUM TOP. A flat, elevated, and open area above a podium that can be used as common area.

POINT RECHARGE FEATURE. A cave, sinkhole, fault, joint, or other natural feature that lies over the Edwards Aquifer recharge zone and that may transmit a significant amount of surface water into the subsurface strata.

PORCH. A covered shelter projecting.

1. **ENGAGED.** See Section 23-4E-1060 (Porch: Engaged).
2. **PROJECTING.** See Section 23-4E-1050 (Porch: Projecting).

PORTICO. See Awning.

PRELIMINARY PLAN. A map or drawing of a proposed plat, intended for consideration by the Land Use Commission or the Council in compliance with the requirements of this Title.

PREMISES. An area of land with its appurtenances and buildings which because of its unity of use may be regarded as the smallest conveyable unit.

PRINCIPAL BUILDING. A building in which is conducted the principal use of the lot on which it is located.

PRINCIPAL BUILDING ENTRANCE. The primary building entrance where the majority of the public enters the building and which is open during all business hours, excluding secondary access through an attached parking garage. For mixed use development in a multi-tenant building, the entrance to each use at the tenant's outside entrance is considered a principal building entrance.

PRINCIPAL ENTRANCE. The place of ingress and egress most frequently used by the public.

PRINCIPAL USE. The primary function of a site, building, or facility.

PROPERTY. Real property.

PUBLIC RIGHT-OF-WAY. A street, including adjacent sidewalks, providing the principal means of access to abutting property and dedicated to, or maintained by, the City; or

a street providing the principal means of access to abutting property and with right-of-way or easement and paved and otherwise improved to meet City standards.

Q. Q-Definitions

QUADPLEX. See Tri/Quadplex.

QUEUE LINE. An area for temporary parking of motor vehicles while awaiting service or other activity.

QUEUE SPACE. A space for a motor vehicle in a queue line.

R. R-Definitions

REAR. Opposite of front.

REAR LOADED (REAR ACCESS). Lots that provide vehicular access from the rear of the lot.

RECESSED ENTRY. An entrance to a building that is set back from the facade of the building.

RECLAIMED WATER. Reclaimed municipal wastewater that is under the direct control of the City treatment plants, satellite facilities, or a treatment plant with which the City contracts, and that has been treated to a quality that meets or exceeds 30 Texas Administrative Code, Chapter 210 requirements.

RECLAIMED WATER APPROVED USE. An application of reclaimed water authorized by a reclaimed water agreement.

RECLAIMED WATER APPROVED USE AREA. A site designated in a reclaimed water agreement to receive reclaimed water for an approved use.

RECLAIMED WATER POINT OF CONNECTION. A location where offsite facilities connect to onsite facilities, at the downstream end of Austin Water's reclaimed water service meter.

RECLAIMED WATER SERVICE. Furnishing reclaimed water to a user through a metered connection to onsite facilities.

RECLAIMED WATER SERVICE AREA. The territory within the City and within its extraterritorial jurisdiction.

RECLAIMED WATER UTILITY STANDARD. A design criterion of the City, American Water Works Association, or the TCEQ.

RECORD OWNER. The owner of real property as shown by the deed records of the county in which the property is located.

RECREATION, ACTIVE. Recreational pursuits usually performed with others and often requiring equipment which required physical alteration to the area in which they are performed. Such areas are intensively used, and include but are not limited to playgrounds, sport courts, baseball/softball and other field sports, and swimming pools.

RECREATION, PASSIVE. Recreational pursuits involving existing natural resources which can be carried out with little alteration or disruption to the area in which they are performed. This includes, but is not limited to, such activities as walking, hiking, bicycling, bird and animal watching, and picnicking.

RECREATIONAL VEHICLE. A vehicle or trailer designed for temporary dwelling or recreational purposes, and includes travel trailers, pick-up campers, camping trailers, motor coach homes, converted trucks and buses, boats, and boat trailers.

REGULATING PLAN. A map for a development that identifies transect zones to be applied to replace the existing zones and that identifies the civic and open space types, thoroughfare types, building types, and frontage types for the development. Upon approval of the development, the regulating plan's content is incorporated into the Zone Map and the relevant chapters of Title 23.

RELEASE. The written certification of the Director that a Site Plan has been approved, that the Site Plan complies with this Title, and that the conditions of approval for the Site Plan have been satisfied; or the written certification of the Director and the presiding officer of the Land Use Commission, that a plat has been approved, that the plat complies with this Title, and that the conditions of approval for the plat have been satisfied.

REMOVAL. An act that causes or may be reasonably expected to cause a tree to die, including:

1. Uprooting;
2. Severing the main trunk;
3. Damaging the root system; and
4. Excessive pruning. (Tree and Natural Area Protection)

REPLAT. A plat that includes only unplatted land from a vacated plat.

RESIDENTIAL. Premises used primarily for human habitation.

RESIDENTIAL BASIN. A required detention basin or appurtenance that receives stormwater runoff from a residential development.

RESIDENTIAL POND. A required water quality control or appurtenance that receives stormwater runoff from a residential development.

RESIDENTIAL ZONES. The non-transect zones rural residential, low density, medium density, and high density residential zones.

RESPONSIBLE DIRECTOR. The director or director's designee of the applicable department as designated by the City Manager, with responsibility for oversight of the specified action, requirement, or standard.

RESTRICTED PIPELINE AREA. An area within 25 feet of a hazardous pipeline and an area within a hazardous pipeline easement.

RESUBDIVISION PLAT. A plat that is controlling over the preceding plat without vacation of that plat, and complies with Sec. 212.014 of the Local Government Code, as amended.

REVIEW AUTHORITY. The City officer, employee, or body charged with reviewing and determining whether to approve an application.

REVISION. A change in an approved or released plan that is initiated by an applicant.

RIGHT-OF-WAY. Land dedicated or reserved for streets, utilities, or other public facilities.

ROADWAY. The portion of a street right-of-way used for vehicular travel.

1. **MAJOR.** A roadway that is designated as a major arterial, minor arterial expressway, parkway, or freeway in the transportation plan or in a roadway plan approved by the appropriate county.
2. **SUBURBAN.** All roadways that are not Transit, Hill Country, Highway, or Urban Roadways.
3. **URBAN.** Roads located within the following boundaries other than those designated as Core Transit Corridors and Highways.
 - e. 183 from Burnet to Hwy 71
 - f. Hwy 71 from 183 to Loop 1
 - g. Loop 1 from Hwy 71 to Lake Austin
 - h. Lake Austin from Loop 1 to Exposition
 - i. Exposition from Lake Austin to 35th
 - j. 35th from Exposition to Loop 1
 - k. Loop 1 from 38th to RM 2222
 - l. RM 2222 from Loop 1 to Mesa
 - m. Mesa from RM 2222 to Spicewood Springs Road
 - n. Spicewood Springs Road from Mesa to 360
 - o. 360 from Spicewood Springs Road to Great Hills Trail
 - p. Great Hills Trail from 360 to 183
 - q. 183 from Great Hills Trail to Braker
 - r. Braker from 183 to Burnet
 - s. Burnet from Braker to 183

ROWHOUSE. A single-family dwelling unit constructed in a group of three or more attached units in which each unit extends from the foundation to roof and with open space on at least two sides. There are two types:

1. **LARGE.** See Table 23-4D-3060 (Building Types Overview); and
2. **MEDIUM.** See Table 23-4D-3060 (Building Types Overview).

S. S-Definitions

SATELLITE FACILITY. A package wastewater treatment plant.

SCENIC VISTA. A generally recognizable, noteworthy view of:

1. Barton Creek;
2. Bull Creek;
3. West Bull Creek;
4. Lake Austin;
5. Lake Travis;
6. A valley of the Colorado River; or
7. The downtown area of Austin.

SCREENED. Hidden from the view of a person standing at ground level on an abutting site by an architectural or landscape feature that is, or will grow to, at least six feet in height.

SECONDARY WINGS. A structure physically attached to, and secondary and incidental to, the main body of a main building.

SECURE. Either in a dedicated locked room, an area enclosed by a fence with a locked gate, and/or within 100 feet of a permanent security guard station. For residential use enclosed private garage space is considered to be secure.

SEDIMENTATION/FILTRATION POND. Water quality controls that comply with Division 23-3D-6 (Water Quality Control) or are approved under Section 23-3D-6110 (Innovative Management Practices).

SERVICE EXTENSION. A water or wastewater main or facility that provides new or additional water or wastewater service to a property.

SERVICE ENTRIES. Building access for service providers.

SETBACK. The area between the Buildable Area on a lot and a lot line.

1. **BUILDING.** The mandatory clear distance between a lot line and a building.
2. **DEPTH.** The dimension of a setback measured at a right angle and horizontally from an abutting property line.
3. **DOMINANT SIDE.** When used in reference to a small lot, means the side setback having the larger width.
4. **FRONT.** An area extending the full width of a lot between the front lot line and the front setback line.
5. **INTERIOR.** An area, not adjacent to a street, that is determined on the basis of an interior lot line.
6. **LINE.** A line within a lot parallel to and measured from a corresponding lot line, forming the boundary of a setback and governing the placement of structures and uses on the lot.
7. **LINE, PRIMARY.** A line that is a prescribed distance from and parallel to the centerline of an identified creek, the shoreline of Town Lake, the shoreline of the Colorado River, or the boundary of an identified street, as applicable.
8. **LINE, SECONDARY.** A line that is a prescribed distance from and parallel to a primary setback line.
9. **PARKING.** The mandatory clear distance between a lot line and parking.
10. **PRIMARY.** The area between a primary setback line and the centerline of an identified creek, the shoreline of Town Lake, the shoreline of the Colorado River, or the boundary of an identified street, as applicable.
11. **REAR.** An area extending the full width of a lot between the rear lot line and the rear setback line, excluding any area located within the street side setback of a corner lot.
12. **SECONDARY.** The area between a primary setback line and a secondary setback line.

13. **SIDE.** The area extending the depth of a lot from the front setback to the rear lot line between the side lot line and the side setback line. For a corner lot, a street side setback is the area that extends from the front setback to the rear lot line.
14. **STREET.** A setback adjacent to a street and determined on the basis of a street lot line.
15. **SUBORDINATE SIDE.** When used in reference to a small lot, means the side setback having the smaller width.

SHOPPING CENTER. In non-transect zones, a group of retail stores and/or service establishments on a site of at least three acres where restaurant uses do not occupy more than 25 percent of the building floor area. The establishments must provide a diversity of services that are designed to serve the neighborhood or the community.

SHOPFRONT. See Section 23-4E-1120 (Shopfront).

SHORELINE

1. The line where the edge of the water meets the land at normal pool elevation, or
2. The 492.8 topographic contour line along the shores of Lake Austin or the 681 topographic contour line along the shores of Lake Travis.

SHORELINE ACCESS. Improvements constructed to provide a means of approaching the shoreline that include, but are not limited to stairs, lifts, trams, incline elevators or escalators.

SHORELINE SETBACK. The distance from the shoreline as prescribed in Section 23-4D-7080 (Lake Austin Overlay Zone).

SIDEWALK. A paved right-of-way intended exclusively for pedestrian use and often installed between a street and lot frontages.

SINGLE-FAMILY

1. **ATTACHED.** A structure containing two dwelling units attached by a common wall or walls, where each dwelling unit is located on a separate lot.
2. **DETACHED.** A detached structure that accommodates one dwelling.

SITE. A contiguous area intended for development, or the area on which a building has been proposed to be built or has been built. A site does not cross a public street or right-of-way.

SITE PLAN. A plan for a development, other than a Subdivision construction plan, submitted by an applicant to demonstrate that the development complies with the requirements of this Title.

SMALL LOT SUBDIVISION. A preliminary plan or final plat that contains at least 51 percent small lots.

SMART GROWTH CORRIDOR. An area identified as a “smart growth corridor” in a neighborhood plan adopted by Council.

SMART GROWTH NODE. An area identified as a “smart growth node” in a neighborhood plan adopted by Council.

SOFT COSTS. The cost of preliminary engineering reports, surveying, geotechnical studies, design, and project management of the construction and installation of a main or facility. This term does not include costs such as financing, interest, fiscal security,

permitting, accounting, insurance, governmental fees (including inspection fees), legal services, easements, and all other soft costs associated with the construction of a main or facility.

SOS POND. Water quality controls that comply with all requirements of Division 23-3D-6 (Water Quality Control) and the pollutant removal requirements of Section 23-3D-9040 (Pollution Prevention Required).

SOUND EQUIPMENT. A loud speaker, public address system, amplification system, or other sound producing device.

SOUTH EDWARDS AQUIFER RECHARGE ZONE. The portion of the Edwards Aquifer recharge zone that is located south of the Colorado River and north of the Blanco River.

SPECIAL EXCEPTION. An exception from specified standards or requirements of this Title.

SQUARE. See Section 23-4C-4120 (Square).

STAFF. A City employee.

STOOP. See Section 23-4E-1070 (Stoop).

STORAGE FACILITY. An impoundment or structural tank that receives reclaimed water from a producer.

STOREFRONT. The portion of a shopfront frontage composed of the display window and/ or entrance and its components, including windows, doors, transoms and sill pane.

STORY. That portion of a building between the upper surface of a floor and the upper surface of the floor or roof next above.

STORY, HALF. A conditioned space that rests primarily underneath the slope of the roof. A half-story shall be considered a story when its top wall plates, on at least two opposite exterior walls, are four feet or more above the floor of such story.

STREET. A public or permanent private thoroughfare which affords a primary means of access to property.

1. **ACCESS.** A street that provides access to a subdivision by connecting to an external street.
2. **COLLECTOR.** A street collecting traffic from other streets and serving as the most direct route to a thoroughfare.
3. **EXTERNAL.** A street that is outside the boundaries of a subdivision, and that is:
 - t. A publicly maintained street;
 - u. A street that is offered for dedication and for which a construction performance bond is posted pending acceptance of the dedication; or
 - v. A private street that complies with the lot requirements of this Code and each applicable criteria manual.
4. **FRONT.** Street located along the front lot line of a parcel.
5. **INTERNAL.** A private street in a mobile home park, planned unit development, planned development area, or other similar development.

6. **LOCAL.** A street that serves traffic within a neighborhood or limited residential district, and which is not necessarily continuous through several residential districts.
7. **PRINCIPAL.** The street with the highest priority that is adjacent to the lot or site. Street priorities are as follows, from highest to lowest:
 - a. Core Transit Corridor;
 - b. Internal Circulation Route;
 - c. Urban Roadway;
 - d. Suburban Roadway; and
 - e. Highway or Hill Country Roadway (Unless the higher road runs parallel to the highway and is within 660 feet of the Highway or within 1,000 feet of the Hill Country Roadway (i.e., a highway development would not have to orient to the Urban/Suburban Roadway next to a highway). If a lot is adjacent to more than one street of equally high priority, the principal street is the street with the highest level of transit service, as determined by the Director; or, if the streets do not have transit service or the level of transit service is equal, the street designated by the lot owner. (Subchapter E)
8. **MAJOR.** A public street which is identified as a major street by the Comprehensive Plan. It is a street which carries the major flow of traffic passing through or adjacent to a subdivision and for which the traffic entering or crossing from intersecting roads and streets may be controlled.
9. **SIDE.** Street located along a lot line of a parcel that is not along the front lot line.

STREET-FACING FACADE. A wall of a building that is within 60 degrees of parallel to a street lot line; and is not behind another wall, as determined by measuring perpendicular to the street lot line. The length of a street-facing facade is measured parallel to the street lot line.

STREET FRONTAGE. The length of the property line of any one premises parallel to and along the public right-of-way which it borders and which is identified by an officially assigned street address.

STREET LINE. A lot line abutting a street.

STREET TREE. A tree of any species or size planted in parkways, sidewalk areas, easements, and rights-of-way granted to the City.

STREET WALL AREA. The portion of an exterior wall of a building adjacent to a public street other than an alley and accessible from a pedestrian path that extends from the base of street level to a maximum height of 65 feet; or for an accessory parking structure, to a maximum height of two stories.

STRUCTURAL ALTERATION. A change in the supporting members of a building including load bearing walls, columns, girders, and beams over eight feet long.

STRUCTURE. An improvement attached to real property.

1. **ACCESSORY.** A subordinate structure physically detached from, secondary and incidental to, and commonly associated with a primary structure or use on the same site. Accessory structures normally associated with a residential use property include, but are not limited to garages (unenclosed or enclosed) for the storage of automobiles (including incidental restoration and repair), personal recreational

vehicles and other personal property; studios; workshops; greenhouses (noncommercial); enclosed cabanas and pool houses; and storage sheds. Accessory structures normally associated with a non-residential use property include, but are not limited to garages (unenclosed or enclosed) for the storage of automobiles and work related vehicles and equipment (including incidental restoration and repair); storage structures; workshops; and studios. "Accessory structure" shall not mean second family residential unit.

2. **EXISTING.** A structure legally erected prior to the effective date of this Title, or one for which a valid legal Building Permit has been issued prior to this effective date of this Title.

SUBDIVIDE. To divide land into two or more lots for the purpose of sale or development, to resubdivide an existing lot; or to combine two or more lots into the same number or fewer lots with different boundaries.

SUITABLE AND SUFFICIENT SERVICE. The ability of the existing water and wastewater system at the property to appropriately serve the property and meet the size and capacity criteria as defined in the Utilities Criteria Manual.

SUPPLEMENTAL ZONE. An area between the clear zone and the building edge for active public uses such as a plaza, outdoor cafe or patio.

T. T-Definitions

TAP PERMIT. A permit for a connection to the City's water or wastewater system under Division 23-10A-4 (Tap Permits).

TCEQ. The Texas Commission on Environmental Quality or its successor agency.

TECHNICAL CODE. The International Building Code, the National Electrical Code, the Uniform Mechanical Code, the Uniform Plumbing Code, the International Fire Code, the Uniform Solar Energy Code, the Uniform Housing Code, or the International Property Maintenance Code, as adopted by the Council.

TERRACE. See Section 23-4E-1100 (Terrace).

TEXAS PLANE COORDINATE. Means the Central Zone of the Texas State Coordinate Systems as defined by the U.S. Coast and Geodetic Survey, dated 1945 and revised in March 1978.

THOROUGHFARE. A way for use by vehicular, pedestrian, and bicycle traffic that provides access to lots and open spaces, and that incorporates vehicular lanes and public frontages. See Section 7.20.040 (Thoroughfare Types for Transect Zones).

TOWER. See High-Rise/Tower.

TOWN LAKE CORRIDOR STUDY. The planning document published by the City in 1985 and formally approved by City Council Resolution No. 851031-19.

TOWN LAKE PARK. All the dedicated park land in the Waterfront Overlay Zone.

TOWN LAKE PARK PLAN. The Town Lake Park Plan adopted by Ordinance No. 890126-P.

TOWNHOUSE. A dwelling unit having a common wall with or abutting one or more adjoining dwelling units in a townhouse group.

TOWNHOUSE GROUP. Two or more contiguous townhouses.

TOWNHOUSE LOT. The portion of a townhouse development that is intended for separate ownership as the location of a single townhouse and associated private yard area.

TRADEMARK DESIGN FEATURE. An external design feature, including colors, shapes, and materials, of a building that is trademarked by a building occupant.

TRAILER PARK. See Mobile Home Park.

TRANSPORTATION DEMAND MANAGEMENT, OR TDM. Design features, incentives, and tools implemented by Development Projects to reduce VMT, by helping residents, tenants, employees, and visitors choose sustainable travel options such as transit, walking, ride-sharing, and biking.

TRANSPORTATION DEMAND MANAGEMENT PLAN OR TDM PLAN. A development's plan describing compliance with the TDM Program.

TRANSPORTATION DEMAND MANAGEMENT PROGRAM, OR TDM PROGRAM. The City of Austin's policy requiring developments to incorporate TDM measures in their proposed projects, as set forth in Article 23-9B (Right-Of-Way And Transportation Improvements).

TRANSPORTATION DEMAND MANAGEMENT PROGRAM STANDARDS, OR TDM PROGRAM STANDARDS. The details on how a development will meet the requirements of the TDM Program, which is documented in the Transportation Criteria Manual.

TRANSPORTATION PLAN. Any transportation related plan that amends the Austin Comprehensive Plan by ordinance or resolution.

TRANSPORTATION SYSTEM. An individual component of the overall transportation network designed for the movement of people and goods, including streets, sidewalks, trails, transit, parking, curb space, and other multi-modal transportation facilities identified in the Transportation Plan.

TRANSECT. A cross-section of the environment showing a range of different habitats. The Rural-to-Urban Transect of the human environment is divided into multiple transect zones that describe the physical form and character of a place according to the intensity of its land use and urbanism. See P-1030 (The Natural-to-Urban Transect The Framework for the Form-Based Code).

TRANSECT ZONE. One of several zones mapped on the Zone Map. See Section 23-4D-3050 (Transect Overview).

TRANSITIONAL CONTEXT TYPE. Areas that have many of the characteristics of the Walkable Urban pattern but lack key characteristics such as retail or services within a short walking distance or have significant physical obstacles that reduce the likelihood of walking or bicycling for other than recreation.

TRANSIT STATION. An area or structure used for the purpose of parking, loading and unloading freight and passengers from train or bus transportation. May include parking facilities and other commercial amenities to service transit passengers.

TRANSIT STOP. A location where buses stop to load and unload passengers. A transit stop sometimes includes a shelter or a dedicated platform along the sidewalk.

TRI/QUADPLEX. See Table 23-4D-3060 (Building Types Overview).

U. U-Definitions

UNDERSTORY. The smaller trees and shrubs below the canopy of large trees.

UNRELATED. Not connected by consanguinity, marriage, domestic partnership or adoption.

UPDATE. Additional information, a plan, or a plat submitted by an applicant in response to comments by a Review Authority.

UPPER FLOOR. The floor in a building containing habitable space that is located above the ground floor.

URBAN WATERFRONT. That portion of Town Lake Park that is adjacent to high density urban development.

USE. The conduct of an activity, or the performance of a function, on a parcel or in a structure.

USE, ACCESSORY. See Section 23-4E-6040 (Accessory Uses).

USE EASEMENT. When used in reference to a small lot, means an easement granted by the owner of a small lot with the subordinate side setback to the owner of a small lot with a dominant side setback along the common lot line, and which allows the occupant of the dwelling unit on the lot having the dominant side setback the use, enjoyment, and privacy of the dominant side setback.

USE REQUIRING EVACUATION ASSISTANCE. The following uses require evacuation assistance:

1. Day Care, (commercial);
2. Detention Facility;
3. Hospital;
4. Medical Services;
5. Residential Care Facility;
6. School, (public or private); and
7. Senior/Retirement Housing.

UTILITIES. Installations or facilities or means for furnishing to the public, electricity, gas, steam, communications, water, wastewater, reclaimed water, drainage, or flood control, irrespective of whether such facilities or means are underground or above ground. Utilities may be owned and operated by any person, firm, corporation, municipal department or board, duly appointed by state or municipal regulations. Utility or utilities as used herein may also refer to such persons, firms, corporations, departments, or boards.

UTILITY LINE. Facility used for the transmission of one or more utility services.

V. V-Definitions

VACATING PLAT. A plat that conforms to the requirements of Local Government Code 212.013, as amended.

VALUE OR VALUATION. When used in reference to a structure, means the estimated cost to replace the structure in kind, based on current replacement costs.

VARIANCE. Grant of relief from the requirements of this Title by the applicable Commission or Board.

VEGETATION MANAGEMENT PLAN. A document describing all actions that will be taken to prevent a fire from being carried toward or away from a building.

VESTED RIGHTS. A right conferred by state law to develop property under ordinances, regulations, or rules other than those in effect on the date a permit application is submitted. The term includes development rights under Chapter 245 and use rights under Section 43.002 of the Local Government Code, but does not include a right existing under common law.

VESTED RIGHTS PETITION or PETITION. A petition requesting a determination of development rights under Chapter 245 or use rights under Section 43.002 of the Local Government Code.

VESTING DATE. The date on which a project accrued development rights under Chapter 245 or use rights under Section 43.002 of the Local Government Code.

W. W-Definitions

WAIVER. A relief from development standards granted by the Director, as allowed by this Title.

WALKABLE URBAN CONTEXT TYPE. Areas that are pedestrian-oriented in nature, where bicycling and walking are viable, daily options because services, retail, or restaurants are within a short walking distance of most residences within a pedestrian shed.

WALKABILITY. The condition when an area is highly interconnected to other areas and appeals to pedestrians for recreational walking or for walking to work, transit, errands, shopping, or restaurants.

WALKWAY. A paved way located on one or more parcels, used for pedestrian traffic, and used exclusively by the parcel owner or owners, their guests and invitees.

WALL PLANE. A vertical surface defined by the facades of buildings.

WASTEWATER. A liquid or water borne waste, including, without limitation, sewage, industrial waste or other wastes, whether separate or commingled.

WASTEWATER IMPACT FEE. An impact fee for wastewater service.

WASTEWATER INTERCEPTOR. A wastewater main generally considered to be 18-inches in diameter or larger and to which direct connections for retail service to a property are not allowed, unless an exception is approved by the Water Utility Director.

WATER. Potable water or reclaimed water as defined by Section 210.3(24) of Title 30 of the Texas Administrative Code, as amended.

WATER AND WASTEWATER IMPACT FEE SERVICE AREA. The water and wastewater impact fee service area designated by separate ordinance.

WATER CONTROL AND IMPROVEMENT DISTRICT. A district created under Chapters 50 and 51 of the Water Code.

WATER DISTRICT. A district or authority, created under Title 4 of the Water Code, including a municipal utility district and a water control and improvement district, that is created under (a) Section 52, Article III, Texas Constitution, or Section 59, Article XVI, Texas Constitution; and (b) Title 4, Texas Water Code.

WATER IMPACT FEE. An impact fee for water supply service.

WATER OR WASTEWATER MAIN. An appurtenance to a water distribution or wastewater collection system. The term includes all components and equipment necessary to make the water distribution or wastewater collection system operable in compliance with the design criteria and standards in the Utilities Criteria Manual, or the equivalent design criteria and standards as determined by the Water Utility Director.

WATER OR WASTEWATER SERVICE LINE. The branch of pipe extending from the water or wastewater main to the approximate location of the property or easement boundary intended to provide direct retail service to a property.

WATER QUALITY CONTROL. A structure, system, or feature that provides water quality benefits by treating stormwater run-off.

WATER RIGHT. A real property right to divert, use, or consume water flowing to, over, or under land.

WATER SUPPLY

1. **RURAL WATERSHEDS.** The Lake Travis watershed; the Lake Austin watershed, excluding the Bull Creek watershed and the area to the south of Bull Creek and the east of Lake Austin; and the Bear West, Bee, Bohl's Hollow, Cedar Hollow, Coldwater, Commons Ford, Connors, Cuernavaca, Harrison Hollow, Hog Pen, Honey, Little Bee, Panther Hollow, Running Deer, St. Stephens, Steiner, and Turkey Creek watersheds.
2. **SUBURBAN WATERSHEDS.** The Bull, Eanes, Dry Creek North, Huck's Slough, Taylor Slough North, Taylor Slough South, and West Bull creek watersheds; the Lady Bird Lake watershed on the south side of Lady Bird Lake from Barton Creek to Tom Miller Dam; the Lady Bird Lake watershed on the north side of Lady Bird Lake from Johnson Creek to Tom Miller Dam; and the Lake Austin watershed on the east side of Lake Austin from Tom Miller Dam to Bull Creek.

WATER TABLE, ARCHITECTURAL FEATURE. A horizontal projecting stringcourse of masonry, molding or a ledge placed so as to divert rainwater from a building.

WATER TRANSMISSION MAIN. A water main generally considered to be 24-inches in diameter or larger and to which direct connections for retail service to a property are not allowed, unless an exception is approved by the Water Utility Director.

WATERWAY. A watercourse, drainage way, branch, creek, or stream including, but not limited to, the limits of the 100-year and 25-year floodplains.

WATERSHED

1. **BARTON CREEK.** The land area that drains to Barton Creek, including Little Barton Creek watershed.
2. **SUBURBAN.** All watersheds not otherwise classified as urban, water supply suburban, or water supply rural watersheds, and includes the Brushy, Buttercup, Carson, Cedar, Cottonmouth, Country Club East, Country Club West, Decker, Dry Creek East, Elm Creek, Elm Creek South, Gilleland, Harris Branch, Lake, Lockwood, Maha, Marble, North Fork Dry, Plum, Rattan, Rinard, South Boggy, South Fork Dry, South Brushy, Walnut, and Wilbarger creek watersheds; the Colorado River watershed downstream of U.S. 183; and those portions of the Onion, Bear, Little Bear, Slaughter, and Williamson creek watersheds not located in the Edwards Aquifer recharge or contributing zones.
3. **URBAN.** The Blunn, Buttermilk, Boggy, East Bouldin, Fort, Harper Branch, Johnson, Little Walnut, Shoal, Tannehill, Waller, and West Bouldin creek watersheds; the north

side of the Colorado River watershed from Johnson Creek to U.S. 183; and the south side of the Colorado River watershed from Barton Creek to U.S. 183.

WETLAND. A transitional land between terrestrial and aquatic systems where the water table is usually at or near the surface or the land is covered by shallow water, and conforms to the Army Corps of Engineers' definitions.

WHOLESALE CUSTOMER. A customer of the City's water and wastewater utility who purchases service for resale to a retail customer.

WILDLAND-URBAN INTERFACE AREA. A geographical area where structures and other human development meets or intermingles with wildland or vegetative fuels

WORKING DAY. A Business Day and excludes a Saturday, Sunday, an official City holiday, or any other day on which City offices are closed for regular business at any time during normal business hours.

X. X-Definitions

No specialized terms beginning with the letter X are defined at this time.

Y. Y-Definitions

No specialized terms beginning with the letter X are defined at this time.

Z. Z-Definitions

ZERO LOT LINE. A lot line that allows a zero setback.

ZONING JURISDICTION. The areas of the City annexed for full or limited purposes.

ZONING MAP. The zoning map of the City as adopted by ordinance.

Division 23-2M-2: Land Uses

Contents

23-2M-2010	Purpose	1
23-2M-2020	Applicability	1
23-2M-2030	Land Uses	1

23-2M-2010 Purpose

This Division describes and classifies uses in the zoning jurisdiction

23-2M-2020 Applicability

The definitions in Section 23-2M-2030 (Land Uses) apply to all chapters of the Land Development Code, unless otherwise specified.

23-2M-2030 Land Uses

A. A-Definitions

ACCESSORY DWELLING UNIT. A subordinate dwelling unit added to, created within, or detached from a single-family dwelling that provides basic requirements for independent living, sleeping, eating, cooking, and sanitation for one or more persons and which is located on the same lot as a single-family unit. This definition includes ‘secondary apartment special use’.

ACCESSORY USE. Uses subordinate to the primary use on the same site, serving a purpose customarily incidental to the principle use of the main use structure, and which does not change the character of the principal use.

ADULT ENTERTAINMENT. Any commercial activity, whether conducted intermittently or full time, which primarily involves the sale, display, exhibition or viewing of books, magazines, films, videos, photographs, or other materials, distinguished or characterized by an emphasis on matter depicting, describing or relating to human sex acts, or by an emphasis on male or female genitals, buttocks or female breasts. Such activity includes adult book stores, adult arcades, adult movie theaters, sexual encounter establishments, adult cabarets, massage parlors and adult theaters, which exclude minors by virtue of age.

1. **ADULT ARCADE.** A movie arcade, game arcade or other business that primarily offers still or motion pictures or games that emphasize specified sexual activities or specified anatomical areas.
2. **ADULT BOOKSTORE.** A business that primarily offers books, magazines, films or videotapes, periodicals, or other printed or pictorial materials that emphasize specified sexual activities or specified anatomical areas; and in which at least 35 percent of the gross floor area is devoted to offering said merchandise.

3. **ADULT CABARET.** A business that primarily offers life entertainment that emphasizes specified sexual activities or specified anatomical areas.
4. **ADULT THEATER.** A business that primarily exhibits motion pictures that emphasize specified sexual activities or specified anatomical areas.
5. **ADULT LOUNGE.** An adult cabaret that serves alcoholic beverages.
6. **ADULT NOVELTY SHOP.** A business that primarily sells products that emphasize specified sexual activities or specified anatomical areas, and which at least 35 percent of the gross floor area is devoted to the sale of those products.
7. **ADULT SERVICE BUSINESS.** An adult encounter parlor, adult retreat, nude modeling studio, or a commercial enterprise that holds itself out to be primarily in the business of offering a service that is distinguished or characterized by an emphasis on depicting, describing, or relating to specified sexual activities or specified anatomical area.

AGRICULTURAL INDUSTRY. The use of a site for temporary keeping of livestock for slaughter, market, or shipping. This use includes stockyards, animal sales, and auction yards.

AGRICULTURAL SUPPORT. The use of a site for supporting agricultural purposes including:

1. Living accommodations by agricultural employees or their families;
2. On-site sale of feed, grain, fertilizers, pesticides and similar goods;
3. The provision of agricultural services with incidental storage of goods off-site; or
4. Hay, feed, and grain stores and tree service firms.

ALCOHOL SALES. The retail sale of alcoholic beverages for off-premises consumption.

1. **ALCOHOL SALES; BEER AND WINE ONLY.** The sale of beer and/or wine, does not include liquor sales.
2. **ALCOHOL SALES; LIQUOR.** The sale of liquor which may include the sale of beer and/or wine.

ALTERNATIVE FINANCIAL SERVICES. The use of a site for a check cashing business, payday advance or loan business, money transfer business, motor vehicle title loan business, or a credit access business as defined in this Section.

1. This use excludes:
 - a. A state or federally chartered bank, savings and loan association or credit union, or a pawnshop, and
 - b. A convenience store, supermarket, or other retail establishment where consumer retail sales constitute at least 75 percent of the total gross revenue generated on site.
2. A check cashing business is an establishment that provides one or more of the following:
 - a. An amount of money that is equal to the face of a check or the amount specified in a written authorization for an electronic transfer of money, less any fee charged for the transaction;

- b. An agreement not to cash a check or execute an electronic transfer of money for a specified period of time; or
 - c. The cashing of checks, warrants, drafts, money orders, or other commercial paper for compensation by any other person or entity for a fee.
- 3. A payday advance or loan business is an establishment that makes small consumer loans of \$2,500 or less, usually backed by postdated check or authorization to make an electronic debit against an existing financial account, where the check or debit is held for an agreed-upon term or until a customer's next payday and then cashed unless the customer repays the loan to reclaim the check or debit. Such establishments may charge a flat fee or other service charge and/or a fee or interest rate based on the size of the loan amount.
 - 4. A motor title loan business is an establishment that makes small consumer loans of \$2,500 or less that leverage the equity value of a car or other vehicle as collateral where the title to such vehicle is owned free and clear by the loan applicant and any existing liens on the vehicle cancel the application. Failure to repay the loan or make interest payments to extend the loan allows the lender to take possession of the vehicle.
 - 5. A credit access business has the same meaning as defined in Section 393.601 of the Texas Finance Code.

ANIMAL PRODUCTION. The use of a site for the raising of animals or production of animal products including eggs and dairy products, on an agricultural or commercial basis. This use includes grazing, ranching, dairy farming, and poultry farming (excluding domestic fowl not used for production in compliance with Title 3 (Animal Regulation)).

ANIMAL SERVICE/BOARDING

- 1. **LEVEL 1.** The use of a site for the retail sale of small animals customarily used as household pets, or the provision of veterinary, grooming, or indoor boarding services. This use includes pet stores, small animal clinics, and pet grooming shops, but excludes outside boarding or uses for livestock and large animals.
- 2. **LEVEL 2.** The use of a site for the provision of veterinary services, grooming, indoor boarding, and hospitals for animals. This use includes all Animal Service/Boarding, Level 1 uses, plus veterinary, grooming, boarding, and hospital services for livestock and large animals.
- 3. **LEVEL 3.** The use of a site for the boarding and care of large and small animals. This use includes all Animal Service/Boarding, Level 1 and Level 2 uses, plus outdoor boarding kennels, pet motels, and dog training centers.

AUTOMOBILE SALES, RENTAL AND STORAGE. The use of a site for the permanent sale, temporary rental, or short to long-term storage of automobiles, noncommercial trucks, motorcycles, including incidental maintenance and servicing. These include new and used automobile and motorcycle dealerships and car rental centers.

AUTOMOBILE REPAIR. The use of a site for the repair of automobiles, noncommercial trucks, motorcycles, motor-homes, recreational vehicles, or boats, including the sale, installation, and servicing of equipment and parts. This use includes muffler shops, auto repair garages, tire sales and installation, wheel and brake shops, body and fender shops, and similar repair and service activities, but excludes dismantling or salvage.

B. B-Definitions

BAR/NIGHTCLUB. An establishment where alcoholic beverages are offered for sale for onsite consumption as its principal function, such as a tavern, bar, cocktail lounge, and similar use, which may include food, but do not admit persons under the age of 21.

1. **LEVEL 1.** A bar/nightclub that is conducted entirely indoors, without a Late Hours Permit.
2. **LEVEL 2.** A bar/nightclub that may have outside seating and/or that operates with a Late Hours Permit.

BED AND BREAKFAST. The use of a residential structure to provide rooms for temporary lodging for overnight guests on a paying basis.

BUSINESS AND FINANCIAL/PROFESSIONAL SERVICES. An establishment that provides business and financial services including but not limited to banks, ATMs, computer-related services (rental, repair); office equipment sales and service, copying, land mailing and mail box services (not operated by the USPS). This use excludes Alternative Financial Services.

C. C-Definitions

CAMPING/RV PARK. The use of a site for provision of camping or parking areas and incidental services for travelers in recreational vehicles or tents. This use includes recreation vehicle parks.

CEMETERY. Land that is dedicated for cemetery purposes for the burial of the dead, including columbariums, crematoriums, mausoleums, and mortuaries.

COMMERCIAL BLOOD PLASMA CENTER. Facilities for the donation or sale by individual donors of blood plasma and other blood products, with the exception of whole blood.

COMMERCIAL FOOD PREPARATION. The use of a site for the production and storage of prepared food for wholesale distribution in a structure with not more than 5,000 square feet of gross floor area. The use includes wholesale bakeries, commercial kitchens, and specialty food processing or packaging shops, but excludes the on-site slaughter of animals and the commercial production of ice.

COMMERCIAL SERVICES. A business engaged in delivery of services and repairing and servicing equipment and materials, rather than the sale of products, but which do not involve the manufacturing, assembling, packaging, or process of merchandise and excludes outside storage of materials. Examples include but are not limited to contractor/subcontractor offices, carpenter's shops, electrical repair shops, janitorial service, landscape maintenance, window cleaning, exterminators, plumbers, bulk laundry and cleaning plants, and linen supply services. Excludes business and financial/professional services; personal services; repair commercial non-vehicular and vehicular, heavy equipment sales, storage, rental, or repair.

1. **W/INCIDENTAL OUTSIDE STORAGE.** Commercial services establishments that includes the storage of materials and/or equipment outside, such as service contractor's storage yard, equipment (non-automobile) storage yard, or utility storage yard.

COMMERCIAL VEHICLE STORAGE AND DISPATCH. The use of a site for long- or short-term staging, storage, and dispatch of non-motorized or motorized vehicles, including parking, servicing, and storage of vehicles towed from private parking areas and impound yards, but excludes dismantling or salvage of these vehicles. Includes pedicab and taxicab storage and dispatch.

COMMUNICATIONS. A site for the transmission, transfer, or distribution of telephone service and related activities.

COMMUNITY AGRICULTURE. A site for growing or harvesting food crops or ornamental crops on an agricultural basis, by an individual or group of individuals for personal or group use, consumption, donation, to be sold for profit, or may provide agricultural education activities. Agricultural education activities include volunteer programs, farm tours, youth programs and farming classes.

CONVENTION CENTER. A space or facility owned or managed by the City for conventions, meetings, exhibitions, shows, gatherings, presentations, or celebrations, including related incidental facilities for office and administrative use, food and beverage preparation and service, and on-site and off-site parking facilities.

COOPERATIVE HOUSING. A residential project of more than three units in which an undivided interest in land is coupled with the exclusive right of occupancy of any unit located on said land, whether such right is contained in the form of a written or oral agreement, when such right does not appear on the face of the deed.

D. D-Definitions

DETENTION FACILITY. A facility for the provision by a public agency of housing and care for legally confined individuals.

DAY CARE. The provision of non-medical care and supervision of minor children or adults for periods of less than 24 hours. This use includes the following types of facilities.

1. **SMALL ≤7.** The use of a site for the provision of daytime care for six persons or less. This use includes nursery schools, preschools, day care centers for children or adults, and similar uses, and excludes public and private primary or secondary educational facilities.
2. **LARGE > 7 AND <20.** The use of a site for the provision of daytime care for more than 6 but not more than 20 persons. This use includes nursery schools, preschools, day care centers for children or adults, and similar uses, and excludes public and private primary or secondary educational facilities.
3. **COMMERCIAL.** The use of a site for the provision of daytime care for more than 20 persons. This use includes nursery schools, preschools, day care centers for children or adults, and similar uses, and excludes public and private schools.

DRIVE THROUGH, RETAIL OR SERVICE FACILITY. The component of a retail or service business establishment that caters exclusively to customers while in their vehicles. Examples may include: fast food restaurants, banks, pharmacies, post offices, liquor stores. This excludes car washes.

E. E-Definitions

EMERGENCY SHELTER. Housing with minimal supportive services limited to occupancy of six months or less.

ENTERTAINMENT. An establishment providing amusement and entertainment for spectators for a fee or admission charge.

1. **INDOOR.** An indoor facility, including: dance halls, theaters, motion pictures, and performing arts centers.
2. **OUTDOOR.** An outdoor facility, including: racing facilities, amusement parks, and water parks.
3. **OUTDOOR, LIMITED.** The use of property for entertainment on a limited or temporary basis. Includes rental of outside or partially enclosed space(s) for weddings/private events.

F. F-Definitions

FOOD SALES (ON OR OFF SITE). The retail sales of food, beverages, and household goods, where a regular or substantial portion is for off-site preparation and consumption. Typical uses include grocery stores, delicatessens, health food stores, meat markets, candy shops, and produce markets. It may include incidental sales of prepared food for take-out consumption, such as an onsite bakery associated with a grocery store. Excludes incidental sale of alcohol for on or off-site consumption.

FUNERAL/MORTUARY HOMES (AND INCIDENTAL SALES). The use of a site for preparing the deceased for burial, or arranging or managing funerals. This use includes funeral homes and mortuaries and incidental sales of product associated with burial and/or cremation.

G. G-Definitions

GAS STATION. A facility offering full-service or self-service gas pumps for vehicles, in addition to water, oil, window washing, and/or washing and cleaning of passenger vehicles, recreational vehicles, or other light duty equipment. Includes incidental sale of petroleum or automobile related products. This excludes automobile, repair.

GENERAL RETAIL. The sale or rental of commonly used goods and merchandise for personal or household use. Examples include but are not limited to apparel, cosmetics, department stores, drugstores, furniture stores, home appliances, musical instruments, office supplies, toys and games, and variety stores. This excludes the sale of automotive parts, food sales, onsite production, or outside storage of goods of materials.

1. **W/ ONSITE PRODUCTION.** A site used for the production and sale of art or other handcrafted goods.
2. **W/ OUTSIDE STORAGE.** A site used for the outside storage and display of merchandise such as a plant nursery.

GOVERNMENT/CIVIC. A site for provision of offices or administrative, clerical, or public contact services, together with incidental storage and maintenance of necessary vehicles. This use includes federal, state, county, and city offices as well as post offices, bulk mail processing, and sorting centers operated by the United States Postal Service.

GROUP HOME. Any building, facility, premises, house, structure, dwelling unit, multiple dwelling, apartment house, or portion thereof, providing 24-hour care in a protected living arrangement but not including a hotel, motel, fraternity, sorority, rooming and/

or boarding house, or dormitory. This facility is generally characterized by the provision of a pre-arranged or organized household structure or program. Residents of a facility may also receive non-medical supportive services (including counseling) in a residential setting, as opposed to a hospital. Use includes non-medical group homes (e.g. foster care homes), residential treatment facilities for individuals not needing regular medical attention (e.g. drug/alcohol rehab), and community homes as defined by Texas Human Resource Code Chapter 123.

1. **<7.** A Group Home containing less than seven dwelling units.
2. **7 TO 15.** A Group Home containing 7 to 15 dwelling units.
3. **RESTRICTED.** A Group Home containing more than 15 units. This use includes homes for juvenile delinquents, facilities for youth transition out of foster care, and halfway houses providing residence instead of institutional sentencing.

H. H-Definitions

HEAVY EQUIPMENT SALES

1. **REPAIR.** Facilities for the repair of trucks of one ton or greater capacity, tractors, construction equipment, agricultural implements, or similar heavy equipment. This use includes truck repair garages, tractor and farm implement repair services, and machine shops, but excludes dismantling and salvage activity.
2. **SALES, RENTAL, AND STORAGE.** The use of a site for the sale or rental of trucks of one ton or greater capacity, tractors, construction equipment, agricultural implements, mobile homes, or similar heavy equipment, including incidental storage, maintenance, and servicing. This use includes truck dealerships, construction equipment dealerships, and mobile home sales establishments.

HELICOPTER AND OTHER NON-FIXED WING AIRCRAFT FACILITIES. A Heli-facility or heliport, as defined in Chapter 13-1, Article 4 (Heliports and Helicopter Operations); and a landing field for hot air balloons or non-fixed-wing aircraft.

HOME OCCUPATION. A commercial use that is accessory to a residential use.

HOSPITAL. A site for the provision of medical, psychiatric, or surgical services on an in-patient and out-patient basis, and includes ancillary facilities for out-patient and emergency treatment, diagnostic services, training, research, administration, and services to patients, employees, and visitors.

HOTEL/MOTEL. The use of a site for the provision of rooms for temporary lodging. This use includes hotels, motels, and transient boarding houses.

I. I-Definitions

INDOOR CROP PRODUCTION. A site for the raising and harvesting indoors of tree crops, row crops, or field crops on an agricultural or commercial basis, including packing and processing.

J. J-Definitions

No specialized land uses beginning with the letter J are defined at this time.

K. K-Definitions

No specialized land uses beginning with the letter K are defined at this time.

L. L-Definitions

LIBRARY, MUSEUM, OR PUBLIC ART GALLERY. Public or quasi-public facilities, examples of which include: aquariums, arboretums, art galleries and exhibitions, botanical gardens, historic sites and exhibits, libraries, and museums. May also include accessory retail uses such as gift/book shops, restaurant, etc.

LIVE/WORK. An integrated housing unit and working space occupied and utilized by a single household in a structure that has been designed or structurally modified to accommodate joint residential occupancy and work activity, and which includes complete kitchen space and sanitary facilities in compliance with the Building Code; and working space reserved for and regularly used by one or more occupants of the unit.

M. M-Definitions

MARINA. The wet or dry storage or docking of seaworthy watercraft, including ramps and hoists for boats, for profit; or the provision of docks, wharves, piers, floats, or similar structures for the anchoring, mooring, housing, or storing of more than three watercrafts.

MANUFACTURED HOME PARK. The use of a site for occupancy of manufactured homes.

MANUFACTURING AND STORAGE. The use of a site for manufacturing, production, processing, warehousing, and/or distribution of various products.

1. LIGHT PROCESSES. INCLUDING:

- d. On-site production of goods using hand tools, domestic mechanical equipment not exceeding five horsepower, or a single kiln not exceeding 12 kilowatts, and the incidental sale of those goods;
- e. Wholesaling or warehousing services within an enclosed structure; or
- f. Wholesale distributors, storage warehouses, and moving or storage firms.
- g. This use excludes general manufacturing and storage.

2. GENERAL

- a. Processing and manufacturing from previously prepared materials or finished products or parts; including processing, fabrication, assembly/disassembly, treatment, and packaging of the products, remanufacturing and repurposing of recycled products (excluding heavy metals or hazardous materials), and incidental storage, sales, and distribution of the products
- b. Includes associated on-site product development and testing of products and technology (non-hazardous).
- c. This use excludes restricted manufacturing and storage.

3. RESTRICTED

- d. Processing and manufacturing of materials or products predominately from extracted, raw, or recycled materials, or involving hazardous materials including processing, fabrication, assembly/disassembly, treatment, remanufacturing of recycled products (such as batteries, heavy metals, electronics);
- e. Storage or manufacturing processes that involve flammable or explosive materials;

- f. Storage or manufacturing processes that involve hazardous or commonly recognized offensive conditions, including poultry processing; or
- g. Open-air storage, distribution, or handling of materials or equipment, including monument or stone yards, grain elevators, and open storage yards.
- h. Brewery/distillery/winery which manufacture more than 15,000 barrels of beverage (all beverage types combined) annually. Breweries may also serve beverages on-site, and sell beverages for off-site consumption in keeping with the regulations of the Alcohol Beverage Control (ABC) and Bureau of Alcohol, Tobacco, and Firearms (ATF).

MEDICAL SERVICES. A facility other than a hospital where medical, dental, mental health, surgical, and/or other personal health care services are provided on an outpatient basis (examples include but is not limited to chiropractors, medical doctors, psychologists, psychiatrists, counseling or guidance services). These facilities may also include incidental medical laboratories and pharmacies that may prepare and sell prescription drugs and also sell non-prescription drugs, medical supplies, and other health products as an accessory use.

MEETING FACILITY (PUBLIC OR PRIVATE). An indoor facility for public (non-profit) or private meetings, including: community centers; clubhouses; civil and private auditoriums; and union halls, meeting halls for clubs and other membership organizations, etc. Also includes functionally related internal facilities such as kitchens, multi-purpose rooms, and storage. Excludes conference and meeting rooms accessory and incidental to another primary use, and which are typically used only by on-site employees and clients, and occupy less floor area on the site than other offices they support. Excludes recreation- community, indoor, or outdoor; entertainment, indoor or outdoor; or other commercial entertainment facilities. Related on-site facilities such as day care centers and schools are separately defined, and separately regulated.

MICRO-BREWERY/MICRO-DISTILLERY/WINERY. A small-scale facility that produces 15,000 barrels of beer, wine, or distilled spirits per year or less that may include a taproom in which guests/customers may sample or purchase the product. Its products are primarily intended for local and/or regional consumption. Sale of beverages for off-site consumption is also permitted in keeping with the regulations of the Alcohol Beverage Control (ABC) and Bureau of Alcohol, Tobacco, and Firearms (ATF). May include the distribution of beverages for consumption at other sites.

MILITARY FACILITY. A facility for the provision of military facilities by the federal or state government.

MINING AND RESOURCE EXTRACTION. The use of a site for on-site extraction of surface or sub-surface mineral products or natural resources. This use includes quarries, borrow pits, sand or gravel operations, oil or gas extraction, and mining operations.

MOBILE FOOD SALES. One of two types of mobile food operations:

- 1. A restricted unit that offers only prepackaged food in individual servings; beverages that are not potentially hazardous and are dispensed from covered urns or other protected vessels; and packaged frozen foods. Preparation, assembly or cooking of foods is not allowed. A foot peddler permit is a restricted unit is limited to one portable ice chest, cooler, case or unit per permit, capable of being carried by one person; or

2. An unrestricted unit that may serve food as allowed in (a), and may cook, prepare and assemble a full menu of food items;
 - a. An unrestricted unit must be secured and completely enclosed, except as provided in Subsection (2)(b) below; and
 - b. Foods such as hot dogs, coffee, or shaved ice, or food with prior approval from the health authority, may be served from vehicles with three sides and a cover.

MOBILE RETAIL SALES. A retail establishment that sells non-food items and services to an end user consumer from a movable vehicle or trailer that routinely changes locations.

MULTI-FAMILY. The use of a site for three or more dwelling units, within one or more buildings, and includes and not limited to, rowhouses, triplex, quadplex, townhouses, bungalow court apartments, and multi-unit apartment complexes.

N. N-Definitions

No specialized land uses beginning with the letter N are defined at this time.

O. O-Definitions

OFFICE, GENERAL (NON-MEDICAL). Executive, management, professional, or administrative offices including but not limited to accounting services, real estate offices, utility company offices, as well as professional or consulting service offices such as law, architecture, engineering, and accounting. This use excludes commercial services or business and financial/professional services.

P. P-Definitions

PARKING FACILITY. Facilities for the parking of motor vehicles on a temporary basis within a privately owned off-street parking facility. This use includes commercial parking lots and garages.

PARKS/PLAYGROUNDS. The use of a site for the provision of parks, playgrounds, or open spaces available to the general public and under the management or control of a public agency. This use excludes recreation- community, indoor, or outdoor.

PAWN SHOP. The use of a site for the lending of money on the security of property pledged in the keeping of the pawnbroker, and the incidental sale of the property

PERSONAL SERVICES. An establishment that provides non-medical services to individual as a primary use. Examples of these use include: barber shops and beauty salons; nail salons, clothing rental; dry cleaning pick up stores with limited equipment; locksmiths; massage; shoe repair shops; and tailors. These uses may also include accessory retail sales of products related to the services provided.

1. **RESTRICTED.** Personal services that may not be compatible with surrounding areas and which may need to be dispersed to minimize their adverse impacts. Examples of these uses include:
 - a. Bail bond services (regulated by Texas Occupations Code Chapter 1704);
 - b. Fortune tellers, psychics, and palm and card readers;
 - c. Spas and hot tubs for hourly rental;
 - d. Tattoo and body piercing services;
 - e. Cigarette/e-cigarettes/vapor shops; and
 - f. Hookah lounges.

PERSONAL STORAGE. A storage services site primarily for personal effects and household goods within enclosed storage areas having individual access. This use includes mini-warehouses, and excludes workshops, hobby shops, manufacturing, and commercial activity.

PLANT PRODUCTION. The use of a site for the raising and harvesting of tree crops, row crops, field crops, or flora cultural specialties, including flowers, shrubs, and other landscaping on an agricultural or commercial basis, intended to be sold for profit. This use includes wholesale plant nurseries and greenhouses and includes packing and processing.

PUBLIC SAFETY FACILITY. The use of a site for provision of public safety and emergency services, and includes police and fire protection services and emergency medical and ambulance services.

Q. Q-Definitions

No specialized land uses beginning with the letter Q are defined at this time.

R. R-Definitions

RECREATION. A sports and recreational use of a site for active participation.

1. **COMMUNITY, NON-PROFIT.** An Indoor or outdoor place for community recreation without profit. Includes basketball courts, swimming pools, soccer fields, etc. owned and maintained by public entity or non-profit. Also, includes private recreational facilities for use by residents or guests of a residential development, religious facility, educational facility, club, or lodge.
2. **INDOOR, FOR PROFIT.** A recreational use conducted by a for-profit entity within an enclosed building. This use includes bowling alleys, pool/billiard parlors, indoor shooting range, ice and roller-skating rinks, penny arcades, and electronic video arcades. Also includes fitness centers, gymnasium, or athletic clubs which may include exercise machines, weight facilities, group exercise rooms, and/or indoor recreation facilities such as pools, sauna, spa, racquetball, or tennis courts.
3. **OUTDOOR, FOR PROFIT.** A recreational use conducted by a for-profit entity in open, partially enclosed, or screened facilities. This use includes driving ranges, batting cages, paintball courses, outdoor shooting range, miniature golf courses, golf courses, swimming pools, tennis courts, and outdoor racquetball courts. May include smaller accessory structures.

RECREATIONAL AND SPORTS VEHICLE SALES, RENTAL AND STORAGE. The use of a site for the permanent sale, temporary rental, or short to long-term storage of boats, motor-homes, recreational and sport vehicles, including incidental maintenance and servicing.

RECYCLING CENTER

1. **COLLECTION AND TRANSFER.** A site for that receives recyclable materials for the purpose of storing, handling, batching and baling, and/or sorting prior to transferring to a storage and processing facility. Recyclable materials include glass, paper, plastic, cans, or other source-separated, inorganic materials. This use excludes reverse vending machines.
2. **STORAGE AND PROCESSING.** A site for sorting, compacting, flattening, baling, shredding, grinding, or crushing of recyclable material. Processing can also include the processing of collected recyclable materials into aggregate, building materials

and other products. Processing may also involve composting and the decomposing of organic matter, including leaves, brush, wood waste and other organic waste in a controlled environment for reuse.

RELIGIOUS ASSEMBLY FACILITY. An institution which people regularly attend to participate in or hold religious services, meetings and other activities, including but not limited to churches, mosques, synagogues.

REPAIR, COMMERCIAL (NON-VEHICULAR). The provision of repair and maintenance of non-vehicular items. This use includes appliance repair shops, watch or jewelry repair shops, and musical instrument repair shops, and excludes automotive repair services and equipment repair services.

RESEARCH AND DEVELOPMENT. The use of a site for industrial or scientific research, including electronics research laboratories, space research or development firms, biological technology, and pharmaceutical research labs, and offices. Additionally, the use of a site can include developing, testing, prototype assembly. Does not include on-site manufacturing, storage, or distribution of products.

1. **RESTRICTED.** The use of a site for one or more of the following:
 - a. Scientific, industrial, or electronic technology development, and/or testing involving storage and/or use of hazardous materials;
 - b. The assembly of products related to research services and used by the owners of the research establishment or affiliated entities in the delivery of services performed by the owner or affiliated entities. This use excludes the mass production of products for general sale to customers; an
 - c. Enclosed or screened storage of materials or equipment related to research services, and excludes bulk warehousing or permanent storage of hazardous or toxic substances, except as authorized by a Planned Development Area District ordinance.

RESIDENTIAL CARE FACILITY

1. **SKILLED NURSING.** (Sometimes called Continuing Care Communities or Complexes or Life Care Facilities.) Facilities that provide a wide range of care and supervision, including in-patient services for persons requiring regular medical attention so that residents can receive medical care without leaving the facility. Residents can expect to remain in the facility even if they become physically incapacitated later in life. The use excludes group homes, group residential, or senior/retirement housing.
2. **ASSISTED LIVING.** A residential building or buildings that also provide 24-hour supervision, housing, personal and health care, as permitted by the Department of Social Services, designed to respond to the daily individual needs of the residents. Assisted Living Facilities may include kitchenettes (small refrigerator, sink and/or micro-wave oven) within individual rooms. This use includes personal care homes for persons with physical or developmental disabilities, and emergency shelters for victims of crime, abuse, or neglect. Assisted Living excludes skilled nursing services or group homes.

RESIDENTIAL DWELLING(S). The use of a site in a transect zone for one or more dwelling units in an allowed building type

RESTAURANT. A retail business selling food and/or beverages for on- premises consumption. These include eating establishments where customers are served from a walk-up ordering counter for either on- or off-premises consumption (such as juice bars,

sandwich shops, coffee shops) and establishments where customers are served food at their tables for on premise consumption that may also provide food for take-out.

1. **W/O ALCOHOL SALES.** A restaurant that excludes sale of alcohol for on or off-site consumption. This classification does not include drive-through restaurants.
2. **W/ALCOHOL SALES.** A restaurant that may include sale of alcohol for on-site consumption as incidental use where minors are allowed on the premises, including a restaurant with a microbrewery as an accessory use where the beer it produces is sold in draft form exclusively at its own premises. This classification does not include drive-through restaurants.
3. **DRIVE THROUGH.** The component of a restaurant establishment that caters to customers while in their vehicles.
4. **LATE NIGHT OPERATION.** A restaurant that operates with a Late Hours Permit from the Texas Alcoholic Beverage Commission.

REVERSE VENDING. A vending machine that dispenses cash in exchange for items such as cans to be recycled.

S. S-Definitions

SALVAGE/JUNK YARD. The use of a site for the storage, sale, dismantling or other processing of used or waste materials that are not intended for re-use in their original forms. This use includes automotive wrecking yards, junk yards, and salvage yards.

SCHOOL

1. **BUSINESS, OR TRADE SCHOOL.** The use of a site for education or training in business, commerce, language, or other similar activity or occupational pursuit that is not otherwise described as a home occupation, college, university, or public or private educational facility.
2. **COLLEGE OR UNIVERSITY.** The use of a site for a public or private degree-granting institution of higher education (college or university) with a course of study in accordance with the Texas Education Code.
3. **PRIVATE, PRIMARY.** The use of a site for either a private or parochial elementary school offering equivalent instruction to that required in the public schools of the state.
4. **PRIVATE, SECONDARY.** The use of a site for either a private or parochial junior high or senior high school offering equivalent instruction to that required in the public schools of the state.
5. **PUBLIC, PRIMARY.** The use of a site for a public school offering instruction at the elementary school level in the branches of learning and study required to be taught in the public schools of the state. The term includes an open enrollment charter school as defined under the Texas Education Code.
6. **PUBLIC, SECONDARY.** The use of a site for a public school offering instruction at the junior and senior high school levels in the branches of learning and study required to be taught in the public schools of the state. The term includes an open enrollment charter school as defined under the Texas Education Code.

SENIOR/RETIREMENT HOUSING. Independent living centers and multi-family residential projects reserved for senior citizens, persons with physical disabilities, or both, where common facilities may be provided (for example, recreation areas), but where each dwelling unit has individual living, sleeping, bathing, and kitchen facilities.

1. **≤ 12.** A facility (see above) with 13 or less dwelling units.
2. **> 12.** A facility (see above) with more than 13 dwelling units.

SHORT-TERM RENTAL. The rental of a residential dwelling unit or accessory building, other than a unit or building associated with a group residential use, on a temporary or transient basis. The use does not include an extension for less than 30 consecutive days of a previously existing rental agreement of 30 consecutive days or more. The use excludes a rental between parties to the sale of that residential dwelling unit

SINGLE-FAMILY. The use of a site for only one dwelling unit, other than a manufactured home.

SPECIAL USE. The use that requires particular cultural, historical, or character specific regulation.

SPORTS OR EVENTS ARENA. A use described in Local Government Code Chapter 334 as permitted for an “approved venue project”, except for a hotel, zoological park, museum, or aquarium. The use includes the sale of alcoholic beverages.

STABLES. Facilities for boarding, breeding or raising of horses not owned by the occupants of the premises, or storage of horses used to pull carriages, or the rental of horses for riding. This use includes boarding stables or public stables.

STUDIO: ART, DANCE, MARTIAL ARTS, MUSIC. Small-scale facilities focused on the instruction of students of any age group. Examples of these facilities include: individual and group instruction and training in the arts; production rehearsal; photography, and the processing of photographs produced only by users of the studio facilities; martial arts training studios; and gymnastics instruction, aerobics, and gymnastics studios with no other fitness facilities or equipment. Also includes production studios for individual musicians, painters, sculptors, photographers, and other artists. Excludes Recreation-Indoor.

T. T-Definitions

TELECOMMUNICATIONS. A structure built exclusively to support one or more antennae for receiving or transmitting electronic data or telephone communications.

TEMPORARY USES. Short-term activities that are not allowed on a permanent basis but because of their temporary non-permanent intermittent or seasonal nature are acceptable.

TRANSIT TERMINAL. A public or privately-owned facility that provides the general public the opportunity to board public or private transit ranging from taxi cabs, private car services, and shuttles to buses and trains.

TRANSITIONAL AND SUPPORTIVE HOUSING. The use of a site for the supervision or detention of residents who are making the transition from institutional to community living within six months. This use includes pre-parole detention facilities and halfway houses for juvenile and adult offenders, transitioning out of an institution, and homeless individuals or families transitioning to permanent housing. Includes Supportive Housing that has no limit on the length of stay, is linked to onsite or offsite services, and is occupied by persons with low incomes who have one or more disabilities, including mental illness, HIV or AIDS, substance abuse, or other chronic health condition, and may include, among other populations, adults, emancipated minors, families with children, elderly persons, young adults aging out of the foster care system, individuals exiting from institutional settings, veterans, and homeless people.

TRANSPORTATION FACILITY. A site for any public or private transportation purposes including aviation, railroad, bus, or public transit facilities. This use includes the provision of railroad yards, equipment servicing facilities, or terminal facilities, or landing fields, aircraft parking and service facilities, and related facilities for operation, service, fueling, repair, storage, charter, sales, or rental of aircraft, including activities directly associated with the operation and maintenance of airport facilities. Additionally, the use of a site can include a facility for the loading, unloading, or interchange of passengers, baggage, or incidental freight or package express between modes of transportation, and includes bus terminals, railroad stations, airport terminals, and public transit facilities.

TWO-FAMILY RESIDENTIAL. The use of a lot for two dwelling units either attached or detached.

U. U-Definitions

UTILITIES

1. **LOCAL.** A site for the provision of services that are necessary to support the development in the area and involve only minor structures including but not limited to lines and poles.
2. **MAJOR.** A site for the provision of generating plants, electrical switching facilities or primary substations, refuse collection or disposal facilities, water or wastewater treatment plants, water or reclaimed water transmission mains, wastewater interceptors, wastewater lift stations, water reservoirs and tanks, water pump stations, or similar facilities.

V. V-Definitions

No specialized land uses beginning with the letter V are defined at this time.

W. W-Definitions

No specialized land uses beginning with the letter W are defined at this time.

X. X-Definitions

No specialized land uses beginning with the letter X are defined at this time.

Y. Y-Definitions

No specialized land uses beginning with the letter Y are defined at this time.

Z. Z-Definitions

No specialized land uses beginning with the letter Z are defined at this time.

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Division 23-2M-3: Measurements

Contents

23-2M-3010	Purpose	1
23-2M-3020	Applicability	1
23-2M-3030	Measurements.....	1

23-2M-3010 Purpose

This Division provides methods to determine measurements of standards as provided in Title 23 that are technical or specialized, or that may not reflect common usage.

23-2M-3020 Applicability

The measurements in Section 23-3M-3030 (Measurements) apply to all chapters of the Land Development Code, unless otherwise specified.

23-2M-3030 Measurements

A. A-Definitions

No measurements beginning with the letter A are defined at this time.

B. B-Definitions

BLOCK FACE. The aggregate of all the Building Facades on one side of a block. The block face provides the context for establishing architectural harmony.

BLOCK PERIMETER. The aggregate of all sides of a block measured along the adjacent right-of-way.

C. C-Definitions

CALIPER. The diameter of the trunk measured six inches above the ground for trees up to and including four-inch diameter, and measured 12 inches above the ground for larger trees. This measurement is used for proposed or nursery- grown trees.

D. D-Definitions

DEPTH, GROUND-FLOOR SPACE. The distance from the street-facing facade to the rear interior wall of the ground-floor space available to an allowed use.

DEPTH-TO-HEIGHT RATIO. The relationship of the depth of a space measured perpendicular to a building divided by the average height of the surrounding buildings.

DISTANCE FROM A STRUCTURE. A distance from a structure to a line or location is measured from the exterior face of the nearest wall or vertical support of the structure to the line or location. For a structure that does not have a wall or vertical support, the building official shall determine the point of measurement.

DIAMETER AT BREAST HEIGHT (DBH). The diameter (in inches) of the trunk of a tree (or, for multiple trunk trees, the aggregate diameters of the multiple trunks) measured 4 1/2 feet from the existing grade at the base of the tree.

DISTANCE BETWEEN ENTRIES. The horizontal distance measured parallel to the facade between entrances to a building or buildings.

DISTANCE MEASUREMENT. A distance from a structure to a line or location is measured from the exterior face of the nearest wall or vertical support of the structure to the line or location. For a structure that does not have a wall or vertical support, the building official shall determine the point of measurement.

E. E-Definitions

No measurements beginning with the letter E are defined at this time.

F. F-Definitions

FLOOR AREA. (For parking determination only.)

In the case of retail establishments, the space between exterior walls which is devoted to the display and selling of merchandise including space occupied by counters, fixture and storage cabinets and shelves.

In other cases, unless otherwise stated, the gross floor area.

FLOOR AREA RATIO (FAR). The ratio of gross floor area to gross site area.

G. G-Definitions

No measurements beginning with the letter G are defined at this time.

H. H-Definitions

HEIGHT, OVERALL BUILDING. Overall building height shall be measured vertically from the natural grade or finished grade adjacent to the building exterior to the highest point of coping of a flat roof, the top of a mansard roof, or the highest point of the highest pitched roof.

On lots with a slope greater than 5%, maximum building height shall be adjusted for every 40' increment of lot depth starting from the front facade line. The maximum building height within the first 40' increment of lot depth shall be determined from the highest point along a side lot line within a depth of 40' behind front facade line. The maximum building height within subsequent 40' increments of lot depth shall be determined from the highest point along a side lot line within a depth of 40' additional to the previously measured increment.

HEIGHT, EAVE/PARAPET. Building height to eave/parapet shall be measured from the eave or top of parapet to natural grade or finished grade at the lowest point adjacent to the building exterior, whichever yields the greatest height.

HEIGHT, FENCE AND WALL. Determined by measuring the vertical distance between the finished grade at the base of the fence or wall and the top edge of the fence or wall material.

I. I-Definitions

No measurements beginning with the letter I are defined at this time.

J. J-Definitions

No measurements beginning with the letter J are defined at this time.

K. K-Definitions

No measurements beginning with the letter K are defined at this time.

L. L-Definitions

LOT AREA. The net horizontal area within the lot lines, excluding the portion of the lot that is located below 492.8 feet of elevation above sea level, if the lot is adjacent to Lake Austin.

LOT DEPTH. The horizontal distance between the midpoint of the front lot line and the midpoint of the rear lot line.

LOT, IRREGULAR. The determination of required yards and setbacks for an irregularly shaped lot or a lot bounded by only three lot lines, the rear lot line is:

- a. a line ten feet long;
- b. parallel to the front lot line; and
- c. at the most distant location from the front lot line.

LOT WIDTH. Except as otherwise provided in this Title, measured at the front setback line and for a distance of 50 feet to the rear of the front setback line.

M. M-Definitions

No measurements beginning with the letter M are defined at this time.

N. N-Definitions

NATURAL GRADE. Determined by reference to an on-ground survey, City-approved topographic map, or other information approved by the Development Services Director.

NET FRONTAGE LENGTH. Determined by subtracting required Internal Circulation Routes, side or compatibility setbacks, easements, drive aisles, sidewalks, and stairs that occur at the building perimeter from the total property length, as measured along the front lot line from property line to property line. In the case of a curved corner, the Development Services Director may determine the end point for purposes of measuring net frontage.

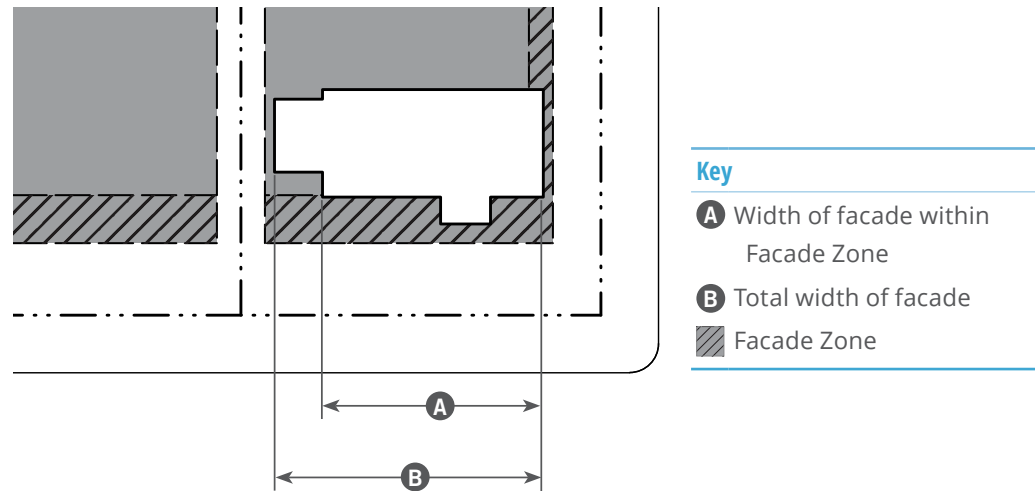
O. O-Definitions

No measurements beginning with the letter O are defined at this time.

P. P-Definitions

PARKING DRIVEWAY WIDTH. The horizontal measurement of an access driveway to a parking area, measured perpendicular to the direction of travel.

Percentage of the Facade within Facade Zone. The percentage of the facade within the Facade Zone shall be calculated by dividing the width of the facade within the Facade Zone, by the the total width of the facade.



Q. Q-Definitions

No measurements beginning with the letter Q are defined at this time.

R. R-Definitions

No measurements beginning with the letter R are defined at this time.

S. S-Definitions

No measurements beginning with the letter S are defined at this time.

T. T-Definitions

No measurements beginning with the letter T are defined at this time.

U. U-Definitions

No measurements beginning with the letter U are defined at this time.

V. V-Definitions

No measurements beginning with the letter V are defined at this time.

W. W-Definitions

WIDTH-TO-HEIGHT RATIO. The ratio of the horizontal size of a space measured perpendicularly to the vertical height of a building.

X. X-Definitions

No measurements beginning with the letter X are defined at this time.

Y. Y-Definitions

No measurements beginning with the letter Y are defined at this time.

Z. Z-Definitions

No measurements beginning with the letter Z are defined at this time.