

4-10-2014

ORDINANCE NO.

1 AN ORDINANCE AMENDING CITY CODE CHAPTERS 25-1 AND 25-5
2 RELATING TO VESTED DEVELOPMENT RIGHTS AND CONTINUING USE
3 RIGHTS UNDER THE TEXAS LOCAL GOVERNMENT CODE AND
4 CHAPTERS 24-4 AND 30-2 RELATING TO SUBDIVISION PLATS.

5
6 BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:

7
8 PART 1. The city council finds:

9 A. Local ordinances play a critical role in the implementation of state vested
10 rights laws by: (1) ensuring that determinations of vested rights are based on complete
11 information; (2) establishing clear procedures for review of claims; and (3) providing
12 developers, landowners, and community residents with needed certainty regarding when
13 new construction will be required to meet current regulations.

14 B. On March 28, 2013, the City Council adopted Ordinance No. 20130328-019,
15 which repealed portions of the City's vested rights regulations and initiated the
16 development of a new vested rights ordinance. In preparing the ordinance, the Council
17 directed the city manager to ensure compliance with state law and to consider the
18 procedures and ordinances adopted by other Texas cities.

19 C. Based on this review, and on consultation with legal counsel, staff
20 determined that state law does not prohibit a municipality from adopting reasonable
21 expiration periods, to be applied prospectively, that limit how long a project may remain
22 undeveloped before construction will be required to comply with current regulations.
23 Expiration periods under the Land Development Code are within the range of expiration
24 periods used by other Texas municipalities.

25 D. The requirements and procedures of this ordinance are consistent with state
26 law and draw upon the best practices of other municipalities in implementing state vested
27 rights legislation.

28
29 PART 2. City Code Chapter 25-1 (*General Requirements and Procedures*) is amended
30 to add a new Article 12 to read as follows:

31 ARTICLE 12. VESTED RIGHTS.

32 DIVISION 1.

33 PETITION SUBMITTAL AND REVIEW PROCEDURES.

1 **§ 25-1-531 DEFINITIONS.**

2 (1) In this article, "permit," "project," and "regulatory agency" have the meanings
3 assigned to them by Chapter 245 of the Local Government Code.

4 (2) TYPE 1 (CHAPTER 245) PETITION means a vested rights petition that alleges
5 rights under Chapter 245 of the Local Government Code to develop property under
6 ordinances, regulations, or rules other than those in effect on the date the permit
7 application is submitted.

8 (3) TYPE 2 (CONTINUING USE) PETITION means a vested rights petition that
9 alleges rights under Section 43.002 of the Local Government Code to continue or begin a
10 land use that was begun or planned prior to annexation of the land by the City of Austin.

11 (4) VESTING DATE means the date on which a project accrued development
12 rights under Chapter 245 or use rights under Section 43.002 of the Local Government
13 Code.

14 (5) VESTED RIGHTS means a right conferred by state law to develop property
15 under ordinances, regulations, or rules other than those in effect on the date a permit
16 application is submitted. The term includes development rights under Chapter 245 and
17 use rights under Section 43.002 of the Local Government Code, but does not include a
18 right existing under common law.

19 (6) VESTED RIGHTS PETITION or PETITION means a petition requesting a
20 determination of development rights under Chapter 245 or use rights under Section
21 43.002 of the Local Government Code.

22
23 **§ 25-1-532 PURPOSE AND APPLICABILITY.**

24 (A) This article establishes requirements for determining whether a project is
25 entitled to vested rights under Chapter 245 or Section 43.002 of the Local Government
26 Code. To the extent a project is entitled to vested rights, as determined under this article,
27 a permit necessary to initiate, continue, or complete the project may be exempt from
28 current regulations.

29 (B) The purpose of this article is to:

30 (1) Establish a clear and consistent process for evaluating vested rights
31 claims;

32 (2) Ensure that vested rights determinations are based on accurate and
33 complete information, including the nature and scope of the original project for
34 which vested rights are asserted and actual development, if any, that has
35 occurred over time; and

1 (3) Recognize legitimate claims of vested rights under state law, while
2 ensuring that new development complies to the greatest extent possible with
3 current regulations.

4 (C) The requirements of this article apply within the planning jurisdiction.
5

6 **§ 25-1-534 VESTED RIGHTS PETITION REQUIRED.**

7 A petition for vested rights that meets the requirements of Section 25-1-535 (*Contents*
8 *of Vested Rights Petition*) must be submitted by a landowner or a landowner's agent in
9 order to request that an application for a permit be reviewed under ordinances,
10 regulations, or rules other than those in effect on the date the application is filed.
11

12 **§ 25-1-535 CONTENTS OF VESTED RIGHTS PETITION.**

13 (A) Except as provided in Subsection (B) of this section, a petition for vested rights
14 required by Section 25-1-534 (*Vested Rights Petition Required*) must be submitted on a
15 form approved by the director and must include, at a minimum, the following
16 information:

17 (1) reference to one of the following applications, which must be submitted
18 concurrent with the vested rights petition:

19 (a) a permit application for development of the property; or

20 (b) a fair notice application submitted under Section 25-1-536(B)
21 (*Fair Notice Application*);

22 (2) a summary of the basis on which the applicant claims vested rights;

23 (3) the date on which the applicant claims that vested rights accrued and any
24 permit or fair notice application that was submitted on that date; and

25 (4) a complete chronological history of the project for which vested rights
26 are claimed, including:

27 (a) a list of permits for development of the property, along with
28 supporting documents, that were issued or applied for after the date the
29 applicant claims that vested rights accrued;

30 (b) a description of any permitted or unpermitted development that
31 occurred on the property after the date the applicant claims that vested
32 rights accrued;

33 (c) a description of existing development on the property, regardless
34 of whether the development is permitted or unpermitted;

- 1 (d) a list of all annexations and zoning changes affecting the property,
2 if any;
- 3 (e) any covenants, conditions, or restrictions recorded in the deed
4 records for the property; and
- 5 (f) if deemed relevant by the director, evidence regarding progress
6 towards completion of the project under Section 25-1-554 (*Expiration of*
7 *Dormant Projects*).

8 (B) The director may allow an applicant to omit information required under this
9 section if, in the sole judgment of the director, an application is associated with a project
10 for which vested rights have been conclusively established by a court order, or by a
11 settlement agreement or project consent agreement approved by the city council.
12

13 **§ 25-1-536 FAIR NOTICE APPLICATION.**

14 (A) A fair notice application may be used in lieu of a permit application to establish
15 vested rights for a new project or to support a petition requesting a vested rights
16 determination for a continuing project under Section 25-1-534 (*Vested Rights Petition*
17 *Required*).

18 (B) The director shall adopt the following fair notice applications:

19 (1) A Fair Notice Application (Continuing Project), which may be used to
20 request a vested rights determination under Section 25-1-534 (*Vested Rights*
21 *Petition Required*) based on a prior application submitted for the project. The
22 fair notice application must include information deemed necessary by the
23 director to establish the nature of the permit sought, including the scope and
24 intensity of development and the type of land use, but need not include
25 construction-level detail.

26 (2) A Fair Notice Application (New Project), which may be used to establish
27 a vesting date for a new project that is filed for review under current regulations
28 and for which no prior permits have been sought. The application must include
29 a proposed plan for development of the property, including the scope and
30 intensity of development and the nature of the land use, but need not include
31 construction-level detail.

32 (C) Acceptance of a fair notice application does not authorize construction or have
33 any effect other than that prescribed by this article.
34

35 **§ 25-1-537 COMPLETENESS REVIEW FOR VESTED RIGHTS PETITION.**

1 A vested rights petition and associated permit or fair notice application are treated as a
2 single application for purposes of completeness review and expiration under Section 25-
3 1-82 (*Application Requirements and Expiration*).
4

5 **DIVISION 2.**
6 **VESTED RIGHTS DETERMINATIONS.**

7 **§ 25-1-541 VESTED RIGHTS DETERMINATION.**

8 (A) Not later than 10 working days after acceptance of a complete vested rights
9 petition, the director shall review the petition under Section 25-1-542 (*Criteria for*
10 *Approval*) and render a determination consistent with the requirements of this section.

11 (B) In acting on a petition, the director may:

12 (1) approve the petition and require the development applications necessary
13 to initiate, continue, or complete the project to be reviewed in accordance with
14 regulations in effect on the vesting date, except for those regulations exempt
15 from vesting under state law;

16 (2) deny the petition and require the development application associated with
17 the project to be reviewed under current regulations of this title; or

18 (3) approve the petition in part, as authorized by Subsection (C) of this
19 section.

20 (C) The director may approve a petition in part if a project is legally entitled to
21 some, but not all, of the rights asserted in the petition, or if a change in the scale or
22 intensity of development is necessary to maintain conformity with the original project. A
23 vested rights determination may not waive or modify applicable regulations or provide
24 relief not required by Chapter 245 or Section 43.002 of the Local Government Code.

25 (D) The director shall provide a written determination to the applicant, which must
26 state:

27 (1) Whether the petition is approved or denied, in whole or in part, and the
28 basis for the decision;

29 (2) Findings in support of the decision and information sufficient to identify
30 the permit or fair notice application on which the petition is based; and

31 (3) If the petition is approved:

32 (a) a description of the project for which vested rights are recognized;
33 and

34 (b) a vesting date.

1 (E) An applicant may request that the director reconsider a vested rights
2 determination at any time before the application expires under Section 25-1-82
3 (*Application Requirements and Expiration*). The director's decision on a reconsideration
4 request is final and not subject to further reconsideration.

5 (F) A vested rights determination under this section does not affect the availability
6 of a variance or other administrative remedy authorized by this title, but requesting a
7 variance is not required to exhaust administrative remedies for purposes of challenging a
8 determination by the director that a project is not entitled to vested rights.

9 (G) The director shall make vested rights determinations issued under this
10 subsection available on the City of Austin's website.

11
12 **§ 25-1-542 CRITERIA FOR APPROVAL.**

13 (A) The director shall review a Type 1 (Chapter 245) petition for vested rights
14 under the criteria described in this subsection.

15 (1) General Standard. A permit application is entitled to development rights
16 under Chapter 245 of the Local Government Code if the permit is required to
17 initiate, continue, or complete a project for which a prior application was
18 submitted to the City of Austin. An application is not entitled to development
19 rights if it is unrelated to or inconsistent with the original project or if the
20 original project has been completed, changed, or expired.

21 (2) Review Criteria. In determining whether a petition meets the standard
22 for approval under this subsection, the director shall consider the following
23 factors:

24 (a) The nature and extent of proposed development shown on the prior
25 permit or other application that initiated the project for which vested
26 rights are claimed;

27 (b) Whether the permit application submitted in connection with the
28 vested rights petition is related to and consistent with the original project;

29 (c) The nature and extent of prior development of the property,
30 including any permitting or construction activity that occurred
31 subsequent to the vesting date requested by the applicant;

32 (d) Any prior vested rights determinations made for development of
33 the property; and

34 (e) Whether the project has expired in accordance with Division 3
35 (*Expirations*) of this article or other applicable regulations.

1 (B) The director shall review a Type 2 (Continuing Use) petition for vested rights
2 under the criteria described in this subsection.

3 (1) General Standard. A permit application is entitled to use rights under
4 Section 43.002 of the Local Government Code to the extent that current
5 regulations would prohibit:

6 (a) continuing to use the land in the manner in which it was being used
7 on the date the annexation proceedings were instituted, if the land use
8 was legal at that time; or

9 (b) beginning to use land in the manner that was planned before the
10 90th day before the effective date of the annexation if:

11 (i) one or more licenses, certificates, permits, approvals, or
12 other forms of authorization by a governmental entity were
13 required by law for the planned land use; and

14 (ii) a completed application for the initial authorization was
15 filed with the governmental entity before the date the annexation
16 proceedings were instituted.

17 (2) Review Criteria. In determining whether a petition meets the standard
18 for approval under this subsection, the director shall consider the nature and
19 extent of development that:

20 (a) occurred on the property prior to initiation of annexation
21 proceedings, including photographs or other evidence substantiating the
22 use; or

23 (b) was proposed in one or more required applications submitted to a
24 governmental entity.

25 (3) Date of Annexation. For purposes of this subsection, annexation
26 proceedings are deemed to have been instituted on the date of the first public
27 hearing before the city council on the annexation ordinance for the property.

28 (C) The criteria in this section are intended to assist the director in reviewing Type
29 1 (Chapter 245) and Type 2 (Continuing Use) petitions for vested rights, but do not limit
30 the director from considering other factors relevant to the determination of rights for a
31 particular project. The director may consider whether a project is entitled to common law
32 vested rights if the project is not subject to Chapter 245 or Section 43.002 of the Local
33 Government Code.

34 **§ 25-1-543 EFFECT OF VESTED RIGHTS DETERMINATION.**

1 If the director approves a vested rights petition, any permit required to initiate,
2 continue, or complete the project shall be entitled to the development or continuing use
3 rights recognized by the vested rights determination, unless the project expires under
4 Division 3 (*Project Expiration*) of this article or other applicable regulations.

5
6 **§ 25-1-544 PROJECT CONSENT AGREEMENTS.**

7 (A) This section provides a voluntary mechanism for determining applicable
8 regulations where the extent of a project's vested rights are unclear and for incentivizing
9 projects with clearly established vested rights to achieve greater compliance with current
10 regulations.

11 (B) An applicant may submit a request for a project consent agreement to the
12 director, in writing, after the director issues a vested rights determination under Section
13 25-1-541 (*Vested Rights Determination*) and before the application expires under Section
14 25-1-82 (*Application Requirements and Expiration*). The request must identify:

- 15 (1) current regulations for which compliance would be required, other than
16 regulations exempt from vested rights protections under state law;
17 (2) additional restrictions on the nature and intensity of the proposed
18 development; and
19 (3) any modifications or waivers requested as a condition to the agreement,
20 including but not limited to provisions for the transfer or averaging of
21 impervious cover to include additional property or changes to the original
22 project that increase compatibility with adjacent land uses.

23 (C) The director may recommend a project consent agreement for approval to the
24 city council if the director finds that the agreement achieves a greater degree of
25 environmental protection or compatibility with adjacent land uses than would occur if a
26 project developed to the full extent of its claimed vested rights.

27 (D) In making a determination under Subsection (C) of this section, the director
28 shall consider:

- 29 (1) the degree to which vested rights for the project have been established;
30 (2) the importance of particular regulations to achieving adopted planning
31 goals or policies for the area in which the project is located; and
32 (3) a recommendation from the environmental officer regarding the
33 environmental benefits of the proposed agreement, if vested rights from the
34 regulations of Chapter 25-8 (*Environment*) are asserted for the project.

35 (E) The city council may consider approval of a project consent agreement under
36 this section only if the agreement is recommended by the director or initiated by the city

council. Before acting on a consent agreement, the council shall hold a public hearing and the director shall provide notice of the hearing under Section 25-1-132(B) (*Notice of Public Hearing*).

(F) In acting on a project consent agreement, the city council may approve, deny, or modify the agreement based on the standard applicable to the director's review under Subsections (C) and (D) of this section. A project consent agreement may waive or modify site development regulations applicable to a project as deemed appropriate by the city council.

(G) 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 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.

(H) A project consent agreement is subject to the expiration requirements specified in this subsection.

(1) A project consent agreement approved by the city council expires on the 90th day after approval, unless the applicant has submitted a complete site plan application for review by the director under the terms of the agreement.

(2) Following submittal of a site plan application, a project consent agreement expires if:

(a) the site plan application expires under Section 25-1-82 (*Application Requirements and Expiration*); or

(b) the site plan expires under Section 25-5-81 (*Site Plan Expiration*).

(3) In approving a project consent agreement, the city council may extend the expiration periods established under this subsection.

§ 25-1-545 ADMINISTRATIVE GUIDELINES.

(A) The director may adopt guidelines to assist in reviewing applications under Section 25-1-534 (*Vested Rights Petition Required*), Section 25-1-544 (*Project Consent Agreements*), and Section 25-1-553 (*Managed Growth Agreements*).

(B) Guidelines adopted under this section for review of vested rights petitions 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 25-1-554 (*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*).

DIVISION 3. EXPIRATIONS.

§ 25-1-551 EXPIRATION REQUIREMENTS GENERALLY.

(A) During the timeframes established under this division, a vested rights determination for a project approved under Section 25-1-541 (*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 25-1-541 (*Vested Rights Determination*) is based on a permit application that is submitted on or after {insert effective date of ordinance}, the project is subject to the expiration periods specified in Section 25-1-552 (*Expiration of Projects Begun On or After {Insert Effective Date}*).

(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.

(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.

§ 25-1-552 EXPIRATION OF PROJECTS BEGUN ON OR AFTER _____.

(A) The project expiration period established by this section applies if the vesting date approved for a project under Section 25-1-541 (*Vested Rights Determination*) is based on a permit application that is submitted on or after {insert effective date of ordinance}.

(B) If the vesting date approved for a project under Section 25-1-541 (*Vested Rights Determination*) is based on a preliminary plan, the project expires:

- (1) on the date the preliminary plan expires under Section 25-4-62 (*Expiration of Approved Preliminary Plan*) or Section 30-2-62 (*Expiration of Approved Preliminary Plan*); or

(2) for any lot that is platted before the preliminary plan expires, nine years after the date the preliminary plan application was submitted.

(C) If the vesting date approved for a project under Section 25-1-541 (*Vested Rights Determination*) is based on a final plat that is not associated with a preliminary plan, the project expires four years after the date the final plat application was submitted.

(D) If the vesting date approved for a project under Section 25-1-541 (*Vested Rights Determination*) is based on a fair notice application (new project) submitted under Section 25-1-536 (*Fair Notice Application*), the project expires one year after the date the application was submitted.

(E) If the vesting date approved for a project under Section 25-1-541 (*Vested Rights Determination*) is based on a site plan, the project expires on the date that the site plan expires under Chapter 25-5, Article 1, Division 4 (*Revision, Extension, and Replacement*) or other applicable regulation.

(F) If the vesting date approved for a project under Section 25-1-541 (*Vested Rights Determination*) is based on a building permit, the project expires on the date that building permit expires under Section 25-12-267 (*Expiration*) or other applicable regulation.

(G) If the vesting date approved for a project under Section 25-1-541 (*Vested Rights Determination*) is based on an application not specifically addressed in this section, the project expires on the date provided for a final plat under Subsection (C) of this section.

(H) Notwithstanding the expiration periods established in Subsections (B)-(G) of this section, a project expires nine years after the vesting date approved for the project under Section 25-1-541 (*Vested Rights Determination*).

§ 25-1-553 MANAGED GROWTH AGREEMENTS.

(A) This section provides a voluntary mechanism to request longer project expiration periods than those established under Section 25-1-552 (*Expiration of Projects Begun On or After {Insert Effective Date}*) for large-scale projects or projects located within a planned development center.

(B) A project may be considered for a managed growth agreement only if the project:

(1) is filed for review under current regulations;

(2) is located within the zoning jurisdiction, outside of the Barton Springs Zone; and

(3) does not require a variance, unless the project is limited to residential uses that do not require a site plan under Section 25-5-2 (*Exemptions*).

1 (C) An application for a managed growth agreement must:

- 2 (1) contain all information required by the director, including a proposed
3 project expiration date; and
4 (2) be submitted concurrent with the first application for the project or before
5 the review period expires.

6 (D) If an application for a proposed managed growth agreement meets the
7 requirements of Subsection (B) of this section, the director shall:

- 8 (1) schedule a public hearing on the proposed agreement and provide notice
9 of the hearing under Section 25-1-132(B) (*Notice of Public Hearing*); and
10 (2) make a recommendation to approve or deny the agreement based on
11 whether the project is likely to:
12 (a) require a longer period of time to construct than the timeframes
13 established under Section 25-1-552 (*Expiration of Projects Begun On or*
14 *After {Insert Effective Date}*);
15 (b) substantially further specific goals and policies of the Imagine
16 Austin Comprehensive Plan; and
17 (c) result in development that is environmentally superior to the
18 minimum standards applicable to the project under Chapter 25-8
19 (*Environment*), as determined based on a recommendation from the
20 environmental officer.

21 (E) The city council may approve or deny a proposed managed growth agreement
22 based on the criteria in Subsection (D)(2) of this section and may establish whatever
23 expiration period the council deems appropriate, but may not waive or modify current
24 regulations applicable to the project.

25 (F) If a managed growth agreement is approved under this section, the director shall
26 treat the project as vested to the regulations in effect on the date of the first application
27 until the date the agreement expires.
28

29 **PART 3.** City Code Chapter 25-1 (*General Requirements and Procedures*) is amended
30 to repeal Article 13 (*Dormant Projects*) and to add a new Section 25-1-554 to read as
31 follows:

32 **§ 25-1-554 DORMANT PROJECTS.**

33 (A) This section is adopted under Section 245.005 of the Local Government Code
34 to provide expiration dates for permits that lack an expiration date under applicable
35 regulations. This section does not apply to a permit that is subject to an expiration date

1 under the regulations applicable to the permit. For purposes of this section, a permit that
2 is not subject to an expiration date is an "unexpired permit."

3 (B) If an unexpired permit was approved prior to May 11, 2000, then the permit
4 expired on May 11, 2004, unless the applicant submits evidence sufficient to show that
5 progress towards completion of the project was made under Subsection (D) of this
6 section prior to May 11, 2000.

7 (C) If an application for an unexpired permit was submitted after September 5,
8 2005, then the permit expires five years after the permit was approved unless the
9 applicant submits evidence sufficient to show that progress towards completion of the
10 project was made prior to that date under Subsection (D) of this section.

11 (D) For purposes of this section, progress towards completion of a project includes
12 any one of the following:

- 13 (1) an application for a final plat or plan is submitted to a regulatory agency;
- 14 (2) a good-faith attempt is made to file with a regulatory agency an
15 application for a permit necessary to begin or continue towards completion of
16 the project;
- 17 (3) costs have been incurred for developing the project including, without
18 limitation, costs associated with roadway, utility, and other infrastructure
19 facilities designed to serve, in whole or in part, the project (but exclusive of
20 land acquisition) in the aggregate amount of five percent of the most recent
21 appraised market value of the real property on which the project is located;
- 22 (4) fiscal security is posted with a regulatory agency to ensure performance
23 of an obligation required by the regulatory agency; or
- 24 (5) utility connection fees or impact fees for the project have been paid to a
25 regulatory agency.

26 (E) If the first permit in a series of permits for a project expires based on dormancy
27 of the project, then it cannot form the basis of a vested rights petition.

28
29 **PART 4.** City Code Chapter 25-1 (*General Requirements and Procedures*) is amended
30 to repeal Article 7, Division 4 (*Special Exceptions*) and to renumber Division 5
31 (*Adjustments*) accordingly.

32
33 **PART 5.** Subsection (A) of City Code Section 25-1-2 (*Applicability of Regulations*) is
34 amended to read:

35 (A) Regulations in this title apply as follows:

(1) except as provided in Paragraph (5) and Subsection (B), all regulations apply to property in the zoning jurisdiction;

(2) except as provided in Subsection (B), water quality, utility district, city utility, and subdivision regulations apply to property in the planning jurisdiction;

(3) Chapter 25-1, Article 12 (*Vested Rights*) applies to projects in the planning jurisdiction;

(4) Chapter 25-12, Article 4 (*Electrical Code*) applies to a structure served by the City's electric utility;

(5)[(4)] Chapter 25-12, Article 6 (*Uniform Plumbing Code*) applies to a structure served by the City's water utility; and

(6)[(5)] Chapter 25-13 (*Airport Hazard and Compatible Land Use Regulations*) applies in the geographic area described in that chapter.

PART 6. City Code Section 25-1-82 (*Application Requirements*) is amended to read:

§ 25-1-82 APPLICATION REQUIREMENTS AND EXPIRATION.

(A) The responsible director may adopt rules establishing the requirements for an application.

(B) The responsible director or building official may permit an applicant to omit required information from an application that the responsible director or building official determines is not material to a decision on the application. An applicant who disagrees with a determination under this subsection may appeal the decision to the city manager.

(C) ~~[Except as provided in Subsection (B), the]~~ The responsible director or building official may not accept an application unless the application is determined to be complete in accordance with this subsection [and the applicant has paid the required fee].

(1) The responsible director or building official 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 or building official shall provide the applicant a written explanation identifying the deficiencies and the information required to complete the application 10 working 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 to provide

1 additional information and to correct deficiencies at any time before the
2 application expires.

3
4 **PART 7.** City Code Section 25-4-62 (*Expiration of Approved Preliminary Plan*) is
5 amended to read:

6 **§ 25-4-62 EXPIRATION OF APPROVED PRELIMINARY PLAN.**

7 An approved preliminary plan expires five years after the date the application for
8 approval of the preliminary plan is submitted:

9 ~~(1) in the drinking water protection zone, three years after the date the~~
10 ~~application for its approval is filed; or~~

11 ~~(2) in the desired development zone, five years after the date the application~~
12 ~~for its approval is filed].~~

13
14 **PART 8.** City Code Section 25-5-62 (*Extension of Released Site Plan by Director*) is
15 amended to add a new Subsection (D) to read as follows and to renumber the remaining
16 subsections accordingly:

17 (D) If a site plan is associated with a project that has expired for purposes of vested
18 rights under Chapter 25-1, Article 12, Division 3 (*Expirations*), the director may extend
19 the expiration date of the site plan one time for a period of one year under the
20 requirements of this subsection.

21 (1) If the site plan substantially complies with the requirements that would
22 apply to a new application, the director may grant an extension if the criteria in
23 Subsection (C) of this section are satisfied.

24 (2) If the site plan does not substantially comply with the requirements that
25 would apply to a new application, the director may grant an extension if the
26 there is good cause for the requested extension and:

27 (a) the applicant filed the original application for site plan approval
28 with the good faith expectation that the site plan would be constructed;
29 and

30 (b) the requirements for a traffic impact analysis under Subsection
31 (C)(2) of this section have been met; and

32 (c) the applicant constructed at least one structure shown on the
33 original site plan that is suitable for permanent occupancy; or

34 (d) the applicant has constructed a significant portion of the
35 infrastructure required for development of the original site plan.

1
2 **PART 9.** Subsection (B) of City Code Section 30-2-62 (*Expiration of Approved*
3 *Preliminary Plan*) is amended to read:

4 (B) Except as provided in Subsection [(B)] (C), an approved preliminary plan
5 expires:

6 (1) in the drinking water protection zone, five [~~four~~] years after the date of its
7 approval; or

8 (2) in the desired development zone, five [~~ten~~] years after the date of its
9 approval.

10
11 **PART 10.** Parts 1-8 of this ordinance takes effect on _____, 2014. Part 9 of this
12 ordinance takes effect on the effective date of a Travis County ordinance adopting an
13 amendment substantially identical to that contained in Part 9.
14

15 **PASSED AND APPROVED**

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19 _____, 2014

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Lee Leffingwell
Mayor

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24 **APPROVED:** _____

Karen Kennard
City Attorney

ATTEST: _____

Jannette S. Goodall
City Clerk