



ENVIRONMENTAL COMMISSION MOTION 20180404 007a

Date: April 4, 2018

Subject: Recommendation regarding CodeNEXT Draft 3 Drainage Regulations for Single Family Residential and Missing Middle/Residential Heavy Developments

Motion by: Katie Coyne

Seconded by: Linda Guerrero

Environmental Commission recommends approval of the proposed regulations for single-family residential and missing middle developments with the changes shown on the attached document and reflected in red text.

VOTE 6-2

For: Perales, Thompson, Istvan, Guerrero, Gordon, Coyne

Against: H. Smith, Creel

Abstain: Maceo

Recuse: None

Absent: B. Smith and Neely

Approved By:

Marisa Perales, Environmental Commission Chair

KEY

Green text = new or modified language for Draft 2. Purple text = new or modified language for Draft 3.

Article 23-2A: Purpose and Applicability

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Division 23-2A-1: Purpose and Applicability

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23-2 A-1010 Purpose

- (A) The purpose of this chapter is to:
 - (1) Establish common **procedures and** 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 23-1B-3020(A) (Designated Department and Areas of Expertise).

23-2 A-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 full-purpose jurisdiction, land use and development must comply with all applicable regulations of this Title;
 - (2) Within the extraterritorial jurisdiction, development must comply with all applicable regulations of:
 - (a) Chapter 23-2 (Administration and Procedures);
 - (b) Chapter 23-6 (Site Plan);
 - (c) Chapter 23-8 (Signage);
 - (d) **Chapter 23-12 (Airport Hazard)**;
 - (e) Chapter 23-5 (Subdivision), **Article 23-3D (Water Quality)**, and Chapter 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;
 - (f) **Division 23-11B-4 (Electrical Code)**, for a structure served by the City's electric utility; and
 - (g) **Division 23-11B-6 (Plumbing Code)**, for a structure's water supply system(s) or waste water system when the system is served by the City's water utility.

Overview of Legislative and Administrative Approvals

- (3) Within the limited-purpose jurisdiction, land use and development must comply with Chapter 23-4 (Zoning), Article 23-3C (Urban Forest Protection and Replenishment), and the regulations applicable in the extraterritorial jurisdiction under Subsection (A) (2);
- (4) Within the full or limited-purpose jurisdiction, land use and development must comply with regulations applied through a development agreement approved under Division 23-2L-2 (General Development Agreements), in accordance with Texas Local Government Code, Chapters 43 and 212, Subchapter G.

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

- (A) **Purpose and Applicability.** 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 by this Title, depending on the nature and extent of a proposed development. For a description of the characteristics and features of the different categories of decisions, see Section 23-1A- 3020 (Classification of Applications and Decisions).
- (B) **Overview Table.** Table (A) (Overview of Legislative, Quasi-Judicial, and Administrative Approvals) 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	Advisory Body	Decision Maker	Appeal
Legislative Decisions	Establishing Citywide Policies & Requirements for Land Use and Development			
Map amendments (rezones)	Division 23-4B-3	Land Use Commission	City Council	—
Text code 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	—

Table 23-2A-1030(A) Overview of Legislative, Quasi-Judicial, and Administrative Approvals				
Approval Type	Section, Article or Division	Advisory Body	Decision Maker	Appeal
Quasi-Judicial Decisions	Determining Rights or Entitlements Based on Evidentiary Hearing and Discretionary Application or Interpretation of Code Requirements			
Zoning variance	Section 23-4B-4020	—	Board of Adjustment	District Court
Special exception	Division 23-4B-4	Planning Director	Board of Adjustment	District Court
Administrative appeals re: zoning regulations	Article 23-2I	Planning Director	Board of Adjustment	District Court
Environmental variance	Section 23-3D-2060	Environmental Commission	Land Use Commission	—
Heritage tree variance	Section 23-3C-3040	Environmental Commission	Land Use Commission	—
Subdivision variance	Section 23-5B-1050	Development Services Director	Land Use Commission	—
Final plat or preliminary plan	Article 23-5B	Development Services Director	Land Use Commission	—
Conditional use permit	Section 23-4B-1020	Development Services Director	Land Use Commission	City Council
Administrative appeals re: technical codes	Article 23-2I	Building Official	Building & Fire Code Board of Appeals	—
Limited adjustment	Division 23-2F-3	Watershed Director	City Council	—
Project consent agreement	Section 23-2K-2040	Development Services Director	City Council	—
Administrative Decisions	Decisions Applying & Interpreting the Land Development Code			
General Land Use Decisions				
Nonconforming determination	Article 23-2G	—	Planning Director	Board of Adjustment
Code interpretation	Section 23-4B-2020	—	Planning Director	Board of Adjustment
Use determination	Section 23-4B-2030	—	Planning Director	Board of Adjustment
Decisions Relating to Site Plan Applications and Special Approvals				
Alternative equivalent compliance	Section 23-2F-2040	—	Development Services Director	—
Administrative environmental variance	Section 23-3D-2070	—	Watershed Director	—
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	—

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

Approval Type	Section, Article or Division	Advisory Body	Decision Maker	Appeal
Sign permit	23-8A-2010	—	Director or Building Official	
Decisions Regarding Applicability of Regulations				
Residential exemption (amnesty)	Section 23-2F-2020	—	Development Services Director	—
Vested rights approvals	Division 23-2K-2	—	Development Services Director	—
Land status determination	Section 23-5A-1040	—	Development Services Director	—
Subdivision Decisions				
Preliminary plan	Division 23-5B-2	Development Services Director	Land Use Commission	—
Final plat	Division 23-5B-3	Development Services Director	Land Use Commission	—
Minor plats	Section 23-5B-3060	—	Development Services Director	—
Subdivision construction plan	Division 23-5B-5	—	Development Services Director	—
Construction Level Permit Decisions				
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
Demolition permit	Article 23-7B	—	Building Official	—
Relocation permit	Article 23-7C	—	Building Official	—

Division 23-2A-2: Development Process

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23-2 A-2010 Order of Process

(A) If a proposed development requires two or more applications under this Title, higher level applications must be decided before subordinate applications. Applications should be decided in the following general sequence:

- (1) Legislative approvals:
 - (a) Comprehensive Plan amendments; and
 - (b) Zoning or rezoning.
- (2) Quasi-judicial approvals:
 - (a) Zoning variances and special exceptions;
 - (b) Environmental variances;
 - (c) Subdivisions and subdivision variances; and
 - (d) Conditional use permits.
- (3) Administrative approvals:
 - (a) Minor use permit;
 - (b) Site plan;
 - (c) Building permits; and
 - (d) Certificates of occupancy.

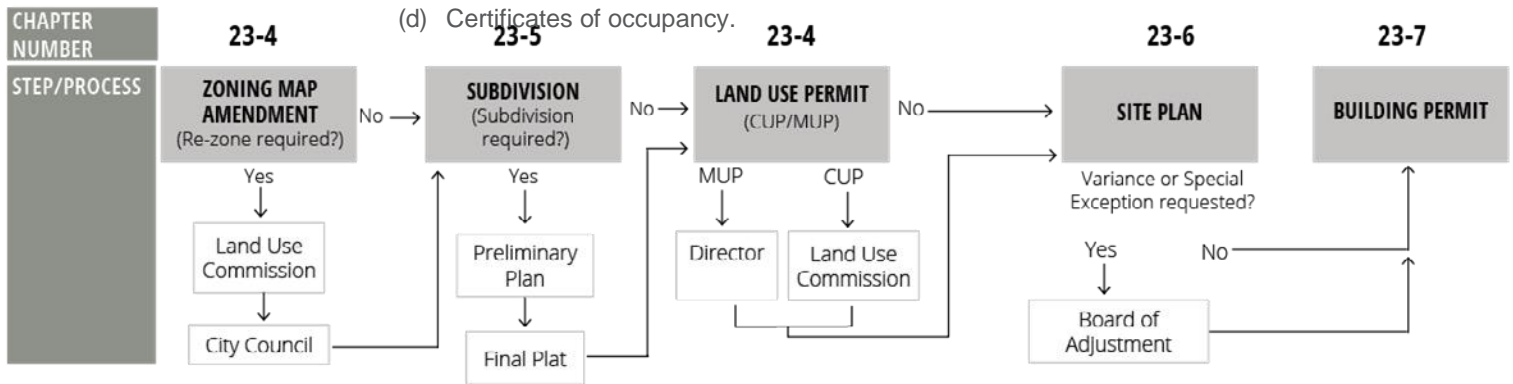


Figure 23-2A-2010 (1) Order of Process

- (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 responsible director shall prioritize it one level below the application type to which it is most similar.

23-2A-2020 Concurrent Applications

If a proposed development requires two or more approvals under this Title, the responsible director may allow the applications to be submitted concurrently. If concurrent applications are accepted, the applications may only be approved in the order established under Section 23-2A-2010 (Order of Process).

23-2A-2030 Transfer of Approval

A permit or other land use approval issued under this Title applies to the property or structure for which the approval was issued. If a permit or other approval issued under 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.



Division 23-2A-3: Residential Development Regulations

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23-2 A-3010 Purpose and Applicability

- (A) This division establishes regulations and review procedures applicable under the Land Development Code to residential development of one to six units per lot.
- (B) The purpose of this division is to ~~account for the varying capacity of residential projects to comply with this Title and to~~ better tailor applicable regulations and permit review procedures to a project’s overall scale and intensity. Recognizing the impacts that regulation may have on single-family residential housing construction projects, this division seeks to moderate the costs associated with ~~small-to-medium~~small-scale residential projects while still achieving meaningful compliance with this Title.

23-2 A-3020 Review Authority

- (A) Authority and responsibility for implementing this division is delegated to the Development Services Director, which is referred to in this division as “the director.” However, the city manager may from time to time delegate particular functions under this division to one or more other City departments, which shall control over the general delegation in this subsection.
- (B) In exercising authority under this division, the director may consult with other City departments regarding issues within that department’s area of expertise. For a summary of general functions performed by various City departments under this Title, see Section 23-1B-3020 (Overview of City Departments).

23-2 A-3030 One to Two-Unit Residential

(A) Applicability

- (1) This section specifies regulations and review procedures applicable under this Title to development associated with one to two residential units located on a lot or legal tract, except that development of a boat dock, bulkhead, or shoreline access is subject to all applicable requirements of this Title.
- (2) One and two-unit residential development that is subject to this section is exempt from regulations of this Title not specified under this section.

- (B) **Review Procedures.** An application to construct, remodel, or expand one to two residential units under this section:
- (1) Is exempt from the requirement for site plan approval under Section 23-6A-2010 (Site Plan Exemptions), but must include a residential development plan sufficient to determine whether the proposed development complies with the regulations in Subsection (C); and
 - (2) Requires An engineer's certification that any changes to existing drainage patterns will not negatively impact adjacent property if the construction, remodel, or expansion:
 - (a) Is more than 300 square feet; and
 - (b) Located on an unplatted tract or within a residential subdivision approved more than five years before the building permit application was submitted.
 - (3) To fulfill the requirement in subsection (B)(2), the engineer's certification must include back-up data relied upon by the engineer to support their professional opinion and sufficient to create a record capable of review by watershed protection staff and adjoining neighbors. City staff must conduct a substantive review of the submittal and determine whether it satisfies these regulations before construction of the project may commence. After completion of the construction project, City staff will inspect the construction, to verify compliance with this subsection, before a certificate of occupancy is issued.
 - (4) If the following conditions, below, are satisfied, then, the requirements in subsection (B)(2) and (3) above are exempted, and instead, a schematic must be submitted by a contractor demonstrating that any changes to existing drainage patterns will not negatively impact adjacent property if the construction, remodel, or expansion:
 - (a) the property under construction is owner-occupied;
 - (b) the construction, remodel, or expansion is less than 400 square feet; and
 - (c) the construction project is attached to the existing structure and is not a separate structure.
 - (5) Permitting fees associated with implementing this provision are waived in exchange for a commitment from the owner/developer of the project that the proposed development project (ADU) will provide affordable rental housing at 70% MFI or less for a period of at least 10 years.
- (C) **Development Regulations.** An application for new construction, remodel, or expansion must comply with the requirements described in this subsection.
- (1) **Zoning.** Compliance with all applicable regulations of Chapter 23-4 (Zoning Code) or a separately adopted zoning ordinance is required, including limitations on impervious cover.
 - (2) **Drainage.** Compliance with the following regulations is required:
 - (a) Section 23-10E-1030 (Obstruction of Waterways Prohibited);
 - (b) Section 23-10E-1040 (Duty to Maintain Unobstructed Waterways);
 - (c) Section 23-10E-2020 (Director Authorized to Require Erosion Hazard Zone Analysis);
 - (d) Section 23-10E-2030 (Floodplain Maps, Delineation, and Depiction);
 - (e) Erosion hazard zone requirements in Section 23-10E-3010 (Criteria For Approval Of Development Applications);
 - (f) Division 23-10E-4 (Special Standards in Zoning Jurisdiction); and
 - (g) Section 23-10E-5020 (Dedication of Easements and Rights-Of-Way).
 - (3) **Waterway Setbacks**
 - (a) Except as provided in Subsection (C)(3)(b):
 - (i) For a legal tract or a lot platted on or after October 28, 2013, compliance with

the waterway setback requirements established in Division 23-3D-4 (Waterway and Floodplain Protection);

- (ii) For a lot platted on or after May 18, 1986, but before October 28, 2013, compliance with the waterway setback requirements in effect on October 27, 2013, which shall be specified in the Environmental Criteria Manual; and
 - (b) For all properties located within 75 feet of the shoreline of Lake Travis, Lake Austin, Lady Bird Lake, or Lake Walter E. Long, compliance with the waterway setback requirements established in Division 23-3D-4 (Waterway and Floodplain Protection) is required.
- (4) **Tree Protection.** Compliance with the applicable requirements of Division 23-3C-2 (Young Public, Keystone and Protected Trees) and Division 23-3C-3 (Heritage Trees) is required.

- (5) **Construction on Slopes.** For a legal tract or a lot platted on or after May 18, 1986, compliance with all applicable requirements of Section 23-3D-8030 (Construction on Slopes) is required.
- (6) **Cut and Fill Standards.** Compliance with all applicable requirements of Sections 23- 3D-8060 (Cut Standards) and Section 23-3D-8070 (Fill Standards) is required.
- (7) **Erosion and Sedimentation.** Compliance with all applicable requirements of Division 23-3D-7 (Erosion and Sedimentation Control).
- (8) **Technical Codes.** Compliance with all applicable requirements of Chapter 23-12 (Technical Codes) is required.
- (9) **Plat Restrictions.** Compliance with municipal regulatory restrictions on a recorded plat or covenant is required, to the extent the restrictions are determined to apply.

23-2 A-3040 Three to Six-Unit Residential

(A) Applicability

- (1) This section specifies regulations and review procedures applicable to development associated with three to six units on a platted residential lot, except that this section does not apply to development that:
 - (a) Includes a boat dock, bulkhead, or shoreline access;
 - (b) Exceeds 45 percent impervious cover;
 - (c) Is on a lot that was not originally part of a residential subdivision;
 - (d) Is located in the Barton Springs Zone; or
 - (e) Requires a variance from the Land Use Commission.
 - (2) Three to six-unit residential development that is subject to this section is exempt from regulations of this Title not specified under this section.
- (B) **Review Procedures.** An application to construct, remodel, or expand three to six residential units under this section: [revise to correspond with 3030 revisions above.]
- (1) Is exempt from the requirement for site plan approval under Section 23-6A-2010 (Site Plan Exemptions), but must include a residential development plan sufficient to determine whether the proposed construction complies with the regulations in Subsection (C); and
 - (2) Must include an engineer's certification that any changes to existing drainage patterns will not negatively impact adjacent property if the construction, remodel, or expansion:
 - (a) Is more than 300 square feet; and
 - (b) Located on an unplatted tract or within a residential subdivision approved more than five years before the building permit application was submitted.

- (C) **Development Regulations.** A building permit application submitted under this section must comply with the requirements described in Subsection 23-2A-3030(C) (One to Two- Unit Residential), except that regulations for tree protection are modified as provided under Division 23-3C-2 (Young Public, Keystone, and Protected Trees).
- ~~(D) **Reduced Application Fees.** To facilitate residential development under this section, review and inspection fees required by this Title may be reduced as established by separate ordinance.~~
- ~~(D) Permitting fees associated with implementing this provision are waived in exchange for a commitment from the owner/developer of the project that the proposed development will provide affordable housing at 70% MFI or below.~~

23-2 A-3050 Variances

- (A) An applicant may request:
 - (1) A variance or special exception from the Board of Adjustment under Division 23-4B-4 (Criteria for Variances and Special Exceptions) from any zoning regulation applicable to proposed development under this division;
 - (2) For a one to two-unit residential project, a variance from the Land Use Commission, consistent with applicable requirements of Section 23-3D-2060 (Exceptions and Variances); or
 - (3) For a three to six-unit residential project, an administrative modification under Section 23-2D-2070 (Administrative Modifications).
- (B) An applicant for a residential development permit subject to this division may not obtain a variance from requirements specifying which regulations of this Title apply under Section 23-2A-3030 (One to Unit-Residential) or Section 23-2A-3040 (Three to Six-Unit Residential).