

Late BackupOPTION C
April 26, 2018*Allen***RESOLUTION NO.**

WHEREAS, the City Council established the Planning Commission by ordinance in 1945, and since that time the Commission has been tasked with performing significant and complex regulatory functions on behalf of the City of Austin; and

WHEREAS, these vital functions include acting as the City's "zoning commission" in accordance with Chapter 211 of the Texas Local Government Code, which mandates that the Commission provide reports to the City Council on proposed changes to the City's zoning ordinances; and

WHEREAS, the Planning Commission also acts as the sovereign body responsible for approving subdivision plats under Chapter 212 of the Texas Local Government Code and various administrative decisions relating to water quality, drainage, and other development regulations; and

WHEREAS, in addition to its enabling authority under state law, the Planning Commission is subject to Article X of the Austin City Charter, which sets forth additional responsibilities and functions as well as membership and operational requirements; and

WHEREAS, among other requirements, Art. X § 2 of the City Charter requires that "a minimum of two thirds of [the Planning Commission] shall be lay members not directly or indirectly connected with real estate and land development"; and

WHEREAS, Art. X § 2 was added to the charter in 1994 in response to concerns that real estate speculators and commercial developers exerted too much influence over land use planning decisions; and

WHEREAS, the City Council is committed to complying with the charter and to ensuring that the Planning Commission includes members with a diverse range of perspectives and backgrounds; and

WHEREAS, as a matter of practice, the City has not interpreted Art. X Sec. 2 to limit the number of members who may possess professional backgrounds relevant to the Planning Commission's regulatory functions, including architecture and civil engineering, or how many members may own rental or investment properties; and

WHEREAS, based on the meaning and intent of Art. X § 2, the City Council interprets "real estate" to mean business transactions involving real property and "land development" to mean construction activity that significantly alters the underlying land or requires enhanced entitlements that increase a property's development potential; and

WHEREAS, the mix of professional backgrounds among Planning Commission members changes over time based on the availability of residents to serve on the Commission, which is a working body that requires a substantial commitment of time by all members in order to fulfill its duties; and

WHEREAS, the City Council fully supports all members now serving on the Planning Commission, but believes that clearer criteria are necessary and desirable to ensure that future appointments comply with the Art. X § 2 of the City Charter;
NOW THEREFORE,

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

1. Criteria for Applying Art. X § 2 to Planning Commission Appointments.

- (A) When considering appointments to the Planning Commission, the City Council shall apply the criteria in Subsection (B) to determine whether a potential appointee or current member is “directly or indirectly connected with real estate and land development” for purposes of Art. X § 2 of the City Charter. If the Council determines that four or more members satisfy the criteria in Subsection (B), the Council may not appoint additional members who meet those criteria.
- (B) A person shall be deemed to be “directly or indirectly connected with real estate and land development” if the person:
 - (i) actively develops or finances the development of property within the City of Austin’s planning jurisdiction in a manner that requires changes to applicable regulations or entitlements, including zoning or rezoning, or which requires approval of a final subdivision plat; or
 - (ii) derives substantial income from the sale of real estate within the City of Austin’s planning jurisdiction, other than the sale of a primary homestead.
- (C) A person shall not be deemed to be “directly or indirectly connected with real estate and land development” due to activities conducted on behalf of a nonprofit organization or governmental entity.

2. Administrative Requirements.

- (A) The City Clerk is directed to provide a questionnaire for applicants to open positions on the Planning Commission designed to assist the Council in determining whether an individual is “directly or indirectly connected with

real estate and land development” under the criteria established in Section 2 of this resolution.

(B) The City Clerk is directed to begin requiring completion of the questionnaire for subsequent applications to serve on the Planning Commission.

3. **Enforcement.** The City Manager is directed to create and bring back for approval a process for removing Planning Commissioners if the Commission’s composition does not comply with the City Charter. If a charter amendment is required to remove Planning Commissioners, the City Manager is directed to bring back potential charter amendments for Council’s consideration.

ADOPTED: _____, 2018 ATTEST: _____
Jannette S. Goodall
City Clerk