

Special Report

Planning and Development Notification Process

June 2023



Planning and development notifications help to keep the community informed about the type of development projects being proposed and approved in their neighborhoods. The City of Austin has more expansive notification requirements than peer cities in both the area and number of people notified. Most cities had similar events that trigger these notifications and most provide similar information.

Also, most cities used similar methods to provide notifications. Mail, newspapers, and posted signs were the three most common methods. A few cities adopted electronic notification methods to increase public awareness with minimal additional costs. Best practice guidance noted cities should determine a public participation methodology that fits their needs and capabilities. Recommended strategies include using multiple methods that will have the highest impact to reach members of the public. This includes using plain language in all notification materials.

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Cover Photo: Photo by Omar Francia accessed in June 2023 through City of Austin Brand Portal

Objective

The objective of this special request was to provide the following information requested by the City Council:

1. How does the City of Austin’s planning and development notification compare to peer cities, including the information provided, parties notified, and triggering events that result in required or discretionary mailings?
2. What are best practices to increase public awareness and reduce the cost and waste of mailings in planning and development notification?

This report covers the notification process for the following types of planning and development cases in the City of Austin:

- Zoning/Rezoning Changes
- Administrative Site Plans
- Variances or Waivers
- Hill Country Roadways
- Neighborhood Plan Amendment
- Plan Unit Development
- Conditional Use Permits
- Preliminary Subdivision
- Deletion of a Zoning Site Plan
- Telecommunication Towers
- Outdoor Music Venue Permits
- Managed Growth Agreements

Background

In the City of Austin, public notifications are generally required for applications and reviews for zoning changes, development site plans, and subdivision changes. The City’s planning and development notification process is mainly guided by the City Code. Planning and development notifications help to keep the community informed about the type of development projects being proposed and approved in their neighborhoods.

During fiscal year 2022, the City’s financial system and relevant staff indicated planning and development notification expenditures were at least \$330,000. These notification activities are mainly managed through staff in the Development Services Department (DSD) and the former Housing and Planning Department (HPD). DSD is responsible for creating notices related to development application cases and HPD is responsible for creating notices related to plan amendments and zoning cases. The City contracts with a third-party to mail out the notices. DSD is responsible for coordinating with the contractor to ensure notices are mailed to all applicable recipients.

What We Learned

Summary

Planning and development notifications help to keep the community informed about the type of development projects being proposed and approved in their neighborhoods. The City of Austin has more expansive notification requirements than peer cities in both the area and number of people notified. Most cities had similar events that trigger these notifications and most provide similar information.

Also, most cities used similar methods to provide notifications. Mail, newspapers, and posted signs were the three most common methods. A few cities adopted electronic notification methods to increase public awareness with minimal additional costs. Best practice guidance noted cities should determine a public participation methodology that fits their needs and capabilities. Recommended strategies include using multiple methods that will have the highest impact to reach members of the public. This includes using plain language in all notification materials.

Question 1

How does the City of Austin’s planning and development notification compare to peer cities?

To compare planning and notification processes, we surveyed eight cities including Dallas, El Paso, Fort Worth, and San Antonio in Texas as well as Denver, Portland, San Francisco, and Seattle. Specifically, we collected information on notification triggering events, parties notified, and information provided.

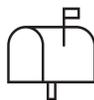
We noted each city has several types of planning and development applications which require public notice at specific points in the review process. Each city’s notification process is generally guided by their applicable land use code.

What are the notification triggers?

Austin and the peer cities have established required planning and development notices and the triggers for those notices are generally similar among all cities.

Exhibit 1: Key types of planning and development notices and notice triggers are similar for most cities

Notice of Receipt of Application



Triggered when an application is submitted

Notice of Administrative Decision



Triggered to communicate an administrative decision on applications where the final decision-making authority is the city staff/department.

Notice of Public Hearing



Triggered to communicate notice of a public hearing at which an applicable commission or board, and/or a city council will review an application

Source: OCA analysis of peer city regulations related to planning and development notification, May 2023

Some cities, including El Paso, Denver, Portland, San Francisco, and Seattle require a pre-application community engagement for specific types of applications. In such instances, a developer is required to send out a notification (notice of proposal) to the applicable recipients and hold a community engagement meeting before submission of an application.

Types of notification methods

Austin and the peer cities commonly use three types of notification methods including paper mailings¹, published notices in a newspaper², and onsite posting of signs. Some cities use electronic methods including website postings and email notices.

Exhibit 2: Most cities use three common types of planning and development notices

City	Mail	Onsite posting (Signs)	Published in newspaper	Posted on city website	Email*
Austin	✓	✓	✓	**	**
Dallas	✓	✓	✓		
El Paso	✓	✓	✓		
Fort Worth	✓	✓	✓		
San Antonio	✓	✓	✓	✓	✓
Denver, CO	✓	✓	✓		✓
Portland, OR	✓	✓			✓
San Francisco, CA	✓	✓	✓	✓	
Seattle, WA***	✓	✓	✓		✓

* Only if the recipient provided an email address

** Austin sends emails to organizations on a community registry and posts information on a public input website for Neighborhood Plan Amendments

*** Seattle also posts the public notice in a city Land Use Information Bulletin and files the notice with a state public information center

Source: OCA analysis of peer city regulations related to planning and development notification, May 2023

Who is notified?

All the cities have established guidance on who should receive notifications. The guidance is generally determined by two factors, location in a notification area and being part of a defined stakeholder group. Definitions for these factors vary among cities.

Notification area

All cities require notices to be sent to identified recipients within a specified radius. The notification distance varied among cities, generally ranging from 100 to 500 feet from the boundary of the subject property.

¹ In Texas, Local Government Code section 211.007(c) says “written notice ... shall be sent to each owner, as indicated by the most recently approved municipal tax roll, of real property within 200 feet of the property on which the change in classification is proposed. The notice may be served by its deposit in the municipality, properly addressed with postage paid, in the United States mail.”

² In Texas, Local Government Code section 211.006(a) says notice “must be published in an official newspaper or a newspaper of general circulation in the municipality.”

Exhibit 3: Notification distances varied among peer cities

City	Notification Radius (in ft)	Details of the notification area
Austin	500	Within 500 feet of the subject property/site of the proposed development.
Dallas	200 - 500 (1,000)	Ranges from 200 to 500 feet of the subject property/site of the proposed development. In some cases, the notification areas for specific type of developments vary by the acreage of the subject development. For example, the notification area for applications related to: <ul style="list-style-type: none"> Planned development districts is 500 feet Zoning ranges from 200 to 500 feet based on acreage Gas drilling and production applications is 1,000 feet.
El Paso	200 - 300 (500)	Ranges from 200 to 300 feet based on the type of application. For example, the notification area related to: <ul style="list-style-type: none"> Plat applications is 200 feet Applications for special permits and amendments to zoning is 300 feet (extends to 500 feet for a wireless service or public utility facility).
Fort Worth	300	Within 300 feet of the subject property/site of the proposed development.
San Antonio	200	Generally, within 200 feet of the subject property/site of the proposed development. For applications related to historic preservation, the notification area includes the entire applicable historic district.
Denver, CO	200 - 400	Within 200 feet of the subject property/site of the proposed development. For a required pre-application meeting, the notification radius is 400 feet.
Portland, OR	100 - 600 (1,000)	Ranges from 100 and 600 feet of the subject property/site of the proposed development based on the application type and even within the same application type. Portland extends the notification area for some applications to 1,000 feet.
San Francisco, CA	150 - 300 (1,000)	Within 150 feet of the subject property/site of the proposed development, but there are two exceptions. For example, the notification area related to: <ul style="list-style-type: none"> Conditional Use applications is 300 feet Sutro Tower applications is 1000 feet.
Seattle, WA	300	Within 300 feet of the subject property/site of the proposed development.

Source: OCA analysis of peer city regulations related to planning and development notification, May 2023

Stakeholder group

All cities notify the applicant and owners of real property within the established notification area. Seven cities, including Austin, also notify registered environmental organizations and/or neighborhood organizations. Austin and a few other cities notify individuals who request to be notified. Practices unique to specific cities include:

- Austin notifies holders of a utility account
- El Paso provides a single notification to the property manager for any multifamily dwellings within an established notification area
- Denver notifies unregistered neighborhood organizations

Exhibit 4: All cities notify the applicant and property owners within the notification area

City	Applicant and owner	Owners of real property	Parties to an appeal	Environmental or neighborhood organizations	Physical address	Council members
Austin	✓	✓	✓	✓	✓	
Dallas	✓	✓		✓		
El Paso	✓	✓	✓			
Fort Worth	✓	✓		✓		
San Antonio	✓	✓		✓		
Denver, CO*	✓	✓		✓		✓
Portland, OR**	✓	✓		✓	✓	
San Francisco, CA	✓	✓	✓	✓	✓	
Seattle, WA	✓	✓				

* Denver requires that tenants are notified when a pre-application meeting is needed

** For a pre-application community meeting notification, notice is provided to applicable organizations

Source: OCA analysis of peer city regulations related to planning and development notification, May 2023

What Information is provided?

Notice of application

This notice generally describes the nature of the application and proposed development. The notice also identifies the applicant, location of the proposed site, and the entity that may approve the application. Specific information includes the date that action under a decision may occur as well as the address and telephone number of the office from which additional information may be obtained. Practices unique to specific cities include:

- Austin’s notice of application describes the procedure and requirements for becoming an interested party as well as the procedure for an appeal (if the decision may be appealed)
- El Paso’s notice contains waiver requests and justifications as well as a vicinity map showing the adjacent property owners
- The notice in Portland and San Francisco contains a site plan that includes the proposed development and a statement providing a place where information can be viewed
- Seattle includes information such as a list of the project permits included in the application, a statement of the preliminary determination (if one has been made at the time of notice) of the development regulations that will be used for project mitigation and consistency with development regulations, existing environmental documents that evaluate the proposed project, and the location where the application and any studies can be reviewed

Notice of public hearing

Public hearing notices generally describe the subject matter of the hearing. Specifically, they identify the applicant and location of the subject property/site; the body holding the public hearing; the time, date, and place of hearing; and the address and telephone number of the office from which additional information may be obtained. If applicable, the notices describe the procedure and requirements for an appeal. Also, El Paso's notice contains an electronic link to the city's website containing the City Council agenda.

Question 2

What are best practices to increase public awareness and reduce the cost and waste of mailings in planning and development notification?

Public participation and input are a critical part of land use planning and development. The public must be aware of planning and participation activities before they can participate. Notifying the public of land development applications gives residents the opportunity to provide input into planning and development efforts and decisions.

Notification methods to increase public awareness

We did not identify any single, agreed-upon best practice methodology to increase awareness. Rather, organizations must determine a public participation methodology that fits their needs and capabilities. As stated above, the City of Austin currently notifies the public of development applications through mail, newspaper advertisements, and posting onsite signs. Exhibit 5 shows some of the key methods, highlighted by other cities, aimed at improving and increasing public awareness of land development applications.

Exhibit 5: Public notification methods include hard copy and electronic formats

Notification Method
Direct mail
Newspaper advertisement
Placard/Onsite signage
Postcard
Newsletter
Email notification
Website/webpage/official city internet sites
Online application listing/online development portal
Social media postings via Facebook and Twitter

Source: OCA analysis of peer city reports related to planning and development notification, April 2023

Also, other recommended strategies for ensuring effective public notification include:

- Identifying notification methods that will have the highest impact in terms of reaching the public – this includes considering factors such as how many people have access to computers, smartphones, or an email address as well as how comfortable people are using technology
- Using multiple methods to ensure as many residents as possible are notified and can access information to become informed on developments that interest them
- Using plain language text for the various notifications and communication materials

Notification costs

In most cities we surveyed, including Austin, the applicant is required to pay for notification costs. Notification costs are driven by a number of factors including the mandated notification area, the number of people that have to be notified, and the notification methodology. As noted above, some cities have added electronic methods of notification as a cost-effective way to increase public awareness. It appears the City of Austin has not done an evaluation on the current notification methods to identify what methods would best suit the City's needs in terms of reaching stakeholders and reducing associated costs.

We noted the other Texas cities are generally more aligned to State notification requirements as compared to Austin. Austin City Code expands on State law requirements both in terms of notification area and the number of stakeholders that have to be notified. For example, the State only requires notice within 200 feet of the applicable property, while Austin requires notice within 500 feet. In addition, State law requires that only property owners within the notification area be notified. Austin requires that additional recipients are notified, including registered environmental or neighborhood organizations and utility account holders within the notification area.

We looked at the impact on mail notification costs associated with Austin's expanded notice requirements. Specifically, City staff provided notification figures for three cases of development applications. We compared the number of notifications that would be sent out following the state and City of Austin requirements. The total number of notifications were calculated on the basis that each case received a notice of application and two public hearing notices (for a commission and Council public hearings). As shown in Exhibit 6, the number of notifications, and associated costs, increased at least 12 times due to the expansion of the notification area and number of recipients.

Exhibit 6: The City's current notification requirements significantly increase the number of notifications sent as compared to State of Texas requirements

Case	Number of notifications based on <u>State of Texas</u> requirements (200 feet/ only property owners)	Number of notifications based on <u>City of Austin</u> requirements (500 feet/expanded recipients)	Approximate factor <u>increase</u> in the number of notifications
1	57	702	+ 12 times
2	60	1,680	+ 28 times
3	90	4,125	+ 46 times

Source: OCA analysis of the City of Austin development notification reports, May 2023

Exhibit 7 shows the difference in notifications if Austin kept the same requirement for recipients, but reduced the notification area to 200 feet.

Exhibit 7: The City could reduce the number of notifications that need to be sent by reducing the notification area to a level that aligns with State law and most peer cities

Case	Number of notifications based on <u>City of Austin</u> requirements (500 feet/ expanded recipients)	Number of notifications based on <u>City of Austin</u> requirements with reduced notification area (200 feet/expanded recipients)	Approximate factor <u>decrease</u> in the number of notifications
1	702	432	- 1.6 times
2	1,680	636	- 2.6 times
3	4,125	1,722	- 2.4 times

Source: OCA analysis of the City of Austin development notification reports, May 2023

Why We Did This Report

This report responds to a request sponsored by Council Member Ryan Alter and co-sponsored by Council Member Kelly. The request aimed to understand the City's planning and development notification process including how the City's process compares to those of other cities.

Scope

This project included the City's current planning and development notification process.

Methodology

To complete this special request, we performed the following steps:

- interviewed staff from the City of Austin's Development Services, Law, and Planning departments about the planning and development notification process
- selected relevant, comparable peer cities
- reviewed State of Texas, City of Austin, and peer city rules and regulations about the planning and development notification process
- researched the land development code and related information about the planning and development notification process for the City of Austin and the peer cities
- researched best practices related to planning and development notifications, specifically those aimed at increasing public awareness and reducing notification costs
- selected three City of Austin development application cases and compared the number of notifications that would be sent based on current state requirements as compared to current Austin requirements

Project Type

Special request projects conducted by the Office of the City Auditor are considered non-audit projects under Government Auditing Standards and are conducted in accordance with the ethics and general standards.

The Office of the City Auditor was created by the Austin City Charter as an independent office reporting to City Council to help establish accountability and improve City services. Special requests are designed to answer specific questions to assist Council in decision-making. We do not draw conclusions or make recommendations in these reports.

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