

ORDINANCE AMENDMENT REVIEW SHEET DRAFT**Amendment: C20-2023-020 Zoning Application Processes and Deadlines**

Description: Amendments to City Code Title 25-1 and 25-2 to create a six-month pilot program modifying certain deadlines related to zoning and rezoning applications and neighborhood plan amendment applications.

Background: Initiated by City Council [Resolution 20230608-078](#).

On June 8, 2023, City Council approved [Resolution 20230608-078](#) directing staff to create a six-month pilot program that extends certain deadlines related to zoning and rezoning applications.

At the Planning Commission public hearing on September 26, 2023, the Planning Commission approved city staff's recommended code amendments unanimously with additional amendments. The Planning Commission's amendments are as follows:

- (1) Review by Planning Commission and Council prior to extension or termination of the pilot program is required.
- (2) A status update shall be furnished to the Planning Commission three months following the adoption of the pilot program.
- (3) Enhance process improvements and staff efficiency to reduce redundant staff tasks, streamline operations and revise policies to integrate and combine neighborhood plan amendment and zoning case information within meeting backup materials and agenda postings.
- (4) Except for Council meetings, Land Use Commission meetings, including make up dates which may commence on nontraditional meeting days, shall be prioritized for meeting room reservations to ensure public hearings are conducted in a timely manner.

The Planning Commission amendments have been incorporated in the proposed code amendments below.

Summary of Proposed Code Amendment: The following are proposed amendments to City Code Title 25-2 to create a six-month pilot program modifying certain deadlines related to zoning and rezoning applications. The six-month pilot program is proposed to extend deadlines, as follows:

1. The deadline for a Land Use Commission to hold a public hearing after an application is filed will extend from 60 days to 120 days ([Sec. 25-2-282 Land Use Commission Public Hearing and Recommendation](#)).
2. The deadline for City Council to hold a public hearing after the Land Use Commission makes a recommendation will extend from 40 to 80 days ([Sec. 25-2-283 City Council Zoning Hearing and Action](#)).
3. An application expiration will extend from 181 days to 362 days after it is filed if a public hearing before a Land Use Commission has not been scheduled ([Sec. 25-2-246 Expiration of Application](#)).

4. An application expiration will extend from 181 days to 362 days after it is filed if the Land Use Commission or City Council grants an indefinite postponement ([Sec. 25-2-246 Expiration of Application](#)).

Neighborhood plan amendment and rezoning and zoning applications are often submitted and approved concurrently. To align neighborhood plan amendment application deadlines with zoning and rezoning application deadlines, the following amendments are proposed to City Code Title 25-1 to create a six-month pilot program modifying certain deadlines related to neighborhood plan amendments:

1. The deadline for a Land Use Commission to hold a public hearing after an application is filed will extend from 90 days to 120 days ([Sec. 25-1-808 Land Use Commission Public Hearing and Recommendation](#)).
2. The deadline for City Council to hold a public hearing after the Land Use Commission makes a recommendation will extend from 40 to 80 days ([25-1-809 City Council Hearing and Recommendation](#)).
3. An application expiration will extend from 181 days to 362 days after it is filed if a public hearing before a Land Use Commission has not been scheduled ([25-1-807 Expiration of Application](#)).
4. An application expiration will extend from 181 days to 362 days after it is filed if the Land Use Commission or City Council grants an indefinite postponement ([25-1-807 Expiration of Application](#)).

The pilot program will expire six months after the commencement date as specified in the adopted ordinance unless the City Council or City Manager deems it necessary to terminate the program before that date. Before deciding on an extension or termination, the Planning Commission and City Council will conduct a required review of the pilot program. Additionally, a status update must be provided to the Planning Commission three months following the adoption of the pilot program. If an extension is deemed necessary, an item will be placed on the City Council agenda prior to the expiration date in the Ordinance to consider extending the pilot program for an additional six months.

To ensure the success of the pilot program, process improvements will be implemented, and staff efficiency will be enhanced to reduce staff workload. Operations will also be streamlined, and policies revised to combine backup and posting language for neighborhood plan amendments and zoning/rezoning cases into meeting backup materials and agenda postings for cases moving concurrently through the review process.

To maximize the efficiency of the pilot program, the Planning Department supports the Planning Commission's proposed amendment that will give priority for meeting room reservations to the Land Use Commission meetings, including make-up dates that may occur on nontraditional meeting days. This prioritization will help ensure that public hearings are conducted in a timely manner, with the exception of City Council meetings.

Code Amendment Text Changes: See draft redline.

Staff Recommendation: Recommended with Planning Commissions additional amendments.

Council initiated a proposed pilot program to allow for a more thorough review process for applicants and to mitigate the expiration of zoning and rezoning applications. Currently, the process for preventing the expiration of zoning and rezoning case applications consists of public notification of the anticipated public hearing as required by [Section 25-1-82\(A\)](#) of the Code, then subsequently announcing a postponement of the case during the scheduled Land Use Commission and/or City Council meeting. Public hearing postponements have increased due to the high volume of complex zoning and rezoning applications (which include Planned Unit Developments and Restrictive Covenant Terminations) that have been filed with the City of Austin. In 2023, the Zoning division has postponed a high volume of zoning and rezoning applications, the most prevalent reason being the need for continued interdepartmental review.

The pilot program will extend the timeframe for project due diligence and negotiations and mitigate the possible expiration of zoning cases and the associated [fees](#) should the applicant need to re-file their application. The pilot program will allow for increased predictability of public hearing opportunities for community stakeholders.

The perceived disadvantage of the pilot program is that extended deadline(s) will delay the zoning review process. With additional zoning staff and consultant augmentation, the intention is not to delay, but rather to meet existing public hearing scheduling deadlines of 40, 60, and 181 days after the date of an application filing. The extensions are intended to allow for more predictability for applicants. Should the proposed pilot program not be approved, public hearing scheduling requirements and the number of postponements will remain status quo.

Below are examples of recent zoning and rezoning postponements:

C814-2021-0175 – On March 14, 2023, the Planning Commission approved a 3rd staff request for an indefinite postponement to keep the PUD application in review.

C14-2022-0092 – On June 6, 2023, the Zoning and Platting Commission approved a 2nd indefinite postponement request for the applicant to continue to work with the Watershed Protection Department.

C14-2022-0162 – On May 9, 2023, the Planning Commission granted the staff request for an indefinite postponement to prevent the case from expiring.

C14-77-138(RCT) – On May 9, 2023, the Planning Commission granted the staff request for an indefinite postponement to prevent the case from expiring.

C14-2023-0005 – On July 18, 2023, the ZAP Commission granted the staff request for an indefinite postponement to keep the case in review.

C14-2022-0035 - Case received on March 21, 2022. This case had to be noticed for August 9, 2022, PC to keep the case from expiring as applicant was not ready to move forward.

C14-2022-0174 - Case received on December 14, 2022. This case had to be noticed for June 13, 2023, PC to keep the case from expiring. The applicant wanted an associated case to be on the same agenda, which ultimately was July 25, 2023.

C814-2021-0175 – On March 14, 2023, the Planning Commission approved a 3rd staff request for an indefinite postponement to keep the PUD application in review.

C14-2022-0092 – On June 6, 2023, the Zoning and Platting Commission approved a 2nd indefinite postponement request for the applicant to continue to work with the Watershed Protection Department.

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C14-2023-0005 – On July 18, 2023, the ZAP Commission granted the staff request for an indefinite postponement to keep the case in review.

In addition, staff recommends modifying the same deadlines for neighborhood plan amendment applications. Neighborhood plan amendments and zoning and rezoning cases are often submitted, reviewed, and approved concurrently. To ensure the application timelines do not conflict, similar deadlines are proposed to be extended with the six-month pilot program.

Furthermore, staff recommends incorporating the Planning Commission amendments from the September 26, 2023, Planning Commission public hearing. The amendments are listed within the background section and included in the proposed text amendments section.

Planning Commission Action:

September 26, 2023 – Unanimously recommended with amendments. Commissioners Howard, Mushtaler, and Hempel noted as absent.

Council Action:

September 21, 2023 – City Council Set the Public Hearing

October 19, 2023 – City Council Conduct Public Hearing

Sponsor Department: Planning Department

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Staff Response to Planning Commission Questions

Code Amendment: C20-2023-020 Zoning Application Processes and Deadlines

Date Received: August 22, 2023

1. What is the duration of time required for training new case managers to the point of facilitating applications through the public hearing process?

New zoning case managers undergo approximately three months of comprehensive training to prepare them for reviewing and presenting zoning cases before Land Use Commissions. This training covers various aspects, including:

- Zoning case and map analysis
- Incorporating feedback from City departments
- Public notification procedures
- Staff report preparation
- Managing zoning ordinance requests
- Agenda postings for Land Use Commission and Council
- Effective stakeholder communication

This training ensures that zoning case managers are well-prepared to handle zoning cases proficiently and engage with stakeholders and decision-making bodies.

2. Elaborate on the number of “high volume of complex zoning applications” and how the applications compare to the last 5 years, both in terms of volume and complexity.

Today, the majority of zoning cases present greater complexity compared to those filed in previous years. This increased complexity arises from various factors, including modifications to specific regulating plans such as the East Riverside Corridor (ERC) and Transit-Oriented Developments (TODs), changes in review processes, amendments to the City Code, and shifts in Council priorities. Here are several examples of challenging zoning cases currently in progress:

1. Zoning cases within the East Riverside Corridor, which may involve displacement issues and necessitate meetings prior to Planning Commission meetings hosted by zoning staff.
2. Amendments to properties located within TODs, requiring extensive research and coordination with the Urban Design division.
3. Zoning cases involving restrictive covenant amendments within the Oak Hill neighborhood planning area, necessitating prior review by the Environmental Commission before Planning Commission consideration.
4. Cases with an extensive development permit history, demanding thorough research and potential collaboration with other City departments.
5. Cases subject to multiple constraints, such as environmental concerns, hazardous pipelines, and access issues, significantly impacting the developable area.
6. Amendments to Planned Unit Developments (PUDs) originally approved before recent Code amendments, requiring a careful determination of how current City regulations apply.
7. An increasing number of complex Planned Unit Development (PUD) and Planned Development Area (PDA) applications being filed.

These examples underscore the evolving and intricate nature of zoning cases today, necessitating thorough analysis, interdisciplinary coordination, and careful consideration of various factors in the decision-making process.

3. How does 2023 compare to the number of submitted zoning applications from January to August of each of the last 5 years?

The table below displays the total number of zoning and rezoning cases over the past five fiscal years.

Year	Cases for Fiscal Year
FY 2018-2019	159
FY 2019-2020	139
FY 2020-2021	189
FY 2021-2022	179
FY 2022-2023	156*

*In FY 2022-2023, there was a decrease in the number of submissions. However, due to temporary staff shortages during this period, each case manager had to handle a significantly larger caseload than usual.

4. What if any recent changes have been made or will be implemented to expedite the facilitation of applications?

In the FY 2024 Budget, one (1) new Full-Time-Equivalent (FTE) position has been approved to bolster support for the Zoning group within the Planning Department. With this additional staffing capacity, the division will be fully staffed with a Zoning Officer, an Interim Division Manager, three (3) Principal Planners, two (2) Planner III's, and one (1) Senior Planner, who will be hired within the first quarter of FY 2024.

Furthermore, the division is currently in the process of reviewing solicitation responses for the Planning Consultant Services Request for Proposals (RFP). The engagement of consultants may provide further assistance in supporting the Zoning division's operations and provide staff support.

5. How many applications are currently backlogged?

According to City Code Title 25-2-283, the Land Use Commission is required to conduct a public hearing for a zoning or rezoning application within 60 days from the date the application is filed. Currently, there are approximately 23 cases pending notification for the Commission meeting that are near or will exceed the 60-day window. In addition to the existing workload of our staff, several common factors often lead to postponements, including waiting on additional information from the applicant, the mandatory Neighborhood Plan Amendment community meeting, and the need for coordination among staff, applicants, and stakeholders.

6. What is the current staffing level of the zoning division; how does it compare to the staffing levels, by quarter, over the last five years?

As of early August 2023, our zoning team comprises of three Principal Planners, two Planner III's, and a Zoning Officer. An acting Division Manager has been in place as of mid-August. Notably, two of the three Principal Planners are new to zoning case management; both Planner III's are recent additions to the City of Austin.

In 2022, our team consisted of three experienced case managers, a Division Manager, and a Zoning Officer. In 2020 and throughout most of 2021, we operated with five zoning case managers, four of whom were experienced, along with a Division Manager and a Zoning Officer.

During the first quarter of this year, our staff was temporarily reduced to an Interim Zoning Officer and one Senior Planner. To address the resulting shortages, staff were borrowed from other divisions and departments. The staff shortages contributed to a backlog of cases. Presently, we are back to full staffing, though with a newer team, and we are actively engaged in their ongoing training and development.

7. Outline the case load per quarter for individual case managers over the past five years.

While there is a data system that tracks cases, we have found that information to not be accurate. The zoning staff did not start tracking cases per case manager until FY 2021-2022. The below data is from the past two fiscal years by case manager by quarter:

FY 2021-2022: Q1		
Case Manager	Zoning Cases	
Andrei Lubomudrov	1	
Heather Chaffin	7	
Kate Clark	6	
Sherri Sirwaitis	8	
Steve Sadowsky	3	
Wendy Rhoades	10	
Grand Total	35	

FY 2021-2022: Q2		
Case Manager	Zoning Cases	
Andrei Lubomudrov	2	
Heather Chaffin	12	
Jonathan Tomko	4	
Sherri Sirwaitis	14	
Wendy Rhoades	18	
Grand Total	50	

FY 2021-2022: Q3		
Case Manager	Zoning Cases	
Heather Chaffin	10	
Jonathan Tomko	2	
Kalan Contreas	4	
Mike Dietz	4	
Nancy Estrada	4	
Sherri Sirwaitis	6	
Wendy Rhoades	11	
Grand Total	41	

FY 2021-2022: Q4		
Case Manager	Zoning Cases	
Heather Chaffin	8	
Jonathan Tomko	11	
Kalan Contreas	3	
Mike Dietz	1	
Nancy Estrada	7	
Sherri Sirwaitis	12	
Wendy Rhoades	11	
Grand Total	53	

FY 2022-2023: Q1		
Case Manager	Zoning Cases	
Jonathan Tomko	7	
Kalan Contreras	1	
Nancy Estrada	8	
Sherri Sirwaitis	20	
Wendy Rhoades	2	
Grand Total	38	

FY 2022-2023: Q2		
Case Manager	Zoning Cases	
Cynthia Hadri	1	
Jonathan Tomko	17	
Kalan Contreras	1	
Nancy Estrada	10	
Ricky Barba - Case Closed	1	
Sherri Sirwaitis	13	
Grand Total	43	

FY 2022-2023: Q3		
Case Manager	Zoning Cases	
Cynthia Hadri	3	
Dana Moses	7	
Joi Harden	1	
Jonathan Tomko	5	
Kalan Contreras	2	
Nancy Estrada	9	
Sherri Sirwaitis	16	
Grand Total	43	

FY 2022-2023: Q4		
Case Manager	Zoning Cases	
Cynthia Hadri	4	
Jonathan Tomko	9	
Jorge Rousselin	1	
Kalan Contreras	3	
Nancy Estrada	6	
Sherri Sirwaitis	7	
Grand Total	30	

8. Which metrics will be utilized to assess the proposed six-month pilot program?

The following metrics will be utilized to assess the proposed six-month pilot program:

1. Case management will identify the following:
 - Zoning cases that require a public hearing extension.
 - Zoning cases that require an extension to mitigate an application expiration and the corresponding reason(s).
 - Zoning cases that meet the existing public hearing deadline of 40 and 60 days after the application filing date.
 - Zoning cases that complete the review process within 181 days after the application filing date.
2. Case management will conduct a feedback survey with applicants and staff towards the conclusion of the pilot program to evaluate the program's successes and failures. The survey will encompass the following:
 - a. Surveying applicants at specific trigger points (40, 60, 181 days) - "How do you feel about extending your application".
 - b. Surveying applicants who would not qualify for the extension due to the time constraints established by the pilot program.

9. Should the code amendment be approved, how many less postponements on a commission agenda will be considered a success of the pilot program?

The success of the pilot program will entail mitigating all avoidable postponements. These postponements are often requested to accommodate applicants seeking additional interdepartmental reviews or to address financing and legal logistics specific to their cases. It is essential to recognize that each application is unique, and the factors leading to postponements vary accordingly. However, what remains consistent for all postponements is their impact on community stakeholders.

10. Elaborate upon "consultant augmentation" and the responsibilities of consultants in expediting zoning applications. Provide the timeline for when the consultants will begin assisting with zoning applications.

At this time, we do not know when the consultant will be joining the zoning team. However, consultant augmentation could take the form of 'On-Call Land Use Zoning Review Services,' encompassing a range of activities to:

- Provide review services for zoning applications based on City codes and criteria.
- Coordinate with associated stakeholders, conduct comprehensive research, and perform in-depth analysis to formulate rezoning recommendations.
- Work on applications including but not limited to Planned Unit Development, Scope of Work Neighborhood & District Planning cases.
- Conduct community engagement and public communication.
- Present at City Council and Land Use Commission.
- Provide weekly communication with COA Case Manager(s).



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C20-2023-020: Zoning Application Processes and Deadlines

City Council

October 19, 2023

Jordan Feldman, Principal Planner

Background

- In 2023, zoning staff have had to postpone numerous zoning applications due to record high case volume, complexity of cases, the need for continued interdepartmental review, and staff vacancies
- In response, City Council on June 8, 2023, initiated code amendments to create a six-month pilot program extending certain deadlines related to zoning and rezoning applications through [Resolution No. 20230608-078](#)



Description of Proposed Code Amendments

- Amendments to City Code Title 25-1 and 25-2 to create a six-month pilot program modifying certain deadlines related to zoning and rezoning applications and neighborhood plan amendment applications.
- Neighborhood plan amendment and rezoning and zoning applications are often submitted and approved concurrently, so to align the case types, certain neighborhood plan amendment deadlines are also proposed to be extended.



Additional Planning Commission Proposed Amendments

- At the Planning Commission public hearing on September 26, 2023, the Planning Commission approved city staff's recommended code amendments unanimously with additional amendments:
 1. Review by the Planning Commission and Council prior to extension or termination of the pilot program is required.
 2. A status update shall be furnished to the Planning Commission three months following the adoption of the pilot program.
 3. Enhance process improvements and staff efficiency to reduce redundant staff tasks, streamline operations, and revise policies to integrate and combine neighborhood plan amendment and zoning case information within meeting backup materials and agenda postings.
 4. Except for Council meetings, Land Use Commission meetings, including make-up dates which may commence on nontraditional meeting days, shall be prioritized for meeting room reservations to ensure public hearings are conducted in a timely manner.



Summary of Proposed Code Amendments

Deadline Types		Section 25-2: Zoning & Rezoning Extensions	Section 25-1: Neighborhood Plan Amendment Extensions
1.	Land Use Commission to hold a public hearing after an application is filed:	Change from 60 days (current) to 120 days (proposed)	Change from 90 days (current) to 120 days (proposed)
2.	City Council to hold a public hearing after the Land Use Commission makes recommendation:	Change from 40 days (current) to 80 days (proposed)	Change from 40 days (current) to 80 days (proposed)
3.	Application expiration if a Land Use Commission public hearing has not been scheduled:	Change from 181 days (current) to 362 days (proposed)	Change from 181 days (current) to 362 days (proposed)
4.	Application expiration if the Land Use Commission or City Council grant an indefinite postponement:	Change from 181 days (current) to 362 days (proposed)	Change from 181 days (current) to 362 days (proposed)



Proposed 6-Month Pilot Program

- **Pilot Program Duration:** Expires after 6 months from commencement unless terminated earlier by City Council or Manager.
- **Review:** The Planning Commission and City Council will conduct a required review before deciding on an extension or termination.
- **Status Update:** Must provide a status update to the Planning Commission three months after program adoption.
- **Extension Consideration:** If an extension is deemed necessary, an item will be placed on the City Council agenda prior to expiration to consider extending the program an additional 6 months.



Staff Recommendation

- **Staff Recommendation: Recommended with Planning Commission amendments included.**
- Staff recommends the 6-month pilot program to modify certain deadlines for zoning and rezoning applications and neighborhood plan amendment applications.
- The proposed changes will:
 - Decrease the need for staff postponements, providing more predictability for applicants, commission members, Council, and community stakeholders
 - Mitigate the possible expiration of zoning applications for applicants that require additional review time
 - Align deadlines for zoning/rezoning applications and neighborhood plan amendment applications to allow for concurrent review and approval



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Thank You



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Affordability Impact Statement

Zoning Application Processes and Deadlines

Case number: C20-2023-020

Initiated by: Resolution No. 20230608-078

August 10, 2023

Proposed Regulation

The proposed ordinance:

- Creates six-month pilot program that will extend application deadlines and expiration dates for zoning applications, as specified in Resolution No. 20230608-078
 - Zoning application expiration date changed from 181 to 362 days after filing
 - Land Use Commission public hearing deadline changed from 60 to 120 days after filing
 - Council public hearing deadline changed from 40 to 80 days after Land Use Commission hearing
- Authorizes the city manager to send these amendments to planning commission and skip other commissions

Land Use/Zoning Impacts on Housing Costs

☐ Positive ☐ Negative ☒ Neutral

Temporarily increasing the amount of time in which staff reviews zoning applications may appear to increase the development timeline. However, historically high volumes of zoning applications coupled with staff shortages render a shorter timeline infeasible. This change will thus result in the City providing realistic expectations to manage the unprecedented situation, and provide staff, applicants, and neighbors with time to address any

	<p>concerns before the applications are officially noticed, scheduled, and reviewed.</p> <p>Doubling the amount of time that an application may be “active” before it expires will lower the number of applications that will expire because they need additional review time.</p>
Impact on Development Cost	<input type="checkbox"/> Positive <input type="checkbox"/> Negative <input checked="" type="checkbox"/> Neutral
Impact on Affordable Housing	<input type="checkbox"/> Positive <input type="checkbox"/> Negative <input checked="" type="checkbox"/> Neutral
Other Policy Considerations	None.
Manager's Signature <u>Marla Torrado</u>	