

**ORDINANCE NO. 20080925-138**

**AN ORDINANCE AMENDING SECTIONS 25-1-83 AND 30-1-114 OF THE CITY CODE RELATING TO DEVELOPMENT OVER A CLOSED MUNICIPAL SOLID WASTE LANDFILL.**

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:**

**PART 1.** Section 25-1-83 (*Applications Relating to a Closed Municipal Solid Waste Landfill*) of the City Code is amended to read:

**§ 25-1-83 APPLICATIONS RELATING TO A CLOSED MUNICIPAL SOLID WASTE LANDFILL.**

(A) In this section:

- (1) CMSWL means an area defined as a closed municipal solid waste landfill in Texas Administrative Code, Title 30, Section 330.951.
- (2) LANDFILL AREA means an area marked on a map created by the City and maintained in the Watershed Protection and Development Review Department showing all known CMSWL and including property within:
  - (a) the known boundary of a CMSWL;
  - (b) 200 feet around the estimated boundary of a CMSWL if the boundary is not known; or
  - (c) 1500 feet from the estimated center of the CMSWL if neither a known boundary nor an estimated boundary is known.

(B) [(A)] Except as provided in Subsection (C), this [This] section applies to development of [an application for approval that may permit the construction or alteration of:

(4)] a residential, commercial, or public enclosed structure that is designed for use by humans [; or] and that is located on:

[(2)—a structure containing three or more dwelling units.]

(1) a site over 1 acre in size; or

(2) a site located within a landfill area.

(C) This section does not apply to the remodel of or addition to a single family or duplex residential use permitted in a single family residential small lot (SF-4A) or more restrictive zoning district.

(D) ~~(B)~~ The responsible director or building official may not approve an application for subdivision, site plan, or building permit~~[, and may not recommend approval of a zoning or rezoning,]~~ unless the applicant has delivered to the responsible director or building official:

(1) certification from a licensed professional ~~[registered]~~ engineer that the site does not overlie a ~~[-closed municipal solid waste landfill]~~ CMSWL; or

(2) if the site overlies a ~~[-solid municipal waste landfill]~~ CMSWL:

(a) a development permit from the Texas ~~[Natural Resources Conservation]~~ Commission on Environmental Quality;

(b) written notification from the Texas ~~[Natural Resources]~~ Commission on Environmental Quality that a development permit is not required; or

(3) certification from a licensed professional engineer that the applicant will conduct soil testing under the requirements of the Texas Commission on Environmental Quality during construction of the foundation to determine whether the site overlies a CMSWL.

**PART 2.** Section 30-1-114 (*Applications Relating to a Closed Municipal Solid Waste Landfill*) of the City Code is amended to read:

**§ 30-1-114 APPLICATIONS RELATING TO A CLOSED MUNICIPAL SOLID WASTE LANDFILL.**

(A) In this section:

(1) CMSWL means an area defined as a closed municipal solid waste landfill in Texas Administrative Code, Title 30, Section 330.951.

(2) LANDFILL AREA means an area marked on a map created by the City and maintained in the Watershed Protection and Development Review Department showing all known CMSWL and including property within:

(a) the known boundary of a CMSWL;

(b) 200 feet around the estimated boundary if the boundary is not known; or

(c) 1500 feet from the estimated center of the CMSWL if neither a known boundary nor an estimated boundary is known.

(B) [(A)] This section applies to an application for approval that may permit the construction or alteration of [:]

(1) a residential, commercial, or public enclosed structure that is designed for use by humans [;or] and that is located on:

~~[(2) a structure containing three or more dwelling units.]~~

(1) a site over 1 acre in size; or

(2) a site located within a landfill area.

(C) [(B)] The single office may not approve an application for subdivision unless the applicant has delivered to the single office:

(1) certification from a licensed professional [registered] engineer that the site does not overlie a ~~[closed municipal solid waste landfill]~~ CMSWL; or

(2) if the site overlies a ~~[-solid municipal waste landfill]~~ CMSWL:

(a) a development permit from the Texas [Natural Resources Conservation] Commission on Environmental Quality; or

(b) written notification from the Texas [Natural Resources] Commission on Environmental Quality that a development permit is not required; or

(3) certification from a licensed professional engineer that the applicant will conduct soil testing under the requirements of the Texas Commission on Environmental Quality during construction of the foundation to determine whether the site overlies a CMSWL.

**PART 3.** Part 1 of this ordinance takes effect on October 6, 2008. Part 2 takes effect on the date that the Travis County Commissioners Court adopts an identical amendment to the Travis County Code.

**PASSED AND APPROVED**

\_\_\_\_ September 25 \_\_\_\_\_, 2008      §  
   §  
   §      Will Wynn  
   Will Wynn  
   Mayor

**APPROVED:** David Allan Smith  
   David Allan Smith  
   City Attorney

**ATTEST:** Shirley A. Gentry  
   Shirley A. Gentry  
   City Clerk