

NOTICE OF RULE ADOPTION

ADOPTION DATE: June 6, 2016

The Director of Development Services Department has adopted the following rule. Notice of the proposed rule was posted on April 22, 2016. Public comment on the proposed rule was solicited in the April 22, 2016 notice. This notice is issued under Chapter 1-2 of the City Code. The adoption of a rule may be appealed to the City Manager in accordance with Section 1-2-10 of the City Code as explained below.

A copy of the complete text of the adopted rule is available for public inspection and copying at the following locations.

Development Services Department, located at 505 Barton Springs Rd., 4th floor, Austin, TX 78704

Office of the City Clerk, City Hall, located at 301 West 2nd Street, Austin, TX.

EFFECTIVE DATE OF ADOPTED RULE

A rule adopted by this notice is effective June 6, 2016.

TEXT OF ADOPTED RULE

The adopted rule contains no changes from the proposed rule.

BRIEF EXPLANATION OF PROPOSED RULE

Section 15 of the Building Criteria Manual

15.3 Conceptual Site Plans

Create a Concept Site Plan process: an optional and voluntary tool for obtaining a determination from the City of Austin regarding how City development regulations apply to a proposed project.

SUMMARY OF COMMENTS

The Development Services Department did not receive comments regarding the rule adopted in this notice.

AUTHORITY FOR ADOPTION OF PROPOSED RULE

The authority and procedure for the adoption of a rule to assist in the implementation, administration, or enforcement of a provision of the City Code is established in Chapter 1-2 of the City Code. The authority to regulate site plans and subdivisions is established in Chapter 25-1-1 and 25-1-2 of City Code.

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APPEAL OF ADOPTED RULE TO CITY MANAGER

A person may appeal the adoption of a rule to the City Manager. An appeal must be filed with the City Clerk not later than the 30th day after the date this notice of rule adoption is posted, the posting date is noted on the first page of this notice. If the 30th day is a Saturday, Sunday, or official city holiday, an appeal may be filed on the next day which is not a Saturday, Sunday, or official city holiday.

An adopted rule may be appealed by filing a written statement with the City Clerk. A person who appeals a rule must (1) provide the person's name, mailing address, and telephone number; (2) identify the rule being appealed, and (3) include a statement of specific reasons why the rule should be modified or withdrawn.

Notice that an appeal was filed will be posted by the city clerk. A copy of the appeal will be provided to the City Council. An adopted rule will not be enforced pending the City Manager's decision. The City Manager may affirm, modify, or withdraw an adopted rule. If the City Manager does not act on an appeal on or before the 60th day after the date the notice of rule adoption is posted, the rule is withdrawn. Notice of the City Manager's decision on an appeal will be posted by the city clerk and provided to the City Council.

On or before the 16th day after the city clerk posts notice of the City Manager's decision, the City Manager may reconsider the decision on an appeal. Not later than the 31st day after giving written notice on an intent to reconsider, the City Manager shall make a decision.

CERTIFICATION BY CITY ATTORNEY

By signing this Notice of Rule Adoption R161-16.06, the City Attorney certifies that the City Attorney has reviewed the rule and finds that adoption of the rule is a valid exercise of the Director's administrative authority.

REVIEWED AND APPROVED



Rodney Gonzales, Director
Development Services Department

Date: 6-6-2016



Anne Morgan
City Attorney

Date: 6/6/16

§ 15.3 CONCEPT SITE PLANS

(A) General Background.

Concept Site Plans, as described below, are an optional and voluntary tool for obtaining a determination from the City of Austin regarding how City development regulations apply to a proposed project. The process is designed to help applicants evaluate the development potential of a project in advance of submitting a fully designed site plan. However, a Concept Site Plan does not authorize construction and is not required to initiate, continue, or complete a project.

(B) Concept Site + Fair Notice—New Projects Filed under Current Regulations.

If an applicant plans to submit a project for review under current regulations, a Concept Site Plan/Fair Notice Application can be used to obtain comments from staff regarding any issues with the project and to “lock-in” regulations applicable to the project for a period of one-year.

(1) Required Submittals | Completeness Check.

- (a) Submit a Concept Site Plan (Appendix A) describing essential features of the proposed project and a Fair Notice Application (Appendix B) attesting that the project is filed for review under current regulations.
- (b) Within 10 days of receiving the Concept Site Plan + Fair Notice Application, staff will determine whether the submittal is complete.
- (c) If staff determines that it is not complete, the applicant will be informed what additional information is required and will have a total of 45-days (from the date of initial submittal) to provide any additional information required to complete the application. The application expires if it is not complete at the end of the 45-day period.

(2) Effect of Concept Site Plan + Fair Notice Application.

If the Concept Site Plan + Fair Notice is determined to be complete:

- (a) Staff Comments. Staff will provide comments within 30-days, outlining any deficiencies with respect to:
 - i. The following requirements of Chapter 25-2 (*Zoning*) or other applicable zoning regulations:
 - Impervious cover limits;
 - Setbacks;
 - Height;

- Floor-to-Area Ratio
 - Design Standards; except that a request for Alternative Equivalent Compliance extends the 30-day comment period to 45-days.
- ii. The following requirements of Chapter 25-8 (*Environmental*):
 - Impervious cover limits
 - Critical Environmental Features
 - Water Quality Controls.
 - iii. Parkland and Right-of-Way dedication requirements. If an applicant requests payment of a fee in-lieu of Parkland Dedication, as authorized under City Code § 25-1-605, the 30-day staff comment period is extended to 45-days.
- (b) Binding One-Year Period. The following rules apply to any site plan application submitted within one-year from the date that the Concept Site Plan + Fair Notice is determined to be complete:
 - i. Comments issued under Paragraph (2)(a), above, are binding and cannot be rescinded or substantially modified.
 - ii. No changes to applicable rules or regulations apply, except for those exempted from vested rights protections under Local Government Code § 245.004.
 - (c) Expiration. A Concept Site Plan + Fair Notice expires if a site plan application is not submitted within the binding one-year period.
 - (d) Administrative Appeals. If a staff comment or other determination made in response to a Concept Site Plan is subject to a right of administrative appeal, the applicant may file the appeal subject to the requirements of Chapter 25-1, Article 7, Division 1 (*Appeals*). An appeal “stops the clock” on the one-year life of the Concept Site Plan until the relevant board or commission makes a final decision.

(C) Concept Site Plan + Vested Determination—Projects Submitted for Review under Older Regulations.

This provision describes how a Concept Site Plan may be used in connection with a project claiming vested rights to earlier City of Austin regulations.

(1) Summary of Vested Rights Process.

When an applicant believes that a project is entitled to vested rights (aka “grandfathering”), he or she must follow the process established in Chapter 25-1,

Article 12 (*Vested Rights*) to obtain a Vested Rights Determination. That process, in a nutshell, is as follows:

- (a) Applicant submits a Vested Rights Petition, explaining why the project is entitled to vested rights, along with a Development Plan (Appendix C) describing essential features of the project.
- (b) Within 10-days from submittal of the petition and Development Plan, the director issues a determination on whether the project is entitled to vested rights and a list of any missing items required to complete the application.
- (c) The applicant then has the remainder of the 45-day application period to submit a completed development application.

(2) *Effect of Concept Site Plan + Vested Rights Determination.*

In lieu of submitting a complete development application, as described in Paragraph (C)(1), above, an applicant who has obtained a Vested Rights Determination may instead choose to submit a Concept Site Plan within the 45-day application period. If an applicant chooses this option, the following rules apply:

- (a) Staff Comments. Staff will provide comments within 30-days, outlining any deficiencies with respect to the type of regulations described under Paragraph (B)(2)(a), above. The only difference is that, rather than looking at current regulations, staff will make comments based on the City regulations in effect on the earlier date established by the Vested Rights Determination.
- (b) Binding One-Year Period. Staff comments made in response to a Concept Site Plan + Vested Rights Determination are binding for a one-year period, as specified in Paragraph (B)(2)(b), above.
- (c) Expiration. A Concept Site Plan + Vested Rights Determination expires if a site plan application is not submitted within the binding one-year period. However, expiration of the Vested Rights Determination does not by itself have the effect of terminating a projects vested rights. It does mean, though, that a new Vested Rights Petition will be required for any subsequent applications claiming vested rights to the same project.

Code Authority: City Code Sec. 25-1-62 (*Development Assessment*); City Code Sec. 25-1-82 (*Application Requirements and Expiration*); City Code § 25-1-534 (*Contents of Vested Rights Petition*); and City Code Sec. 25-1-535 (*Fair Notice Application*).