

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 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 developers, real estate speculators, and those connected with real estate and land development, in any capacity, exerted too much influence over land use planning decisions; and

WHEREAS, the City Council 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. **Finding.** Council finds that, in order to effectuate the charter's purpose, the limitation in Art. X § 2 must be interpreted broadly to include individuals with any meaningful relationship to either real estate or land development. This includes not only builders, financiers, or real estate agents, but also design professionals or others who work in association with developers or real estate agents.
2. **Criteria for Applying Charter Requirements to Planning Commission Appointments.**
 - (A) At least nine members of the Planning Commission must be "lay members not directly or indirectly connected with real estate and land development," as determined under Subsection (B). If membership of the Commission includes more than four members who do not satisfy the criteria under Subsection (B), no additional members who do not meet those criteria may be appointed.
 - (B) An individual is deemed to be a "lay [member] not directly or indirectly connected with land development" if:
 - (i) The person is not a licensed attorney or engineer practicing in a field related to real estate or land development;
 - (ii) The person does not derive substantial income from:
 - (a) a professional certification in Architecture, Construction, Design, Real Estate, or a related field; or

- (b) ownership of real property, other than a primary homestead;
and
- (iii) The person is not actively engaged in building development projects, whether as a general contractor, subcontractor, financier, or in any other capacity, but excluding employees or independent contractors working solely in construction trades or work performed on a person's homestead.
- (C) The criteria established in Subsection (B) apply only to activity or property within the City's planning jurisdiction.

3. **Administrative Requirements.**

- (A) The City Manager, in consultation with 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 Manager is directed to begin requiring completion of the questionnaire for subsequent applications for appointment or reappointment to the Planning Commission.

ADOPTED: _____, 2018 **ATTEST:** _____

Jannette S. Goodall
City Clerk