

NOTICE OF EMERGENCY RULE ADOPTION

ADOPTION DATE: August 30, 2019

By: Spencer Cronk, City Manager

**OCC RECEIVED AT
AUG 30 '19 AM 8:19**

The City Manager has adopted the following emergency rule. This notice is issued under Chapter 1-2 of the City Code.

EFFECTIVE DATE OF EMERGENCY RULE

The rule adopted by this notice is effective on September 1, 2019 and expires on December 31, 2019 (not later than the 121st day after the effective date), unless the rule is withdrawn or the city manager provides an earlier expiration date. The rule may be renewed one time only. If the rule is renewed, it will expire on the 61st day after the renewal date.

TEXT OF EMERGENCY RULE

The text of the emergency rule is attached.

A copy of the complete text of the adopted rule is available for public inspection and copying at the following locations. Copies may be purchased at the locations at a cost of ten cents per page:

Development Services Department, located at 505 Barton Springs Rd, Austin, Texas 78704,

and

Office of the City Clerk, City Hall, located at 301 West 2nd Street, Austin, Texas 78701.

NATURE OF EMERGENCY

Recently enacted State law (House Bill 3167) establishes new review timelines and creates limitations on providing comments for subdivision applications authorized under Texas Local Government Code Chapter 212. House Bill 3167 is effective September 1, 2019. On August 23, 2019, Council adopted Ordinance Number 20190822-117 on an emergency basis, amending Title 25 and Title 30 of the Land Development Code as necessary to comply with the directives in House Bill 3167. Emergency rules are necessary to administer, review, and comply with Ordinance Number 20190823-117. Emergency action is necessary in order to streamline subdivision applications and ensure the City is able to comply with the changes to state law.

AUTHORITY FOR ADOPTION OF RULE


The authority and procedure for the adoption of an emergency rule to assist in the implementation, administration, or enforcement of a recently adopted ordinance is established in Chapter 1-2 of the City Code. The authority under which the rule is adopted is established in 25-1-82 (*Application*

Requirements and Expiration) and 30-1-61 (*Administrative Rules*). The authority to regulate subdivision development is established in Chapters 25-1 (*General Requirements and Procedures*), 25-4 (*Subdivisions*), 30-1 (*General Provisions and Procedures*), and 30-2 (*Subdivision Requirements*).

CERTIFICATION BY CITY ATTORNEY

By signing this Notice of Emergency Rule Adoption Rule R161-19.25e, the City Attorney certifies that she has reviewed the rule and finds adoption of the rule to be a valid exercise of the City Manager's authority.

REVIEWED AND APPROVED



Spencer Cronk, City Manager

DATE: 8/29/19



Anne Morgan, City Attorney

DATE: 8/29/19



Denise Lucas, Director
Development Services Department

DATE: 8/29/2019

**Proposed Building Criteria Manual Emergency Rules
Associated with HB3167 Changes**

Location: Section 15.7 Review Times

Proposed Language:

15.7 - REVIEW TIMES

Review Schedule in business and calendar days for review processes within the Land Development Code.

Review times for applications and processes	Business days after application
Title 25-1 General Requirements and Procedures	
Development Assessment review [25-1-62]	15
Title 25 Subdivisions	<u>Calendar days after application</u>
<u>Project Assessment initial analysis report [Project Assessment 25-1-63]</u>	<u>21</u>
<u>Project Assessment update analysis report [Project Assessment 25-1-63]</u>	<u>14</u>
Preliminary Plan <u>initial</u> review [25-4-56(C)] [<u>Subdivision Application Requirements and Expiration 25-1-83</u>], [<u>Action Within 30 Days 25-4-32</u>]	20 <u>30</u>
Plat <u>initial</u> review [25-4-82(B)] [<u>Subdivision Application Requirements and Expiration 25-1-83</u>], [<u>Action Within 30 Days 25-4-32</u>]	18 <u>30</u>
Subdivision Construction Plan initial review [<u>Subdivision Application Requirements and Expiration 25-1-83</u>], [<u>Action Within 30 Days 25-4-32</u>]	<u>30</u>
Notification of plat determination [25-4-82(C)] Preliminary Plan update review [<u>Subdivision Application Requirements and Expiration 25-1-83</u>], [<u>Action Within 15 Days After Applicant Response 25-4-39</u>]	20 <u>15</u>
Notification of plat determination [25-4-82(E)] Plat update review [<u>Subdivision Application Requirements and Expiration 25-1-83</u>], [<u>Action Within 15 Days After Applicant Response 25-4-39</u>]	10 <u>15</u>
<u>Subdivision Construction Plan update review [Subdivision Application Requirements and Expiration 25-1-83], [Action Within 15 Days After Applicant Response 25-4-39], [Updates to Application for Subdivision Construction Plans 25-4-100]</u>	<u>15</u>
Title 25 Site plans	<u>Business days after application</u>
Notification of site plan determination [25-5-114(A)(1)]	20

Notification of small project site plan determination [25-5-114(A)(2)]	7
Notification of site plan update determination [25-5-114(A)(3)]	10
Site plan Review Report 25-5-143(A)	18
Site plan Review Report Notification 25-5-143(B)	20
Site plan Review of initial update to meet Commission-imposed conditions 25-5-148(B)	10
25-11-63 Building, Demo, and Relocation Permit Review periods	
Type of Permit	
1) Commercial buildings, new construction	25
2) Commercial buildings, remodeling and finishouts	15
3) Residential, new construction	15
4) Residential, remodeling of a complying structure	5
5a) Residential, remodeling of a noncomplying structure	5
5b) Residential, additions to a noncomplying structure	15
6) Sign, other than a nonconforming off-premise sign	10
7) Replacement of nonconforming off-premise sign	10
8) Repair of nonconforming off-premise sign	10
9) Demolition	5
10) Relocation	5

Location: Section 15.8 Review Times

Proposed Language:

15.8 - REVIEW TIMES

Review Schedule in business calendar days for review processes within the Land Development Code.

Review times for applications and processes	Business Calendar days after application
Title 30 Subdivisions	
<u>Project Assessment initial analysis report [Project Assessment 30-1-73]</u>	<u>21</u>
<u>Project Assessment update analysis report [Project Assessment 30-1-73]</u>	<u>14</u>
<u>Preliminary Plan initial review [30-2-56(C)] [Application Requirements 30-1-113], [City Action Within 30 Days 30-2-32], [County Action Within 30 Days 30-2-33]</u>	20 <u>30</u>

Preliminary Plan update review [30-2-56(E)] [<u>Action Within 15 Days After Application Response 30-2-41</u>]	10 <u>15</u>
Plat <u>initial</u> review [30-2-82(B)] [<u>Application Requirements 30-1-113</u>], [<u>City Action Within 30 Days 30-2-32</u>], [<u>County Action Within 30 Days 30-2-33</u>]	18 <u>30</u>
Plat update review [<u>Action Within 15 Days After Application Response 30-2-41</u>]	<u>15</u>
Notice of plat determination [30-2-82(C)] [<u>Application Requirements 30-1-113</u>], [<u>City Action Within 30 Days 30-2-32</u>], [<u>County Action Within 30 Days 30-2-33</u>]	20 <u>30</u>
Notice of plat determination update [30-2-82(E)], [<u>Action Within 15 Days After Application Response 30-2-41</u>]	10 <u>15</u>
Subdivision Construction Plan initial review [<u>Application Requirements 30-1-113</u>], [<u>City Action Within 30 Days 30-2-32</u>]	<u>30</u>
Subdivision Construction Plan update review [<u>Application Requirements 30-1-113</u>], [<u>Action Within 15 Days After Application Response 30-2-41</u>]	<u>15</u>

New Section: Section 15.9 Project Assessment

Proposed Language:

15.9 – Project Assessment

15.9 – Project Assessment

- (A) General Background. Project Assessments, as described below, are used to obtain an analysis report from the City of Austin regarding how City development regulations apply to a proposed subdivision project. The process is designed to help applicants evaluate the development potential of a project in advance of submitting a fully designed subdivision. However, a Project Assessment is not a final determination of applicable regulations and does not authorize construction.
- (B) Project Assessment + Fair Notice—New Projects Filed under Current Regulations. If an applicant plans to submit a project for review under current regulations, a Project Assessment/Fair Notice Application can be used to obtain comments from staff regarding any issues with the project and to "lock-in" certain regulations applicable to the project for a period of 180 calendar days.
- (1) Required Submittals; Completeness Check.
- (a) Submit a Project Assessment (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 business days of receiving the Project Assessment + Fair Notice Application, staff will determine whether the submittal is complete.

(c) If staff determines that the submittal is not complete, the applicant will be informed what additional information is required and will have a total of 45 calendar 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 calendar day period.

(2) Effect of Project Assessment + Fair Notice Application. If the Project Assessment + Fair Notice is accepted for the purposes of analysis and review:

(a) Staff Comments. Staff will provide comments and recommendations, outlining any deficiencies with respect to:

i. The following requirements of Title 25, Title 30 or other applicable regulations:

- Impervious Cover Limits;
- Critical Water Quality Zones and Water Quality Transition Zones;
- Slopes, Grading, Cut and Fill;
- Floodplain Delineation and Modification;
- Trees and Vegetation;
- Critical Environmental Features;
- Water Quality, Drainage Controls and, Regional Stormwater Management Program (RSMP);
- Street Extensions and Block Lengths;
- Alternative Street Standards and Private Streets;
- Site Access, Connectivity, and Sidewalks;
- Traffic Impact Analysis;
- Utility Services;
- Parkland Dedication;
- Requirements for Waivers and Variances; and
- Real Estate documentation.

(b) Binding 180-Day Period. The following rules apply to any subdivision application for the identified project that is accepted within 180 calendar days from the date that the Project Assessment + Fair Notice analysis report is issued:

i. Comments and recommendations issued under Paragraph (2)(a), above, are binding and cannot be rescinded or substantially modified if the project has not been materially changed.

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 Project Assessment + Fair Notice expires if a subdivision application is not accepted for review within the binding 180 calendar day period.

(C) Project Assessment + Vested Determination — Projects Submitted for Review under Older Regulations. This provision describes how a Project Assessment 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"), the applicant 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 Project Assessment application that serves as the Development Plan (Appendix C) describing essential features of the project.
 - (b) Within 10 business 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 calendar day application period to submit a completed development application.
- (2) Effect of Project Assessment + 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 Project Assessment within the 45 calendar day application period. If an applicant chooses this option, the following rules apply:

 - (a) Staff Comments. Staff will provide comments and recommendations as provided in 15.8 Review Times, 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 180-Day Period. Staff comments and recommendations made in response to a Project Assessment + Vested Rights Determination are binding for a 180 calendar day period, as specified in Paragraph (B)(2)(b), above.
 - (c) Expiration. A Project Assessment + Vested Rights Determination expires if a subdivision application is not accepted within the binding 180 calendar day period. However, expiration of the Vested Rights Determination does not by itself have the effect of terminating a project's vested rights. It does mean, though, that a new Vested Rights Petition or Vested Rights Verification may be required for any subsequent applications claiming vested rights to the same project.
- (D) The review of related subdivision applications that require discretionary approvals such as preliminary plan, plat, subdivision construction, cannot be accepted until a required Project Assessment analysis and a variance / waiver recommendation has been completed. Related subdivision applications must follow the order of process and shall not be reviewed concurrently unless authorized by the Director.
- (E) An applicant may not file more than 2 updates to a Project Assessment
- (F) A withdrawal and resubmittal of a Project Assessment is not permitted.

Code Authority: City Code §Sec. 25-1-61 (Order of Process), § Sec. 25-1-63 (Project Assessment); § Sec. 25-1-82 (Non-Subdivision Application Requirements and Expiration); § Sec. 25-1-83 (Subdivision Application Requirements); § Sec. 25-1-534 (Contents of Vested Rights Petition); § Sec. 25-1-535 (Fair Notice Application); § Sec. § 25-1-536 (Completeness Review For Vested Rights Petition); § Sec. 25-4-35 (Board and Commission Review of Requests Associated with Subdivision Application); § Sec. 25-4-36 (Variance Filing and Consideration); § Sec. 30-1-73 (Project Assessment); § Sec. 30-1-113 (Application Requirements).

Proposed Drainage Criteria Manual
Emergency Rules Associated with HB 3167 Changes

Purpose: Clarify what triggers a software waiver.

Location: Section 1.2.5 – Computations

Proposed Language:

1.2.5 - Computations

Computations to support all drainage designs shall be submitted to the appropriate City departments for review. The computations should be in such form as to allow for timely and consistent review and also to be made a part of the permanent City record for future reference. All computations submitted shall be certified by a professional engineer registered in the State of Texas.

The City of Austin maintains and makes available to the public engineering models for floodplain and storm drain analysis. The models maintained and distributed by the City have been developed in the computer simulation packages listed in the following table. The City maintains licenses and expertise in these computer simulation packages. Drainage studies based on computer simulation packages other than those listed in the table and any studies based on two-dimensional model simulations must receive a waiver approved by the Director of the Watershed Protection Department. Applicants submitting studies based on versions of the software listed in the table that are not the latest available versions should coordinate with the Watershed Protection Department prior to submittal.

City of Austin Standard Engineering Models for Drainage Analysis and Design

<u>Hydrologic Analysis for Floodplain Studies</u>	<u>HEC-HMS</u>
<u>Hydraulic Analysis for Floodplain Studies</u>	<u>HEC-RAS</u>
<u>Detention Pond Design</u>	<u>HEC-HMS, PondPack</u>
<u>Storm Drain Analysis and Design (Steady State)</u>	<u>StormCAD</u>
<u>Storm Drain Analysis and Design (Unsteady State)</u>	<u>CivilStorm</u>

Purpose: Clarify RSMP submittal requirements

Location: Section 8.2.2 – Participation Guidelines B. Participation Requirements

Proposed Language:

B. Participation Requirements.

Prior to a formal request for RSMP participation each applicant shall request a meeting with the Watershed Protection Department to evaluate the feasibility of RSMP participation and the type of potential participation. For Project Assessments, the Watershed Protection

Department shall provide a recommendation on RSMP participation based on the feasibility meeting and the preliminary engineering analysis provided by the applicant. [It is required that each] Each RSMP applicant shall submit documentation that a feasibility meeting was held, a copy of the RSMP recommendation from the Project Assessment, a completed request RSMP application form, and an engineering submittal supporting the application to the Watershed Protection Department at the time of preliminary plan submittal or site plan submittal. To view the request form and a check list for the engineering submittal, please refer to the RSMP program link in the Watershed Protection page of the City of Austin's website at www.austintexas.gov/RSMP.

In order to participate in the program the applicant must satisfy all of the following conditions:

1. The intervening drainage system from the site to the tributary or main branch of the downstream mapped floodplain must have the capacity to provide for the fully developed 100-year storm from the entire drainage area. If the downstream systems are undersized or downstream flooding conditions exist, RSMP participation may be approved if it can be verified there will be no additional adverse flooding impact to downstream properties for storm events up to and including the 100-year storm.
2. The submitted engineering analysis must include a certified statement by a licensed engineer in the State of Texas that no additional adverse flooding impacts to other property will occur as a result of the proposed improvements.
3. An easement for unconditional conveyance of the fully-developed 100-year flood event from the site to the main branch or tributary of the watershed must be either in place, or acquired before participation is allowed.

**Proposed UCM Emergency Rules
Associated with HB 3167 Changes**

Location: Section 1.1.0 – Introduction

Proposed Language:

The purpose of this Design Criteria is to provide criteria, guidelines, definitions, and descriptions approved by the City of Austin (COA) City Council for: 1) the design and installation of the Customer's electric facilities that will be served by the City of Austin Electric Utility Department doing business as Austin Energy, hereinafter referred to as **Austin Energy (or AE)**, and 2) the safety and reliability requirements that must be adhered to when developing a subdivision in proximity to existing or planned electric facilities maintained by AE (i.e., Austin Energy's electric system).

The information contained in this Design Criteria ~~[can]~~ must be used for the design and installation of electrical services in the AE service area and for subdivision planning. **This Design Criteria does not attempt to cover all the situations that might be encountered, required, or requested concerning the construction/installation of an electric service.** Specific design requirements and final approval of any installation ~~[shall]~~ must be coordinated directly with the appropriate AE business unit which include:

- [AE's] Distribution Engineering Design personnel (AE Design)
- Transmission and Substation Engineering Design; and
- ~~[or the]~~ AE Spots & Conduit Group (see 1.4.8 and 1.4.9).

Any apparent discrepancy, omission, error, or requirement necessitating further explanation or interpretation in this Design Criteria should be referred to AE Design for final explanation or determination of AE requirements.

The AE Design Criteria is available online at no cost. Go to the website *Austinenergy.com*, then go to Contractors – Electric Service Design & Planning – “Download a free copy of the Austin Energy Design Criteria Manual (pdf)”.

Location: Section 1.2.0 – Relevant City of Austin Business Offices

Proposed Language: Add additional contact:

AE Electric Transmission and Substation Department
2526 Kramer Lane, Bldg. C

512-322-6442

Location: Section 1.3.3 – One Service Point and One Service Voltage

Proposed Language:

As a standard service, AE supplies one service point at one service voltage to a single building or point of service located on a single lot or tract of land. The one electric service shall be of sufficient ampacity and capacity to provide power to all buildings or structures located on the same single tract of land. Some exceptions allowing multiple service points are noted in this Design Criteria based upon load size, building size, and building occupancy. Other exceptions may be allowed under the requirements for Excess Facilities/Excess Cost Policy (See Section 1.3.13). **Exceptions not allowed under this Design Criteria Manual ~~[shall]~~ must be reviewed and approved by AE design ~~[prior to plan review]~~.**

Note: For Network Area Vault(s), on a single lot or tract of land network Design will allow each building located on the same single lot or tract of land to house its own network vault(s). This exemption does not apply to services that are 800 Amps or less of 120/208V that are located within the Network Area.

Location: Section 1.4.3.3 – Submittal of Customer Drawings Required with Electric Service Requests

Proposed Language:

The Customer is responsible for assuring that the project data supplied to AE is current throughout all of the project design phases. If the Customer has not provided the most up to date version of project data to AE, the project construction schedule could be negatively impacted. AE acknowledges that the Customer has no responsibility for the accuracy or completeness of the data in the “as-built” stage of the electrical design.

To initiate a request for electrical service from AE Design, the Customer must submit the following with the completed ESPA form:

- A. A utility design CAD file of the plans for the proposed site (see requirements below). (Smaller designs may only require a pdf or hard-copy plan, as required by Design.)
- B. Hardcopy version of the plans for the proposed site (see requirements below).
- C. Scaled elevation drawing for any structures that exceed a single story.

Customer CAD File Requirements

A utility design CAD file must be submitted to AE Design on all projects that have been designed in a CAD environment.

A utility design CAD file is an AutoCAD-compatible (DXF or DWG file format) digital drawing file that contains specific point, line and text objects related to the design and analysis of existing and/or proposed utility lines in the proposed land development. The file contains

electronic features data needed to do a CAD-based system design. The utility design CAD file includes the features from the site plan or site/utility plans. This process enables AE Design to provide a more efficient design process for each site development Customer.

The submitted CAD file shall be a DXF or DWG format file containing all of the applicable feature elements listed in Table 1.14.2-A. All required objects must be in model space. All files must have the UCS setting to "World". All files must be drawn to scale. The CAD file shall be georeferenced with a coordinate system of NAD 83 Texas Central Zone 4203. The utility design CAD file shall be complete, not be reliant on XREF files contained in other drawing files. (All xref files should be individually imported and attached to a base file before sending to AE). The features shall be placed on separate layers. Refer to Table 1.14.2-A for required objects that AE must-see on the electronic file and layer recommendations.

AE realizes that some smaller projects may not be drawn with CAD software. This submittal is not required if CAD data is not available. It should be recognized that the AE design process would be more efficient with the CAD file versus AE Design having to manually digitize features to complete the work.

Hardcopy Plans

If the Customer submits the hardcopy plans with a utility design CAD file, then the plans can be reduced to the size 11-in x17-in (B size paper). If no CAD file is submitted, then the plans must be printed out to full-D size and printed to scale. Refer to Table 1.14.2-B for the list of minimum information and features that AE requires to be shown on the plans.

Location: Section 1.5.1.1 – Underground and Vault Service Only

Proposed Language:

AE provides only underground and vault service for new Customer requests in the Network Area in accordance with the Austin Energy Network Construction Standards. Contact the Network Design Section concerning the requirements for electric service in the AE Network Area (See section 1.12.0 for AE Network Area Map).

Location: Section 1.5.2.12 – Safety and Clearances - Commercial

Proposed Language:

- A. The Customer shall, at all times during construction and maintenance (including temporary or permanent facilities), use proper procedures complying with all building codes, State laws, and Occupational Safety and Health Administration (OSHA) requirements.
- B. *Minimum Working Clearances from Energized Overhead High Voltage Electric Utility Lines and Minimum Clearances from AE Underground Electric Utility Lines and AE Padmounted Equipment – See Section 1.10.0.*

- C. **Relocation of AE Facilities.** Where feasible, AE will temporarily (or permanently) relocate AE facilities at the Customer's expense. Such relocations often require considerable planning and effort, thus the Customer should address these issues with AE Design at the beginning of the project for both construction power and permanent service.
- D. Customer's facilities/installations shall not be installed under or over AE distribution facilities and shall maintain a **minimum horizontal clearance of 5 feet from AE distribution facilities**. Additional horizontal and vertical clearances may be required as indicated in Section 23 of the NESC. This includes, but is not limited to, Customer's buildings, parking garages, light poles, signs, billboards, chimneys, radio and television antennas, tanks, water, and wastewater infrastructure and other installations. For more information, contact AE Design.

Electric transmission and substation clearance requirements, including clearances from electric transmission lines, are greater than clearance requirements for electric distribution facilities including electric distribution lines. For more information, contact the AE Transmission and Substation department.

HIGHLY RECOMMENDED: For safety reasons, the Customer should contact AE to have the electric power de-energized before working near AE facilities. The Customer is responsible for all costs associated with the de-energizing and re-energizing service.

Location: Section 1.5.3.9 – Safety and Clearances

Proposed Language:

- A. **Placement of Customer's Facilities.** The Customer should be aware of overhead and underground electric facilities and their easements. The Customer's facilities, including, but not limited to buildings, signs, swimming pools, spas, decks, carports, garages, water and wastewater infrastructure, equipment or any other structure shall not be installed over or under these electric facilities or in an easement.
- B. The Customer shall, at all times during construction and maintenance (including temporary or permanent facilities), use proper procedures complying with all building codes, State laws, and Occupational Safety and Health Administration (OSHA) requirements.
- C. **Minimum Working Clearances from Overhead Electric Utility Lines.** See Section 1.10.0.
- D. **Clearances from Underground Facilities and Pad-mounted Equipment.** See Section 1.10.0.

- E. **Relocation of AE Facilities.** Where feasible, AE will temporarily (or permanently) relocate AE facilities at the Customer's request and expense. Such relocations often require considerable planning, coordination, and effort, thus the Customer should address these issues with AE Design at the beginning of the project for both construction power and permanent service.
- F. **Contacting AE Facilities.** The Customer's service must not be installed on or attached to facilities owned by AE, such as AE's pole or padmount transformer.
- G. **Minimum Horizontal Clearance.** The Customer must maintain a **minimum horizontal clearance of 5 feet** from all AE distribution facilities except as permitted in this Design Criteria or by AE Design. Additional horizontal and vertical clearance might be required as indicated in Section 23 of the NESC.

Electric transmission and substation clearance requirements, including clearances from electric transmission lines, are greater than clearance requirements for electric distribution facilities including electric distribution lines. For more information, contact the AE Transmission and Substation department.

H. Clearances from Swimming Pools/Septic Systems and Drain Field Systems

- 1. *Septic and Drain Field Systems.* See section 1.10.0. If a septic system and/or drain field system is to be installed in a residential subdivision with underground facilities, the Customer shall contact AE Design to verify underground electric locations before seeking approval from the Travis County Health Department or applicable county health department within the AE service area.
- 2. *Swimming Pools.* See sections 1.10.0 and Appendix C - *Exhibits*. If any of the above in H.1 or H.2 are installed between AE's last designated facility and the Customer's service/meter location or closer than minimum clearances given, any additional facilities, material, and/or labor required to maintain the minimum clearance and any relocation of AE facilities shall be at the Customer's expense.

HIGHLY RECOMMENDED: For safety reasons, the Customer should contact AE to have the electric power de-energized before working near AE facilities.

Location: Section 1.10.2 – Minimum Clearances from Energized Overhead Electric Utility Lines

Proposed Language:

- A. **Strict compliance with the following Texas law and OSHA is mandatory:** Texas Health & Safety Code, Chapter 752 and OSHA 1910.333, effectively **forbid** all activities in which **unqualified persons or things MAY come within 10 feet**, any direction, of live overhead high-voltage lines (plus 4 inches of added clearance for each 10 kV over 50 kV).

The operation of **equipment** such as a crane, derrick, drilling rig, hay loader or similar equipment—**any part of which is capable of vertical, lateral, or swinging motion**—is **forbidden** by law to operate **within 20** feet, any direction, of live overhead high-voltage lines. Contractors and owners (not AE) are legally responsible for the safety of construction workers under this law, which carries both criminal and civil liability.

- B. **Notification Requirement.** The Texas Health and Safety Code, Chapter 752, Section 752.003 requires that the owner, contractor, or association responsible for temporary work in the vicinity of high-voltage electric lines must notify the operator of the line (Austin Energy) **at least 72 hours before the work begins**. No work shall begin until the persons responsible for the temporary work and the operator of the line (Austin Energy) have made satisfactory arrangements to de-energize and ground, move or relocate the line to prevent accidental contact.
- C. ~~[In situations where work or maintenance on nearby signs, buildings, bridges, and such would cause persons unqualified in high-voltage work to place themselves or any conductive object **within 6 feet** of energized high-voltage electric lines or require equipment to operate **within 10 feet** of energized high-voltage electric lines, it shall be the responsibility of the owner, the contractor, and/or the association performing the work to ensure before beginning work that the appropriate arrangements with the operating utility (Austin Energy) have been made and that any required arrangements have been completed to prevent accidental contact.]~~

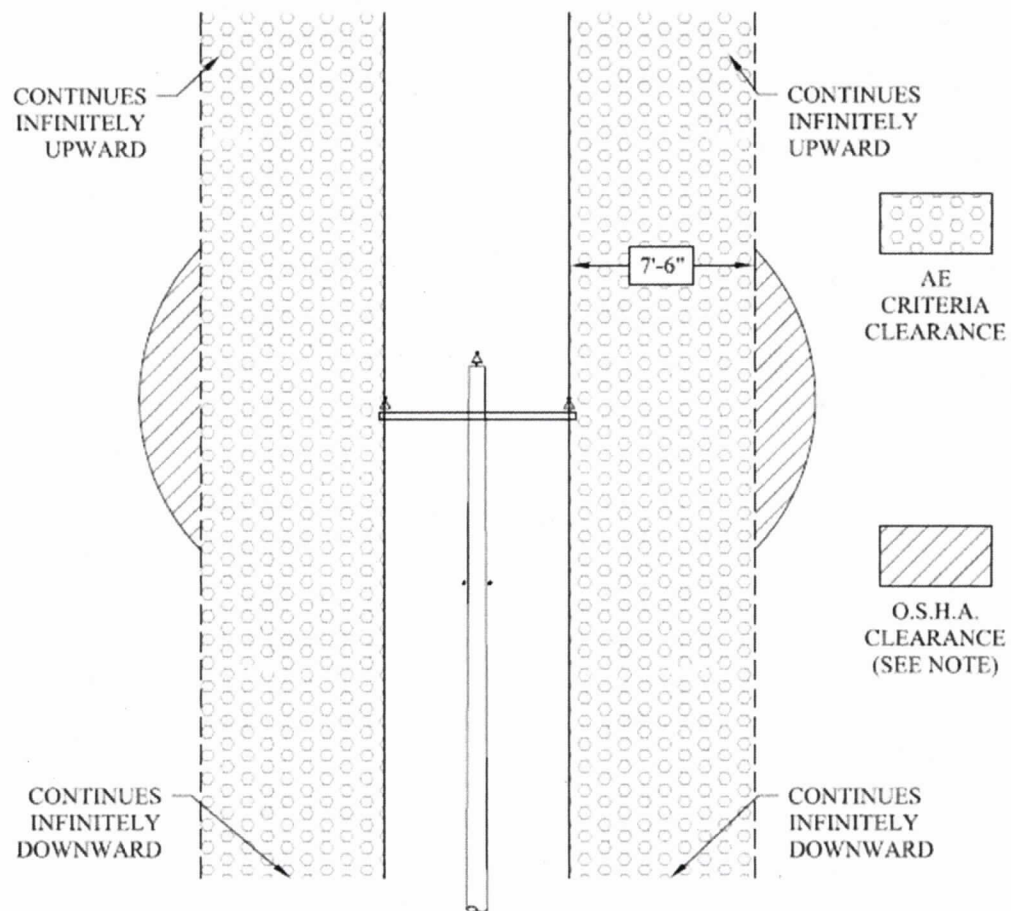
Location: Section 1.10.3 – Permanent Clearances from AE Overhead Lines and Facilities
Proposed Language:

A. Distribution

The Customer's facilities/installations shall maintain clearances from AE electric distribution overhead facilities as required in Section 234 of the NESC. ~~[See NESC Clearance Envelope below for typical **NESC clearances of 12-foot 6-inch vertical and 7-foot 6-inch horizontal** from AE overhead primary voltage lines. Contact AE Design for specific clearance information.]~~ In addition, the Customer's facilities shall **not** be installed **under or over AE overhead distribution facilities** and shall maintain a **minimum horizontal clearance of 7'-6" from overhead AE distribution facilities**.

See the NESC and Austin Energy Permanent Clearance Envelopes and the OSHA/TxHSC Working Clearance Envelopes shown in the diagram below and in Appendix C – Exhibits, Figures 1-33, 1- 34, 1-35, and 1-36. (Also see Section 1.10.6 for service drop clearances and Section 1.10.7 for clearances from swimming pools). These include, but are not limited to, clearances from Customer's buildings, parking garages, light poles, signs, billboards, chimneys, radio and television antennas, tanks, and other installations. As required by AE Design, the Customer shall provide AE with a survey showing the proximities of the Customer's existing and/or proposed facilities to existing AE primary voltage facilities. For more information, contact AE Design.

See the Austin Energy Permanent Clearance Envelopes and the OSHA/TxHSC Working Clearance Envelopes shown in the diagram below and in the Appendix C - Exhibits, Figures 1-34, 1-35, and 1-36. (Also see Section 1.10.6 for service drop clearances and Section 1.10.7 for clearances from swimming pools). These include, but are limited to, clearances from Customer's buildings, parking garages, light poles, signs, billboards, chimneys, radio and television antenna, tanks, and other installations. As required by AE Design, the Customer shall provide AE with a survey showing the proximities of the Customer's existing and/or proposed facilities to existing AE primary voltage facilities. For more information, contact AE Design.



NOTE: Customer is responsible for determining and ensuring that OSHA clearance are met during construction and maintenance of their facilities. In some instances, it may be necessary for the Customer to request (and pay for) AE to relocate AE facilities or to have the electric power de-energized before working near AE facilities, where possible. Scenarios will determine the possibility of relocating or de-energizing AE facilities.

[HIGHLY RECOMMENDED: For safety reasons, the Customer should contact AE Design to determine the permanent NESC and AE clearance requirements and the

~~during construction temporary clearance requirements (especially for any building that is closer than 10 feet measured horizontally from the outermost part of any existing AE overhead facilities). In some instances, it may be necessary for the Customer to request (and pay for) AE to relocate AE facilities or to have the electric power de-energized before working near AE facilities.]~~

B. Transmission and Substation

For properties within 200 feet of Austin Energy electrical lines operating at 69 kilovolts (kV) and above (i.e., Electric Transmission) the minimum clearances are governed by the NESC and must account for structure deflection, insulator swing, and wire blowout, which can be significant for electric transmission structures. Austin Energy also includes a small additional buffer to provide for survey and construction tolerances. Once a submission is made by the customer, Austin Energy Transmission and Substation engineering staff will analyze the structure deflection, insulator swing, and wire blowout to determine the required clearance envelope for a developer.

Location: Section 1.10.7 – Clearances from Swimming Pools, Hot Tubs, Saunas, and Man-Made Retention Ponds

Proposed Language:

- A. **A minimum 10-foot clearance measured horizontally** is required from any AE overhead distribution facilities, meter poles, and such or from AE-padmouted equipment, meter pedestals, and such to the edge of swimming pools, the base of diving platforms, hot tubs, spas, anchored rafts, and such (See Appendix C – Figures 1-34 and 1-35).
- B. **A minimum 5-foot clearance measured horizontally** is required from any AE overhead distribution facilities, meter poles, and such or from AE padmouted equipment, meter pedestals, and such to the edge of man-made retention ponds constructed from materials such as concrete.
- C. **A minimum 5-foot clearance measured horizontally** shall be maintained between any AE pull-boxes or service boxes, or underground primary, secondary, and service conduit/cable and the edge of swimming pools or man-made retention ponds, the base of diving platforms, hot tubs, spas, anchored rafts, and such.
- D. The AE electric meter (mounted on building or structure) shall be located

no closer than 5 feet, measured horizontally, from the edge of swimming pool, man-made retention pond, hot tub, spa, or similar structure.

- E. If any of the above Customer facilities are installed between AE's last designated facility and the Customer's service/meter location or closer than minimum clearances given, any additional AE facilities, material, and/or labor required to maintain the minimum clearance shall be at the Customer's expense. Any relocation shall be at the Customer's expense.
- F. Electric transmission and substation clearance requirements, including clearances from electric transmission lines, are greater than clearance requirements for electric distribution facilities including electric distribution lines. For more information, contact the AE Transmission and Substation department.

Location: Section 1.10.8 – Clearances from Septic Systems and Drain Field Systems

Proposed Language:

- A. Septic and drain field systems shall be located no closer than 5 feet, measured horizontally, from service boxes, pull-boxes, transformers, secondary risers, power poles, service conduits, service conductors, and metering equipment or any other AE or Customer-owned facilities ahead of and including metering equipment.
- B. If a septic system and/or drain field system is to be installed in a residential subdivision with underground facilities, the Customer shall contact AE Design to verify underground electric locations before seeking approval from the Travis County Health Department or applicable county health department within the AE service area.
- C. Septic Systems and Drain Field Systems are not allowed in electric transmission and substation easements

Location: Section 1.10.10.1 – Excavations

Proposed Language:

To comply with the requirements of the National Electrical Safety Code, 2007 or most current edition and this Design Criteria, it is important and necessary that all AE underground/padmouted facilities (or any civil work for AE facilities) be installed in

anticipation of the final grade. Final grades should not be changed by excavation or filling without the prior written approval of Austin Energy. Prior to any excavation, the Customer or the Customer's engineers, designers, construction personnel, or such must contact One Call so that AE personnel can locate and mark any existing underground AE facilities. The Customer must pay in advance for the full cost of any required alteration or relocation of AE facilities to re-establish the required minimum or maximum clearances or heights.

For excavation work in the vicinity of electric transmission and substation facilities, no temporary or permanent excavations or grade changes greater than 1 foot in depth within 25 feet of the electric structure foundation can be made. Excavations not meeting this criteria must be evaluated by Austin Energy's Transmission and Substation engineering staff prior to submittal of a land development application or the application may not be approved. The proposed grade may not exceed the height of the top of the existing foundation.

Location: Section 1.10.10.2 – Fences and Structures

Proposed Language:

It is permissible to install fences on utility easements provided that the fences can be removed to permit AE crew and equipment access. Fences that permanently restrict AE access to AE distribution electric lines and equipment or conflict with other utility equipment are not allowed. AE reserves the right to remove any obstruction without fault.

No permanent structures, swimming pools, or buildings are allowed on the easement. A minimum clearance of 8 feet is required around all pedestals, subsurface AE vaults or manholes that require personnel access (see also Section 1.10.4 concerning padmounted equipment). Prior to any digging, the Customer must contact One Call so that AE personnel can locate and mark any existing underground AE facilities prior to digging. Other detailed information concerning required clearances is contained within this section.

Any fence within 25 feet of an electric substation or transmission line must be non-conductive or properly grounded.

Location: Section 1.10.10.3 – Landscaping

Proposed Language:

It is permissible to install landscaping on utility easements if such landscaping does not restrict AE personnel and equipment access to distribution electric lines or equipment or conflict with other utility equipment. AE reserves the right to remove any obstruction without fault. See other clearance requirements in this section.

For sodding or filling, see Item 1.10.10.1 above. For shrubbery, see 1.10.4 and 1.10.10.2 for minimum clearances required around all pad-mounted equipment, pedestals, subsurface AE vaults or manholes that require personnel access. Trees should be planted (a minimum of ten feet) far enough away from any easements (such as overhead lines, underground facilities, or pad-mounted facilities) so that when the trees reach maturity, overhanging branches will not obstruct access to AE facilities for maintenance or replacement of AE facilities. (See www.austinenergy.com/go/trees or follow the Customer Care, Other Services, Tree Pruning, and AE Replacement Trees plus other helpful links.) Where the Customer installs landscaping on or trees near a utility easement (or AE facilities) such that additional upkeep, maintenance, or other costs are incurred by AE, the Customer or owner shall pay these costs. In addition, a License Agreement must be obtained from and filed with AE Public Involvement before installing any landscaping that might in any way obstruct AE's access to existing or future AE facilities located within the easement area. Contact AE Design for additional information.

A tree may not be placed within an electric transmission easement without approval by Austin Energy or the applicable electric utility. Within 50 feet, measured horizontally in all directions of an existing or proposed electric transmission line, structure, wire, or other electric transmission facility, only a designated utility-compatible tree in Appendix F of the Environmental Criteria Manual may be installed at the discretion of Austin Energy.

Location: Section 1.11.0 – Glossary

Proposed Language: Add the following definitions:

**Electrical
Equipment or
Electric Equipment**

Any equipment used, designed to be used, or installed for use, to conduct, control, convert, distribute, generate, measure, provide, rectify, store, transform, or transmit electrical energy as part of the electric transmission and distribution system.

**Electrical Facilities
or Electric Facilities**

Electrical equipment and supporting structures, including electrical lines, used to enable the generation, transmission, and distribution of electric energy across the bulk electric system.

Safety Clearances

A minimum distance required between electric facilities and building structures, vegetation, or other objects that can come into contact with the electric facility.

Structure

A combination of materials to form a construction for occupancy, use or ornamentation, whether installed on, above or below the surface of a parcel of land; provided the word “structure” shall be construed when used herein as though followed by the phrase “or part or parts thereof and all equipment therein” unless the context clearly defines a different meaning.

Substation

A substation changes voltage levels between Transmission (69kV, 138kV, 345kV) and Distribution (12.47kV, 34.5kV) equipment or serves as a switching point to connect multiple transmission lines.

Transmission

High voltage power lines that transmit large amounts of power over long distances. AE operates Transmission at 69kV, 138kV, and

Infrastructure

The term infrastructure as it applies to the AE system refers to everything (poles, structures, transformers, primary & secondary conductors, down guys, conduit, manholes, equipment pads, equipment, etc.) except AE services and AE metering equipment.

Amend the definition of “Infrastructure” as follows:

Infrastructure

The term infrastructure as it applies to the AE [~~distribution~~] system refers to everything (poles, structures, transformers, primary & secondary conductors, down guys, conduit, manholes, equipment pads, equipment, etc.) except AE services and AE metering equipment.

Location: Section 1.14.5 – Subdivision Application Requirements**Proposed Language:**

A subdivision application or plan may not be approved unless the application or plan:

- (1) Includes an electronic, georeferenced AutoCAD (version 2016 or newer) drawing, to scale and with north arrow, that shows the following:
 - i. Clearly delineated locations and extents of all public and private easements proposed for the subdivision including, but not limited to, electrical, gas, water, sewer, telecommunications, and drainage;
 - ii. Clearly delineated locations of all existing Austin Energy facilities including, but not limited to, electric transmission and distribution structures, guys, anchors, and transformers;
 - iii. Clearly delineated locations of all existing and proposed permanent structures showing footprint and height; and
 - iv. Clearly delineated final proposed topology that includes grades, grade changes, floodplains, and detention ponds.
- (2) Demonstrates sufficient clearance for existing and planned electric facilities and other electric system design and safety requirements described in this manual or any other applicable Austin Energy design specifications, guides, standards, and City Code. For properties within 200 feet of Austin Energy electrical lines operating at 69 kilovolts (kV) and above (i.e., transmission voltage) the minimum clearances are governed by the NESC and must also account for structure deflection, insulator swing, and wire blowout, which can be significant for electric transmission structures. Austin Energy also includes a small additional buffer to provide for survey and construction tolerances. Once a submission is made by the customer, Austin Energy Transmission and Substation engineering staff will analyze the structure deflection, insulator swing, and wire blowout to determine the required clearance envelope for the applicant.
- (3) Demonstrates sufficient electric utilities easements to accommodate existing electric facilities and all electric facilities needed to serve the development and does not impede access to such easements. If an easement cannot be located to cover existing and proposed electric facilities, an easement must be dedicated by the current owner

- to allow the facilities. A metes and bounds description of the easement area, to be determined by Austin Energy, is to be prepared at the applicant's expense and provided to Austin Energy for easement preparation. Any necessary facility relocation will be at the applicant's expense.
- (4) Demonstrates that the development will not limit the ability of Austin Energy personnel to access and maintain electric transmission facilities.
- (5) Identifies one service point and one service voltage unless more than one service point or service voltage is allowed under the exceptions found in this manual or the allowance is approved by Austin Energy.
- (6) Demonstrates appropriate sizing and location for electric facilities and electrical equipment installation, desired point of electric service, and projected load required for electric service.
- (7) Does not violate any other Austin Energy requirement, including Austin Energy safety requirements, found in this manual or any other applicable Austin Energy design specifications, guides, standards, and City Code.
- (8) Contains plat notes or provides for easement terms as follows:
- i. Austin Energy has the right to prune and/or remove trees, shrubbery and other obstructions to the extent necessary to keep all electric facility easements clear.
 - ii. The owner/developer of this subdivision shall provide Austin Energy with any easement and/or access required, in addition to those indicated, for the installation and ongoing maintenance of overhead and underground electric facilities to provide electric service to the development and will not be located so as to cause the site to be out of compliance the City of Austin Land Development Code.
 - iii. The owner shall be responsible for installation of temporary erosion control, revegetation and tree protection. In addition, the owner shall be responsible for any required initial tree pruning and tree removal for vegetation that is within ten feet of the center line of the proposed overhead electrical facilities designed to provide electric service to this project. The owner shall include Austin Energy's work within the limits of construction for this project.
 - iv. The owner of the property is responsible for maintaining clearances required by the National Electrical Safety Code, National Electrical Code, Occupational Safety and Health Administration (OSHA) regulations, City of Austin rules and regulations and Texas state laws pertaining to clearances when working in close proximity to overhead power lines and equipment. Austin Energy will not render electric service unless required

clearances are maintained. All costs incurred because of failure to comply with the required clearances will be charged to the owner.

v. [If a transmission easement is present] Owner may not place, erect, construct or maintain the following within the electric transmission easement (existing, proposed, or by prescriptive rights): any permanent structures, including, but not limited to habitable structures such as homes, mobile homes, garages, or offices; any structure of any kind in such proximity to the electric transmission or distribution lines, poles, structures, towers, or appurtenant facilities as would constitute a violation of the National Electrical Safety Code in effect at the time the structure is erected; nor any structures, including but not limited to, fences, storage sheds, drainage, filtration or detention ponds which would impair Austin Energy's access to the transmission easements or its lines, poles, structures, towers or appurtenant facilities in the easements.

vi. [If a transmission easement is present] The owner/developer of this property shall provide Austin Energy with 24-hour access across the property to the transmission easement (existing, proposed, or by prescriptive rights), for the installation and ongoing maintenance of electric facilities.

vii. [If a transmission easement is present] All roads and driveways which cross within the transmission easement (existing, proposed, or prescriptive) must be built to sustain not less than 80,000 lbs. within the easement to ensure safety and access by Austin Energy and/or their contractors.

(9) Does not contain any land labeled or proposed to be dedicated as parkland within a transmission easement, whether existing, proposed, or prescriptive.