



**Austin City Code Amendment  
CITY OF AUSTIN  
RECOMMENDATION FOR COUNCIL ACTION**

**AGENDA ITEM NO.: 35  
AGENDA DATE: Thu 04/28/2005  
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**SUBJECT:** Approve an ordinance on third reading amending Chapter 25-1 of the City Code to add a new Article 13 relating to Dormant Project Expiration, and waiving Section 25-1-502 of the Code and providing for emergency passage.

**AMOUNT & SOURCE OF FUNDING:** N/A

**FISCAL NOTE:** There is no unanticipated fiscal impact. A fiscal note is not required.

**REQUESTING** Watershed Protection and **DIRECTOR'S**  
**DEPARTMENT:** Development Review **AUTHORIZATION:** Joe Pantalion

**FOR MORE INFORMATION CONTACT:** Patrick Murphy, WPDR 974-3056; Marty Terry, Division Chief, LAW 974-2974

**PRIOR COUNCIL ACTION:** N/A

**BOARD AND COMMISSION ACTION:** Recommended by the Planning Commission.

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Section 245.005 of the Texas Local Government Code authorizes the City to enact an ordinance that expire dormant projects five (5) years after the passage of the statute. The Local Government Code specifies what constitutes a dormant project. The proposed ordinance tracks the language in the Local Government Code and establishes permit expiration dates for dormant projects for those City of Austin permits that presently do not have expiration dates and where no progress has been made.

**ORDINANCE NO.**

**AN ORDINANCE AMENDING CHAPTER 25-1 OF THE CITY CODE TO ADD A NEW ARTICLE 13 RELATING TO DORMANT PROJECT EXPIRATION AND PROVIDING FOR EMERGENCY PASSAGE.**

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

**PART 1.** Chapter 25-1 of the City Code is amended to add a new Article 13 to read:

***ARTICLE 13. DORMANT PROJECT EXPIRATION.***

**§ 25-1-551 DEFINITIONS.**

In this article, "permit", "project", and "regulatory agency" have the meanings assigned to them by Texas Local Government Code Chapter 245 (*Issuance Of Local Permits*).

**§ 25-1-552 EXPIRATION OF PERMITS AND PROJECTS.**

(A) A permit expires on May 11, 2004 if the director determines that:

- (1) the permit did not have an expiration date; and
- (2) no progress had been made towards completion of the project.

(B) Progress towards completion of the project includes any one or more of the following:

- (1) an application for a final plat or plan is submitted to a regulatory agency;
- (2) a good-faith attempt is made to file with a regulatory agency an application for a permit necessary to begin or continue towards completion of the project;
- (3) costs have been incurred for developing the project including, without limitation, costs associated with roadway, utility, and other infrastructure facilities designed to serve, in whole or in part, the project (but exclusive of land acquisition) in the aggregate amount of five percent of the most recent appraised market value of the real property on which the project is located;

(4) fiscal security is posted with a regulatory agency to ensure performance of an obligation required by the regulatory agency; or

(5) utility connection fees or impact fees for the project have been paid to a regulatory agency.

(C) If all permits for a project expire, the project expires.

**PART 2.** Council waives the requirements of Section 25-1-502 of the City Code.

**PART 3.** The Council finds that the need to establish expiration dates for permits associated with dormant projects constitutes an emergency. Because of this emergency, this ordinance takes effect immediately upon its passage for the immediate preservation of the public peace, health, and safety.

**PASSED AND APPROVED**

\_\_\_\_\_, 2005

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Will Wynn  
Mayor

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

**ATTEST:** \_\_\_\_\_  
Shirley A. Brown  
City Clerk

## LOCAL GOVERNMENT CODE

### CHAPTER 245. ISSUANCE OF LOCAL PERMITS

§ 245.005. DORMANT PROJECTS. Notwithstanding any other provision of this chapter, after the first anniversary of the effective date of this chapter, a regulatory agency may enact an ordinance, rule, or regulation that places an expiration date on a permit if as of the first anniversary of the effective date of this chapter: (i) the permit does not have an expiration date; and (ii) no progress has been made towards completion of the project. Any ordinance, rule, or regulation enacted pursuant to this section shall place an expiration date of no earlier than the fifth anniversary of the effective date of this chapter. Progress towards completion of the project shall include any one or more of the following:

- (1) an application for a final plat or plan is submitted to a regulatory agency;
- (2) a good-faith attempt is made to file with a regulatory agency an application for a permit necessary to begin or continue towards completion of the project;
- (3) costs have been incurred for developing the project including, without limitation, costs associated with roadway, utility, and other infrastructure facilities designed to serve, in whole or in part, the project (but exclusive of land acquisition) in the aggregate amount of five percent of the most recent appraised market value of the real property on which the project is located;
- (4) fiscal security is posted with a regulatory agency to ensure performance of an obligation required by the regulatory agency; or
- (5) utility connection fees or impact fees for the project have been paid to a regulatory agency.

Added by Acts 1999, 76th Leg., ch. 73, § 2, eff. May 11, 1999.