



## **RESOLUTION OF THE AUSTIN NEIGHBORHOODS COUNCIL REGARDING Protecting the Property Rights and Due Process of Austin Citizens**

**WHEREAS**, zoning applicants can easily nullify neighborhood valid petitions by underhandedly moving zoning boundaries, thereby undermining neighborhood rights to a super majority three-fourths City Council member vote to approve a zoning case, and disrespecting due process required by the City of Austin's Municipal Code Section 25-1-85; and

**WHEREAS**, the City Council sanctions the dismissal of a neighborhood's valid petition; and

**WHEREAS**, loopholes exist in Austin Land Development Code Section 25-2-284 and in Draft 1 of CodeNEXT Section 23-4B-3090, due to the various interpretations of the word "area;" and

**WHEREAS**, the applicant may easily and discreetly move only the zoning boundary "area" more than 200 feet away from the neighborhood valid petition signers (but the property boundary remains fixed), because City legal interprets the word "area" to eliminate citizen's petition rights. This creates a new "zoning boundary area" for just a simple majority of City Council vote; and

**WHEREAS**, the Austin Land Development Code Section 25-1-85 requires the Land Use Commission to provide recommendations before a zoning application is submitted for City Council consideration, but unjustly, does not require Land Use Commission review after zoning boundary "areas" are moved or when substantial changes to scope are created that impact recommended variances and waivers; and

**WHEREAS**, neighbors have legal rights under the State of Texas Local Government Code Section 211.006 that provides for property owners to protest the zoning and uses of adjacent property, and in Section 25-2-284 of the Austin Land Development Code, and in 23-4B-3090 of Draft 1 of CodeNEXT; and,

**WHEREAS**, the Austin City Council is expected to be dedicated to transparent and open government that protects and respects the property rights of all citizens and employs processes that are fair to all; and

**WHEREAS**, citizens in all districts of Austin are affected.

**NOW, THEREFORE, BE IT RESOLVED THAT** the membership of the Austin Neighborhoods Council requests that the Austin City Council immediately direct the City Manager to modify Section 25-2-284 Requirement for Approval by Three-Fourths of Council of the Austin Land Development Code and in Draft 1 of CodeNEXT Section 23-4B-3090 such that

- the "area of land" is defined as all or part of a recorded tract or parcel of land proposed to be unzoned, zoned, or rezoned, aligning the zoning boundary with the recorded tract or parcel of land
- and adds a provision that the affirmative vote of three-fourths of the members of City Council is required to approve variances or waivers to be granted in zoning or rezoning of land that has not received review and approval by the Land Use Commission.

**Presented to ANC General Membership:** June 28, 2017

**Membership Approved:** July 26, 2016

**Sponsor Contacts:** Linda Bailey, ANC VP2, [vp2@ancweb.org](mailto:vp2@ancweb.org) and

Marisa Lipscher, ANC Representative Shepard Mountain NA, [marisatexas@gmail.com](mailto:marisatexas@gmail.com)