



TO: Development Services Customers

SUBJECT: **INFORMATION BULLETIN 520**
Habitat Compliance Form

DATE: July 18, 2011 / Revised August 1, 2014 / Revised April 11, 2019

CREATED BY: Land Development Division, Policy Administration Section

I. Purpose:

The Development Service Department **revised** Information Bulletin 520 (IB) related to processing a Habitat Compliance Form (HCF). The HCF is a communications tool used to provide information on applicable development applications to US Fish & Wildlife Service (USFW) and Texas Parks & Wildlife Department (TPWD) for their review of a project in compliance with the Federal Endangered Species Act. The City of San Antonio is not authorized by law to enforce the Endangered Species Act, nor is the City of San Antonio authorized by law to review any species surveys or habitat assessments.

The revisions to this IB are intended to explain the changes made to the HCF as of April 11, 2019, with Ordinance 2019-04-11-0308. These changes were made after input from a task force that included representatives from the development community, registered biologists, neighborhood leaders, USFW, TPWD, the Military, and other stakeholders. The revisions to this IB are also intended to provide additional direction and clarity to the HCF.

II. Scope:

The HCF was originally adopted by City Council on August 20, 2009, with Ordinance 2008-08-20-0652. After a taskforce review process, City Council updated the HCF on April 11, 2019, with Ordinance 2019-04-11-0308, which revised the form, clarified the process and identified roles and responsibilities for property owners.

III. At A Glance

- An HCF is required to be submitted with one of the following applications for properties greater than two acres in area: Tree Permit, Subdivision Plat, Master Development Plan, or Planned Unit Development plan.
- Applicant is to verify whether the subject property is or is not within a Golden-cheeked Warbler presumptive habitat area (as defined on the HCF form) or Karst Zone 1 or 2 (as shown on the USFWS online map).
- Ensure the HCF is filled out completely and accurately, and signed by the Owner or Authorized Representative.



- Submit a color aerial map of the subject property which also indicates the property boundaries with the HCF.
- Additional documentation may be required as identified below.
- The Certificate of Compliance in Part 7 of the HCF is always required to be fully completed.
 - The property owner or the property owner’s authorized representative must sign.
 - The signatory must mark the appropriate box indicating whether they the property owner or the property owner’s authorized representative.
 - If the property owner’s authorized representative completes Part 7, then that person must also check the box affirming that they are authorized to sign the HCF on behalf of the owner.
- If Part 8 of the HCF is required, the affidavit must be signed by the property owner and notarized. An explanatory narrative must also be provided.

IV. When the HCF is Required

A complete and accurate HCF is required to be submitted for properties greater than two acres in size for the following applications:

- Tree permits
- Subdivision plats
- Master Development Plans (MDP)
- Planned Unit Development (PUD)

HCFs submitted with the applicable development applications are processed in the following manner:

Permit Type	HCF Requirement
MDP	Complete and accurate HCF required prior to issuance of staff acceptance of the MDP and Director Signature
PUD	Complete and accurate HCF required prior to issuing staff recommendation and scheduling on the Planning Commission agenda
Subdivision Plat	Complete and accurate HCF required to obtain a Letter of Certification
Tree Permit	Complete and accurate HCF required to obtain a Tree Permit



V. Additional Documentation

Additional documentation may also need to be submitted with the HCF. The table below outlines those additional documents and when they should be submitted.

Document	When Required	Notes
Aerial Map/Imagery of the site in color	Always required	Provide as a separate document
Section 7 Consultation Number or Section 10(a) permit number	When Box A of Part 5 of the HCF is checked	Provide on the HCF Form
HCP Participation Certificate	When Box B of Part 5 of the HCF is checked	Provide on the HCF Form
Biologist Name and Permit Number, Date of Survey/Assessment, and Whether the biologist has been notified	When Box A2 or B2 of Part 6 of the HCF is checked	Provide on the HCF Form
Map demonstrating that the tract of land is not within Karst Zone 1 or 2	When Box B1 of Part 5 of the HCF is checked	Provide as a separate document
Explanatory Narrative	When the Affidavit of Compliance is required to be completed.	Provide on the HCF Form or provide on an additional sheet of paper. This narrative should clearly and thoroughly explain why no survey has been conducted or why, if a survey has been conducted, why it has not been provided to USFWS.

VI. Vesting

It is important to note that applicants do not have the ability to “vest” out of the HCF requirements because the HCF is a development process as per Section 35-712 of the Unified Development Code. As such, all applicable applications requiring submission of an HCF are required to submit an accurate and completed HCF.



VII. Species Coverage Options

Applicants may have individual coverage under a Federal Section 7 Biological Opinion or Assessment, or Section 10(a) Permit.

A Section 7 Biological Assessment is defined by USFW as “a document prepared for the Section 7 process to determine whether a proposed major construction activity under the authority of a Federal action agency is likely to adversely affect listed species, proposed species, or designated critical habitat.”

A Section 7 Biological Opinion is defined by USFW as “a document that is the product of formal consultation, stating the opinion of the Service on whether or not a Federal action is likely to jeopardize the continued existence of listed species or result in the destruction or adverse modification of critical habitat.”

A Section 10(a) permit is defined by USFW as “a permit which may be issued to authorize activities prohibited by Section 9 of the Endangered Species Act, such as take of endangered or threatened species”

If the applicant has coverage under a Federal Section 7 Biological Opinion or Assessment, or Section 10(a) Permit, the consultation, assessment, or permit number must be provided in Part 5 of the HCF, and Part 6 and Part 8 of the HCF may be skipped.

Applicants may have coverage through the Southern Edwards Plateau Habitat Conservation Plan (SEPHCP). If this option is checked, a copy of the Participation Certificate must be included with the HCF; In this case, Part 6 and Part 8 of the HCF may be skipped.

If the applicant does not have a Federal Section 7 consultation, Section 10(a) permit, or SEPHCP enrollment certificate, then Part 6, Part 7, and Part 8 of the HCF must be completed, as applicable.

VIII. Golden-cheeked Warbler

There is a presumption that all property that is outside of Loop 1604 and north of U.S. Highway 90 and west of Interstate 35 contains habitat for the Golden-cheeked Warbler. The presumption can be rebutted with proper documentation, however, this presumption requires either Box 6.A.2 or 6.A.3 in Part 6 of the HCF to be checked. If either box is checked, Part 7 and Part 8 of the HCF must also be completed, as applicable.

It is important to note that Golden-cheeked Warbler habitat may be present in other areas of Bexar County. It is the property owner’s responsibility to verify whether or not habitat is present and to comply with all requirements of the Endangered Species Act.



IX. Listed Karst Invertebrates

Properties which are located in Karst Zones 1 and/or 2 are either known to contain or have a high probability of containing listed karst invertebrate species. As such, for properties in Karst Zone 1 and/or 2, either Box 6.B.2 or 6.B.3 in Part 6 of the HCF to be checked. If either box is checked, Part 7 and Part 8 of the HCF must also be completed, as applicable.

Applicants may use the following linked map to determine if a property is in Karst Zone 1 and/or 2:

<https://www.arcgis.com/home/webmap/viewer.html?webmap=8b9b276d39ad415abf1b6162268d830d&extent=-98.9787,29.379,-98.2604,29.6849>

It is important to note that habitat for listed karst invertebrate species may be present in other areas of Bexar County outside of Karst Zones 1 and 2. It is the property owner's responsibility to verify whether or not habitat is present and to comply with all requirements of the Endangered Species Act.

X. Surveys

For those applicants wishing to submit studies to USFWS, the appropriate study is a species presence-absence survey or habitat assessment conducted in accordance with USFWS protocols under the authority of a valid USFWS scientific collection permit. Such surveys shall be submitted to:

U.S. Fish & Wildlife Service
10711 Burnet Rd, Suite 200
Austin, Texas 78758-4460
ph. (512)490-0057, ext. 235
fax (512)490-0974

Please note that City of San Antonio neither requests nor reviews these studies; it should also be noted that a complete and accurate HCF is required regardless of whether or not a study has been conducted.

XI. The Southern Edwards Plateau Habitat Conservation Plan

The USFWS or TPWD may respond to the case manager to indicate that they recommend the applicant consult with the Southern Edward Plateau Habitat Conservation Plan (SEP HCP) for enrollment in order to comply with the Endangered Species Act (ESA). If this occurs, the case manager will forward this information along with the link to the SEP HCP website to the applicant:

<https://www.sanantonio.gov/DSD/Constructing/SEP-HCP>



City staff will never require the applicant to participate in SEP HCP as it is the owner's responsibility to choose the correct and most appropriate means to achieve compliance with the ESA. Information provided to the applicant regarding the SEP HCP is intended to provide the owner with information on one of the means to achieve compliance.

XII. Accuracy of the HCF

If any part of the HCF is found untrue or falsified, then the corresponding application to the City of San Antonio may not be approved.

It is the owner's responsibility to fully comply with the Endangered Species Act.

XIII. Compliance with the ESA

It should also be noted that the City of San Antonio is not authorized by law to enforce the Federal ESA. Full compliance with the ESA is the sole responsibility of the property owner. Completion of the HCF should in no way be interpreted as compliance with the ESA. For specific questions related to ESA compliance, please contact USFW.

XIV. Summary:

This information bulletin is for informational purposes and provides guidance in complying with the requirements for submitting the HCF form.

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