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## ARTICLE 10. REVIEW PROCEDURES

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### 10.1. PURPOSE AND ORGANIZATION OF THIS ARTICLE

The purpose of this article is to:

- 10.1.1. Describe the procedures for filing and processing applications for development activity in the City of Arlington and its extraterritorial jurisdiction;
- 10.1.2. Provide a format that allows applicants to quickly and efficiently ascertain the various steps involved in obtaining development approval, including initiation and filing of an application, completeness review, review for compliance with substantive standards, and hearings; and
- 10.1.3. Describe the authority and responsibilities of the various boards, commissions, and departments that are involved in the land development process.

### 10.2. TABLE OF PROCEDURES

Table 10.2-1, Summary Table of Review Procedures, summarizes the common procedural steps (described in Section 10.3, *General Procedures*) that are established by this article. Provisions specific to each type of land development application are found in Section 10.4, *Specific Review Procedures*.

**Table 10.2-1: Summary Table of Review Procedures**

✓ = required; R = recommendation; H = public hearing required; D = decision;  
A = appeal; L = Legislative Hearing; QJ = Quasi-Judicial Hearing

Procedure	Pre-Application Meeting	Legislative (L) or Quasi-Judicial (QJ) Hearing	Zoning Administrator	Landmark Preservation Commission	Zoning Board of Adjustment	Planning and Zoning Commission	City Council	Code Reference
<b>Zoning Procedures</b>								
Unified Development Code Text Amendments		L	R			R-H	D-H	10.4.1
Zoning Map Amendments		L	R			R-H	D-H	10.4.2
Planned Developments	✓	L	R			R-H	D-H	10.4.3
Zoning Site Plans			D			A		10.4.4
Multi-family Development Plan		L	R			R-H	D-H	10.5.5
Specific Use Permits		L	R			R-H	D-H	10.4.6
Variances and Appeals		QJ	R		D-H			10.4.7
<b>Landmark Procedures</b>								
Landmark District Designation	✓	L	R	R-H		R-H	D-H	10.4.8
Landmark District Certificates of Appropriateness	✓		R	D-H			A	10.4.9
Landmark Certificate of Demolition or Relocation	✓		R	D-H			A	10.4.10
<b>Subdivision Procedures</b>								
Conveyance Plats			D			A		10.4.12
Preliminary Plats			R			D	A	10.4.13
Final Plats			D			A		10.4.14
Combination Plats			R			D	A	10.4.15
Minor Plats			D			A		10.4.16
Replats			R			D-H	A	10.4.17
Amending Plats			D			A		10.4.18
Vacation of Plats		QJ	R			D-H	A	10.4.19
Linear Park Platting			D			A		10.4.20
<b>Other Procedures</b>								
Converting Private Streets to Public Streets			R				D	10.4.21
Alternative Equivalent Compliance			D			A		10.4.22

**10.3. GENERAL PROCEDURES**

**10.3.1. APPLICABILITY <sup>1</sup>**

This section describes the procedural elements common to all applications. Additional procedures that apply to specific applications are provided in Section 10.4. Generally, the procedures for all applications have five common elements:

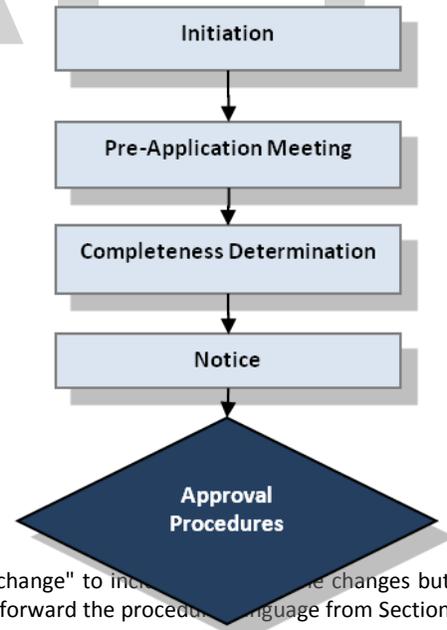
- A. Submitting a complete application, including required fee payments and appropriate information;
- B. Review of the application by appropriate staff, agencies, and boards;
- C. Action to approve, approve with conditions, or deny the application;
- D. Appeals; and
- E. A description of the actions authorized by the permit and the time period for exercising rights under the order or permit.

**10.3.2. CONSISTENCY WITH STATE AND FEDERAL LAW**

The notice, decision making authority, public hearing, and other requirements for all approvals shall comply with the Texas Local Government Code and other applicable state or federal laws, rules, or regulations. This article shall be interpreted and applied in accordance with all applicable state or federal laws, rules, and regulations. If these requirements conflict with the Local Government Code, the Local Government requirements control.

**10.3.3. INITIATION <sup>2</sup>**

- A. All applications in this article shall be submitted to the Community Development and Planning Department by the following parties, unless otherwise indicated by this article:
  - 1. any owner of the property subject to the application, or
  - 2. an agent, lessee, or contract purchaser specifically authorized by the owner to file the application.
- B. The restrictions in Subsection A above do not apply to applications filed by the City.



<sup>1</sup> This section replaces the current Sec. 5-100.A. That section defines a "zoning change" to include... changes but specific use permits and development plan approvals. We have however carried forward the procedural language from Section 5-100 below as noted for general applicability.

<sup>2</sup> Section 5-100.C.1 of the current code contains a lengthy description indicating who applications are submitted to and that they are reviewed for completeness, fees, etc. We have eliminated this language in favor of the short statement below. Other language from that paragraph is addressed in the common review steps below and throughout this article. We did not see any language in the current code clarifying who can submit an application so we have added a common provision below as well.

- C. All applications shall be accompanied by a reasonable fee as established by resolution of the City Council.

#### 10.3.4. PRE-APPLICATION CONFERENCE<sup>3</sup>

**A. Purpose**

The purpose of the pre-application meeting is to provide an opportunity for the applicant and the City to discuss the development proposal and to resolve potential issues before the applicant and the City incur substantial time and expense in submitting and reviewing the application.

**B. Applicability**

A pre-application meeting is required prior to certain types of applications, as listed in Table 10.2-1 and Section 10.4, *Specific Review Procedures*. Applications for these types of approvals shall not be accepted until after the pre-application meeting is completed.

**C. Meeting Process**

1. City staff shall coordinate with the applicant and facilitate the meeting, including scheduling the time and location of the meeting.
2. At the meeting, City staff may:
  - a. Determine the required application(s) and the timing of multiple application submittals (i.e., whether they may be processed concurrently or must be processed sequentially);
  - b. Provide the applicant with application materials and inform the applicant of submittal requirements and procedures;
  - c. Provide the applicant with an estimated time frame for the review process;
  - d. Based on a conceptual plan of the proposal (if required), generally discuss compliance with the code's zoning, use, density, development, and design standards, and attempt to identify potentially significant issues regarding compliance;
  - e. Refer the applicant to other departments or agencies to discuss potential significant issues prior to application submittal; and
  - f. Consider or answer questions by the applicant relating to the application process, the standards established in this Code, required documents, fees, and any other inquiries relating to the application.

Comment: Applicants are advised that the meeting should take place prior to any substantial investment, such as a land acquisition for a proposed development, site and engineering design, or the preparation of other data.

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<sup>3</sup> We have replaced the brief language from Sections 5-100.B of the current code with the following more detailed provisions per page 37 of the Diagnosis. Applications requiring this step are indicated in Section 10.4 (specific procedures) and Table 10.2-1.

**10.3.5. COMPLETENESS DETERMINATION****A. Applicability**

This section applies to any application that is subject to this article.

**B. Application Materials**

1. The Zoning Administrator may publish application materials for the processes established in this article. The materials shall include information that describes the application, demonstrates compliance with this Code, and addresses potential adverse effects created by the proposed development.
2. No application is complete unless all of the information required by Section 10.4 and any application materials required by the Community Development and Planning Department is included, and all required filing fees are paid. An application is not considered filed until it is complete. The Zoning Administrator may allow the applicant to submit any required information later in the review process in order to complete final action on the application.
3. The applicant shall file an application in advance of any required public hearing or public meeting where the application is considered. The Zoning Administrator may establish a schedule for filing and reviewing any application that requires action by the City Council, Planning and Zoning Commission, Zoning Board of Adjustment, Landmark Preservation Commission, Zoning Administrator, or Building Official. The schedule shall provide adequate time for notice and/or publication consistent with the applicable state statutes and this article. Completed applications shall be filed according to any published schedule.

**C. Review Procedure**

1. No later than 10 business days<sup>4</sup> after an application is filed, the Zoning Administrator shall determine whether the application is complete and shall transmit a written determination to the applicant. If the written determination is not made within this time period, the application is deemed complete. Failure to complete this review within the specified time does not constitute approval and does not give rise to any cause of action against the City.
2. If the application is determined not to be complete, the Zoning Administrator shall provide written notice to the applicant of the failure. The notice shall specify the necessary documents or other information and the date the application will expire if the documents or other information is not provided. The Zoning Administrator shall provide this notice no later than the 10th business day after the date the application is filed.
3. The application expires on or after the 45th day after the date the application is filed if:

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<sup>4</sup> We have suggested this time frame to determine if an application is complete in accordance with Section 245.001(e)(2) of the Texas Local Government Code. The referenced section of the LGC allows the City to determine that an application has expired within 45 days of filing, which includes notification within ten days of any deficiencies in the application.

- a. the applicant fails to provide documents or other information required by Section 10.3.5.B above;
  - b. the Zoning Administrator provides the notice described in Subsection 2, above; and
  - c. the applicant fails to provide the specified documents or other information within the time provided in the notice.
4. If an application expires, the City will not process the application. The applicant must file a new application in order to obtain the requested approval.
  5. If the application is determined to be incomplete, the applicant may appeal that decision in writing to the agency charged with authority to approve the application (the “approving agency”). The appeal is considered concurrent with action on approval or denial of the application. If the approving agency determines that the application is incomplete, it may determine that the application has expired, or it may delay final approval pending the submittal of complete information. If the approving agency determines that the application is complete, it may render a final decision on the application.
  6. An applicant and the Zoning Administrator may mutually agree to an extension of any time limit provided by this section.

**D. Notice Of Application Acceptance**

When the Zoning Administrator determines that an application is filed in proper form and is ready to be formally accepted, it shall notify the applicant in writing. The application is then processed according to the remainder of this section, including referrals to outside agencies and scheduling for public hearing, as applicable.

**E. Time Limits Triggered By Complete Application**

Whenever this chapter establishes a time period for processing an application, the time period does not begin until the Zoning Administrator has reviewed the application for completeness and the applicant has corrected all deficiencies in the application.

**F. Electronic Documents For Archive**

Final plans or other documents that will be archived must be submitted in an electronic format specified by the Zoning Administrator as a condition to issuance of any type of permit, approval, or action related to final plans or documents. An electronic conversion may be provided for a fee in the amount set forth by City Council resolution. The Zoning Administrator shall provide a schedule indicating which documents must be provided electronically, at which point during the approval process, and other information as necessary to implement an electronic archiving program.

**10.3.6. PUBLIC NOTICE** <sup>5</sup>

Unless otherwise specified, notice for public hearings shall be provided at least 16 days<sup>6</sup> before the date of the hearing. Table 10.2-2 sets forth the specific notice requirements for each application.

**A. Contents Of Notice** <sup>7</sup>

Notices, whether by publication or mail (written notice), shall, at a minimum:

1. Identify the application by application number or title.
2. Identify the address or location of the property subject to the application and the name of the applicant or the applicant's agent.
3. Specify the date, time, and place of the public hearing.
4. Describe the land involved by street address, or by legal description and the nearest cross street, and project area (size).
5. Describe the application or proposal.
6. Identify the location (e.g., the offices of the Community Development and Planning Department) where the public may view the application and related documents.
7. Include a statement that the public may appear at the public hearing or be heard and submit evidence and written comments with respect to the application.
8. Include a statement indicating the City will accept public comments prior to the public hearing, describing where written comments will be received, and stating that comments must be submitted prior to the close of the public hearing in order to be entered into the record.

**B. Published Notice**

When published notice is required, the Zoning Administrator shall prepare the content of the notice and publish the notice in an official newspaper or a newspaper of general circulation in the City. The content and form of the published notice shall be consistent with Chapter 211, Texas Local Government Code.

**C. Written (Mailed) Notice** <sup>8</sup>

1. Written notice is required if this Code requires a public hearing on the application.

<sup>5</sup> The following section carries forward posting requirements in Section 5-100 of the current code, along with new language for other types of notice in accordance with pages 37-38 of the Diagnosis. The current code contained lengthy requirements for posting signs, but simply referenced the Texas Local Government Code for all other types of notice. We have reviewed Chapters 211(zoning) and 212 (subdivisions) and provided some general language consistent with those sections. As the LGC may change from time-to-time, we added an introductory statement indicating this takes precedence if there is a conflict.

<sup>6</sup> The 15 day requirement is consistent with Section 211.006 and 211.021 of the Texas Local Government Code. Standard practice in the Community Development and Planning Department exceeds 16 day requirement.

<sup>7</sup> The following is new language that is more detailed than what is in the Texas Local Government Code to provide guidance for noticing.

<sup>8</sup> STAFF: Section 211.007(c) of the Texas Local Government Code states that any rezoning must have written notice to all property owners within 200' of the subject property for the "Zoning Commission" public hearing. Section 212.015 also requires this level of notice for certain types of replats. We have suggested carrying this forward for applicability to all public hearings.

2. When written notice is required, the Zoning Administrator shall prepare and mail the written notice.
3. Table 10.2-2 indicates when written notice is required.
4. The Zoning Administrator shall send the written notice to:
  - a. The owner of the property for which the approval is sought, and
  - b. Each owner, as indicated by the most recently approved municipal tax roll, of real property within 200 feet of the property, or 600 feet if the application includes a gas well, including streets, alleys, and other rights-of-way; and
  - c. Any other parties entitled to receive written notice by mail under state law.
5. The notice required by this subsection shall be postmarked no later than the required number of days prior to the hearing at which the item will be considered. See Table 10.2-2 for the required number of days for notice.

**D. Posted Notice<sup>9</sup>**

**1. General**

- a. The applicant must provide the notice required by this subsection, unless this Code or state law requires another form of notice.
- b. If a public hearing is required, the required number of signs must be posted on the property that is subject to application or appeal.
- c. The City shall post the notification sign as required by this section. The Zoning Administrator may authorize the applicant to post the sign(s).

**2. Number of Signs Required**

- a. The following number of notification signs is required, unless the tract has frontage on more than one public right-of-way. A minimum of one sign per street frontage is required.

Size	Number of signs
Less than 15 acres	1
15 – 25 acres	2
More than 25 acres	3

- b. The Zoning Administrator may authorize a fewer number of signs if additional signs do not significantly increase visible notice due to the configuration of the tract or its physical orientation to the public right-of-way.
- c. No more than three notification signs are required to be posted on the property, regardless of its size.

<sup>9</sup> Taken from Section 5-100.C.3 of the current code. We have carried forward the provisions from the current code for general applicability to all applications requiring a public hearing. We have also changed the timeframe from 14 days to 15 days to post signs consistent with the rest of this section, along with elimination of some legalese that was in this section.

**3. Timing**

- a. The required number of notification signs shall be posted on the property at least 16 days before the date of the scheduled public hearing.
- b. The required number of notification signs shall remain on the property until final action is taken on the application.

**4. Placement Of Signs**

- a. The signs must be posted at a prominent location adjacent to a public street and be easily visible from the street.
- b. The erection and/or the continued maintenance of any notification sign(s) does not affect subsequent action (such as holding a public hearing, submitting a recommendation concerning or adopting a proposed zoning amendment, or any other official action) unless the party objecting to the notice demonstrates that the defect was substantial and likely affected participation at the hearing.
- c. The signs shall be removed within five days after final action on the case.

**5. Illegal Removal Of Signs**

It is unlawful to intentionally or knowingly remove a notification sign that has been posted pursuant to this section, or to in any way tamper with or conceal the sign message.

**E. Other Notices**

Applicants are responsible for any additional notice requirements in this Code, other City ordinances, or state law.

**F. Summary Table Of Notice Requirements**

The following table summarizes the required notice in this article.

Table 10.2-2: Summary Table of Notice Requirements				
Application	Published	Written	Posted	Timing <i>(in days before the hearing date, or decision date if no hearing is required)</i>
Zoning Code Amendments	✓			16 days
Zoning Map Amendments	✓	✓	✓	11 days <sup>1</sup>
Planned Developments	✓	✓	✓	16 days
Multi-family Development Plan	✓	✓	✓	16 days
Specific Use Permits	✓	✓	✓	16 days
Variances	✓	✓		16 days
Appeals to Zoning Board of Adjustment	✓	✓		11 days
Landmark District Designation	✓	✓	✓	16 days
Landmark District Certificates of Appropriateness	✓			16 days
Vacation of Plats	✓	✓	✓	16 days

<sup>1</sup> If the property within 200 feet of the property on which the change is proposed is located in territory annexed to the City and is not included on the most recently approved municipal tax roll, the

**Table 10.2-2: Summary Table of Notice Requirements**

Application	Published	Written	Posted	Timing <i>(in days before the hearing date, or decision date if no hearing is required)</i>
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notice is given in the manner provided for Zoning Ordinance amendments.

**G. Re-Noticing**

A new notice is required if there is a substantial difference between the action described in the notice and the final action, unless the final action is a smaller change from the existing situation.

Examples: (1) A notice proposes a change from 25 to 35 units per acre. Final action to allow 30 units per acre is allowed without re-noticing. (2) A notice proposes a variance to reduce open area. Final action to reduce open area to a lesser degree and to require mitigation is allowed without re-noticing.

**10.3.7. APPROVAL PROCEDURES <sup>10</sup>**

This section identifies approval and public hearing procedures for applications that are subject to this article. Procedures for specific types of applications are located in Section 10.4 below. All approval procedures shall comply with the Texas Local Government Code and this article. If these requirements conflict with the Local Government Code, the Local Government Code controls.

**A. Submission of Information**

Any person may appear at a public hearing and give testimony or submit written materials, either individually or as a representative of an organization.

**B. Duties of the Zoning Administrator**

The Zoning Administrator shall submit a written report to the agency with recommending or decision making authority. The Administrator's report shall include the reports and recommendations of other City departments, if applicable.

**C. Postponement of Public Hearings at Applicant's Request <sup>11</sup>**

An applicant may request a postponement of the scheduled public hearing at least six business days prior to the scheduled public hearing. If any publication or notice is provided by the City, the applicant is responsible for any costs or fees associated with the postponement. If the request is submitted less than six days prior to the scheduled public hearing, the decision-making body may, in its discretion, either hold or continue the public hearing.

**D. Continuances**

The decision-making body may continue a hearing to a specified date, time, and place. The date of continuance shall be made part of the motion and publicly announced at the public hearing. The Zoning Administrator shall ensure that notice of the continuance is posted (see 10.3.6.D) at least 72 hours before the continued

<sup>10</sup> We have removed the paragraph from Sec. 5-100.D of the current code, including the provision that the Zoning Administrator may approve "minor modifications to the zoning districts" in favor of the new Administrative Adjustments procedure. This paragraph provides the decision making authority for various applications, which is reflected in the specific review procedures below.

<sup>11</sup> We have applied this provision to all public hearings. The current code only applies it to rezonings.

public hearing date in the same manner as originally posted. Publication or property owner notification of the continued date is not required, unless required by state law or recommended by the hearing body or the Zoning Administrator.

**E. Tabling a Decision**

A decision-making body may close a public hearing and table the decision. The request shall appear on each subsequent agenda unless the decision is deferred to a specific date.

**F. Other Rules to Govern**

Other matters pertaining to the public hearing shall be governed by other provisions of these regulations applicable to the body conducting the hearing and its adopted rules of procedure.

**G. Action Following Denial<sup>12</sup>**

If an application is denied, the applicant may appeal the decision in accordance with Section 10.3.12, or as set forth in Section 10.4 for specific procedures.

**10.3.8. CRITERIA<sup>13</sup>**

**A. Generally**

1. All applications shall comply with all applicable standards in Articles 2 through 7 of this Code, this section, and Section 10.4 of this article.
2. The decision-making body may impose conditions reasonably calculated to achieve or maintain compliance with all applicable criteria.
3. The decision-making body may incorporate or require, as part of a condition of approval, a written agreement between the applicant and the City that enforces the conditions.

**B. Default Criteria**

**1. Generally**

Unless otherwise specified in this article, City review and decision-making bodies shall review all development applications submitted pursuant to this article for compliance with the general review criteria stated below. The application may also be subject to additional review criteria specific to the type of application, as stated below. If there is a conflict between the general review criteria in this section and the specific review criteria in Section 10.4, Section 10.4 controls.

**2. Prior Approvals**

The proposal shall be consistent with the terms and conditions of any prior plan or plat approval that is in effect and not proposed to be changed. This includes an approved phasing plan for development and installation of public improvements and amenities.

<sup>12</sup> The following is a new section to cross reference the available appeals per page 38 of the Diagnosis.

<sup>13</sup> The following are suggested new general criteria to guide decision making in the absence of any application-specific criteria in Section 9.4 below.

- 3. Consistent with Comprehensive Plan and Other Applicable Plans**  
The proposal shall be consistent with the comprehensive plan and any applicable sub-area, neighborhood, sector, or district plan. The decision-making authority:

  - a. shall weigh competing plan goals, policies, and strategies; and
  - b. may approve an application that provides a public benefit even if the development is contrary to some of the goals, policies, or strategies in the Comprehensive Plan or other applicable plans.
- 4. Compliance with Use and Development Standards**

  - a. The proposal shall comply with all applicable standards in Articles 2 through 7 unless the standard is lawfully modified, varied, or waived.
  - b. Compliance with these standards is applied at the level of detail required for the subject submittal.
- 5. Compliance with Other Applicable Regulations**  
The proposed development shall comply with all other City regulations and with all applicable regulations, standards, requirements, or plans of the federal or state governments and other relevant jurisdictions. This includes, but is not limited to, wetlands, water quality, erosion control, and wastewater regulations.
- 6. Consistent with Interlocal Agreements**  
The proposed development shall be consistent with any adopted interlocal agreements, and comply with the terms and conditions of any interlocal agreements incorporated by reference into this Code.
- 7. Minimizes Adverse Environmental Impacts**  
The proposed development shall be designed to minimize negative environmental impacts, and shall not cause significant adverse impacts on the natural environment. Examples of the natural environment include water, air, noise, stormwater management, scenic resources, wildlife habitat, soils, and native vegetation.
- 8. Minimizes Adverse Impacts on Surrounding Property**  
The proposed development shall not cause significant adverse impacts on surrounding properties.
- 9. Minimizes Adverse Fiscal Impacts**  
The proposed use shall not result in significant adverse fiscal impacts on the City.
- 10. Compliance with Utility, Service, and Improvement Standards**  
As applicable, the proposed development shall comply with federal, state, county, service district, City and other regulatory authority standards and design/construction specifications for roads, access, drainage, water, sewer, schools, emergency/fire protection, etc.

**11. Provides Adequate Road Systems**

Adequate road capacity must exist to serve the uses permitted under the proposed development, and the proposed use shall be designed to ensure safe ingress and egress onto the site and safe road conditions around the site, including adequate access onto the site for fire, public safety, and EMS services.

**12. Provides Adequate Public Services and Facilities**

Adequate public service and facility capacity must exist to accommodate uses permitted under the proposed development at the time the needs or demands arise, while maintaining adequate levels of service to existing development. Public services and facilities include, but are not limited to, roads, domestic water, sewer, schools, public safety, fire protection, libraries, and vehicle/pedestrian connections and access within the site and to adjacent properties.

**13. Rational Phasing Plan**

If the application involves phases, each phase of the development shall contain all of the required streets, utilities, landscaping, open space, and other improvements that are required to comply with the project’s cumulative development to date, and shall not depend upon subsequent phases for those improvements.

**C. Substantial Compliance**

**1.** The decision-making body may approve an applicable permit or plan subject to Section 10.4 if it literally complies or substantially complies with the applicable approval criteria.

**2.** Unless a specific permit or process establishes different criteria, a permit, or plan substantially complies with the applicable approval criteria if the proposed use or development:

- a.** Does not exceed any dimensional or numerical criteria by more than five percent, and
- b.** Does not significantly:
  - (i)** Alter the basic relationship of the proposed development to adjacent property;
  - (ii)** Change the uses permitted;
  - (iii)** Increase the maximum density, floor area ratio, or height;
  - (iv)** Decrease the amount of required off street parking; or
  - (v)** Reduce the minimum yards required at the boundary of the site.

**10.3.9. WITHDRAWAL AND REAPPLICATION <sup>14</sup>**

**A. Withdrawal of Application by Applicant**

**1.** An applicant may withdraw an application, without prejudice, at any time before it is placed on the agenda of a public hearing or meeting.

<sup>14</sup> The following is suggested new, general language addressing withdrawal of and limits on reapplications.

2. The applicant shall submit in writing the withdrawal request to the Community Development and Planning Department.
3. After it is withdrawn, the City shall not take further action on the application.
4. To re-initiate review, the applicant shall submit a new application and fee.
5. Withdrawal of an application from a public hearing or meeting agenda is at the review or decision-making authority's discretion.

**B. Limitations On Reapplications**<sup>15</sup>

1. When an application submitted pursuant to this Code is denied, no new application for the same or substantially the same request, as determined by the Zoning Administrator, shall be submitted or accepted within one year of the date of the denial unless:
  - a. The Zoning Administrator determines that the resubmitted application corrects the stated objections, and
  - b. Resubmittal of the application complies with applicable Texas law.
2. Resubmittals are subject to all processing fees, submittal requirements, and review standards in effect at the time the resubmittal is accepted by the Community Development and Planning Department.

**10.3.10. SCOPE OF APPROVAL**<sup>16</sup>

**A. Expiration of Approval**

1. An individual permit or approval under this article expires if no progress is made towards completion of the project within two years after it is approved or the expiration date provided in Subsection 2, whichever occurs later.
2. A project expires if no progress is made towards completion of the project by the fifth anniversary of the date that the first permit application was filed for the project.
3. For purposes of this subsection, progress towards completion of the project is as defined in Texas Local Government Code § 245.005.

**B. Extensions of Approval Period**

1. The Zoning Administrator may grant one extension of an approval period of up to 12 months for good cause.
2. All requests for extensions shall be submitted to the Zoning Administrator in writing at least 30 calendar days prior to the expiration of approval.
3. An extension request shall include:
  - a. A narrative stating the reasons for the applicant's inability to comply with the specified deadlines; and

<sup>15</sup> We have suggested the following new common limitations on reapplications for the same proposal.

<sup>16</sup> Subsections A-B below are suggested new language to address the timeframe an approval remains valid, with the language regarding expiration of plats taken from Section 3.04.D of the current code.



**D. Decision and Notice**

1. An order (decision) to revoke or suspend the permit requires a vote of 75 percent of the members of the approving body or Zoning Board of Adjustment.
2. The order shall contain findings that address the basis for the decision by, at a minimum, stating:
  - a. The conditions that provided grounds for revocation;
  - b. The harm caused by the violation;
  - c. If the approval or permit is suspended, the length of time that the violation can be cured; and
  - d. If the approval or permit is terminated, the reason why the violation cannot be cured.

**E. Effect and Appeals**

1. A petition complaining of the Zoning Board of Adjustment's decision may be presented to a court of competent jurisdiction pursuant to Texas Local Government Code § 211.011. The petition must be presented within 10 days after the decision is filed. If no petition is timely filed, the decision becomes final on the eleventh day after it is filed.
2. If the appeal is from the decision of another approving body, the petition shall be presented to a court of competent jurisdiction as provided in Subsection 1, above, unless another provision of Texas law or the City Code applies to appeals from a decision of the approving body.

**F. Right Cumulative**

Revocation and suspension are in addition to, not in lieu of, other remedies and enforcement proceedings.

**10.3.12. APPEALS<sup>17</sup>****A. Applicability**

1. Any person, taxpayer, officer, department, board, or department of the City of Arlington aggrieved by any decision subject to this article may appeal the decision.
2. This section establishes general rules for filing an appeal. Specific rules for filing an appeal are established in Section 10.4. For example, some approvals are appealable to the Zoning Board of Adjustment, while others are appealable to the City Council or Planning and Zoning Commission. Refer to Section 10.4 to determine any additional procedures for initiating and processing an appeal for an individual permit.

<sup>17</sup> The following is taken from Section 5-800 of the current code. We have removed the language titled "waiver of fees" per page 40 of the Diagnosis. We have also reviewed the language in Chapter 211 of the Texas Local Government Code and taken steps to ensure compliance. That section of the LGC only addresses the Zoning Board of Adjustment (appeals from administrative officials and appeals of BOA decisions to district court) but we have used it as a guide for other types of appeals. Notably, we included a provision that "any person aggrieved" may appeal the decision per Section 211.010 of the LGC along with some details for filing the appeal.

3. In each case, a public hearing is required in accordance with the hearing procedures set forth in Article 9, *Review Authorities*, and Section 10.3.7.

**B. Request**<sup>18</sup>

1. An appeal must be filed with the board and the official from whom the appeal is taken 10 days after the decision is rendered.
2. An appeal is filed by submitting a notice of appeal that specifies the grounds for the appeal.
3. The officer from whom the appeal is taken shall transmit to the appeal authority all the papers constituting the record of the action that is appealed.

**C. Staying of Proceedings**

An appeal stays all proceedings of the action appealed from, unless the officer from whom the appeal is taken certifies to the appeal authority that a stay would cause imminent peril to life or property. In this case, proceedings shall not be stayed otherwise than by a restraining order. A restraining order may be granted by the appeal authority or by a court of record. A restraining order requires on application, notice to the officer from whom the appeal is taken, and due cause shown.

**D. Interpretation**

In considering an appeal, the Board of Zoning Appeals or agency considering the appeal may interpret this Code or associated official maps, forms, or other documents.

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<sup>18</sup> We have suggested changing the 15 day deadline to ten days to be consistent with the appeals language in Section 211.011 of the Texas Local Government Code.

**10.4. SPECIFIC REVIEW PROCEDURES**

**10.4.1. UNIFIED DEVELOPMENT CODE TEXT AMENDMENTS<sup>19</sup>**

**A. Applicability and Jurisdiction**

The City Council may amend this Code by ordinance.

**B. Initiation**

See Section 10.3.3. Any of the following parties may initiate a text amendment:

1. The City Council on its own motion, or on petition of an interested property owner, or
2. The Planning and Zoning Commission, or
3. The Zoning Administrator.

**C. Completeness Determination**

Applications must be complete as required by Section 10.3.5.

**D. Notice**

Published notice required pursuant to Section 10.3.6.

**E. Approval Procedures**

**1. Action By The Planning And Zoning Commission**

The Planning and Zoning Commission shall hold a public hearing on any text amendment, supplement, or change. The Commission shall approve, deny, or modify the application and forward its report and recommendation to the City Council.

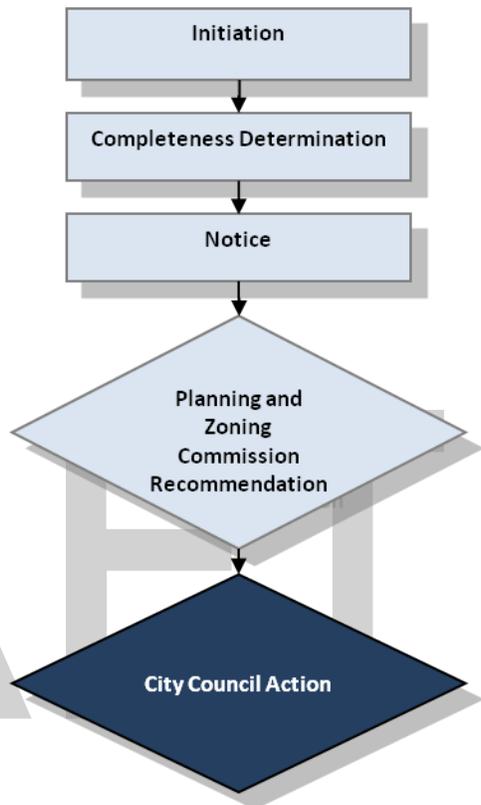
**2. Action By City Council**

The City Council has final authority to adopt, modify, or deny any proposed text amendment.

**F. Criteria<sup>20</sup>**

The Planning and Zoning Commission may recommend, and the City Council may approve a text amendment in its sole legislative discretion. The Planning and Zoning Commission and City Council may consider any or all of the following factors, along with any other relevant facts or circumstances:

**UDC Text Amendment Procedures**



<sup>19</sup> The following is taken from Section 5-200 of the current code (same as rezonings). We have inserted new language that includes clarifying who can initiate the application.

<sup>20</sup> The current code does not contain any criteria for amendments so we have suggested the following.

1. Any of the general criteria in Section 10.3.8.
2. Whether the proposed amendment is supported by sound planning principles.
3. Whether the amendment promotes the public health, safety, or welfare.
4. Whether the amendment is appropriate for any of the following reasons:
  - a. A material change in circumstances.
  - b. The amendment would avoid a hardship to the applicant or affected property owners.
  - c. The amendment corrects an error or omission made when this Code was adopted or amended.
5. Whether the amendment is otherwise in the best interest of the City.
6. Any other factors required or allowed by Texas law.

#### 10.4.2. ZONING MAP AMENDMENTS (ZONE CHANGES) <sup>21</sup>

##### A. Applicability and Jurisdiction

The City Council may amend, supplement, or change the boundaries of any zoning district.

##### B. Initiation

##### 1. Zoning Map Amendments

See Section 10.3.3. Any of the following parties may initiate a zoning map amendment:

- a. City Council on its own motion, or on petition of an interested property owner,
- b. Planning and Zoning Commission, or
- c. Zoning Administrator.

##### 2. Conservation District overlay

A zone change to a conservation district overlay may be initiated only through any one of the following procedures:

- a. Request of property owners representing 60 percent of the land area within the proposed district;
- b. Request of 60 percent of the property owners within the proposed district; or
- c. Request of the Director of Planning and Community Development, pursuant to a recommendation in a neighborhood plan or other plan adopted by the City Council.

#### Zoning Map Amendment Procedures

<sup>21</sup> The following is taken from Sec. 5-200 of the current code (same as rezonings). New language is noted below.

**C. Pre-Application Conference**  
A pre-application conference is encouraged, but not required.

**D. Completeness Determination**  
See Section 10.3.5.

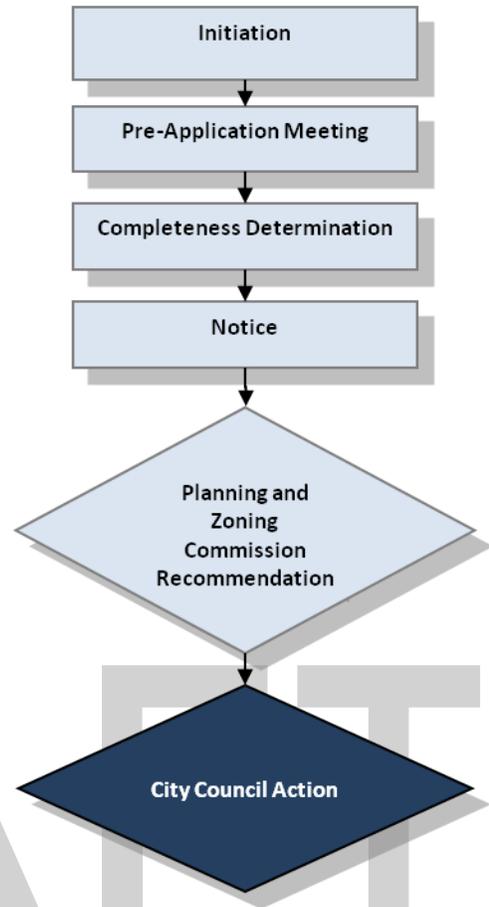
**E. Notice**  
Published, written, and posted notice required pursuant to Section 10.3.6.

**F. Approval Procedures**  
**1. Action By The Planning And Zoning Commission**  
The Planning and Zoning Commission shall hold a public hearing on any zoning map amendment. The Commission shall approve, deny, or modify the application and forward its report and recommendation to the City Council.

**2. Action By City Council**  
**a.** The City Council has final authority to adopt or deny any proposed zoning map amendment.  
**b.** The City Council may grant a change of zoning to a zoning district not applied for by the applicant, if the approved district is less intensive than the zoning district advertised.  
**c.** If the Planning and Zoning Commission recommends denial of a zoning change, the City Council may decide whether or not to conduct a public hearing on the application. The City Council's decision not to conduct a public hearing constitutes denial of the application.  
**d.** If the City Council conducts a public hearing, it may approve, deny, modify, or remand the application to the Planning and Zoning Commission.

**G. Criteria<sup>22</sup>**  
As a legislative decision, the decision to rezone is subject to the City Council's discretion. However, a rezoning is subject to state law and factors set out in the case law. The Planning and Zoning Commission and City Council may consider any or all of the following factors, along with any other relevant facts or circumstances:

**1.** The Comprehensive Plan and other adopted plans,



<sup>22</sup> The current code does not contain any criteria for zone changes so we have suggested the following.

2. The character of the surrounding neighborhood, and
3. Any other factors required or allowed by Texas law.

**H. Withdrawal And Reapplication**

To promote the stability and well-being of the community and offer certainty to the City’s citizens regarding the use and development of property, the following requirements govern the filing of reapplications that are initiated by interested property owners:

1. A reapplication within 12 months of the date of the application for a zoning map amendment shall not be heard for a particular parcel of property if:
  - a. Within 12 months prior to the date of the application a zoning map amendment or similar application was denied by the City Council or a zoning case was withdrawn after the giving of public notice; and
  - b. The application currently under consideration includes property that was all or a part of the previously denied or withdrawn case;
  - c. The reapplication is for the same or a more intense zoning district (as defined in Subsection 2, below) than the district requested in the previous application.

2. For purposes of applying the district intensity standard in Subsection 1.c above, the zoning districts established in this Code are listed in order, from the least to most intense, in Table 10.4-1 below. A Planned Development Overlay is more intense than the district requested in a previous application if it requests a greater number of dwelling units or floor area, or a higher density or floor area ratio, than the previous application. Subsection 1 does not apply to zoning applications that request an overlay district.

**Table 10.4-1: Zoning District Intensity**

Abbreviation	District Name
RE	Residential Estate
RS-20	Residential Single-Family 20
VG	Village on the Green
RS-15	Residential Single-Family 15
RS-7.2	Residential Single-Family 7.2
RS-5	Residential Single-Family 5
RM-12	Residential Medium-Density 12
RMF-22	Residential Multi-Family 22
RO	Residential Office
NC	Neighborhood Commercial
LO	Limited Office
OC	Office Commercial
CC	Community Commercial
DB	Downtown Business
GC	General Commercial
HC	Highway Commercial
BP	Business Park

Table 10.4-1: Zoning District Intensity	
Abbreviation	District Name
LI	Light Industrial
RMU	Regional Mixed-Use
IM	Industrial Manufacturing
PD	Planned Development Overlay

3. The City Council, for good cause, may waive any limitation period for refileing in this section.

**I. Protest**

The rules governing amendment over protest are contained in Chapter 211 of the Texas Local Government Code. The Zoning Administrator may prescribe forms for protest petitions.

**10.4.3. PLANNED DEVELOPMENTS <sup>23</sup>**

**A. Applicability and Jurisdiction**

1. A Planned Development (PD) is a type of zoning amendment, and includes maps, plans, and regulations.

2. The City Council may create, amend, or abolish PDs by ordinance.

**B. Initiation**

See Section 10.3.3.

**C. Pre-Application Conference**

Required pursuant to Section 10.3.4.

**D. Completeness Determination**

See Section 10.3.5. A complete PD application requires the submission of a complete PD Development Plan as described in the application form.

**E. Notice**

Published, written, and posted notice required pursuant to Section 10.3.6.

<sup>23</sup> The following is taken from both Section 5-200 (general rezoning procedures) and Section 9-300 of the current code. Per discussions with staff, we have eliminated the "concept plan" step in favor of one final development plan step (we renamed this the "PD Development Plan" since there is no preliminary development plan). This includes elimination of the chart illustrating which applications require which steps and consolidation of the submittal requirements for concept plans and final development plans. We have carried forward the majority of the language from Article 9 except for the performance standards and commercial adjacency standards. Other changes including new criteria are noted below.

**F. Approval Procedures**

**1. Action by the Planning and Zoning Commission**

The Planning and Zoning Commission shall hold a public hearing on any zoning map amendment to a planned development. The Commission shall approve, deny, or modify the application and forward its report and recommendation to the City Council.

**2. Action by City Council**

The City Council has final authority to adopt or deny any proposed zoning map amendment to a planned development. The City Council may grant a change of zoning to a zoning district not applied for by the applicant, if the approved district is less intensive than the zoning district advertised.

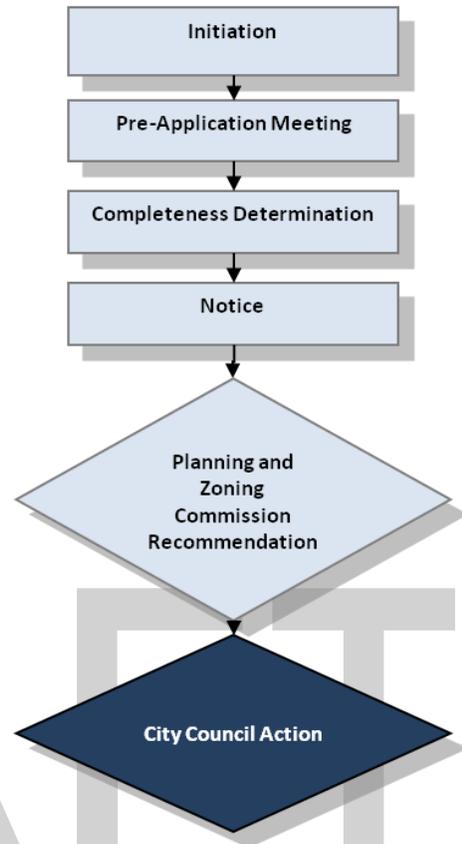
**3. Modifications to PD Development Plans Submitted After Public Notice Given**

The applicant shall submit any modification to a proposed PD Development Plan submitted after notice is given to the Community Development and Planning Department for review and comment prior to its presentation to the Planning and Zoning Commission and/or City Council for approval. The modification shall not constitute a more intense development proposal than the PD Development Plan that was given public notice. If redesigns are submitted in a manner in which time is not available for adequate review by staff, the case may be delayed and a fee for notification and re-advertising required.

**4. Modifications Prior to Second Reading**

Prior to approval on second reading, the required PD Development Plan shall be amended to reflect all stipulations as approved by the City Council on first reading. Upon approval, the Zoning Administrator shall furnish a copy to the Building Official and City Secretary.

**Zoning Map Amendment Procedures, Planned Developments**



**G. Criteria**<sup>24</sup>

As a legislative decision, the decision to rezone to a Planned Development district is subject to the City Council's discretion. However, a rezoning is subject to state law and factors set out in the case law. The Planning and Zoning Commission and City Council may consider any or all of the following factors, along with any other relevant facts or circumstances:

1. The criteria set out in Section 10.4.2.G.
2. The degree to which the planned development:
  - a. addresses a unique situation,
  - b. confers a substantial benefit to the City, or
  - c. incorporates creative site design to achieve the purposes of this Code, and represents an improvement in quality over what is possible through strict application of the otherwise applicable district or development standards. The improvements in quality may include, but are not limited to:
    - (i) improvements in open space provision and access;
    - (ii) environmental protection;
    - (iii) tree/vegetation preservation;
    - (iv) creation of multiple-use projects including residential, commercial, or recreational facilities;
    - (v) efficient provision of streets, roads, and other utilities and services; or
    - (vi) increased choice of living and housing environments;
3. The applicant's proposal is impracticable to achieve within one of the City's residential, non-residential, or mixed-use zone districts in accordance with Article 2, *Zoning Districts*, but is consistent with the criteria above.

**H. Withdrawal And Reapplication**

See Section 10.4.2.H.

**I. Scope of Approval****1. Actions Following Approval of Planned Developments**

- a. A PD Development Plan is binding on the owner(s) and successors of the property shown on the plan and shall control all building permits.
- b. Building permits for any partial development or construction on land contained in an approved PD Development Plan shall comply with phasing approved on the PD Development Plan.

<sup>24</sup> The following are new criteria consistent with the criteria for other rezonings in accordance with page 10 of the Diagnosis. We have added subsections 2 and 3 specific to planned developments to address the key theme in the Diagnosis to reduce reliance on planned developments.

- c. Prior to a permit being issued for property with an approved PD Development Plan, the building permit shall be reviewed for compliance with the approved design standards.
- d. When common open space, common recreational areas, or common area containing other amenities to the development are approved as a part of a PD Development Plan, the areas shall be retained, owned, and maintained by the owner or owners of the units contained within the development or the owners' association to which they are members.

## 2. Expiration Of Plan

- a. A PD Development Plan expires unless progress is made towards completion of the project (See Section 10.3.10.A.).
- b. The City Council may, on its own authority, establish a development or expiration schedule different from this article as a condition of approval of a PD Development Plan. The schedule may mandate that construction occurs within a shorter or longer time and/or that construction may not begin until a certain time or performance has occurred. The conditions of the approved scheduling shall be shown on the PD Development Plan.

- c. Property with a preliminary development plan under a prior version of this Code that does not have a final plan is subject to the adopted design standards and the minimum standards required by this Code.<sup>25</sup>

## 3. Expired Plans

- a. When a PD Development Plan expires and a use/density/housing type is designated on the plan, and there is no separate ordinance which designates that specific use/density/housing type, then the specific use/density/housing type shown on the plan is considered part of the zoning and applies to the site.
- b. An original PD Development Plan, even though expired, is considered an indivisible unit in terms of amendment to any portion and is subject to the standards of Section 10.4.3.J, *Amendments to Approved Plans*.

## 4. Amendment Over Protest

See Section 10.4.3.I.

## J. Amendments to Approved Planned Developments

- 1. An amended PD Development Plan is processed in the same manner as the original approval. The application for an amendment shall include all land described by the original ordinance amendment, zoning the land to "PD", unless otherwise permitted in this section.
- 2. An amendment to a PD Development Plan requires an amendment to the entire original PD rezoning ordinance, unless the conditions in Subsection 3 below apply. If any portion of the original district is modified:
  - a. The modification shall be noted on the approved PD Development Plan;

<sup>25</sup> We eliminated obsolete language about development plans that expired in 1995.

- b.** The modification is treated as a change to the entire plan for the purposes of notification;
- c.** All owners within the boundary and within 200 feet of the boundary of the original district shall be given due notice of public hearing and have the right to petition against the change; and
- d.** The applicant shall provide the following evidence of notification of the proposed modification:
- (i)** A statement in writing signed by the landowner(s) that they have received notice of the proposed modification; or
  - (ii)** Evidence of notice having been sent by certified mail and the return receipt; or
  - (iii)** A statement acknowledged by a notary and made by the proponent or the proponent's agent that delivery of notice has been made and stating the name of the person who has received the notice. The applicant shall give this notice to all owners of property contained within the original "PD" district and to the owner's address as listed on the City's current tax roll.
- 3.** The owner may apply for an amendment to the owned portion of an approved PD Development Plan only when:
- a.** The ownership constitutes a separately platted lot,
  - b.** There is no change to internal traffic patterns,
  - c.** There is no impact on adjacent lots in the PD Development Plan, and
  - d.** The notification procedures in this section are complied with.
- 4.** The application fee shall be calculated on the amended portion of the plan.
- K. Substantial Compliance With PD Development Plans**
- 1.** The Zoning Administrator may approve building permits other permits subsequent to approval of a PD Development Plan if they substantially comply with the PD Development Plan.
- 2.** A permit substantially complies with the PD Development Plan if it does not significantly:
- a.** Alter the basic relationship of the proposed uses to adjacent uses;
  - b.** Change the uses approved;
  - c.** Increase approved densities, height, or site coverage; floor areas,
  - d.** Decrease on-site parking requirements;
  - e.** Reduce minimum yards or setbacks; or
  - f.** Change traffic patterns.
- 3.** The Zoning Administrator will deny a permit that does not substantially comply with the approved development plan. The applicant may apply for a

revision to the approved PD Development Plan in the same manner as the original.

**10.4.4. ZONING SITE PLAN<sup>26</sup>**

**A. Purpose**

1. The purpose of the design review process is to ensure compliance with the development and design standards of this Code prior to the issuance of required permits, and to encourage quality development that reflects the goals and objectives of the comprehensive plan..

**B. Applicability**

Zoning site plan review is required for:

1. Any change of use from one primary use classification to another in the EDO overlay district, as described in Section 5.1.2. A, *Change in Use*.
2. Any improvements in the public realm of the EDO overlay district.
3. Any proposal for alternative equivalent compliance as described in Section 10.4.21.
4. Administrative revisions to plans approved under this section.

**C. Initiation**

See Section 10.3.3.

**D. Pre-Application Conference**

The applicant may attend a pre-application meeting in accordance with Section 10.3.4.

**E. Completeness Determination**

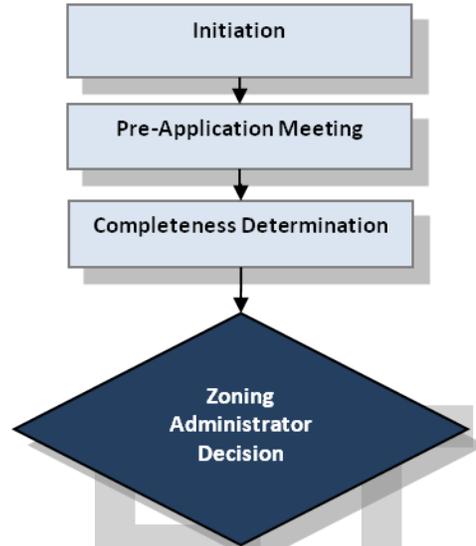
See Section 10.3.5.

**F. Approval Procedures**

**1. Jurisdiction**

The Zoning Administrator shall approve, approve with conditions, or deny a zoning site plan.

**Zoning Site Plan Procedures**



<sup>26</sup> The following is a new development plan procedure for the City's consideration. We reviewed our notes from stakeholder meetings (including explanations of the one start development process) and the limited language in the current code for site plans (Entertainment District and reference to Sec. 5-200 for rezonings). Our understanding is that the site plan process is currently administrative so we have codified this practice and included new criteria for review.

**2. Approval of Zoning Site Plan**

- a. If the Zoning Administrator determines that the zoning site plan complies with this Code, the Zoning Administrator shall approve the zoning site plan and notify the applicant in writing.
- b. If the zoning site plan requires conditions in order to comply with this Code, the Zoning Administrator shall state the conditions in the notice to the application. If a subdivision plat is required for the development, the Zoning Administrator may condition zoning site plan approval on plat approval.

**3. Denial Of Zoning Site Plan**

If the Zoning Administrator determines that the zoning site plan does not comply with this Code, the Zoning Administrator shall deny the zoning site plan and notify the applicant in writing. The notification shall include an explanation of why the zoning site plan was denied.

**G. Criteria**

See Section 10.3.8.

**H. Withdrawal And Reapplication**

See Section 10.3.9.

**I. Scope Of Approval**

See Section 10.3.10.

**10.4.5. MULTI-FAMILY DEVELOPMENT PLAN<sup>27</sup>**

**A. Applicability and Jurisdiction**

- 1. The multi-family development plan provides a means to develop multi-family projects and apartment complexes in a manner that is compatible with adjacent property, consistent with the character of the neighborhood, and reflects the goals and objectives of the comprehensive plan.
- 2. Approval of a multi-family development plan is required for:
  - a. New construction of a multi-family residential building in the RH-22, DB, or RMU district.
  - b. Amendments to existing development plans that involve changes to the site related to building layout, building elevations, traffic circulation, or other changes that materially alter the site, as determined by the Zoning Administrator.
- 3. Multi-family development plan approval occurs by ordinance.

**B. Initiation**

See Section 10.3.3.

**C. Pre-Application Conference**

The applicant may attend a pre-application meeting in accordance with Section 10.3.4.

<sup>27</sup> The following is a new development plan procedure for the approval of multifamily developments.

**D. Completeness Determination**

See Section 10.3.5.

**E. Notice**

Published, written, and posted notice required. See Section 10.3.6.

**F. Approval Procedures****1. Action by the Planning and Zoning Commission**

The Planning and Zoning Commission shall hold a public hearing and make a recommendation to the City Council. The Planning and Zoning Commission shall forward its recommendation to approve, conditionally approve, or deny the application to the City Council.

**2. Action by the City Council**

a. The City Council shall hold a public hearing and approve, approve with conditions, deny, or remand the application.

b. The City Council shall approve a multi-family development plan by ordinance.

**G. Criteria**

1. The Planning and Zoning Commission and City Council shall base their decision on their findings of the extent to which the proposed development:

a. Complies with the general criteria of Section 10.3.8;

b. Complements or is compatible with the surrounding uses and community facilities; and

c. Contributes to, enhances, or promotes the welfare of the area and adjacent properties.

2. An ordinance approving a multi-family development plan may contain standards and safeguards over and above those contained in these regulations. The City Council may, in the interest of the public welfare and to ensure compliance with this Code, establish reasonable conditions on the operation, location, arrangement, type, and manner of construction. Consideration is given based on the existing conditions and location with regard to the welfare and protection of adjacent property from noise, traffic, or other undesirable conditions.

**H. Withdrawal and Reapplication**

In order to promote the stability and well-being of the community and offer certainty to the citizens of the City with respect to the use and development of property, the following requirements govern the filing of reapplications that are initiated by interested property owners:

1. A reapplication within 12 months of the date of the application for the same multi-family development plan will not be heard if:

a. Within 12 months prior to the date of the application a multi-family development plan or similar application was denied by the City Council



**10.4.6. SPECIFIC USE PERMITS (SUP) <sup>28</sup>**

**A. Applicability And Jurisdiction**

1. The specific use permit (SUP) provides a means to develop certain uses in a manner that is compatible with adjacent property and consistent with the character of the neighborhood.
2. The City Council may grant, repeal, and amend Specific Use Permits (SUP's) for certain uses, but only where specified in this UDC.
3. SUP approval occurs by ordinance, which is a type of zoning amendment.

**B. Initiation**

See Section 10.3.3. Any of the following parties may initiate a specific use permit:

1. The City Council on its own motion, or on petition of an interested property owner, or
2. The Planning and Zoning Commission, or
3. The Zoning Administrator.

**C. Completeness Determination**

See Section 10.3.5.

**D. Notice**

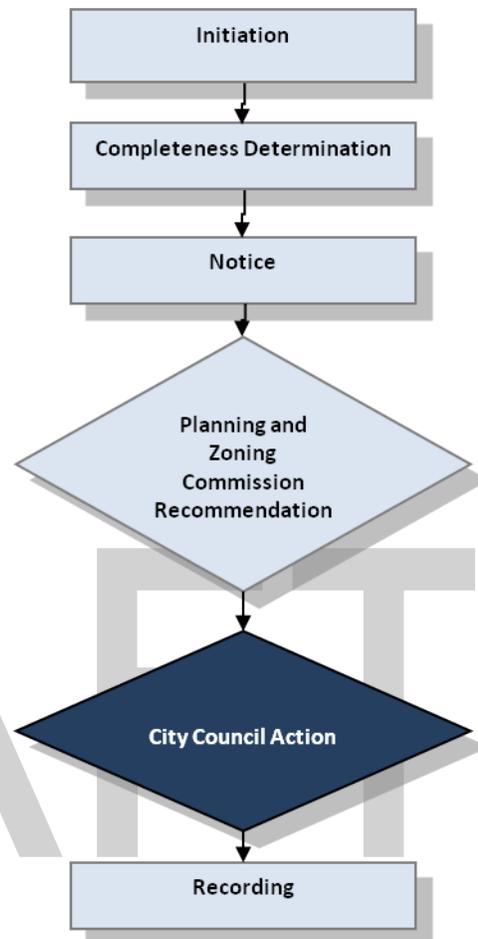
Published, written, and posted notice required. See Section 10.3.6.

**E. Approval Procedures**

**1. Action By The Planning And Zoning Commission**

The Planning and Zoning Commission shall hold a public hearing and make a recommendation to the City Council. The Planning and Zoning Commission shall forward its recommendation to approve, conditionally approve, or deny the application to the City Council.

**Specific Use Permit Procedures**



<sup>28</sup> The following carries forward language from the current code in Section 5-500 for specific use permits as well as rezonings in Section 5-200. The only substantive change we have proposed is the ability for the Zoning Administrator to waive submittal requirements per the Diagnosis.

**2. Action By City Council**

- a. The City Council shall hold a public hearing and approve, approve with conditions, deny, or remand the application.
- b. The granting of a SUP has no effect on the uses permitted as of right and does not waive the regulations of the underlying zoning district.
- c. The City Council shall approve an SUP by ordinance. The ordinance may approve more than one specific use. The City Council may approve or deny all or part of the uses requested in a specific use permit application.

**F. Criteria**

1. The Planning and Zoning Commission and City Council shall base their decision on their findings of the extent to which the proposed use:
  - a. Complies with the general criteria of Section 10.3.8;
  - b. Complements or is compatible with the surrounding uses and community facilities; and
  - c. Contributes to, enhances, or promotes the welfare of the area and adjacent properties.
2. An ordinance approving a specific use permit may impose development standards and safeguards over and above those contained in these regulations. The City Council may, in the interest of the public welfare and to ensure compliance with this Code, establish reasonable conditions on the operation, location, arrangement, type, and manner of construction of any use for which a permit is authorized. Consideration is given based on the existing conditions and location with regard to the welfare and protection of adjacent property from noise, vibration, dust, dirt, smoke, fumes, gas, odor, explosion, glare, offense view, traffic, or other undesirable or hazardous conditions.

**G. Withdrawal and Reapplication**

In order that specific use permits may promote the stability and well-being of the community and offer certainty to the citizens of the City with respect to the use and development of property, the following requirements govern the filing of reapplications that are initiated by interested property owners:

1. A reapplication within 12 months of the date of the application for the same specific use permit will not be heard if:
  - a. Within 12 months prior to the date of the application a specific use permit or similar application was denied by the City Council or a zoning case was withdrawn after the giving of public notice; and
  - b. The application currently under consideration includes property which was all or a part of the previously denied or withdrawn case;
  - c. The application currently under consideration is for the same or a more intense land use as defined in Section 10.4.2 of this Code than the use requested in the previous application.

2. The City Council, for good cause involving changed conditions, may waive any limitation period for refileing contained in this section.

#### H. Scope Of Approval

##### 1. Amendment To Specific Use Permit

The Zoning Administrator may approve building permits other permits subsequent to approval of an SUP that substantially comply with the ordinance approving the SUP.

##### 2. Effect Of Approval Or Denial

See Section 10.3.10.

##### 3. Cancellation and Periodic Review

a. Specific Use Permits for uses other than gas well drilling shall be cancelled and revoked, and be of no effect two years after the date of approval, unless a building permit or a Certificate of Occupancy for the designated specific use has been issued within the two year period. The City Council may, in the adopting ordinance, provide an alternate expiration period.

b. Specific Use Permits for gas well drilling shall be cancelled and revoked, and be of no effect two years after the date of City Council approval unless a gas well permit has been issued and drilling has commenced. If a gas well permit has been issued and drilling activity has commenced within the two year period, the Specific Use Permit shall be reviewed in accordance with Section 10.4.6.H.3.c below each five year period from the date the Specific Use Permit was issued by the City.

c. A Specific Use Permit for gas well drilling must be reviewed every five years as follows:

- (i) The property owner or representative must submit a complete application for renewal for a Specific Use Permit to the Zoning Administrator no later than 60 days before the five year period from the date the Specific Use Permit was issued by the City or the prior periodic review of the Specific Use Permit. The renewal application shall be accompanied by a reasonable fee established by resolution of the City Council.
- (ii) As part of the renewal application, the property owner or his representative shall state whether all existing SUP conditions have been complied with, and that no changes to the conditions or other SUP ordinance provisions are being requested.
- (iii) The application shall be forwarded to the Planning and Zoning Commission and City Council for action in accordance with Subsection 10.4.6. This subsection does not impair the ability of the City Council to call a public hearing on its own motion for the purpose of passing an amending ordinance to cancel or revoke an SUP, or to supplement, remove, or amend any of the conditions or other provisions in an SUP ordinance.

**I. Recording**

All approved Specific Use Permits shall be referenced on the Zoning District Map as "SUP".

**10.4.7. ZONING VARIANCES AND APPEALS<sup>29</sup>**

**A. Purpose<sup>30</sup>**

This section provides a process to gain relief from the strict application of the zoning provisions of this Code or to correct an error made by an administrative official.

**B. Applicability**

1. The Zoning Board of Adjustment may grant a variance to any provision of this Code, unless the variance does not involve a zoning requirement and is assigned to another agency.
2. The Zoning Board of Adjustment may consider an appeal from any decision of an administrative official under this Code.

**C. Initiation**

See Section 10.3.3. See Section 10.3.12 for time limits relating to initiation of an appeal. An applicant may initiate a zoning variance at any time.

**D. Completeness Determination**

See Section 10.3.5.

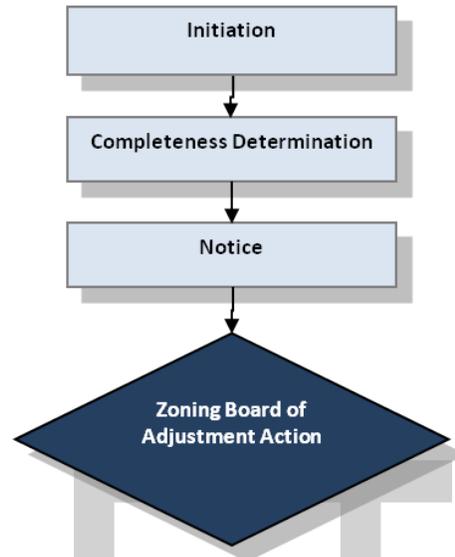
**E. Notice**

Posted notice is required. See Section 10.3.6.

**F. Approval Procedures**

1. The Zoning Board of Adjustment shall review the application and the recommendation of the Zoning Administrator and shall conduct a public hearing.
2. The public hearing shall comply with Texas Local Government Code §211.008 and any rules of procedure adopted by the Zoning Board of Adjustment.

**Variance Procedures**



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<sup>29</sup> The following is taken from Section 5-700 of the current code. Section 3-300 (setting forth ZBA authorities) also contains some criteria, so we have combined those with the criteria in 5-700 here. We have also reviewed the variance provisions in Section 211.009 of the Texas Local Government Code for consistency with this section. Notable changes include new criteria (as noted below), replacement the references to the Building Official in favor of the Zoning Administrator, and the authority for the ZBA to place conditions on variance approvals.

<sup>30</sup> We have suggested the following purpose statement to clarify the intent of variances, building off the language in Section 5-700.

3. After the hearing is closed, the Zoning Board of Adjustment shall approve, approve with conditions, or deny the application.

**G. Criteria**

The Zoning Board of Adjustment shall not approve a variance unless it finds that the criteria in Texas Local Government Code §211.009(a)(3) are met. In addition to the authority granted by §211.009, the Zoning Board of Adjustment may:

1. Authorize upon appeal in specific cases, and subject to appropriate conditions and safeguards, such variances from street frontage setback, side setback, rear setback, lot width, lot depth, or minimum setback standards, where the literal enforcement of the provisions of this ordinance would result in an unnecessary hardship, and so that the spirit of the code shall be observed and substantial justice done. The variance must be necessary to permit development of a specific parcel of land which differs from other parcels of land by being of such a restrictive area, shape, or slope that it cannot be developed in a manner commensurate with the development of other parcels of land in districts with the same zoning. A variance may not be granted to relieve a self-created or personal hardship, nor for financial reasons only, nor may a variance be granted to permit a person a privilege in developing a parcel of land not permitted by this Code to other parcels of land in districts with the same zoning district.
2. Initiate, on its own motion or otherwise, action to bring about the discontinuance of a nonconforming use in accordance with Article 11, *Nonconformities*.
3. Require the discontinuance of a nonconforming use under any plan whereby the full value of the structure or use can be amortized within a definite period of time, taking into consideration the general character of the neighborhood and the necessity for all property to conform to the regulations of this ordinance.
4. Hear and decide appeals where it is alleged there is an error in any order, requirement, decision, or determination made by an administrative official in the enforcement of this Code.

**H. Withdrawal and Reapplication**

1. No application for a variance is allowed on the same property less than six months from a previous ruling by the Zoning Board of Adjustment on any application unless other property in the immediate vicinity is subject to Subsection 2 below.
2. Where action is taken by the Zoning Board of Adjustment or City Council that alters the conditions on which the previous Zoning Board of Adjustment action was based, a reapplication is allowed. The Zoning Board of Adjustment may rehear the application within the six months period. However, the change in circumstances does not compel the Zoning Board of Adjustment to approve the application. The application is considered entirely on its merits and the peculiar and specific conditions related to the property on which the application is brought.

**I. Scope Of Approval**  
See Section 10.3.10.

**J. Appeals From Zoning Board Of Adjustment**  
Any appeal to a Zoning Board of Adjustment decision must be made to a court of record within 10 days of the decision. See Section 10.4.14.H.

**10.4.8. LANDMARK PRESERVATION OVERLAY DISTRICT DESIGNATION <sup>31</sup>**

- A. Applicability**
  1. A Landmark Preservation Overlay District protects and preserves buildings, structure sites, and areas of historical or cultural importance.
  2. The City Council may create, amend, and repeal Landmark Preservation Overlay Districts by ordinance.

**B. Initiation**  
See Section 10.3.3. An interested property owner may submit an application for a Landmark Preservation Overlay District.

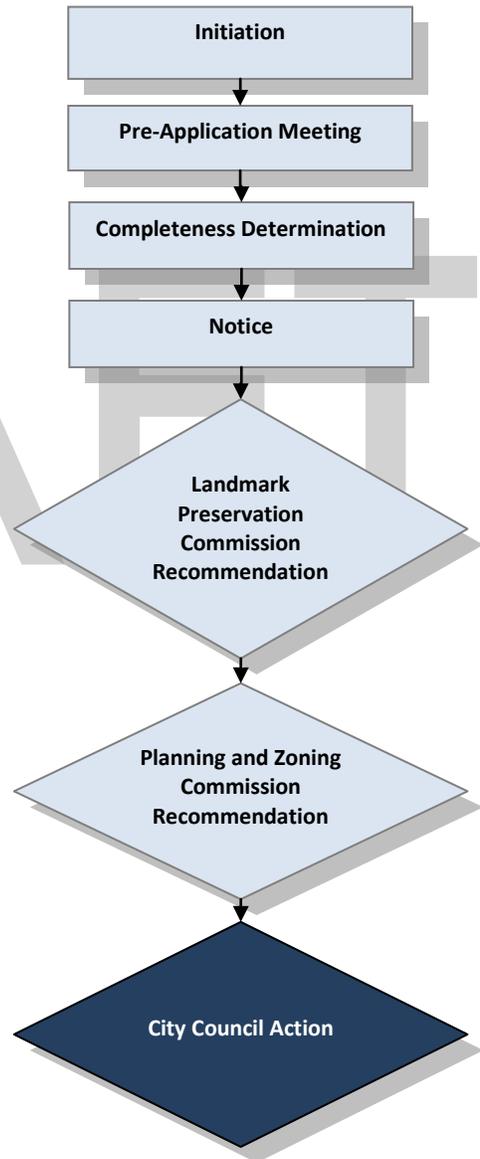
**C. Pre-Application Conference**  
Required pursuant to Section 10.3.4.

**D. Completeness Determination**  
See Section 10.3.5.

**E. Notice**  
Published, written, and posted notice required. See Section 10.3.6.

- F. Approval Procedures**
  1. **Landmark Preservation Commission Review**  
The Landmark Preservation Commission shall hold a public hearing on any landmark preservatin overlay district designation. The Landmark Preservation Commission shall recommend approval, denial,

**Landmark District Designation Procedures**



<sup>31</sup> The following is taken from Section 9-600.C of the current code with no substantive changes proposed. That section references the public hearing and notice procedures for rezonings so we have carried that language forward here.

or modification of the application and forward its report to the Planning and Zoning Commission. The Landmark Preservation Commission may conduct its hearing jointly with the Planning and Zoning Commission, and submit a joint recommendation and report to the City Council.

**2. Planning And Zoning Commission Review**

The Planning and Zoning Commission shall hold a public hearing on any landmark preservation overlay district designation. The Commission shall recommend approval, denial, or modification of the application and forward its report to the City Council.

**3. Action by City Council**

The City Council has final authority to adopt, modify, deny, or remand any proposed landmark preservation overlay district designation.

**G. Criteria**

The Planning and Zoning Commission and the City Council shall consider one or more of the following criteria in establishing a Landmark Preservation Overlay District:

1. Existing or proposed recognition as a National Historic Landmark or Texas Historic Landmark or entry or nomination into the National Register of Historic Places;
2. Identification as the work of a designer, builder, or architect whose work has influenced or contributed to the growth of the City;
3. Embodiment of elements of architectural design, detail, materials, or craftsmanship that represents a significant architectural innovation or an outstanding example of a particular historical, architectural, or other cultural style or period;
4. Relationship to other buildings, structures, or places which are eligible for preservation as historic places;
5. Existence of distinguishing characteristics of an architectural type or specimen that exemplify the cultural, economic, social, political, ethnic, or historical heritage of the City, County, State, or Nation;
6. Location as the site of a significant historical event;
7. Identification with a person or persons who significantly contributed to the culture or development of the City, County, State Nation;
8. A building, structure, or place that, because of its location, has become of historic or cultural value to a neighborhood or community; and
9. The recommendation of the City's Landmark Preservation Commission.

10.4.9. LANDMARK PRESERVATION DISTRICT CERTIFICATE OF APPROPRIATENESS <sup>32</sup>

A. Applicability And Exemptions

1. Applicability

- a. The Landmark Preservation Commission may grant, modify, revoke, and suspend certificates of appropriateness in accordance with this section.
- b. No person or entity shall construct, reconstruct, alter, change, restore, remove, or demolish any exterior architectural feature of a building or structure located in a Landmark Preservation Overlay District unless application has been made to and approved by the Landmark Preservation Commission for a certificate of appropriateness.

2. Exemptions

Ordinary repairs and maintenance that do not involve changes in architectural and historical style or value, general design, structural arrangement, type of building materials, primary color, or basic texture and accessory buildings less than 320 square feet, are exempt from this section.

B. Initiation

See Section 10.3.3. An interested property owner may submit an application for a certificate of appropriateness.

C. Pre-Application Conference

A pre-application meeting is required in accordance with Section 10.3.3.

D. Completeness Determination

See Section 10.3.5.

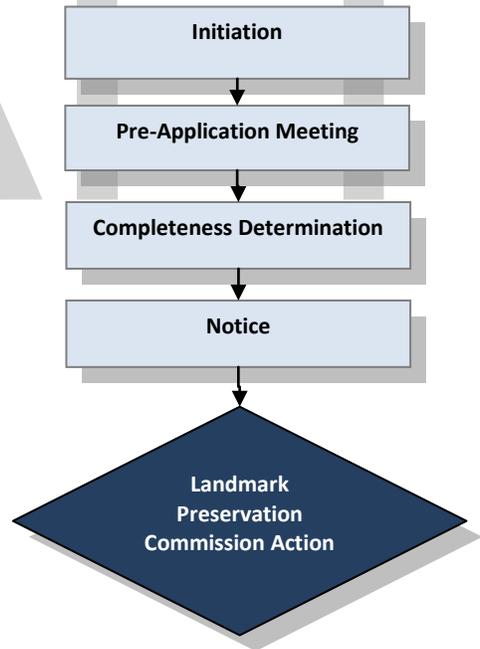
E. Notice

Published, written, and posted notice required. See Section 10.3.6.

F. Approval Procedures

- 1. Within 30 days of the receipt of a completed application for a certificate of appropriateness, the Landmark Preservation Commission shall hold a public hearing. Public notices of the hearing and the purpose thereof shall be published in a newspaper one time at least seven days prior to the date scheduled for the hearing.

Landmark District Certificate of Appropriateness Procedures



<sup>32</sup> The following is taken from Section 9-600.G.1 of the current code. We have removed the guidelines for review per page 45 of the Diagnosis, and carried forward the rest of the language intact.

2. The Landmark Preservation Commission shall forward either an approved or conditionally approved certificate of appropriateness, or its written findings for denial, to the applicant and the Zoning Administrator.
3. If the Landmark Preservation Commission takes no action within 60 days of receipt of the completed application, a certificate of appropriateness shall be deemed issued by the Landmark Preservation Commission.

**G. Criteria**

1. Upon review of the application the Landmark Preservation Commission shall determine whether the proposed work will adversely affect any exterior architectural feature or the future preservation, maintenance, and use of the Landmark Preservation Overlay District.
2. The Landmark Preservation Commission may attach any conditions to its approval of an application that are needed to ensure compliance with Subsection G.1, above.

**H. Scope Of Approval**

No change shall be made in the plans on which a Certificate of Appropriateness was issued unless:

1. The application is resubmitted to the Landmark Preservation Commission and approved in the same manner as provided above for the original application; or
2. The change is consistent with a condition to approval of the application.

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**10.4.10. CERTIFICATES OF DEMOLITION OR RELOCATION**

**A. Applicability**

1. The City Council may grant, modify, revoke, and suspend certificates of demolition or relocation in accordance with this section.
2. No person or entity other than a state, city, county, or federal government fee simple owner shall demolish or relocate any building or structure located in a Landmark Preservation Overlay District, unless a Certificate of Demolition or Relocation has first been issued by the Landmark Preservation Commission or City Council, as set forth in this subsection.

**B. Initiation**

See Section 10.3.3. An interested property owner may submit an application for a Certificate of Demolition or Relocation.

**C. Pre-Application Conference**

A pre-application meeting is required in accordance with Section 10.3.3.

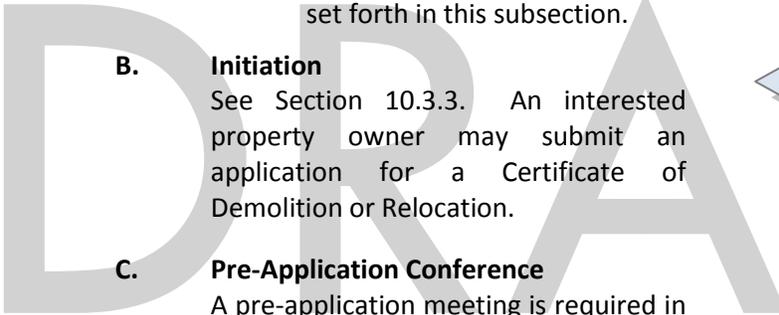
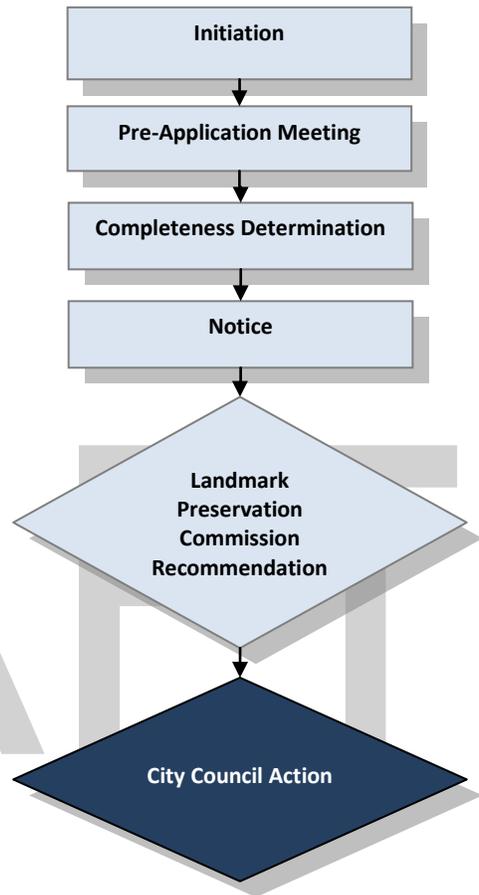
**D. Completeness Determination**

See Section 10.3.5. The Zoning Administrator shall prescribe the application forms for a Certificate of Demolition or Relocation.

**E. Notice**

Public notice of such hearing setting forth the date, time, and place scheduled for Landmark Preservation Commission hearing and the purpose thereof shall be published in a newspaper one time at least seven days prior to the date scheduled for such hearing. Notice shall also be mailed to all owners of real property within a 200 feet radius of the subject property, as their ownership appears on the last approved City tax roll, at least seven days prior to the date set for the hearing.

**Certificates of Demolition or Relocation Procedures**



**F. Approval Procedures****1. Landmark Preservation Commission Public Hearing**

- a. Within 30 days of the receipt of a completed application for a Certificate of Demolition or Relocation, the Landmark Preservation Commission shall hold a public hearing.
- b. If, based upon the criteria established in Subsection G, the Landmark Preservation Commission determines that the building or structure:
  - (i) Should not be demolished, the Landmark Preservation Commission shall forward its decision to the City Council for review and final decision; or
  - (ii) May be demolished, the Landmark Preservation may issue the certificate.
- c. If the Landmark Preservation Commission takes no action within 60 days of the receipt of a completed application, a Certificate of Demolition or Relocation is deemed issued.

**2. City Council Decision**

- a. The City Council shall consider a recommendation of the Landmark Preservation Commission to deny or, at the applicant's request, conditionally approve a Certificate of Demolition or Relocation at a public hearing.
- b. Based on the criteria established in Subsection G, below, the City Council shall approve, approve with conditions, or deny the Certificate of Demolition or Relocation.

**3. Conditions for Approval**

In granting a Certificate of Demolition or Relocation, the Landmark Preservation Commission or the City Council must find that the interests of preserving historical values and the purposes and intent of this ordinance will not be adversely affected by the requested demolition or removal, or that such interests will be best served by removal or relocation to another specified location.

**G. Criteria**

In evaluating a request for a Certificate of Demolition or Relocation, the Landmark Preservation Commission shall consider the following:

1. The architectural, cultural, or historical significance of the building or structure;
2. The age of the building or structure;
3. The state of repair of the building or structure in question, and the reasonableness of the cost of restoration and repair;
4. Additions, alterations, changes, modifications, and updates to the exterior architectural features of the building or structure that would disqualify it from consideration for registration on the National Register of Historic Places;

5. The impact, if any, that delaying the demolition or relocation of the building or structure will have;
6. The contribution, if any, the building or structure makes to a previously designated and recognized historic district and the owner’s or any predecessor owner’s involvement in the formation or creation of such a district;
7. The willingness of the applicant to donate or sell the building or structure to a third party;
8. The potential usefulness or adaptive reuse of the building or structure, including economic usefulness;
9. The potential market or demand for such a building or structure in its current condition and location;
10. The purpose that would be served in preserving the building or structure; and
11. All other factors it finds necessary and appropriate to carry out the intent of this Code.

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**H. Maintenance And Repairs**

**1. Omission of Necessary Repairs**

Buildings and structures located in a Landmark Preservation Overlay District shall be maintained so as to ensure the exterior and interior structural soundness and integrity of the landmark and its exterior architectural features.

**2. Determination of Omission**

If the Landmark Preservation Commission determines that there are reasonable grounds to believe that a building or structure or an exterior architectural feature is structurally unsound or in immediate danger of becoming structurally unsound, the Landmark Preservation Commission shall notify the owner of record and hold a public hearing to determine compliance with this section.

**3. Mandated Repairs**

If at the conclusion of the public hearing, the Landmark Preservation Commission finds that the building or structure or its architectural features are structurally unsound or are in immediate danger of becoming structurally unsound, the Landmark Preservation Commission shall advise the property owner and direct repair of the property. The property owner shall satisfy the Landmark Preservation Commission within 90 days of its decision that all necessary repairs and maintenance to safeguard structural soundness and integrity have been carried out and completed.

**I. Appeals**

Appeals from a decision of the Landmark Preservation Commission are to the City Council.

**10.4.11. PLAT REVIEW, GENERALLY****A. Applicability**

1. In addition to the requirements for public hearings in Section 10.3.7 above, the following are general approval procedures for all types of plats. Specific procedures for each type of plat are set forth in Section 10.4.
2. A plat application that will alter the location, dimension, or delete right-of-way or a public or private easement must comply with the Administration chapter of the Code, Article 7, *Streets, Alley and Easement Abandonment*;<sup>33</sup>

**B. Initiation**

1. See Section 10.3.3. An application for plat approval is not considered filed until the City determines that it is complete. The prescribed period for reviewing a plat does not begin until the plat application is determined to be complete.
2. Concurrent with the submission of a preliminary plat, combination plat, replat, or minor plat, the applicant(s) shall submit the following:
  - a. A map or plan showing the location and size of water and sanitary sewer mains and fire hydrant systems which will be required to ensure adequate service and fire protection to the lots specified in the proposed plat.
  - b. A preliminary drainage plan showing the watershed affecting the development and how runoff from the fully-developed watershed will be conveyed to, through, and from the development.
  - c. A Stormwater Management Site Plan (SWMSP) for plats of residential development of 12,000 square feet or larger of gross platted area, and for all plats of non-residential development. The purpose of the SWMSP is to identify potential effects of the proposed development on stormwater quality and quantity, and to identify permanent design features or Best Management Practices to mitigate these effects. Standards are outlined in the *Design Criteria Manual*.

**C. Staff Review**

The Community Development and Planning Department shall examine all plats accepted for review for compliance with this Code. Upon compliance with any comments, the plat shall be forwarded to the appropriate decision-making body for consideration. Failure to make specific comments does not relieve the property owner from compliance with this Code.

**D. Schedule**

1. The plat shall be scheduled for consideration within 30 days after the date it is filed. The plat is considered filed when the Zoning Administrator determines that it is complete in accordance with Section 10.3.5, or as set forth in Section 10.4 for specific procedures.

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<sup>33</sup> This reference is correct per current City ordinances online.

2. Plats shall be approved or disapproved within the timeframe established in Chapter 212 of the Texas Local Government Code, unless the applicant requests or approves a delay or a different timeframe.
3. If the applicant requests postponement of a hearing or decision relating to plat approval, the applicant shall withdraw and refile the application.

**E. Modifications**

Where the approving body finds that extraordinary hardships or practical difficulties may result from strict compliance with the subdivision regulations or the purposes of the regulations may be served to a greater extent by an alternative proposal, it may approve modifications of conditions to the subdivision regulations so that substantial justice may be done and the public interest secured. Such a finding shall not have the effect of nullifying the intent and purpose of the subdivision regulations.

**F. Plats With Reserved Authority Comments**

1. The Council reserves authority over stipulations of plat approval involving:
  - a. Expenditures of City funds and contractual agreements to which the City is a party,
  - b. Appeals to the requirement to dedicate land,
  - c. Requirements for the construction of adequate facilities, or the payment of escrow, and
  - d. Other appeals that the Zoning Administrator determines will fiscally impact the City.
2. The plat approving authority has no power to act on matters of reserved authority. The plat approving authority may, however, approve the plat subject to additional approval by the City Council on the matters of reserved authority.
3. The plat approving authority shall send a plat with appealed reserved authority comments to the City Council for action after it approves the plat.
4. The City Council shall approve or disapprove a plat with matters of reserved authority within the time period prescribed by Texas Local Government Code § 211.009(b).

**G. Criteria**

See Section 10.3.8.

**H. Scope of Approval**

After the plat review process is completed, the plat is recorded with Tarrant County and the applicant obtains zoning approvals or building permits consistent with any conditions of plat approval.

### 10.4.12. CONVEYANCE PLATS<sup>34</sup>

#### A. Applicability

A conveyance plat may be used in order to subdivide or sell land without plans for its immediate development. A conveyance plat allows the recording of a subdivision without requiring the construction or design of public improvements or collection of development fees. Easements, dedications, and reservations may be recorded on a conveyance plat.

#### B. Initiation

See Section 10.3.3.

#### C. Completeness Determination

See Section 10.3.5.

#### D. Approval Procedures

##### 1. Approval and Filing of Conveyance Plats

If the Zoning Administrator determines that the conveyance plat complies with this section, then the Zoning Administrator shall certify the plat and it shall be recorded with Tarrant County.

##### 2. Denial of Conveyance Plats

The Zoning Administrator shall deny the conveyance plat if it does not comply with this section. The Zoning Administrator shall provide the applicant written notification and an explanation of why the plat was denied.

#### E. Criteria<sup>35</sup>

1. The conveyance plat must include sufficient information to describe the boundaries of the proposed subdivision, any lots within the proposed subdivision, and surrounding property. This includes all of the materials required by Section 10.3.5.

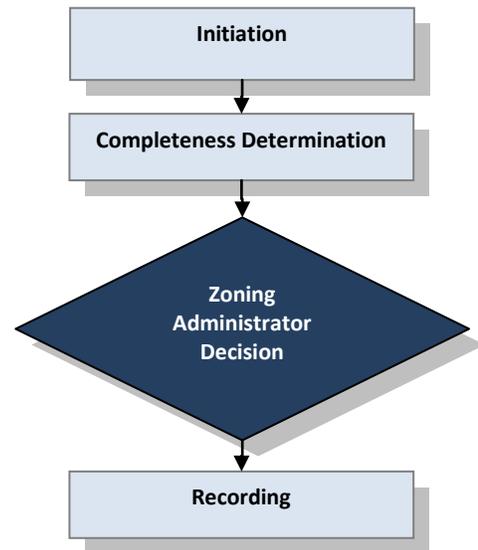
2. The conveyance plat shall include the following certification:

*"No building permit shall be issued nor public utility service provided for land that has only received approval as a conveyance plat."*

#### F. Recording

See Section 10.4.14.H.

#### Conveyance Plat Procedures



<sup>34</sup> The following is taken from Sec. 3.03 with no substantive changes proposed.

<sup>35</sup> A reference to Subsection E was in the draft. This subsection referred only to recording, not to criteria. The existing conveyance plat section (3.03 of the Subdivision Regulations) requires compliance with "this section." However, the section has no approval criteria – only submittal requirements. So, we have placed the requirements here to clarify what is required.

**G. Withdrawal And Reapplication**

See Section 10.3.9.

**H. Scope Of Approval**

A conveyance plat expires six months after the date of application unless it is recorded with Tarrant County. The time period is not subject to extension.

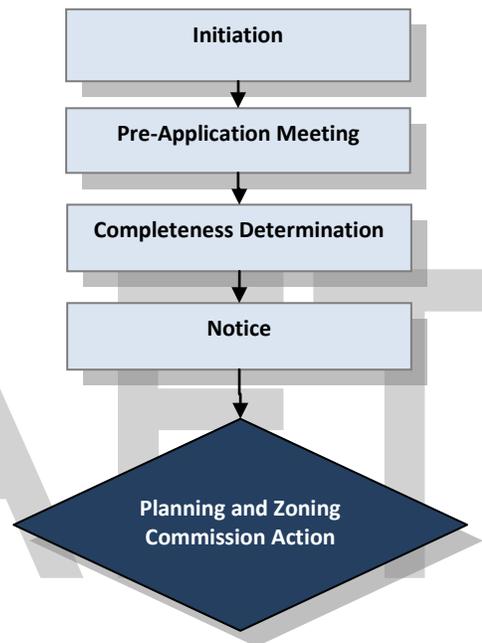
**10.4.13. PRELIMINARY PLAT**

**A. Applicability**

1. In order to file a final plat application pursuant to Section 10.4.14, a preliminary plat must be approved in accordance with this section.

2. A preliminary plat does not establish control corners or otherwise include the information required by Texas Local Government Code Section 211.004(b) and (c). Only a final plat is considered a "plat" under this Code. As such, a preliminary plat is not subject to the rules that govern the processing of a plat.

**Preliminary Plat Procedures**



**B. Initiation**

See Section 10.3.3.

**C. Pre-Application Conference**

Required pursuant to Section 10.3.4.

**D. Completeness Determination**

See 10.3.5. The preliminary plan must contain sufficient information to determine whether the proposed plan meets the requirements of Article 6, *Subdivisions*.

**E. Approval Procedures**

**1. Action by the Planning and Zoning Commission**

The Planning and Zoning Commission shall approve, deny, or modify the application.

**2. Appeal**

The applicant may appeal a Planning and Zoning Commission decision to deny to conditionally approve a preliminary plat to the City Council (See Section 10.3.12 for procedures.).

**F. Revisions and Reapplication**

If an owner proposes changes to a preliminary plat that do not substantially comply with the application that was approved by the Planning and Zoning Commission, the applicant shall prepare a revised preliminary plat. The revised preliminary plat shall be approved by the Commission before the applicant submits a final plat.

**G. Recording**

A preliminary plat is not recorded. The Zoning Administrator shall maintain the approved preliminary plat

**H. Withdrawal and Reapplication**

See Section 10.3.9.

**I. Scope of Approval**

**1. Final Plat**

Following approval of the preliminary plat, the applicant may file an application for a final plat pursuant to Section 10.4.16. If the Planning and Zoning Commission denies the preliminary plat, no final plat shall be accepted.

**2. Time Limits**

See Section 10.3.10.A.

**10.4.14. FINAL PLATS**<sup>36</sup>

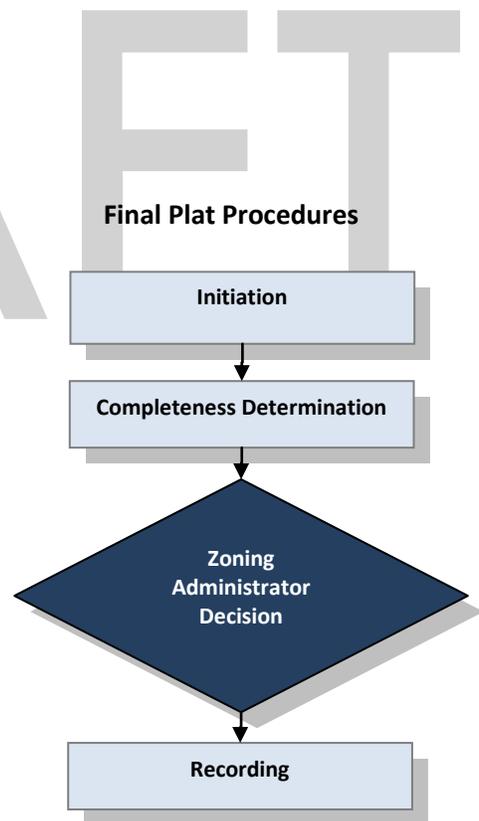
**A. Applicability**<sup>37</sup>

The following sets forth procedures for approval of final plats. In order to record a final plat pursuant to this section a preliminary plat must be approved in accordance with Section 10.4.15.

**B. Initiation**

See Section 10.3.3. A final plat application may only be filed if:

1. The final plat substantially conforms to the approved preliminary plat, and any and all conditions of approval. Final plats may include all or only a portion of the area of the approved preliminary plat; or
2. The final plat is submitted as a



<sup>36</sup> The following carries forward Section 3.05 of the current code. We made one minor substantive change per the Diagnosis clarifying that the Zoning Administrator's decision implements the Planning and Zoning Commission /City Council approval of the preliminary plan. The major change is the addition of the new subdivision improvement agreement (SIA) discussed below.

<sup>37</sup> We have provided the following new language.

combined preliminary plat and final plat in accordance with Section 10.4.16.

**C. Completeness Determination**

See Section 10.3.5. The final plat must contain sufficient information to determine whether the proposed plat meets the requirements of Article 6, *Subdivisions*.

**D. Approval Procedures**

**1. Approval And Recording Of Final Plat**

If the Zoning Administrator determines that the plat substantially conforms to the approved preliminary plat, the final plat shall be certified by the required parties and recorded. Approval of the final plat by the Zoning Administrator is considered implementation of the discretionary decisions made by the Planning and Zoning Commission and City Council pursuant to Section 10.4.15 for the preliminary plat.<sup>38</sup>

**2. Denial Of Plat And Requirements**

If the Zoning Administrator determines that the final plat does not conform to the approved preliminary plat, the final plat shall be denied. The Zoning Administrator shall provide the applicant written notification and an explanation of why the plat was denied.

**E. Withdrawal And Reapplication**

See Section 10.3.9.

**F. Criteria**

Final plats are subject to the criteria established in Section 10.3.8. In addition, each platted lot must comply with the minimum regulations of the zoning district in which the lot is located.

**G. Scope of Approval**

See Section 10.3.10. After the final plat is approved, the applicant may seek zoning and building permit approvals subject to this Code and any conditions of final plat approval.

**H. Recording<sup>39</sup>**

1. All plats submitted for recordation shall be sealed by a registered professional land surveyor in the state of Texas.
2. Plats shall be recorded in the Plat Records of Tarrant County by the Zoning Administrator following compliance with:
  - a. All stipulations of approval;
  - b. All necessary fiscal agreements approved by the City and fully executed by all parties; and
  - c. Payment of all applicable fees, assessments, and both current and delinquent taxes.

<sup>38</sup> This last statement is new per page 58 of the Diagnosis.

<sup>39</sup> The following is taken from Section 3.02.K of the current code. The only changes we made were elimination of some legalese and replacing "filing" with "recording" per staff preference for clarity.

3. All plats to be recorded shall conform to all conditions of approval and shall be submitted to the Zoning Administrator.

**10.4.15. COMBINATION PLATS <sup>40</sup>**

- A. A combined preliminary plat and final plat may be submitted for 30 or fewer lots.
- B. An application for a combined preliminary plan and final plat shall meet all requirements and procedures of Sections 10.4.15 and 10.4.16.

**10.4.16. MINOR PLATS <sup>41</sup>**

**A. Applicability**

When a tract or parcel of land has not been previously platted and filed of record, the owner may elect to submit a minor plat whenever the tract:

1. Is to be subdivided into four or fewer lots,
2. Fronts on an existing street,
3. Does not require the creation of any new street or the extension of municipal facilities, and
4. Does not require a public hearing for filing of record.

**B. Initiation**

See Section 10.3.3.

**C. Completeness Determination**

See Section 10.3.5.

**D. Approval Procedures**

**1. Approval and Filing of Minor Plats**

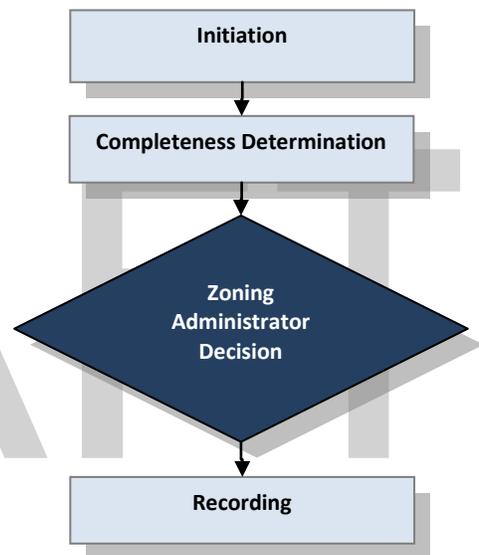
If the Zoning Administrator determines that the minor plat complies with requirements of this Code, then the Zoning Administrator shall certify the minor plat and the applicant shall file it of record.

**2. Referral of Minor Plats**

If the Zoning Administrator determines that the minor plat does not comply with the requirements of this Code the Zoning Administrator shall:

- a. Refer the application to the Planning and Zoning Commission within the time period required for approval of a final plat (See Section 10.4.14.); and

**Minor Plat Procedures**



<sup>40</sup> We heard little comment on this section and it was not directly addressed in the Diagnosis, so we have carried it forward from the current code to simply reference both procedures.

<sup>41</sup> The following is taken from Section 3.07 of the current code with no substantive changes proposed.

- b. Provide the applicant written notification and an explanation of why the plat does not comply with this Code.

**E. Withdrawal and Reapplication**

See Section 10.3.9.

**F. Scope of Approval**

See Section 10.3.10. After the minor plat is approved, the applicant may seek zoning and building permit approvals subject to this Code and any conditions of minor plat approval.

**G. Recording**

See Section 10.4.14.H.

**10.4.17. REPLATS <sup>42</sup>**

**A. Applicability**

**1. Replatting Without Vacating a Preceding Plat**

A replat of a subdivision or part of a subdivision may be recorded and is controlling over the preceding plat without vacation of that plat if the replat:

- a. Is signed and acknowledged by the owners of the property being replatted,
- b. Is approved after a public hearing, and
- c. Does not attempt to amend or remove any covenants or restrictions.

**B. Initiation**

See Section 10.3.3.

**C. Completeness Determination**

See Section 10.3.5.

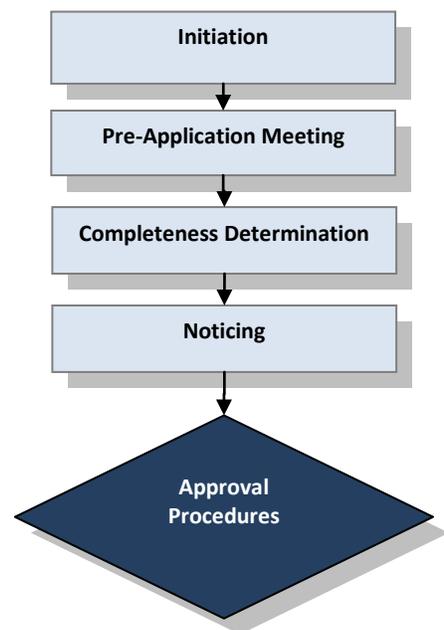
**D. Notice**

- 1. See Section 10.3.6 and the procedures established below. Posted notice is required.
- 2. Refer to Texas Local Government Code Section 212.015 for additional notice requirements if certain density restrictions apply.

**E. Approval Procedures**

- 1. If Texas Local Government Code § 212.015 applies, the proposed replat is subject to the procedures established in that section.

**Replat Procedures**



<sup>42</sup> The following is taken from Section 3.08 of the current code with no substantive changes proposed.

2. All other replats are subject to the approve procedures established for final plats (see Section 10.4.14).

**F. Criteria**

A replat is subject to the same criteria that apply to approval of a final plat (see Section 10.4.14). In addition, lots must conform in width, depth, and area to the predominant pattern established by the existing lots located on the same block, having due regard to the character of the area.

**G. Withdrawal And Reapplication**

See Section 10.3.9.

**H. Scope Of Approval**

See Section 10.3.10. After the replat is approved, the applicant may seek zoning and building permit approvals subject to this Code and any conditions of replat approval.

**I. Recording**

1. See Section 10.4.14.H.

2. The following minimum certification shall be shown on all replats: "This plat does not alter or remove existing deed restrictions or covenants, if any, on this property."

**10.4.18. AMENDING PLATS**<sup>43</sup>

**A. Applicability**

The Zoning Administrator may approve an amended plat if the amended plat is signed by the applicants only and is solely for one or more of the purposes prescribed in Texas Local Government Code § 212.016.

**Amended Plat Procedures**

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<sup>43</sup> The following is taken from Section 3.09 of the current code with no substantive changes proposed.

**B. Initiation**

See Section 10.3.3.

**C. Completeness Determination**

1. See Section 10.3.5 and the requirements below.
2. The applicant shall satisfy all requirements of Section 10.4.16.D (final plat submittal) prior to submittal of an amended plat.

**D. Approval Procedures**

**1. Approval and Filing of Amended Plats**

If the Zoning Administrator determines that the amended plat complies with requirements of this Code, then the Zoning Administrator shall certify the amended plat and the applicant shall file it of record.

**2. Referral of Amended Plats**

If the Zoning Administrator determines that the amended plat does not comply with the requirements of this Code. The Zoning Administrator shall:

- a. Refer the application to the Planning and Zoning Commission within the time period required for approval of a final plat (See Section 10.4.14.); and
- b. Provide the applicant written notification and an explanation of why the plat does not comply with this Code.

**E. Withdrawal And Reapplication**

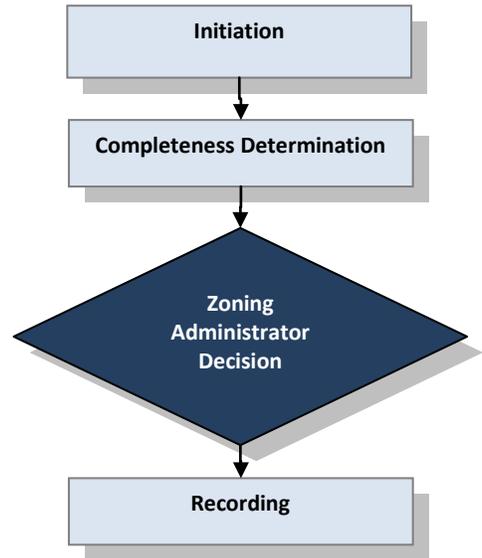
See Section 10.3.9.

**F. Scope of Approval**

See Section 14.3.10. After the amending plat is approved, the applicant may seek zoning and building permit approvals subject to this Code and any conditions of amending plat approval.

**G. Recording**

1. See Section 10.4.14.H.
2. The following certification shall be shown on all amended plats: "This plat does not increase the number of lots in the previously recorded subdivision nor attempt to alter or remove existing deed restrictions or covenants, if any, on this property." Amended plats shall contain a note describing the intent of the amended plat.



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**10.4.19. VACATION OF PLAT <sup>44</sup>**

**A. Applicability**

The procedures in this section apply to all applications for plat vacation. The vacation and abandonment of the right-of-way or easements shall be in accordance with the Administration chapter of the Code, Article VII, Streets, Alley and Easement Abandonment.

**B. Initiation**

See Section 10.3.3 and Texas Local Government Code § 212.013.

**C. Pre-Application Conference**

Required pursuant to Section 10.3.3.

**D. Completeness Determination**

See Section 10.3.5.

**E. Approval and Recording Procedures**

The instrument declaring the plat vacated is approved and recorded in the manner prescribed for the original plat. Replacement right-of-way or easement may be required to be dedicated by separate instrument as condition of approval.

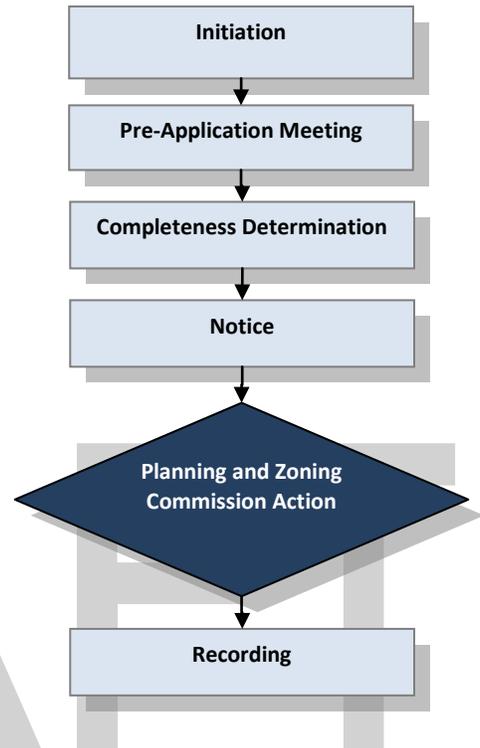
**F. Withdrawal and Reapplication**

See Section 10.3.9.

**G. Scope of Approval**

See Section 10.3.10. After the vacating instrument is approved, the applicant may seek subdivision plat, zoning and building permit approvals subject to this Code, and any conditions of approval attached to the vacating instrument.

**Vacation of Plat Procedures**



<sup>44</sup> The following is taken from Section 3.10 of the current code with no substantive changes proposed, other than clarifying that the Planning and Zoning Commission is the decision-making authority.

**10.4.20. LINEAR PARK PLATTING AND ACQUISITION <sup>45</sup>**

**A. Applicability**

Two alternative procedures are available to meet the linear park requirements of Article 6, *Subdivisions*. The City specifically reserves the right to acquire any additional linear parkland in excess of the proportionate share required to be dedicated.

**1. Alternative Procedure 1**

The developer may plat as a separate lot all linear park land lying within the proposed plat, as indicated in Exhibit "D" of the Park Development Fee Ordinance (hereinafter the "Park Improvements Plan"), and propose a purchase agreement for the land, pursuant to procedures contained in Subsection B.1, below.

**2. Alternative Procedure 2**

The developer may offer for dedication less than all linear park land lying within the proposed plat, as indicated in the Park Improvements Plan, and seek authorization to exclude the remainder of the land from the proposed plat, pursuant to procedures contained in Subsection B.2, below.

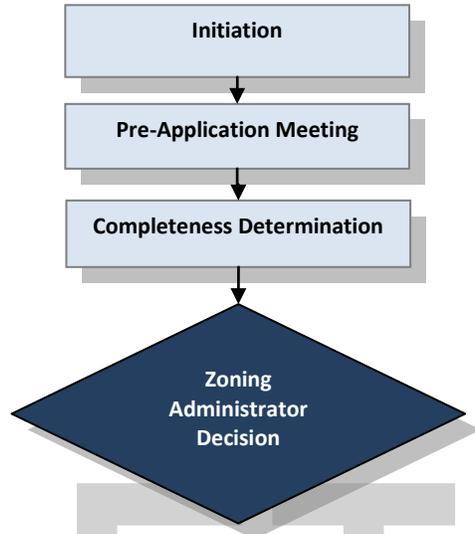
**B. Initiation**

See Section 10.3.3 and the following requirements:

**1. Developer Participation Agreement**

A developer participation agreement, as described in Section 6.7.6, shall be submitted with the plat application. The agreement shall provide for access to the linear park tract to be dedicated or purchased by the City. The design of access improvements shall be in accordance with Section 6.7.4. Any plat application involving or adjacent to land identified as linear park land on the Park Improvements Plan that is submitted without a developer participation agreement shall not be accepted for review, and failure to provide the agreement shall be grounds for denial of the plat. The proposed agreement shall be made subject to the City's acquiring the land for linear park purposes.

**Linear Park Platting and Acquisition Procedures**



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<sup>45</sup> The following procedures are taken from Sec 7.02 and 7.03 of the current code with no substantive changes, but reorganized to fit into the structure of this article.

**2. Purchase Agreements**

The developer shall propose a purchase agreement for linear park land lying within the proposed plat if the owner intends to sell all or part of the linear park land to the City. The proposed purchase agreement shall be submitted with the plat application, and shall include:

- a. A description of the land to be acquired;
- b. The proposed value of the land; and
- c. Appropriate guarantees that the property to be acquired shall be retained in its natural state during the subdivision process, or that restoration or mitigation shall be made, consistent with Section 6.7.7.

**C. Pre-Application Conference**

Required pursuant to Section 10.3.4.

**D. Completeness Determination**

See Section 10.3.5.

**E. Approval Procedures**

1. The Zoning Administrator shall notify the applicant in writing within 10 business days of the date the completed plat application is accepted for review of whether he or she will recommend approval, modification, or denial of the proposed plat and agreements, along with a list of any deficiencies and required revisions. The agreements shall be negotiated within the time for approval of the plat, unless the developer voluntarily agrees to an extension of time for plat approval to accommodate finalizing the agreements. No final plat shall be approved until a final purchase agreement and any developer participation agreements have been approved by the City Council.

- a. The purchase agreement shall provide that the price of the land shall be either the agreed price or the lesser of the appraised value or a not-to-exceed amount established by the City.
- b. In the purchase agreement, the City and the developer may agree to acquisition of less than all linear park land contained within the proposed plat, or to offset linear park fees otherwise due by reducing the equivalent amount of land to be purchased under the agreement calculated in the manner provided in Section 6.7.2.C. If the City enters into a purchase agreement for the entire linear park tract, no offsets against linear park fees pursuant to the Park Development Fee Ordinance shall be granted for the linear park land acquired.
- c. If the Zoning Administrator determines not to enter into the purchase agreement, or if the City otherwise fails to reach agreement with the developer upon the determination by the Zoning Administrator that the plat is administratively complete, or within the extended time voluntarily agreed to by the developer, the Zoning Administrator shall authorize the filing of a revised plat application to be processed in accordance with Subsection B.2 of this section.

- 2. If the developer proposes to dedicate or sell less than all linear park land contained within the proposed plat application, as delineated in Park Improvements Plan, he shall offer for dedication as a minimum the amount of park land calculated pursuant to 6.7.2.C, and located in accordance with the criteria in Section 6.7.3.

**F. Appeals**

The developer may appeal the initial determination of the Zoning Administrator concerning linear park requirements to the City Council as a reserve authority appeal. If the plat application meets the linear park requirements of Section 6.7.2 and the owner has dedicated or sold to the City linear park land proportional to the needs generated for park land by the proposed subdivision the plat may be approved excluding part of the total linear park land contained in the subdivision from the plat, subject to the City’s ability to acquire the excess linear park land as may be needed.

**10.4.21. CONVERTING PRIVATE STREETS TO PUBLIC STREETS**

**A. Applicability**

This section establishes procedures for the City to accept private streets as public streets and rights-of-way. The City is not obligated to accept ownership of private streets, and nothing in this Section requires the City to accept ownership or maintenance responsibilities for a private street.

**B. Initiation**

- 1. The property owners' association or abutting property owners with responsibility to maintain the private streets shall file an application with the Department of Public Works and Transportation to convert street ownership and an offer of dedication.
- 2. The property owners’ association shall provide written notice to all association members. A receipt of the notarized signatures of 100 percent of the association membership or abutting property owners indicating approval shall accompany the application.
- 3. The application shall include the following:
  - a. A written evaluation sealed by a registered professional engineer in Texas qualified in the area of soil mechanics and pavement design of the pavement construction compared to the City of Arlington current public street standards including an evaluation of the anticipated service life and maintenance costs of the subject street(s). The above shall be

**Street Ownership Conversion Procedures**



based on a sealed report of core samples of the subject street(s) performed by a geotechnical engineering firm. At a minimum, the geotechnical report shall include pavement thickness and type, the presence, size and spacing of reinforcing steel and the type and density of subgrade material. The geotechnical engineering firm shall submit a plan showing proposed core locations for city review prior to beginning work.

- b. Written confirmation that no utility construction, both City of Arlington and all franchise utility companies, is planned in the next five years for the subject street(s).
- c. Evaluation and cost estimate of the following for City review:
  - i. Cleaning and sealing of all construction joints using acceptable methods and materials approved by the City.
  - ii. The subject street(s) shall be inspected and all needed repairs noted on a map. The repairs shall include all areas that hold water and do not drain properly as well as damaged portions of the roadway or curb and gutter. A detailed cost estimate of the identified repairs shall also be submitted.
  - iii. Cost to provide a construction maintenance bond, or other surety acceptable to the City of Arlington for a two year period of time should the City agree to accept the street(s) as public.
  - iv. Map showing all easements and rights-of-way necessary to be dedicated by separate instrument to convert the subject street(s) to public facilities. A cost estimate for the costs associated with hiring a surveyor to prepare the necessary metes and bounds descriptions shall also be submitted.
  - v. The streetlight system shall be evaluated and any repairs or upgrades to meet current City standards shall be listed along with a cost estimate of the work required.
  - vi. Map showing any existing gates on the subject street(s) along with a cost estimate for the removal of the gates shall be submitted. Any street repairs needed due to removal of gate apparatus shall be included in the cost estimate.
  - vii. Cost estimate to replace street marker blades and any additional signage necessary.

**C. Completeness Determination**

See Section 10.3.5.

**D. Approval Procedures**

1. Once a completed application is submitted and reviewed, the application will be submitted to the City Council for consideration. The City Council may consider the application at a regular meeting or conduct a public hearing .
2. The City Council may, in its discretion, approve, conditionally approve, or deny the application. Conditions of approval may include obligations

relating to items noted above or any other matter within the City Council's legislative discretion.

3. Upon conditional approval, the applicant must:
  - a. Hire a prequalified contractor to make all repairs and maintenance noted in the evaluation. The applicant, contractor and City shall enter into a Three-way Contract to cover all work to be performed. All work will be inspected by the City. A two year maintenance bond will also be required for the repair work.
  - b. Hire a contractor or pay the City the cost for any streetlight work needed as well as the cost for street marker blade and sign replacement.
  - c. Hire a contractor and obtain necessary building permits for demolition of any gates, guard houses or any other improvements that must be removed.
  - d. Submit a metes and bounds description of the right-of-way to be dedicated to the City or submit a replat of the impacted properties.
  - e. Submit an Easement Use Agreement for any privately maintained improvements that are allowed to remain in the dedicated right-of-way.
  - f. Address any other matter required by the City Council.

**E. Withdrawal And Reapplication**

See Section 10.3.9.

**F. Criteria**

As a legislative decision, the decision to grant the petition is subject to the City Council's discretion.

**G. Scope of Approval**

See Section 10.3.10. If the City Council approves the application, the City will accept dedication and maintenance responsibility for the streets, and the property owners association, appurtenant property owners, or other legal entities upon completion of the items listed above.

**H. Recording**

Upon final approval of the application, the right(s)-of-way shall be dedicated to the public either through replatting of the affected properties with the right-of-way shown as public or through execution of a separate instrument. Either option will be filed of record with the Tarrant County Clerk. However, the replatting option will provide a more transparent transaction for future title searches on affected properties.

**10.4.22. ALTERNATIVE EQUIVALENT COMPLIANCE**

**A. Purpose**

Alternative equivalent compliance is a procedure that allows development to meet the intent of the design-related provisions of this chapter through an alternative design. An alternative equivalent compliance approach is designed to provide

flexibility in order to respond to unique site conditions or abutting or surrounding uses, and must not result in reductions in the amount or quality of the particular standard. This procedure is not intended as a substitute for a variance or administrative modification or a vehicle for relief from standards in this Code.

**B. Applicability**

1. The alternative equivalent compliance procedure shall be available only for the following sections of Article 5, *Design and Development Standards*.

a. Section 5.2, *Landscaping*;

b. Section 5.3, *Screening, Buffering and Fences*;

c. Section 5.4, *Off-Street Parking and Loading*: Subsection 5.4.6, *Drive-Through Vehicle Stacking and Noise Reduction Regulations*; and Subsection 5.4.9, *Parking Facility Location and Design*;

d. Section 5.5, *Residential Design Standards*;

e. Section 5.6, *Nonresidential Design Standards*;

f. Section 5.7, *Mixed-Use Design Standards*;

g. Section 5.8.1, *Entertainment District Overlay*: Subsection C, *Private Realm Design Standards*; and Subsection D, *Public Realm Design Standards*;

h. Section 5.9, *Transportation and Connectivity*; and,

i. Section 5.10, *Common Open Space*.

2. The alternative equivalent compliance procedure shall not be used to:

a. Modify the required dimensional standard of a lot;

b. Authorize a land use that is not permitted in the underlying zoning district;

c. Modify the density established for a zoning district; or,

d. Grant a variance to a requirement that is assigned to the authority of the Zoning Board of Adjustment.

**C. Pre-Application Conference**

An applicant proposing to use alternative equivalent compliance under this section shall request and attend a pre-application conference in accordance with Section 10.3.4.

**D. Completeness Determination**

See Section 10.3.5.

**E. Approval Procedures**

**1. Action by the Zoning Administrator**

The Zoning Administrator shall review the request with the criteria in 5.4.22.F and approve, approve with conditions, or deny the request for alternative equivalent compliance.

**2. Action by the Planning and Zoning Commission**

If the Zoning Administrator disapproves a request for alternative equivalent compliance, the applicant may appeal the action to the Planning and Zoning Commission by filing a written objection with the Zoning Administrator.

**F. Criteria**

To grant a request for alternative equivalent compliance, the Zoning Administrator shall find that the following criteria are met:

1. The proposed alternative design is original, innovative, or exceptions, and achieves the intent of the subject design standard to the same or better degree than the subject standard;
2. The proposed alternative design achieves the goals and objectives of the Comprehensive Plan, other relevant plans, and this Code to the same or better degree than the subject standard;
3. The proposed alternative design addresses unique aspects of the site or building, such as infill development or operational characteristics;
4. The proposed alternative design results in benefits to the community that are equivalent to or better than compliance with the subject design standard; and
5. The proposed alternative design imposes no greater impacts on adjacent properties than would occur through compliance with specific requirements of Article 5, *Design and Development Standards*.

**G. Scope of Approval**

1. Alternative equivalent compliance shall apply only to the specific site for which it is requested and does not establish a precedent for assured approval of other requests.
2. Written approval does not authorize any development activity, but rather authorizes the applicant to prepare a commercial site plan and/or building permit application that incorporates the approved alternative equivalent compliance, and authorizes the decision-making body to review the commercial site plan or building permit application for compliance with the approved alternative.

**H. Expiration**

1. An approved alternative equivalent compliance plan shall expire if one year passes following its approval and no building permit that implements the plan has been issued.

One one-year extension may be issued by the Zoning Administrator provided that a written request has been received prior to the expiration of the plan, and the Zoning Administrator determines that no major changes in the City's development standards, or changes in the development pattern of the surrounding properties, have occurred.