

## ARTICLE 9. REVIEW AUTHORITIES

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### 9.1. PURPOSE AND ORGANIZATION OF THIS ARTICLE

This chapter describes the organization and roles of review bodies under this Code.

### 9.2. CITY COUNCIL

#### 9.2.1. POWERS AND DUTIES

In addition to any authority granted to the City Council by state law, City Charter, or other City ordinances, the City Council may:

- A. Adopt, make modifications to, and implement the comprehensive plan and supporting studies;
- B. Amend, supplement, or change the regulations established in this Code;<sup>1</sup>
- C. Amend, supplement, or change the zoning district boundaries;<sup>2</sup>
- D. Establish, fees for processing development applications, zoning verification letters, zoning maps, or other applications required by Article 10;<sup>3</sup>
- E. Grant, deny, or impose conditions for, a Specific Use Permit consistent with the purposes stated in Section 10.4.5;
- F. Take final action on certain plats as set forth in Article 10 of this Code; and
- G. Appoint and remove members of the Planning and Zoning Commission, Zoning Board of Adjustment, and Landmark Preservation Commission.

### 9.3. PLANNING AND ZONING COMMISSION

#### 9.3.1. POWERS AND DUTIES <sup>4</sup>

In addition to any authority granted to the Planning and Zoning Commission by state law or other ordinances of the City, the Planning and Zoning Commission may:

- A. Make recommendations to the City Council about adoption, modification, and implementation of the comprehensive plan and supporting studies;
- B. Make recommendations to the City Council concerning amendments to this Code and the creation or modification of zoning districts;

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<sup>1</sup> The language at the end of Zoning Ordinance § 3-100.A.2 (“authorized on its own motion, or on petition of an interested property owner or owners, with each such petition accompanied by a reasonable fee as established by resolution of the City Council”) is moved to Article 9, *Review Procedures*.

<sup>2</sup> The language at the end of the current paragraph (see footnote 2) is moved to procedures.

<sup>3</sup> Deleted former subsections D and E that were based on Zoning Ordinance § 3-100.A.3 – 4: “3. To decide whether to grant a public hearing on a zoning change request denied by the Planning and Zoning Commission. ... 4. To grant a change of zoning to a zoning district not applied for by the applicant, provided that said approved district is less intensive than the advertised zoning district applied for by the applicant.” Subsection 4 is already included in the zone change procedures, and former Subsection 3 is added there (9.4.2.F.2)

<sup>4</sup> In accordance with page 34 of the Diagnosis, we have removed several of the provisions from Sec 3-200 of the current code related to the applications the Planning and Zoning Commission hears and decides on. This information is set forth in the new Article 9, *Review Procedures*.

- C. Make recommendations to the City Council concerning the rezoning of land and approval of certain applications specified in this Code;
- D. Perform the functions, mandated under state impact fee enabling legislation, as the City's designated Capital Improvements Program Advisory Committee;
- E. Make recommendations to the City Council about adopting or amending the Comprehensive Plan, sector plans, neighborhood plan, and the Thoroughfare Development Plan;
- F. Act as and carry out the duties of the Airport Zoning Commission, as authorized under Chapter 241 of the Texas Local Government Code, about matters related to airport land use compatibility zoning, establishment of zone boundaries, and regulations governing these zones for areas surrounding the Arlington Municipal Airport;
- G. Gather information and make recommendations to the City Council and cooperate with the Landmark Preservation Commission and similar organizations about historic and landmark preservation in the City specifically including, but not necessarily limited to, matters arising out of, or related to the Landmark Preservation Overlay Zoning District;
- H. Make recommendations to City Council about the annexation of land into the corporate limits of the City;
- I. Gather information and make recommendations to the City Council and cooperate with the Park Board and similar organizations about recreation areas, the development and improvement of parks and boulevards, the extension and opening of streets and other public rights-of-way, and the general City plans and improvements;
- J. Consider and report to the City Council about new public ways, lands, buildings, bridges, extensions, or street openings and their relation to the comprehensive plan;
- K. Act as an advisory board to the City Council relating to public utilities, controlling and regulating traffic upon the City's public streets, and other matters relating to civic improvements that are beneficial and in the City's best interests; and
- L. Conduct related business and make other recommendations on matters that are specifically requested, assigned, or required by the City Council or Zoning Administrator.

### 9.3.2. MEMBERSHIP, APPOINTMENT, AND TERM OF OFFICE

#### A. **Membership**

The Planning and Zoning Commission shall consist of nine members. Each member shall reside in the City of Arlington, Texas, and shall have qualifications as determined by the City Council. Because the Planning and Zoning Commission also functions as the Capital Improvements Program Advisory Committee, at least one member must represent the real estate, development, or building industry who is not an employee or official of a political subdivision or governmental entity. All

members shall serve without pay and until their successor is duly appointed and qualified.

**B. Appointment and Term of Office**

The City Council shall appoint the Planning and Zoning Commission in accordance with the City of Arlington Boards and Commissions Policy Statement. Each of the nine seats for the Planning and Zoning Commission shall be assigned a Place number ranging from one to nine. Members shall serve at the will and pleasure of the City Council. A person is eligible to serve up to three consecutive two-year terms.

**C. Officers**

The members of the Planning and Zoning Commission shall organize and elect their own officers, except the Presiding Officer who serves at the pleasure of the City Council.

**D. Vacancies**

The City Council shall fill any vacancies for the unexpired term. The appointment procedure for vacancies is the same as for an original appointment (see Subsection B, above).

**9.3.3. MEETINGS, HEARINGS, AND PROCEDURES**

**A. General**

1. All meetings and hearings of the Planning and Zoning Commission are subject to state laws governing open meetings.
2. All meetings and hearings of the Planning and Zoning Commission shall be conducted in accordance with the procedures set forth in these regulations and rules of procedure described in Subsection B.1, below.
3. Any action calling for a formal vote shall take place only at a public meeting.
4. Executive sessions shall not be open to the public and shall be conducted in accordance with the procedures consistent with the statutes of the State of Texas.

**B. Rules of Procedure**

1. The Planning and Zoning Commission may adopt its own rules of procedure consistent with Texas law and City ordinances. However, when the Planning and Zoning Commission sits as the Capital Improvements Program Advisory Committee, its rules and procedures are established by the City Council.
2. The Planning and Zoning Commission shall keep a written record of all of its proceedings.
3. The Zoning Administrator shall have the duty of care, custody, and control of all records of the Planning and Zoning Commission.

**C. Regular and Special Meetings**

The Planning and Zoning Commission shall hold regular meetings and shall designate the time and place of the meetings. The Planning and Zoning Commission may hold special meetings as provided in its rules of procedure.

**D. Voting**

Approval of all matters and motions before the Planning and Zoning Commission shall require the affirmative vote of a majority of all members of the Planning and Zoning Commission present and voting, unless otherwise provided by law or the adopted rules of procedure.

**E. Expenses**

Whenever deemed necessary by the Planning and Zoning Commission to incur any expenses in the performance of its duties, an estimate of the proposed expenses shall be submitted to the Community Development and Planning Department who must obtain approval from the Deputy City Manager. No debts of any kind or character shall be made or incurred by the Planning and Zoning Commission or its agents, until the expenditures are specifically authorized in writing by the Deputy City Manager.

**F. Quorum**

Five members of the Planning and Zoning Commission constitute a quorum for the transaction of business.

**9.4. ZONING BOARD OF ADJUSTMENT<sup>5</sup>****9.4.1. POWERS AND DUTIES**

The Zoning Board of Adjustment has the powers assigned in Texas Local Government Code §211.009 and in Section 10.4.7, *Zoning Variances and Appeals* of this Code.

**9.4.2. MEMBERSHIP, APPOINTMENT, AND TERM OF OFFICE****A. Membership**

The Zoning Board of Adjustment consists of nine members and four alternate members.

**B. Appointment and Term of Office**

The Mayor and each City Council member shall appoint a member, in accordance with the City of Arlington Boards and Commissions Policy Statement. The Mayor or City Manager may request an alternate member to serve in the absence of one or more regular members. Each of the nine seats for the Zoning Board of Adjustment is assigned a Place number ranging from one to nine. Members are removable for cause by majority vote of the City Council upon written charges and after public hearing. The terms of office for the membership are two years, not to exceed three full terms.

**C. Officers**

The members of the Zoning Board of Adjustment shall organize and elect their own officers, except the Presiding Officer who serves at the pleasure of the City Council.

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<sup>5</sup> In accordance with page 34 of the Diagnosis, we have removed several of the provisions from Sec 3-300 of the current code related to the applications the Zoning Board of Adjustment hears and decides on. This information is set forth in the new Article 9, *Review Procedures*. We have also removed the provision that the ZBA interprets the zoning map, in favor of the Zoning Administrator for this function (with appeals to ZBA) and eliminated the outdated references to hearing and deciding on nonconforming uses.

**D. Vacancies**

Vacancies shall be filled with a suitable person to serve out the unexpired term of any member whose place on the Board has become vacant for any cause. The appointment procedure for vacancies is the same as for an original appointment (see Subsection B, above).

**9.4.3. MEETINGS, HEARINGS, AND PROCEDURES****A. General**

All meetings, hearings and procedures of the Board are subject to Texas Local Government Code Chapter 211, the Board's rules of procedure, and this section.

**B. Rules Of Procedure**

The Board may adopt rules governing its proceedings, not inconsistent with this section.

**9.5. LANDMARK PRESERVATION COMMISSION****9.5.1. POWERS AND DUTIES**

In addition to any authority granted to the Planning and Zoning Commission by state law or other ordinances of the City, the Landmark Preservation Commission may:<sup>6</sup>

- A.** Thoroughly familiarize itself with buildings, structures, sites, districts, areas, places, and lands within the City that are eligible for landmark status.
- B.** Make recommendations to the Planning and Zoning Commission and City Council relating to whether certain buildings, structures, sites, districts, areas, places, and lands should be designated as landmarks through Landmark Preservation Overlay zoning. Actions taken or recommendations made by the Landmark Preservation Commission that are subject to review by the Planning and Zoning Commission or the City Council are not binding on those bodies, and the reviewing body may decide a matter contrary to recommendations or actions of the Landmark Preservation Commission.
- C.** Oversee the creation, maintenance, and periodic updates of an Historic Resources Survey within the City of Arlington, as follows:
  - 1.** The Historic Resources Survey shall identify and catalog:
    - a.** resources that are registered on the National Register of Historic Places;
    - b.** Resources that are granted landmark status by the Texas Historical Commission or the City of Arlington; or
    - c.** Resources that otherwise qualify as eligible property under criteria for inclusion on the National Register of Historic Places, designation as a Texas Historic Landmark or State Archeological Landmark, or

<sup>6</sup> The following obsolete language is deleted: "The Landmark Preservation Commission shall replace the Landmark Preservation Committee, previously appointed by the Planning and Zoning Commission, and the Landmark Preservation Commission shall assume all of the powers and duties previously delegated to the Landmark Preservation Committee consistent with the provisions of this article."

designation under the City's Landmark Preservation Overlay "LP" Zoning District.

2. The Historic Resources Survey shall include a factual verification of the significance of the structures, land, areas, and districts of historical, architectural, archeological, or cultural value.
  3. The Landmark Preservation Commission shall forward the Historic Resources Survey to the City Council for its adoption.
- D.** Review and after public hearing either approve or deny requests for Certificates of Appropriateness and Certificates of Demolition for buildings, structures, and sites located in the Landmark Preservation Overlay Zoning District.
- E.** Issue an annual report to the City Council about the status of landmark and historic preservation efforts in the City and any related issues.
- F.** Formulate plans and programs for public or private action to encourage and promote preservation of landmarks within the City Arlington.
- G.** Research and recommend sources of funds for preservation and restoration activities and acquisitions, including federal, state, private, and foundation sources.
- H.** Provide information and counseling to owners of landmarks.
- I.** Recommend changes in use where conditions exist under which the required preservation of a historic landmark would cause undue hardship to the property owner.
- J.** Recommend the removal of Landmark or Landmark Preservation Overlay designation.
- K.** Undertake other activities that are necessary to further the interests of historic preservation within the City which do not conflict with the interest or laws of the City or State of Texas.
- L.** Review permits for the demolition or relocation of a building or structure, including issuance of a temporary stay on demolition permits as appropriate, as provided by Section 4.16 of the Construction Chapter of the City of Arlington Code of Ordinances.

#### **9.5.2. MEMBERSHIP, APPOINTMENT, AND TERM OF OFFICE**

**A. Membership**

The Landmark Preservation Commission is composed of nine members. All members shall reside in the City of Arlington, Texas, and shall have qualifications as determined by the City Council. Membership shall be apportioned according to the following fields of expertise or specialized knowledge:

1. Two members shall represent any combination of the following fields or professions:
  - a. Architecture;
  - b. Banking, finance, or economics;
  - c. Law;

- d. Real estate; or
  - e. Urban planning.
2. Three members shall have historic preservation experience in restoring older homes/buildings, writing historic marker applications, or participating as members of an Arlington historical or preservation group, society, or association.
  3. Four members shall be citizens at large.

If the City Council cannot timely fill a membership with a particular field of expertise or specialized knowledge identified in Subsections 1 or 2, it may appoint citizens at large to fill these positions.

**B. Appointment and Term of Office**

The Mayor and each City Council member shall nominate a member with confirmation by majority vote of the City Council in accordance with the City of Arlington Boards and Commissions Policy Statement. Each of the nine seats for the Landmark Preservation Commission is assigned a Place number ranging from one to nine. The regular terms of office for the membership shall be two years, not to exceed three full terms.

**C. Officers**

The members of the Landmark Preservation Commission shall organize and elect their own officers, except the Presiding Officer who serves at the pleasure of the City Council.

**D. Removal<sup>7</sup>**

The City Council may, by majority vote, remove any member of the Landmark Preservation Commission if it appears that their removal is in the best interests of the City, as determined by the City Council.

**E. Vacancies**

Vacancies occurring for any reason shall be filled by the City Council for the unexpired term. The appointment procedure for vacancies is the same as for an original appointment (see Subsection B, above).

**9.5.3. MEETINGS, HEARINGS, AND PROCEDURES**

**A. General**

All meetings and hearings of the Landmark Preservation Commission shall follow state laws governing open meetings. All meetings and hearings shall be conducted in accordance with the procedures set forth in these regulations and rules of procedure adopted by the Landmark Preservation Commission. Any action calling for a formal vote shall take place only at a public meeting. Executive sessions shall not be open to the public, and shall be conducted in accordance with the procedures that are consistent with the statutes of the State of Texas.

<sup>7</sup> New section per page 35 of the Diagnosis.

**B. Rules of Procedure**

The Landmark Preservation Commission has the power to adopt its own rules of procedure that are consistent with state law and City ordinances. The Landmark Preservation Commission, and shall keep a written record of all of its proceedings. The Historic Preservation Officer of the City of Arlington, or his designee, shall serve as Secretary for the Landmark Preservation Commission and is responsible for taking minutes of the Landmark Preservation Commission's proceedings. The Historic Preservation Officer has the duty of care, custody, and control of all records of the Landmark Preservation Commission.

**C. Regular and Special Meetings**

The Landmark Preservation Commission shall hold meetings regularly at least once in each month within the corporate limits of the City, and shall designate the time and place of the meetings. The Landmark Preservation Commission may hold special meetings as necessary, with all rules for regular meetings applicable. The Landmark Preservation Commission Chairman or the Historic Preservation Officer may call such special meetings.

**D. Voting**

Approval of all matters and motions before the Landmark Preservation Commission requires the affirmative vote of a majority of all members of the Landmark Preservation Commission present and voting, unless otherwise provided by law or the adopted rules of procedure.

**E. Expenses**

If the Landmark Preservation Commission proposes to incur any expenses in the performance of duties assigned to it, it shall submit an estimate of the proposed expenses to the Community Development and Planning Department. Expenses must be approved by the Deputy City Manager. No debts of any kind or character shall be made or incurred by the Landmark Preservation Commission, or anyone acting for the Landmark Preservation Commission, until the expenditures are specifically authorized in writing by the Deputy City Manager.

**F. Quorum**

Five members of the Landmark Preservation Commission is a quorum for the transaction of business.

**9.6. ZONING ADMINISTRATOR | COMMUNITY DEVELOPMENT AND PLANNING  
DEPARTMENT****9.6.1. POWERS AND DUTIES**

- A.** The Zoning Administrator shall maintain and have the duty of care, custody, and control of the records of the Planning and Zoning Commission and the Zoning Board of Adjustment.
- B.** The Zoning Administrator shall attend meetings and make recommendations on all matters pertaining to planning, zoning, and land development.

- C. The Zoning Administrator shall approve minor changes to approvals or PD development plans where indicated in Article 10.
- D. The Zoning Administrator may determine whether an application substantially complies with this Code or conditions of approval, where authorized by Article 10.
- E. The Zoning Administrator shall interpret this Code and the Official Zoning Map, unless the authority to interpret a particular provision of this Code is assigned to another agency. All interpretations by the Zoning Administrator are subject to appeal to the Zoning Board of Adjustment.
- F. The Zoning Administrator may approve certain requests for alternative equivalent compliance where provided in Article 10.
- G. The Zoning Administrator may approve certain categories of subdivision plats where provided in Article 10.
- H. The Zoning Administrator may approve the use of a lot for off-street parking of vehicles as provided in Article 5.<sup>8</sup>

#### 9.6.2. DELEGATION

The Zoning Administrator may assign its duties to staff within its department or other departments. Any reference to the Zoning Administrator in this Code includes any designee of the Zoning Administrator.

### 9.7. BUILDING OFFICIAL

#### 9.7.1. POWERS AND DUTIES<sup>9</sup>

The Building Official shall grant certificates of occupancy in accordance with the Building Code, this Code, and all other applicable development regulations of the City of Arlington.

### 9.8. CONFLICT OF INTEREST

The Administration chapter, Article 12, *Code of Ethics*, prohibits a City official from participating in a vote or decision on any zoning matter that appears before the body of which the City official is a member if the City official has a substantial interest in any real property within 200 feet of the property that is subject to the zoning request. See the *Code of Ethics* for additional ethical policies.

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<sup>8</sup> This is currently assigned to the Zoning Board of Adjustment (§3-300.A.7). Staff suggested making this an administrative determination.

<sup>9</sup> We have eliminated the use interpretation language for the Building Official per page 34 of the Diagnosis.