

**ORDINANCE NO.**

**AN ORDINANCE AMENDING ORDINANCE NO. 1203-15-02-24 OF THE CITY OF PFLUGERVILLE CODE OF ORDINANCES TITLE XV LAND USAGE, CHAPTER 157 UNIFIED DEVELOPMENT CODE BY AMENDING SUBCHAPTER 3, PROCEDURES, BY PROVIDING FOR CONSISTENT PROVISIONS RELATING TO THE EXPIRATION OF APPLICATIONS AND MODIFIED PROVISIONS FOR THE APPEAL PROCESS; AND AMENDING SUBCHAPTER 20, DEFINITIONS, BY ADDING CORRESPONDING DEFINITIONS; REPLACING ALL ORDINANCES IN CONFLICT; CONTAINING SEVERABILITY AND REPEALER CLAUSES; PROVIDING FOR A PENALTY FOR A VIOLATION OF CHAPTER 157, SUBCHAPTER 3 AS A CLASS C MISDEMEANOR AND A FINE IN AN AMOUNT NOT TO EXCEED \$2,000.00; AND DECLARING AN EFFECTIVE DATE.**

**WHEREAS**, the City Council approved the Unified Development Code on February 24, 2015, which replaced, in its entirety, the Unified Development Code adopted on September 8, 2009; and

**WHEREAS**, the City Council has determined that it is necessary to update and amend the Unified Development Code from time to time to ensure realization of its stated purposes and its compliance with applicable State law; and

**WHEREAS**, the Planning and Zoning Commission held a public hearing on November 5, 2018, and voted affirmatively in recommending approval of the proposed Unified Development Code amendments contained herein through its final report and recommendation to City Council with a vote of 6 - 0; and

**WHEREAS**, the City Council has also determined that amending various procedures, provisions relating to the expiration of applications, and updating the appeals process by amending Subchapter 3, Procedures, of the Unified Development Code is necessary to ensure effective administration of the Code; and

**WHEREAS**, the City Council finds it necessary to add a definition, Record Drawings, to Subchapter 20 of the Unified Development Code related as amended herein; and

**WHEREAS**, the City has complied with all conditions precedent necessary to take this action, has properly noticed and conducted all public hearings and public meetings pursuant to the Texas Local Government Code and Texas Government Code, as applicable.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PFLUGERVILLE, TEXAS:**

## **Section I. Findings.**

That the foregoing recitals are hereby found to be true and correct and are hereby adopted by the City Council and made a part hereof for all purposes and findings of fact.

## **Section II.**

That the Code of Ordinances of the City of Pflugerville, Texas, is hereby amended by amending Chapter 157, Subchapter 3, Procedures in its entirety to read as amended in Exhibit A, attached hereto and incorporated herein for all purposes.

## **Section III.**

That the Code of Ordinances of the City of Pflugerville, Texas, is hereby amended by amending Chapter 157, Subchapter 20, Definitions, by adding a definition to read as follows:

### **Subchapter 20 – DEFINITIONS**

\*\*\*\*\*

[Record Drawings – A set of construction plans or site plans, including revisions and corrections approved by the City, signed and sealed by the engineer of record and landscape architect, as applicable. Each sheet shall include a certification statement indicating a visual inspection was performed by the engineer of record or landscape architect on a specific date, noting any field deviations observed, and certifying the site was constructed in accordance with the approved plans with insignificant deviation. Insignificant deviation shall mean any deviation of the approved plan that does not affect the public’s health, safety, and general welfare and shall be code compliant. See further definition for public infrastructure plan record drawings in the Engineering Design Manual, as amended.](#)

\*\*\*\*\*

## **Section IV.**

Severability.

If any provision of this Ordinance is illegal, invalid, or unenforceable under present or future laws, the remainder of this Ordinance will not be affected and, in lieu of each illegal, invalid, or unenforceable provision, a provision as similar in terms to the illegal, invalid, or unenforceable provision as is possible and is legal, valid, and enforceable will be added to this Ordinance.

## **Section V.**

Repealer.

This ordinance shall be cumulative of all other ordinances, resolutions or acts of the City of Pflugerville, and this ordinance shall not operate to repeal or affect any other ordinances of the City of Pflugerville except insofar as the provisions thereof might be inconsistent or in conflict with the provisions of this ordinance, in which event such conflicting provisions, if any, are hereby repealed.

**Section VI.**

Penalty.

That a violation of this Ordinance shall be an offense punishable upon conviction as prescribed in Subchapter 1, Chapter 157 of this Code of Ordinances.

**Section VII.**

Effective Date.

This Ordinance will take effect upon its adoption by the City Council and publication of the caption hereof in accordance with Section 3.15(d) of the City Charter.

PASSED AND APPROVED this \_\_\_\_\_ day of \_\_\_\_\_, 2018.

CITY OF PFLUGERVILLE, TEXAS

By: \_\_\_\_\_  
Victor Gonzales, Mayor

ATTEST:

\_\_\_\_\_  
Karen Thompson, City Secretary

APPROVED AS TO FORM:

\_\_\_\_\_  
Charles E. Zech, City Attorney  
DENTON NAVARRO ROCHA BERNAL & ZECH, P.C.

EXHIBIT A  
SUBCHAPTER 3. PROCEDURES

## Subchapter 3. PROCEDURES

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| 3.1.2          | Applicability of Procedures (with Table)  |
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| <b>3.2</b>     | <b>Common Review Elements</b>   |
| 3.2.1          | Pre-Application Conference (PAC) <ul style="list-style-type: none"><li>A. Purpose</li><li>B. Mandatory conferences</li><li><del>C. Optional conferences</del></li><li><a href="#">C.D. Submittal requirements</a></li></ul>   |
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## SECTION 3.1 GENERAL

### 3.1.1 Purpose

The purpose of this [Esubchapter](#) is to establish application procedures, internal review procedures, public notice and hearing procedures, and review criteria for the processing of applications and actions that affect the development and use of property subject to the jurisdiction of the City.

### 3.1.2 Applicability of Procedures

The following [Table](#) shows which review procedures, applications and permits apply in the City and its extraterritorial jurisdiction.

**Table 3.1.2 Applicability of Procedures**

|  | City Limits       | Extraterritorial Jurisdiction |
|--|-------------------|-------------------------------|
| <b>Land Use &amp; Zoning</b>                   |                   |                               |
| Comprehensive Plan Amendment                   | X                 | X                             |
| UDC Text Amendment                             | X                 | X                             |
| Rezoning (Zoning Amendment)                    | X                 |                               |
| <a href="#">Planned Unit Development (PUD)</a> | <a href="#">X</a> |                               |
| Specific Use Permit                            | X                 |                               |
| Development Agreement                          | <a href="#">X</a> | X                             |
| Zoning Verification Letter                     | X                 |                               |
| <b>Subdivision &amp; Platting of Land</b>      |                   |                               |
| Preliminary Plan                               | X                 | X                             |
| Construction Plan (Public Infrastructure)      | X                 | X                             |
| Final Plats (Minor, Amending)                  | X                 | X                             |
| Replat   | X                 | X                             |
| Vacation Plat                                  | X                 | X                             |
| Subdivision Variance                           | X                 | X                             |
| Plat Waiver                                    | X                 | <a href="#">X</a>             |



| Development Application Process   |                   |   |
|---|-------------------|---|
| Site Plans (Private Infrastructure)   | X                 |   |
| Construction Plans (Public Infrastructure)                                  | X                 | X |
| Site Disturbance  | X                 | X |
| <a href="#">Right-of-Way Permit</a>   | <a href="#">X</a> |   |
| Tree Removal  | X                 | X |
| Temporary Use Permit  | X                 |   |
| Architectural Review ( <a href="#">including</a> Downtown District Overlay) | X                 |   |
| Sign Permit   | X                 | X |
| Deviation from Code Requirement Processes                                   |                   |   |
| Appeal of Administrative Decision   | X                 | X |
| Administrative Exception  | X                 | X |
| Variance (Zoning)   | X                 |   |
| Special Exception   | X                 |   |
| Architectural Waiver  | X                 |   |

**3.1.3 [Application Sequence](#) ~~Order~~ of Processes**

- A. [Applications shall be filed with the City in the following sequence of processes:](#)  
~~The submittal of multiple applications simultaneously is discouraged, however may occur as long as the consideration of the applications remain in the following development application sequence of processes, with the exception of a site disturbance permit, if applicable:~~
  1. Comprehensive Plan Amendment;
  2. Zoning;
  3. Preliminary Plan;
  4. Final Plat;
  5. Construction Plan;
  6. Site Plan; and
  7. Building Permit
  
- B. [Proposed land uses or occupancies within the corporate limits shall conform with the regulations within this Code specified for the district in which the use or](#)

occupancy is proposed; and the appropriate zoning designation shall be established prior to the issuance of any development permit for the proposed use of occupancy.

CB. The submittal of concurrent applications is discouraged. However, concurrent applications may be allowed as long as the City's consideration of the applications remain in the application sequence of processes. Any application submitted concurrently is subject to the approval of all other related concurrent applications. Denial or disapproval of any concurrently submitted application shall halt the consideration of any related concurrent applications.

DC. City Sstaff review of ~~such~~ concurrent applications may be delayed due to the sequence of such submittals. It is recommended that the applicant delay the submittal of a development application until such time staff provides the initial review of the preceding development application in the sequence of application processes.

E. The Planning Director may deny the submittal and review of any concurrent application if: (1) any concurrent application has not been submitted to and accepted by City staff for review in the appropriate order of sequence; and (2) at least one round of City staff comments has not been sent to the applicant.

## 3.2 COMMON REVIEW ELEMENTS

### 3.2.1 Pre-Application Conference (“PAC”)

#### A. Purpose

Prior to the submission of an application required by this Chapter, the Planning Director may require a ~~pre-application conference~~ PAC with the Development Review Committee to discuss, in general terms, procedures, standards, or regulations relating to development. The ~~pre-application conference~~ PAC is not considered a “permit” and does not vest any right ~~to~~ in a proposed project, unless otherwise required by law.

#### B. Mandatory Conference

A ~~pre-application conference~~ PAC shall be required with the Development Review Committee to initiate the application processes listed below:

1. All subdivision plans;
2. Site plans;
3. Rezonings;
4. ~~e~~ Comprehensive plan amendments ~~and;~~
5. Code text amendments; ~~to this Chapter including amendments to c~~
- 3.6. Planned Unit Development creation and amendments; ~~create a planned unit development;~~
- 4.7. Specific use permits;
- 5.8. Architectural review in Downtown District Overlay; and
- 6.9. Special exception and variance requests.

C. Submittal Requirements

In order to schedule a PAC, the Applicant shall submit a request form per the UDC Supplemental Schedule no less than three (3) business days prior to the requested date. The Planning Director may require the applicant to submit information ten (10) business days prior to the ~~pre-application conference~~ PAC to allow the Development Review Committee adequate time to review the proposal and provide direction and feedback.

### 3.2.2 Application Forms and Fees

The following regulations shall apply to all applications:

A. Forms

Applications required under this Code shall be submitted on forms, with the information and attachments requested, and in such numbers, as required by the City, including any checklists for submittals in accordance with Appendix B, further referenced in the UDC Supplemental Schedule. Additional information may be requested by the Planning Director in order to ensure compliance with the Unified Development Code (UDC).

B. Electronic Submission Required

All ~~applications subdivision plans, plats and site plans~~ shall also be prepared and submitted ~~upon request~~ in an electronic form acceptable to the Planning Director and compatible with the City's Geographic Information System (GIS). (e.g., .pdf, .dwg, etc.)

C. Fees

1. ~~Filing-Application~~ fees are established in Appendix A of this Chapter and are also found in the Unified Development Code Supplemental Schedule. ~~shall be established from time-to-time by resolution of the City Council and are located within the Unified Development Code Supplemental Schedule.~~
2. All required application fees shall be made payable to "The City of Pflugerville."
3. Once an application has been deemed complete by the Administrator or designee, the applicant shall not be entitled to a refund.
4. The following fees are to be paid by the applicant and are non-refundable:
  - a. Application fees, including but not limited to, public hearing notification fees, technology fees, etc.;
  - a. ~~Filing fees for text or map amendments~~
  - b. Impact fees;
  - c. Fee in lieu payments (e.g., parkland, park development, sidewalk, etc.); and
  - ~~Regional Stormwater Management Program (RSMP) fees~~

d. County recordation fees (required for easements, deeds, plats, and any other similar document requiring recordation associated with a development application).

D. Application Deadline

All applications shall be completed and submitted to the Planning Director in accordance with a schedule established ~~annually by the City~~within the UDC Supplemental Schedule. An application shall not be considered officially submitted until it has been determined to be complete in accordance with Subsection 3.2.2 E of this Subchapter.

E. Application Completeness

1. An application shall be considered submitted only after the Administrator has determined it is complete and provided that it is on the required form, with all required information, including all exhibits, and is accompanied by the applicable fee. A determination of application completeness shall be made by the Administrator within five (5) business days of ~~turning in~~submission of an application and fee. If an application is determined to be incomplete, the Administrator, or designee shall provide written notice to the applicant providing an explanation of the application's deficiencies.
2. Any application that requires a ~~pre-application conference~~PAC as ~~outlined~~required in Section 3.2.1 may not be submitted for completeness review until the ~~pre-application conference~~PAC has been held.
3. Determination that an application is complete does not determine or imply that the application has successfully met all review criteria and is then subject to review and possible disapproval.

F. Staff Review

1. Once the application has been determined to be complete by the Administrator, the Development Review Committee shall review the application according to its applicable review schedule identified in this Subchapter.
2. All applications are allowed three (3) review cycles by staff to ensure adherence to all development regulations and to address staff comments. For all applications that ~~warrant~~require more than three (3) review cycles by staff to ensure adherence of all development regulations and staff comments have been addressed, ~~the fourth (4th)~~all successive review cycles shall require additional review fees in accordance with Appendix A of the Unified Development Code and further referenced in the UDC Supplemental Schedule. The Administrator may approve a fee waiver upon the request of an applicant and a showing by the applicant that ~~multiple more than three~~review cycles ~~submittals~~ were due to the complexity of matters being reviewed

or fault of the reviewing staff person and not due to slovenliness or conscious indifference on the part of the applicant.

## G. Expedited Review Cycles

### 1. Purpose

The intent of expedited review cycles by the City is to allow for relatively small, highly planned projects to move through the development process in a manner that may allow for concurrent reviews of multiple development applications related to the same project within shorter time frames by City staff at the discretion of the Administrator.

### 2. Applicability

For the development applications listed in this section, the applicant may request expedited staff review cycles [at time of application](#), for no less than five (5) business days and limited to three (3) review cycles.

- a. Preliminary Plans
- b. Final Plats
- c. Site Plans
- d. Site Disturbance

### 3. Criteria for Consideration

The Administrator may utilize the following in the determination of granting expedited review cycles:

- a. One consolidated PAC to address all proposed development application types for the related project.
- b. Submittal of applications shall follow the "~~Order~~ [Application Sequence](#) of Processes" outlined in Section 3.1.3, and may not become out sequence during the review process with subsequent submittals at any time.
- c. Limitations for Concurrent Reviews as identified in Section 3.2.2(G)(4) below and Section 3.1.3.
- d. Site is contained fully within the City of Pflugerville city limits.
- e. No legal review required.
- f. No Traffic Impact Analysis [\(TIA\) or TIA amendment](#) is required.
- g. No public hearing notice required.
- h. No FEMA floodplain applications [or flood studies](#) are required.
- ~~i.~~ [i.](#) All property entitlements are secured ~~(for e~~ [Example](#), zoning).

### 4. Limitation of Concurrent Reviews

If ~~multiple-concurrent~~ development applications ~~types~~ are in the review process at the same time for a related project, staff shall not be required to provide staff review reports to the applicants within the same expedited review

time frame for all the development applications submitted, and that a five (5) business day delay in the review cycle may occur between each concurrent application ~~type~~ according to the ~~order~~ application sequence of processes listed in Section 3.1.3.

## 5. Process

- a. The applicant shall submit a request for a PAC, whereby the applicant ~~may~~ shall be required to submit an electronic copy of the development plan to the Planning Director, or designee, at least ~~seven~~ five (5) business days prior to the meeting.
- b. The applicant shall make a written request to the Planning Director identifying how the development application(s) meet the criteria for ~~approval~~ consideration of an expedited review process, upon the completion of a consolidated PAC with all applicable members of the Development Review Committee present.
- c. The ~~Administrator~~ Planning Director, at his/her full discretion with the criteria for consideration as listed in Section 3.2.2(G)(3) as guidance, shall render a determination within five (5) business days of said request. The ~~Administrator~~ Planning Director may place conditions upon applications permitted to follow the applicable expedited review process.
- d. If the development application is permitted to follow the expedited review process, the applicant may submit the application with the applicable review fees in accordance with ~~the UDC Supplemental Schedule~~ Appendix A of the UDC.
- e. Once application is determined to be complete upon submittal, staff shall proceed with a City staff review of five (5) business days, unless otherwise conditioned by the ~~Administrator~~ Planning Director, up to three (3) review cycles.
- f. Phone or in-person conferences may be held by the individual staff reviewer(s) with the applicant after such staff review reports have been provided to the applicant for each submittal; except as stated in subsection g, immediately below.
- g. ~~However, p~~ Prior to the third (3rd) submittal of the development application by the applicant, the applicant is required to meet with staff to discuss remaining comments. ~~A~~ However, a phone conference may be acceptable at the discretion of the Planning Director.
- h. If the third (3rd) submittal by the applicant does not address all of staff's review comments, the application shall expire and will be subject to provisions outlined in Section 3.2.2 (I) below and will no longer qualify for an expedited review process. The Administrator shall not be obligated to grant additional expedited reviews by City staff for said expired applications upon reactivation of a development application.
- ~~i. The fourth (4th) submittal of the development application with outstanding staff review comments shall be subject to a renewal fee as outlined in the Supplemental Schedule and will follow standard review times. If the fourth (4th) and final submittal of the~~

~~development plans does not warrant staff review, as determined by the Planning Director, this shall not count as a review cycle.~~

#### H. Applicant Resubmittals

1. Resubmittals shall be received no later than noon on Mondays, unless otherwise stated within the Supplemental Schedule.
2. All resubmittals shall include a comment response letter addressing all of staff's comments. The letter shall also identify all other applicant initiated changes made to the plat or plan.
3. All resubmittals shall include electronic files and hard copies, as applicable, in the amount specified by staff of all submittal contents.
4. If a resubmittal does not include all required items, the resubmittal shall be considered incomplete.

#### ~~H.I. Expiration of dormant applications~~ Expired Applications

1. A permit application shall expire and have no further validity if:
  - a. No activity has occurred on a development application for a period of 90 days from the date of City staff's last formal review comments on the development application, the development plans associated with the development application, or the resubmittal of such development application; or
  - b. The approval on a development application has not been obtained within 180 days from the date the application and fees were filed pursuant to the requirements of this Chapter.
2. In the event that a development application expires pursuant to subsection 1, immediately above:
  - a. The applicant shall be required to submit a new Development Application;
  - b. The applicant shall be required to submit new application fees in an amount equal to the amount authorized by the Fee Schedule in effect at the time of submission of the new Development Application; and
  - c. The project shall be subject to the regulatory provisions of this Chapter in effect as of the date of the submission of the new application.
- ~~1. An accepted application for which there has been no action taken by an applicant for a period of 180 days or more from the date of the last action shall be determined dormant and considered withdrawn by the applicant and the file subsequently closed.~~
- ~~2. Reapplication of an expired application will require a new application and new fees and the project will be subject to current regulations, as of the date of the new application.~~

### 3.3 PUBLIC HEARING AND NOTICE

#### 3.3.1 Provision of Public Notice

A. Summary of Notice Required

Notice shall be required for application review as shown in the following Table 3.3.1 A.

| Table. 3.3.1 A. <del>Mailed</del> Notice       |                                   |               |                |
|--|-----------------------------------|---------------|----------------|
| Type of Application                            | Published Notice                  | Mailed Notice | Signage Posted |
| Comprehensive Plan Amendment                   | X                                 |               |                |
| UDC Text Amendment                             | X                                 |               |                |
| Annexation                                     | In accordance with state statutes |               |                |
| Rezoning (Zoning Amendment)                    | X                                 | X             | X              |
| Planned Unit Development (PUD) District        | X                                 | X             | X              |
| Specific Use Permit                            | X                                 | X             | X              |
| Replat of Residential Property (Resubdivision) | X                                 | X             |                |
| Replat of Commercial Property (Resubdivision)  | X                                 |               |                |
| Appeal of Administrative Decision              | X                                 |               |                |
| Variance (Zoning)                              | X                                 | X             | X              |
| Special Exception                              | X                                 | X             | X              |
| X = Notice Required                            |                                   |               |                |

B. Published Notice

1. Before the 10th day before the scheduled public hearing date before the Planning and Zoning Commission, notice of the hearing must be: published at least one time in the City's official newspaper or a paper of general circulation in the City, which includes the date of the public hearing, time of the public hearing, location, and a general description of the request before the Planning and Zoning Commission. [As to a replat falling under the purview of Texas Local Government Code Section 212.015, Before the 15th day before the date of the date of the scheduled public hearing date before Planning and Zoning Commission, notice of the hearing must be published at](#)



least one time in the City's official newspaper or a paper of general circulation in the City, which includes the date of the public hearing, time of the public hearing, location, and a general description of the request.

~~4.2.~~ Before the 15th day before the date of ~~Not later than 15 days before~~ the scheduled public hearing date before the City Council or Board of Adjustment, notice of the hearing must be published at least one time in the City's official newspaper or a paper of general circulation in the City, which includes the date of the public hearing, time of the public hearing, location, and a general description of the request.

C. Mailed Notice

1. Generally

A notice of public hearing shall be sent by U.S. mail to owners of record of real property within a certain distance of the boundary of the property under consideration in accordance with the following Table 3.3.1 C, as determined by the most recently approved municipal tax roll information. The notice may be served by its deposit in the municipality, properly addressed with postage paid, in United States mail prior to the date set for the public hearing in accordance with the timelines established for the published notice in section 3.3.1(B) above, or as otherwise required by the Texas Local Government Code, as amended.

**Table 3.3.1 C Mailed Notice**

| Type of Application                            | Notification Distance from Subject Property (Feet) | HOA(s) Notified |
|--|--|-----------------|
| Annexation                                     | Notification in accordance with State law          |                 |
| Appeal of Administrative Decision              | Notification in accordance with State law          |                 |
| Planned Unit Development (PUD) District        | 500  | X               |
| Replat of Residential Property (Resubdivision) | 200  |                 |
| Rezoning (Zoning Amendment)                    | 500  | X               |
| Special Exception                              | 200  | X               |
| Specific Use Permit                            | 500  | X               |
| Variance (Zoning)                              | 200  | X               |

X = Special Notice Required

2. Mailing letters to all homeowner's associations or neighborhood associations whose jurisdiction is within 200 feet of the boundary of the subject area. Such homeowner association or neighborhood association must be registered with the City Planning Department annually as prescribed in the Unified Development Code Supplemental Schedule.
  
3. Special Mailed Notice for [Residential and Multi-Family](#) Rezoning
  - a. Before the 10th day before the hearing date, written notice of each public hearing on a proposed change in a zoning classification affecting residential or multifamily zoning shall be sent to each school district in which the property for which the change in classification is proposed is located.
  - b. The notice shall be served by its deposit, properly addressed with postage paid, in the United States mail.
  
4. Special Mailed Notice Required for PUD Modification
  - a. For purposes of mailed notice, the boundary of a PUD Modification shall be the boundary of any tract of land for which PUD standards or requirements are proposed to change due to the modification.
  - b. In addition to the requirements of paragraph 1 of Section 3.3.1 C., mailed notice shall also be provided to all owners of property within the entire PUD boundary, not otherwise notified. The financial obligation for such notification shall be the applicant's responsibility, and shall be in addition to the standard application amendment fee.
  
5. Special Mailed Notice Required for Specific Use Permits
  - a. Before the 10th day before the hearing date, written notice of each public hearing on a proposed change in a zoning classification affecting residential or multifamily zoning shall be sent to each school district in which the property for which the change in classification is proposed is located.
  - b. The notice shall be served by its deposit, properly addressed with postage paid, in the United States mail.
  
6. Special Mailed Notice Required for Certain Replats

Replats containing any area or lot that, during the preceding five years, was limited by an interim or permanent zoning classification to residential use for not more than two residential units per lot or in the preceding plat was limited by deed restrictions to residential use for not more than two residential units per lot, require mailed notice to all owners of lots that are part of the original

subdivision and located within 200 feet of the boundary of the property to be replatted, in the same manner as prescribed in this Section above and in accordance with §212.015 of the Texas Local Government Code, as amended.

D. Posted Notice

1. Notice shall be posted in the format and amount determined by the Administrator on every street right-of-way adjacent to the land under consideration.
2. The applicant shall be responsible for maintaining the sign on a format approved by the Administrator during the course of the public hearings, until such time staff remove the signage from the property.
3. Posted notice shall be posted consistent with the timeline(s) established for published notice per ~~subsection~~ [Subsection 3.3.1\(B\)](#) above.

E. Content of Notice

Published ~~or~~ and mailed notices shall contain at least the following specific information:

1. The general location of land that is the subject of the application, including a location map with the mailed notice only;
2. The legal description or street address;
3. The substance of the application, ~~including the type of proposed development and the current zoning district;~~
4. The time, date, and location of the public hearing;
5. ~~A phone number to contact~~ [Contact information for](#) the City; and
6. A statement that interested parties may appear at the public hearing.

F. Special Hearing Notice Required for Certain Replats

A replat without vacation of the preceding plat must conform to the requirements of Sections 212.014 and 212.015 of the Texas Local Government Code.

### 3.3.2 Public Hearing Required

The following table identifies the types of applications requiring a public hearing and the review body responsible for conducting the hearing.

**Table. 3.3.2 Summary of Required Public Hearings**

| Type of Application               | Planning & Zoning                 | City Council | Board of Adjustment |
|-----------------------------------|-----------------------------------|--------------|---------------------|
| Annexation                        | In accordance with state statutes |              |                     |
| Appeal of Administrative Decision |                                   |              | X                   |
| Comprehensive Plan Amendment      | X                                 | X            |                     |

|   |   |   |   |
|---|---|---|---|
| Planned Unit Development (PUD) District | X | X |   |
| UDC Text Amendment                      | X | X |   |
| Rezoning (Zoning Amendment)             | X | X |   |
| Replat (Resubdivision)                  | X |   |   |
| Specific Use Permit                     | X | X |   |
| Special Exception                       |   |   | X |
| Variance (Zoning)                       |   |   | X |
| X = Public Hearing Required             |   |   |   |

### 3.3.3 Postponement of Application

An applicant may request to postpone an application at any time prior to the public notice being sent for publication and mailed to the applicable property owners within the notification area. If the request for postponement is received after public notice has been sent, the Administrator may approve the request on a showing of good cause and applicant's payment of all re-notification fees.

## 3.4. COMPREHENSIVE PLAN AMENDMENT PROCEDURES

### 3.4.1 Purpose

For the purpose of establishing and maintaining sound, stable, and desirable development within the ~~territorial limits of the~~ City, the Comprehensive Plan, ~~including~~ specifically, the Land Use Plan and the Transportation Master Plan, shall be amended only based upon changed or changing conditions in a particular area or in the City.

### 3.4.2 Applicability

If it is determined that a proposed rezoning is not in accordance with the Future Land Use Plan located within the Master Plan, a comprehensive plan amendment application shall be required to accompany the application of the applicant initiated rezoning request with the applicable review fees in accordance with [Appendix A, and further referenced in](#) the UDC Supplemental Schedule.

### 3.4.3 Initiation of Amendment

An amendment may be initiated by:

- A. City Council;
- B. The Planning and Zoning Commission;
- C. The ~~recommendation of the~~ Administrator; or
- D. Application by the property owner(s).

#### 3.4.4 Procedure

The procedure for the processing of a Comprehensive Plan amendment shall conform to the procedures for “Unified Development Code Text Amendments” as provided in Section 3.5, except as provided herein.

##### A. Amendment Application

A complete application for a Comprehensive Plan amendment shall be submitted to the Administrator as set forth in Subchapter 3 with letter of explanation for the request and any support information related to the request.

##### B. Review and Report by Administrator

Once the application is complete, the Administrator shall review the proposed amendment in light of the remainder of the Comprehensive Plan and conditions in the City, and give a report and recommendation to the Planning and Zoning Commission.

##### C. Review by the Planning and Zoning Commission

The Planning and Zoning Commission shall review the amendment and recommend approving, approving with conditions, denying, or determine that the proposed development complies with the Comprehensive Plan and no amendment is required. The Planning and Zoning Commission will advise the City Council of ~~their~~ its recommendation regarding the requested Comprehensive Plan amendment, or any element of the Comprehensive Plan. If the Planning and Zoning Commission determines that no amendment is required, the applicant may proceed with the next step in the development process with no further action required by the City Council.

##### D. Review and Action by the City Council

After receiving a recommendation by the Planning and Zoning Commission, the City Council may then adopt or reject all or a certain ~~individual~~ elements of the proposed Comprehensive Plan amendment. The City Council may also adopt additional elements it deems necessary to fulfill the goals and intent of the Comprehensive Plan. The City Council shall act on the Comprehensive Plan, or an element of the Comprehensive Plan, within 60 days following its submission to the City Council by the Planning and Zoning Commission. The City Council may: (i) adopt or reject the plan as submitted by the Planning and Zoning Commission; (ii) adopt or reject the Comprehensive Plan with changes or amendments; or (iii) direct the Planning and Zoning Commission to further study or review the Comprehensive Plan, or a portion thereof.

### 3.4.5 Approval Criteria

- A. The City Council shall consider the following approval criteria in an analysis of immediate needs and consideration of the long-term effects.
  - 1. The application is complete and the information contained within the application is sufficient and correct enough to allow adequate review and final action; and
  - 2. The amendment promotes the health, safety or general welfare of the City and the safe, orderly, and healthful development of the City.
- B. In considering amendments to the Comprehensive Plan, the City Council should be guided by the following:
  - 1. The need for the proposed change;
  - 2. The effect of the proposed change on the need for City services and facilities;
  - 3. The compatibility of the proposed change with the existing uses and development patterns of nearby property and with the character of the neighborhood; and
  - 4. The implications, if any, that the amendment may have for other parts of the Plan.

## 3.5 UNIFIED DEVELOPMENT CODE TEXT AMENDMENTS

### 3.5.1 Applicability

Amendments to this Unified Development Code may be made in order to establish and maintain sound, stable, and desirable development within the jurisdiction of the City, to correct errors in the text or because of changed or changing conditions in the City. All text amendments shall be consistent with the Comprehensive Plan.

### 3.5.2 Initiation of Text Amendment.

A text amendment to this UDC may be initiated in one of the following ways:

- A. Direction of the City Council  
The City Council may initiate a UDC text amendment in one of two ways:
  - 1. City Council, by majority vote, may direct initiation of a UDC text amendment review.
  - 2. City Council, by a super majority vote, may initiate an emergency UDC text amendment.
- B. Recommendation by the Planning and Zoning Commission  
The Planning and Zoning Commission, by majority vote, may direct initiation of a UDC text amendment review.
- C. Recommendation by the Planning Director

The [Planning](#) Director may make recommendation to the City Manager for the initiation of a UDC text amendment review.

D. Application by a Citizen or Property Owner

A citizen or property owner may make application for a UDC text amendment. The applicant shall provide staff with draft text of their proposed UDC [text](#) amendment along with supporting information detailing how the proposed changes meet the criteria outlined in Section 3.5.4.

### 3.5.3 Review and Approval Process

A. Staff Review

The Planning Director shall prepare a report to be forwarded to the Planning and Zoning Commission for consideration, including each proposed version of the text [amendment](#) and a recommendation for final action.

B. Planning ~~and~~ Zoning Commission Review

The Planning and Zoning Commission shall hold a public hearing in accordance with ~~its rules~~ [this Code](#) and shall make a recommendation on the proposed change(s) to the City Council.

C. City Council Final Action

The City Council shall hold a public hearing in accordance with ~~its rules~~ [this Code](#) and state law and may take final action on the proposed [text](#) amendment. The amendment shall then become effective in the manner provided by the City Charter or State Law.

### 3.5.4 Approval Criteria

In determining whether to approve, approve with modifications or disapprove a proposed amendment, the City Council shall consider the following matters:

- A. The proposed amendment promotes the health, safety or general welfare of the City and the safe, orderly, and healthful development of the City.
- B. The proposed amendment is consistent with the Comprehensive Plan.

## 3.6 ANNEXATION

Annexation into the city limits ~~may~~ [shall](#) occur in accordance with the procedures set out in applicable state statutes, and the City Charter.

## 3.7 ZONING PROCEDURE

### 3.7.1 Applicability

Prior to the submission of any development application, if located within the City limits, ~~S~~staff shall determine whether the proposed land use is permitted by right, permitted with conditions, permitted by specific use permit, or prohibited in the subject site's zoning district. If the proposed land use is permitted by right or with the prescribed conditions within this ~~Chapter~~Code, the applicant shall be entitled to proceed to the next development application in the sequence of processes. If the use is not permitted by right or with conditions, the applicant may consider applying for ~~a rezoning~~, ~~or~~ a specific use permit (SUP), or Planned Unit Development (PUD) where applicable.

### 3.7.2 Prerequisite for Consideration

The proposed rezoning must be consistent with the future land use element of the Comprehensive Plan; or must be accompanied with a request for an amendment to the Comprehensive Plan.

### 3.7.3 Procedure

- A. A request for a zoning amendment ~~procedure~~ may be initiated by:
  1. Recommendation of the City Council;
  2. Recommendation of the Planning and Zoning Commission;
  3. Recommendation of the City Manager;
  4. Recommendation of the Planning Director; or
  5. Application by the property owner or authorized agent; and payment of the required fee.
- B. A public hearing shall be required before the Planning and Zoning Commission in accordance with state law and Section 3.3 of this Subchapter.
- C. After the public hearing on the application, the Planning and Zoning Commission shall make a recommendation to the City Council with respect to such application.
- D. After the Planning and Zoning Commission's ~~makes its~~ recommendation is received, the City Council shall conduct a public hearing in accordance with state law. The public hearing shall be conducted within 60 days following the date of the Planning and Zoning Commission's recommendation. If a public hearing is not held before City Council within the prescribed 60 days, City Council may extend the 60 day period for a maximum of 30 days by resolution of the Council; a maximum of two 30 day extensions may be granted in this manner, or the application will be considered withdrawn.
- E. Within 60 days of the public hearing before the City Council, City Council must either:
  1. Approve by ordinance, the requested amendment as submitted;
  2. Approve by ordinance, the amendment as recommended by the Planning and Zoning Commission;
  3. Approve by ordinance, an alternate amendment that is a less intensive use than that which was submitted;
  4. Deny the requested rezoning by record vote; or



5. Extend the 60-day period for a maximum of 30 days by a resolution of the Council; a maximum of two 30-day extensions may be granted in this manner.

If the City Council fails to approve~~er~~, deny~~l~~, or extend the request within 60-days after the public hearing on the request, ~~and~~or the delay is due in whole or part to applicant's request for extension(s), the request is deemed withdrawn and no further action shall be taken without a new zoning application being submitted.

- F. A zoning map amendment to this ~~Chapter~~Code requires the approval by a three-fourths vote of all members of the City Council if:
  1. The Planning and Zoning Commission has recommended to deny the requested amendment; or
  2. A written protest is received by the Administrator against such rezoning~~r~~, or creation and~~or~~ amendment of a PUD District and is signed by the owners of 20 percent or more of either:
    - a. The area of the lots or land included in such proposed amendment~~r~~; or
    - b. The area of the lots or land within 200 feet of the boundary of the subject area, excluding the land included in such proposed amendment. In computing the percentage of land area, the area of streets and alleys shall be included.

### 3.7.4 Creating or Amending a Planned Unit Development (PUD) District

#### A. Application Requirements

1. Complete application form and supplemental requirements provided within Appendix A and B of the UDC, and further referenced ~~included~~ in the Unified Development Code Supplemental Schedule; an application shall be submitted with applicable fees and required information and any additional information requested by the Planning Director. The application shall:
  - a. Specify the extent to which deviation from otherwise applicable Code requirements is justified by unique characteristics of the site or other exceptional circumstances; and
  - b. Describe steps taken to protect or preserve any natural resource features on the site, or to incorporate such features as focal points within the proposed development.
2. ~~Filing~~Application fee in accordance with Appendix A of the UDC; and
3. A written legal and graphic description of the subject land~~.~~

#### B. Criteria for Consideration

The proposed PUD District application meets the criteria stated in Subchapter 4 and conforms to the purpose and intent of the Comprehensive Plan and Unified Development Code.

### C. Process

The process for a PUD is outlined below. An application for a PUD will be scheduled for action once staff and the applicant have had the opportunity to review and finalize the requirements of the PUD. Dates for public hearings and action will be scheduled once review of the application is complete. ~~Sections Provisions 3 and 4~~ within this section ~~may shall~~ be repeated until all comments are addressed or the applicant submits a written request for the proposal to be reviewed by the Planning and Zoning Commission.

1. A pre-application conference is required to discuss the proposed development and to determine whether the property and proposal meet the minimum criteria for a PUD at the proposed location.
2. The applicant submits a completed application in accordance with Section 3.2.2 E. and the provisions for a PUD outlined in Subchapter 4.
3. The Planning Director will review the request and submit comments to the applicant not later than 10 business days following the date that the request was submitted.
4. The applicant can revise the proposal based on the Planning Director's comments.
5. If the PUD District includes residential lots or units, ~~within 7 business days of receipt of a complete application~~ the Planning Director must request a determination from the Parks and Recreation Director as to whether or not the PUD application must be presented to the Parks and Recreation ~~Commission~~ Advisory Board for review. In the event that the Parks and Recreation Director determines a review and recommendation from the Parks and Recreation ~~Commission~~ Advisory Board is required, the matter shall be placed on the next available meeting date. An application for a PUD District that includes residential lots or units is not deemed complete to proceed to the Planning and Zoning Commission without a determination by the Parks and Recreation Director; and, if applicable, a recommendation by the Parks and Recreation ~~Commission~~ Advisory Board regarding parkland dedication provisions. If the project is modified at the request of the applicant, staff, or a commission, a reconsideration from the Parks and Recreation ~~Commission~~ Advisory Board is required if the overall parkland requirements for land or fee in lieu are affected by the proposed changes.
6. The application will be scheduled for hearing by the Planning and Zoning Commission with appropriate notifications, once:
  - a. All comments from the Planning Director have been addressed;  
or

- b. The applicant submits a written request for the proposal to be reviewed by the Planning and Zoning Commission.
7. The Planning and Zoning Commission shall consider the application following a public hearing, as prescribed in Section 3.3 and provide a recommendation with any associated conditions to City Council. The Planning and Zoning Commission shall determine if the application meets the requirements outlined in Subchapter 4.
8. The City Council must conduct a public hearing and take action on the proposed creation of a PUD district according to the procedure established in Section 3.3.
9. If approved, the City staff must amend the Official Zoning Map to indicate the name of the district that has been approved and include the approved development standards and accompanying map ~~in the Unified Development Code Supplemental Schedule.~~
10. Land within the PUD district can then be used or developed in conformance with the adopted standards.

#### D. Standards

1. The entire area proposed for a Planned Unit Development (PUD) district must be given a unique name as approved by the Planning Director, which will be used as a reference to the district if approved.
2. The proposed development shall consist of a parcel or group of parcels which form a single contiguous land unit with labels for individual tracts.
3. ~~A d~~Development standards ~~form~~ and accompanying map, ~~included in the Unified Development Code Supplemental Schedule,~~ must be included with the application. [See also Subchapter 4.5.3 for additional PUD requirements.](#)
4. ~~All aspects of land development must be addressed in the development standards form.~~
  - a. ~~The development standards form must propose permitted and/or prohibited uses, building restrictions, standards for public improvements and similar aspects for each sub-area.~~
  - b. ~~Where the proposed standards are identical to standards already established by the City, reference to the City standards on the development standards form is necessary.~~
  - c. ~~Any uses that are not addressed in the development standards form are not permitted within the district.~~
  - d. ~~Any other aspect that is not addressed in the development or other applicable City Code provisions.~~

### 3.7.5 Withdrawal of a zoning/rezoning request

An application or amended application for zoning or rezoning may be withdrawn a maximum of two times in a twelve-month period. After an application for the same property has been withdrawn twice in a twelve-month period, no further applications for a zoning or rezoning to the same or less restrictive zoning district will be accepted for a period of twelve months from the date of the second withdrawal, unless the new application is submitted for a substantially different use or zoning classification (i.e.: submit a residential zoning request following second withdrawal of commercial zoning request) than was previously withdrawn on the prior two occasions or the new application complies with the Comprehensive Land Use Plan.

### **3.8 SPECIFIC USE PERMITS**

#### **3.8.1 Applicability**

An applicant may submit an application for those land uses listed as permitted by specific use permits (SUP), under the particular zoning districts in Subchapter 4 of this Code.

#### **3.8.2 Process**

The process for a SUP is outlined below. An application for a SUP will be scheduled for action once staff and the applicant have had the opportunity to review and finalize the requirements of the SUP. Dates for public hearings and action will be scheduled once review of the application is complete. Sections B and C may be repeated until all comments are addressed or the applicant submits a written request for the proposal to be reviewed by the Planning and Zoning Commission.

- A. A ~~pre-application—conference~~PAC is required to discuss the proposed development and to determine whether the property and proposal meet the criteria for a SUP at the proposed location.
- B. Upon application submittal, the Planning Director will review the application and submit comments to the applicant not later than fifteen (15) business days following the date that the application was submitted.
- C. The applicant can revise the proposal based on the Administrator's comments.
- D. The application will be scheduled for public hearing by the Planning and Zoning Commission with appropriate notifications, once:
  1. All comments from the Planning Director have been addressed; or
  2. The applicant submits a written request for the proposal to be reviewed by the Planning and Zoning Commission.
- E. The Planning and Zoning Commission shall consider the application following a public hearing, as prescribed in Section 3.3 and provide a recommendation with any associated conditions to City Council. The Planning and Zoning Commission shall determine if the application meets the requirements outlined in Section 3.8.4 and Subchapter 4.

- F. The City Council must conduct a public hearing and take action on the proposed creation of a SUP ~~district~~ according to the procedure established in Section 3.3 and criteria outlined in Sections 3.8.3 through 3.8.6.
- G. If approved, the City staff must amend the Official Zoning Map to indicate ~~the name of the district that a SUP~~ has been approved, ~~and include the approved development standards and accompanying map in the Unified Development Code Supplemental Schedule as outlined in Section 3.8.5(E).~~
- H. Land within the SUP ~~district~~ can then be used or developed in conformance with the adopted standards.

### 3.8.3 Consideration

The City Council by an affirmative vote may, after public hearing and proper notice to all parties affected, and after receipt of recommendations from the Planning and Zoning Commission that address whether the uses are in general conformance with the Comprehensive Plan ~~and~~ general objectives of the City and ~~containing~~ are subject to such requirements and safe-guards as are necessary to protect adjoining property, authorize the application ~~and~~ which shall be accompanied by: a proposed Site Plan drawn to scale and showing the general arrangement of the project, together with essential requirements such as off-street parking facilities; size, height, construction materials, and locations of buildings and the uses to be permitted; location and ~~instruction~~ special requirements of signs; means of ingress and egress to public streets; the type of visual screening such as walls, plantings and fences; and the relationship of the intended use to all existing properties and land uses in all directions to a minimum distance of 200 feet. The Planning and Zoning Commission or City Council may require additional information or drawings (such as building floor plans), operating data and expert evaluation or testimony concerning the location, function and characteristics of any building or use proposed.

### 3.8.4 Criteria for Approval

In recommending that a specific use permit for the premises under consideration be granted, the Planning and Zoning Commission shall determine that such proposed use(s) are harmonious and adaptable to building structures and uses of abutting property and other property in the vicinity of the premises under consideration, and shall make recommendations as to requirements for the paving of streets, alleys and sidewalks, means of ingress and egress to public streets, provisions for drainage, adequate off-street parking, protective screening and open space, area or security lighting, heights of structures and compatibility of buildings. The Planning and Zoning Commission and City Council shall consider the following criteria in determining the ~~validity~~ appropriateness of the specific use permit request:

- A. Whether the use is harmonious and compatible with its surrounding existing uses or proposed uses;
- B. Whether the activities requested by the applicant are normally associated with the requested use;
- C. Whether the nature of the use is reasonable; and
- D. Whether any adverse impact on the surrounding area has been mitigated.

### 3.8.5 Conditions of Permit

In granting a specific use permit, the City Council may impose conditions that the owner or grantee must comply with before the Building Official may issue a Certificate of Occupancy for use of the building on such property pursuant to such specific use permit and such conditions precedent to the granting of the certificate of occupancy. Any special conditions shall be set forth in the ordinance approving the SUP. The Administrator shall verify compliance with such conditions prior to issuance of the certificate of occupancy.

A. No specific use permit shall be granted unless the applicant, owner and grantee of the specific use permit ~~shall be~~ willing to accept and agree to be bound by and comply with the written requirements of the specific use permit, as attached to the site plan drawing (or drawings) ~~and approved by the Planning and Zoning Commission and City Council.~~

~~B. If required by the specific use permit ordinance, a building permit shall be applied for and secured within six months from the time of granting the specific use permit, provided however, that the City Council may authorize an extension of this time upon recommendation by the Planning and Zoning Commission.~~

~~B.~~ A building, premises, or land used under a specific use permit may be enlarged, modified, structurally altered, or otherwise changed provided these changes do not:

1. Increase the height of structures, including antenna support structures;
2. Increase building square footage from its size at the time the original specific use permit was granted by more than 10 percent;
3. Reduce the distance between a building or noise-generating activity on the property and an adjacent, off-site residential use. This provision shall not apply if the property and the residential use are separated by a major thoroughfare depicted on the City's Transportation Master Plan; ~~or~~
4. Reduce the amount of ~~open space~~ landscape area by more than 10 percent, as indicated in the approved specific use permit.
5. All other enlargements, modifications, structural alterations, or changes shall require the approval of a ~~new~~ specific use permit amendment. Antennas may be placed on a tower with an existing specific use permit without approval of a ~~separate~~ specific use permit amendment subject to approval of a final plat and site plan for the property.

~~D.C.~~ The Board of Adjustment shall not have jurisdiction to hear, review, reverse, or modify any decision, determination or ruling with respect to the specific land use designated by any specific use permit.

~~E.D.~~ When the City Council authorizes granting of a specific use permit, the Official Zoning District Map shall be amended according to its legend to indicate that the affected area has conditional and limited uses, and said amendment is to indicate the appropriate zoning district for the approved use and prefixed by an "S" designation. Specific use permits granted shall be indicated by numerical designation on the Zoning District Map.

~~F.E.~~ Upon holding a properly notified public hearing in accordance with Section 3.3, the City Council may amend, change or rescind a specific use permit if:

1. There is a violation and conviction of any of the provisions of this Chapter or any provision of the City code that occurs on the property for which the specific use permit is granted;
2. The building, premises, or land used under a specific use permit is enlarged, modified, structurally altered, or otherwise significantly changed without approval of an ~~separate~~ amended specific use permit for such enlargement, modification, structural alteration or change;
3. Violation of any provision of the terms or conditions of a specific use permit;  
or
4. ~~The specific use permit was obtained by fraud or with deception; or-~~
- 4.5. A site development permit has not been secured for the development within twenty-four (24) months from the date of approval by the City Council. If a site development permit has been approved, the specific use permit will remain valid until such time the approved site development permit has expired. Once a site, governed by a SUP, has received a Certificate of Occupancy, the SUP shall remain in full force and effect provided the conditions of the SUP are satisfied and maintained.

### 3.8.6 Additional Criteria for Corridor Districts

Additional criteria for specific use permit requests within corridor zoning districts. Specific use permits may be approved in the SH 130 and SH 45 corridor districts if the requirements for the approval of a specific use permit, as stated in this subchapter, have been met in addition to the following additional criteria:

- A. The application is complete and the information contained within the application is sufficient and correct enough to allow adequate review and final action.
- B. The application illustrates conformance with the four guiding principles for the SH 130 and SH 45 corridor and consideration of the following desirable characteristics:
  1. Retail activity is preferred to be clustered within proximity to the following major intersections:
    - a. SH 130 and SH 45,
    - b. SH 130 and Pecan Street,
    - c. SH 45 and Heatherwilde Boulevard,
    - d. SH 130 and Pflugerville Parkway, and
    - e. FM 685 and Pflugerville Parkway.
  2. Structures should orient to public streets and designated trails as noted on the Future Trails Map referenced in the Comprehensive Plan.
  3. The extent of connectivity among proposed and existing right-of-ways is demonstrated.
  4. The extent to which uses, such as freestanding pad sites, are clustered at focal points or key features within a development and relate to other components of the overall development. Such focal points or key features may

include, but are not limited to retention systems, greenways, dedicated hike/bike facilities, or plazas, parks or other features that create a gathering place.

5. The application illustrates compliance with the requirements and guidelines of this Chapter.
6. The application exhibits compatibility of the design with surrounding properties and development patterns.
7. The application exhibits compatibility and coordination between the character of the streetscape and the planned surrounding built environment.
8. The application exhibits no substantial negative impacts on the historic, cultural or architectural nature of the site or surrounding area, or successfully mitigates such impacts.

### **3.8.7 Permit Expiration**

~~Notwithstanding the provisions of Section 3.8.5 above, a specific use permit shall automatically expire within 24 months from the date of approval by the City Council if a site development permit has not been secured for the development. If a site development permit has been approved, the specific use permit will remain valid until such time the approved site plan has expired.~~

## **3.9 SUBDIVISION**

Refer to Subchapter 15 for procedures.

## **3.10 SITE DEVELOPMENT PERMIT**

### **3.10.1 Applicability**

A. The site development permit review process ensures any future development will occur in a planned, orderly and attractive manner.

B. No construction or site improvement work may commence until the issuance of a site disturbance permit or a site development permit.

~~B.C.~~ No fill or spoil may be transported to or from a site without a site development permit, or site disturbance permit, or construction permit for public improvements.

### **3.10.2 Submittal Requirements**

The following items must be submitted for the initial review of all site development applications:

A. ~~Filing~~ Application fee in accordance with Appendix A of the UDC.



- B. ~~Black line e~~Copies of the plan in the amount and to the specifications indicated in [Appendix B of the UDC, as further referenced in](#) the Unified Development Code Supplemental Schedule.
- C. Complete application form including all information required by the currently approved application form [pursuant to Appendix A and B of the UDC, and further referenced in the](#) Unified Development Code Supplemental Schedule.
- D. Runoff computation for drainage areas in accordance with the City's [Engineering Design Manual, ~~Drainage Criteria Manual~~](#) including drainage calculations, drainage plan and other pertinent information.
- E. If the proposed subdivision or any interim phase or combination of phases is expected to generate 2,000 or greater vehicle trips [per day](#) on the peak day for the proposed uses within the proposed subdivision or phase(s), according to the latest edition of the Institute of Transportation Engineers' Trip Generation [Manual](#), a licensed engineer with experience in traffic flow analysis, shall ~~make, prepare, and sign~~ [and seal](#) a traffic impact analysis (TIA) ~~and certify to certifying~~ its completeness and accuracy. A TIA, including the initial scope, shall meet the minimum requirements outlined in [Subchapter 15 and](#) the Engineering Design Manual ~~with, subject to~~ final approval by the ~~City Engineer~~[Development Engineering Director](#).
- F. If the proposed site requires driveway access from a state highway, a permit to construct driveway facilities on highway right-of-way and related permits issued by the Texas Department of Transportation is required.
- G. A warranty deed conveying any required parkland to the City, or payment of a fee in lieu of dedicating parkland, if applicable, in accordance with Subchapter 14 of the City Code. The applicant shall utilize the City's standard deed template, unless otherwise approved by Administrator.
- H. [An Erosion and Sedimentation Control Plan \(ESCP\) identifying temporary and permanent erosion control measures prepared per the requirements of Chapter 158.04, Stormwater Pollution Control Ordinance and in accordance with Section 7 of the requirements of the](#) Engineering Design ~~Guidelines Manual~~ shall be included with the site development plan set.
- I. [Legal description of the site including name of subdivision, lot and block. Unless otherwise exempted by Texas Local Government Code Chapter 212, an application for a site development permit shall only be accepted for legally platted lots conforming to the standards established in this Code and in other applicable provisions of the City Codes.](#)
- J. [As part of the application process for a site development permit, the developer shall follow the procedures for the subdivision process included within Subchapter 15 of this Code and shall not receive a site development permit unless a final plat, with construction plans has been approved or is concurrently approved for the site.](#)

~~H. Prior to issuance of a site development permit, a copy of the permit issued by TCEQ for the Stormwater Pollution Prevention Plan (SWP3) shall be provided.~~

### 3.10.3 Content of Site Plan

The required content included within the site plan can be found within [Appendix B of the UDC and further referenced in](#) the Unified Development Code Supplemental Schedule.

### 3.10.4 Process

- A. The applicant for a site development permit shall submit legible copies of a complete application to the Administrator in the amount and to the specifications indicated in [Appendix B of the UDC and further referenced in](#) the Unified Development Code Supplemental Schedule.
- B. Upon receipt of a complete application, the Administrator shall distribute the application to the proper reviewing authorities, and review the site plan for compliance with the provisions of this chapter.
- C. No later than fifteen (15) business days following the submittal of a complete application for a site plan, the Administrator must either present the applicant with comments regarding the review of the site plan, if there are ~~no~~ comments, or approve the plan and issue a site development permit.
- D. Upon resubmittal of the updated site development plans, the Administrator must review and submit comments to the applicant no later than ten (10) business days. The Administrator must either present the applicant with comments regarding the review of the updated site plan, if there are ~~no~~ comments, or approve the plan and issue a site development permit. This cycle may be repeated until all comments are addressed unless the application expires due to lack of resubmittal ~~and/or~~ progress.
- E. The site plan application may be eligible for an expedited review process in accordance with Section 3.2.2.G. of this Subchapter.

~~F. If not approved, the site development application shall expire after 180 days from the date the application was filed with the City or after the third (3<sup>rd</sup>) review cycle, whichever occurs first. If the applicant wishes to continue, new plans shall be resubmitted and current fees shall be required. The Planning Director may extend the time period if the applicant can demonstrate that substantial progress has been consistently made since the initial submittal.~~

### 3.10.5 Permit Expiration

A. A site development permit application shall expire and have no further validity if:

1. No activity has occurred on a development application for a period of ninety (90) days from the date of City staff's last formal review comments on the development application, the development plans associated with the development application, or the resubmittal of such development application; or
  2. The approval of a development application has not been obtained within 180 days from the date the application and fees were filed pursuant to the requirements of this Chapter.
- B. In the event that a development application expires pursuant to subsection A, immediately above:
1. The applicant shall be required to submit a new development application;
  2. The applicant shall be required to submit new application fees in an amount equal to the amount authorized by the Fee Schedule in effect at the time of submission of the new development application; and
  3. The project shall be subject to the regulatory provisions of this Chapter in effect as of the date of the submission of the new application.
- ~~A.C.~~ All site development permits are valid for two years from the date the permit is issued.
- ~~B.D.~~ A one-time, 180-day extension may be requested through an application and approved administratively by the Planning Director if the site development permit remains valid under the existing codes and ordinances at the time of the request.
- ~~C.E.~~ The Planning Director reserves the right to deny any extension request. If denied, an appeal may be made to the City Council, within thirty (30) days of such denial.
- ~~D.F.~~ Any additional extensions will require City Council consideration. At no time may an extension request be granted for greater ~~more~~ than 180-days.

### **3.10.6 Criteria for Approval**

The Planning Director shall determine whether to grant a site development permit based on the following criteria:

- A. The application is complete and the information contained within the application is sufficient and correct enough to allow adequate review and final action.
- B. The application ~~illustrates~~ demonstrates compliance with the requirements and guidelines of this Chapter, Appendix B of the UDC, Tree Technical Manual, and the Engineering Design Manual.
- ~~C. The application exhibits compatibility of the design with surrounding properties.~~

- ~~D.~~ The application exhibits no substantial negative impacts on the historic, cultural or architectural nature of the site or surrounding area, or successfully mitigates such impacts.
- ~~E.C.~~ Prior to ~~issuance of a site development permit~~ the pre-construction meeting, a copy of ~~the permit issued by TCEQ for~~ the Stormwater Pollution Prevention Plan (SWP3) and Notice of Intent (NOI) shall be provided.
- ~~F.D.~~ All required development fees, as applicable, are paid prior to the issuance of a site development permit, including but not limited to, TIA fees, parkland development fee, parkland fee in-lieu, and sidewalk fee in-lieu.

### 3.10.7 Revisions and Corrections

#### A. Revisions

- ~~1.~~ A minor revision is a modification to an approved site development permit application that does not substantially change the overall design of the original application however, is significant enough to effect various aspects of the site.
- ~~2.1.~~ A major revision is a modification to an approved site development permit that substantially alters the overall design of the originally approved site plan, which may require the re-review of multiple sheets within the approved site plan including, but not limited to drainage, grading, landscape plan, building elevations, and photometric plan sheets.
- ~~3.2.~~ A formal application for review of the revision is required to be submitted to the Planning Director that includes legible copies of a complete application ~~to the Planning Director in accordance with the requirements the amount and to the specifications~~ indicated in Appendix B of the UDC and further referenced in the Unified Development Code Supplemental Schedule and this section. The revision plan set ~~should~~ shall include the originally approved coversheet with City signatures that has been further updated to include details of the revision in the revision block, and additional copies of the coversheet and revised sheets per Planning Director's request.
- ~~4.3.~~ Upon receipt of a complete application, the Planning Director shall distribute the application to the proper reviewing authorities, and review the site plan revision for compliance with the provisions of this chapter.
- ~~5.4.~~ No later than ten (10) business days following the submittal of a complete application for a site plan revision, the Planning Director must either present the applicant with comments regarding the review of the site plan revision, or if there are no comments, approve the plan revision by signing the revision block on the cover sheet.
- ~~6.5.~~ A revision may be eligible for an expedited review process in accordance with Section 3.2.2.G. of this Subchapter.
- ~~7.6.~~ A revision does not extend the life of a site development permit beyond its expiration date ~~and~~ or a previously approved extension.

## B. Corrections

1. ~~A correction to a site plan can be initiated by the applicant if an engineering, architectural or landscaping design element within the site plan was represented inaccurately or made in error, and the correction is so insignificant that it does not warrant a full review of the site plan, and the modification may be reviewed and approved without requiring further applications by the Planning Director or City Engineer within two (2) business days.~~ A correction to a site plan may be initiated by the applicant if a single element related to engineering, architectural or landscaping design within the site plan was provided in error or field conditions caused the required change.
2. Corrections are accepted if they are considered minor changes ~~may that do not include~~ require extensive engineering or planning review. ~~extensive review of drainage or traffic elements.~~
3. The correction plan set ~~should~~ shall include the originally approved coversheet that has been updated to include details of the correction in the revision block, and additional copies of the coversheet and corrected sheets per Administrator's request.
4. A correction will not receive a separate permit, and does not extend the life of a site development permit beyond its expiration date and a previously approved extension.
- 4.5. Corrections will be turned around as quickly as possible, but no sooner than two (2) business days.

### 3.10.8 Inspections and Certificate of Occupancy

- A. Inspections during the installation of the site improvements shall be made by staff to ensure conformity with the approved site development plans.
- B. It is the responsibility of the permittee to request final inspections when construction is complete or nearing completion to ensure that all work is in accordance with the approved site development plans.
- C. Letters of concurrence that all improvements are in place are required to be received from the applicant's civil engineer and landscape architect prior to the performance of final inspections. The Engineer's and Landscape Architect's concurrence letters shall be signed and sealed by the Engineer and Landscape Architect of record. If a final inspection is performed by the Planning or Engineering Departments, and outstanding items remain to be addressed, re-inspection fees shall be assessed in accordance with Appendix A of the UDC ~~Supplemental Schedule~~, prior to re-inspection.
- D. The development review committee will notify the building official once it has been determined that all work is in accordance with the approved site development plans.

- E. All site improvements shall be complete and in conformance with the site development permit prior to issuance of a certificate of occupancy by the building official.
- E.F. Electronic record drawings of the site plan shall be provided prior to the issuance of a Certificate of Occupancy, which shall be full size, portable document format (.pdf) copies.

### **3.11. SITE DISTURBANCE PERMIT**

#### **3.11.1 Applicability**

- A. A site or subdivision applicant may request a ~~s~~Site ~~d~~Disturbance ~~p~~Permit prior to the issuance of a ~~s~~Subdivision ~~e~~Construction ~~p~~Plan ~~p~~Permit or ~~s~~Site ~~d~~Development ~~p~~Permit for early grading and clearing, but only after a Final Plat has been approved. No other construction or site improvement work may commence until the issuance of a ~~s~~Site ~~d~~Development ~~p~~Permit or ~~s~~Subdivision ~~e~~Construction ~~p~~Plan Permit.
- B. Per Subchapter 12 of the Unified Development Code and the Tree Technical Manual, tree protection measures for protected trees shall be implemented throughout the site disturbance phase. The Administrator reserves the right to deny a Site Disturbance Permit if a subdivision concept plan or site plan has not been provided to staff to justify the removal of protected trees without a reasonable explanation, including site design constraints or physical hardships.
- C. Fiscal security and tree mitigation shall be provided in accordance with Subchapter 12, Tree Preservation Standards, of this Chapter.
- D. A Site Disturbance Permit shall expire sixty (60) days after approval. The Development Engineering Director may extend the expiration period an additional sixty (60) days upon receipt of a written request with an explanation as to the basis for the request. However, if no construction activity has occurred on the property within sixty (60) days of site disturbance permit approval, a request for extension shall be denied. Only one extension may be requested. In the event of permit expiration, a new permit application and payment of fees shall be required.

#### **3.11.2 Submittal Requirements**

Refer to Appendix A and B of the UDC or the Supplemental Schedule for submittal requirements.

### **3.12 R-O-W PERMIT**

All proposed improvements within the public rights-of-way and public easements shall be reviewed through the right-of-way permitting process established in Chapter 96 of this Code of Ordinances.

### 3.13 TRAFFIC IMPACT ANALYSIS

#### 3.13.1 Applicability

- A. If the proposed subdivision or any interim phase or combination of phases is expected to generate 2,000 or greater vehicle trips per day on the peak day for the proposed uses within the proposed subdivision or phase(s), according to the latest edition of the Institute of Transportation Engineers' Trip Generation Manual, a licensed engineer with experience in traffic flow analysis shall prepare, sign and seal a traffic impact analysis (TIA) certifying its completeness and accuracy. A TIA, including the initial scope, shall meet the minimum requirements outlined in Subchapter 15 of this Chapter and the Engineering Design Manual with final approval by the Development Engineering Director.
- B. A TIA may be required at the time of a preliminary plan, final plat, and site development and shall be reviewed concurrently with the applicable development application.

#### 3.13.2 Submittal Requirements

Refer to the TIA scoping form and checklist provided within the Supplemental Schedule and the Engineering Design Manual for submittal and content requirements.

### **3.1214 BUILDING PERMITS, SIGN PERMITS & IRRIGATION**

#### **3.1214.1 Building Permits**

In addition to the standards set forth in Chapter 150, Building Regulations of this Code of Ordinances, the following provisions shall apply to residential building permits in order to ensure compliance with this Chapter 157, Unified Development Code.

- A. In order to ensure compliance with the provisions of Subchapter 9 of this Chapter, all residential building permit applications shall include written descriptions on the plot plan and architectural building plan as applicable describing compliance with the following minimum requirements. Acceptable documentation may include photographs or elevations of the other structures in question.
- B. A subdivision or phase thereof may be reviewed as a whole for conformity with this requirement, provided that adequate documentation to ensure conformity is submitted with each building permit application.
- C. The Administrator will review the submitted documentation and any previously approved building permits and make a determination. Where the Administrator finds that a dwelling for which a building permit is being requested does not conform to the standards established ~~per~~ by Subchapter 9 of this Chapter, the permit shall be denied.

D. For buildings divided into separate tenant spaces, suite numbers shall be assigned by 9-1-1 Addressing prior to an application for building permit or tenant finish-out, as applicable.

E. A permit for the construction of a building(s) shall not be issued unless:

1. The site that is the subject of the permit is a platted lot, and the plat creating said lot is properly approved by the City and recorded in the Official Plat Records of Travis and/or Williamson Counties, Texas, as applicable; and
2. Said lot is included as all of part of a site plan approved by the Administrator and in compliance with the requirements of this Code, including requirements for provision of required public improvements, and dedication of drainage easements, dedication of street and alley rights of way, and other public improvements.

### **3.1214.2 Sign Permits**

The process and standards for sign permits shall be in accordance with Chapter 154. Signs of the Code of Ordinances.

### **3.1214.3 Irrigation**

In addition to the irrigation standards established in Chapter 113. Irrigators of this Code of Ordinances, the following provisions shall apply to residential and commercial development ~~where~~ as applicable in accordance with Subchapter 11. Landscaping and Screening Standards of this Chapter, including the Unified Development Code and the Tree Technical Manual. In order to ensure compliance with the landscaping and irrigation provisions of Subchapter 11 of ~~the UDC~~ this Chapter and the Tree Technical Manual, the Administrator may require a landscape plan for residential development to accompany an irrigation permit request.

## **3.1315 APPEALS, VARIANCES, AND SPECIAL EXCEPTIONS**

### **3.1315.1 General**

All appeals of an Administrator's decision, request for variances or special exceptions shall be reviewed by the Board of Adjustment (Board).

A. Initiation

A request for an appeal, variance, and special exception from the terms of this Chapter may be made by a property owner of the affected property or their authorized agent.

B. Application



Applications for ~~an~~ appeals, variances or special exceptions must comply with the [requirements of Appendix A and B of the UDC, as further referenced in the](#) UDC Supplemental Schedule. Applications must include all materials determined necessary by the Planning Director.

C. Completeness Determination

Before a public hearing may be scheduled regarding an appeal, variance, or special exception, a complete application as described in Section 3.2.2, which includes the following items, must be submitted to the Administrator in accordance with [Appendix A and B of the UDC, as further referenced in](#) the Unified Development Code Supplemental Schedule:

1. Complete application form included in the Unified Development Code Supplemental Schedule;
2. ~~Filing~~ [Application](#) fee [in accordance with Appendix A of the UDC](#); and,
3. In addition to the above listed items, an application for a special exception must be accompanied by a site plan and elevations of the proposed site.

D. Notice and Hearing

1. The Board of Adjustment shall hold a public hearing for consideration of an appeal, variance or special exception in accordance with Section 3.3.
2. Written notice of the public hearing for an appeal, variance or special exception shall be provided as set forth in Section 3.3 of this Code.
3. The applicant may appear at the hearing in person or by agent or attorney.

~~E. Procedure~~

- ~~1. The Board will hold a public hearing on all requests for an appeal, variance, or special exception.~~
- ~~2. Before a public hearing may be scheduled regarding an appeal, variance, or special exception, a complete application as described in Section 3.2.2, which includes the following items, must be submitted to the Administrator in accordance with the Unified Development Code Supplemental Schedule:
  - ~~a. Complete application form included in the Unified Development Code Supplemental Schedule;~~
  - ~~b. Filing fee; and,~~
  - ~~c. In addition to the above listed items, an application for a special exception must be accompanied by a site plan and elevations of the proposed site.~~~~

~~F.~~ [E.](#) Determination

The Board of Adjustment will make a determination on an appeal, variance or special exception within 45 days of the public hearing.

1. The Board of Adjustment must grant, deny, or grant with conditions, the requested variance or special exception.

2. For appeals, the Board of Adjustment must either uphold or overturn the action of the Administrator that is the subject of the appeal.
3. In granting, or granting with conditions, a variance or special exception, the Board of Adjustment must make findings regarding how the granted variance or special exception, complies with the criteria listed in Subsections ~~3.43~~[15.33](#) or ~~3.43~~[15.44](#), respectively.
4. The Board of Adjustment must file an official written record of action specifying the action it took on an appeal, request for a variance, or special exception and the reasons therefore with the Administrator within [ten \(10\)](#) days from the date of its action.

#### ~~G.F.~~ Recordation

Recordation of the Board of Adjustment's decision will be filed in the appropriate County's records.

### ~~3.43~~[15.2](#) Appeals

- A. Appeals to the Board of Adjustment may be made by any person aggrieved or by any officer, department, board or bureau of the City affected by any decision of the Administrator. An appeal must be filed within thirty (30) days after the decision has been rendered. The appeal must be filed with the Administrator specifying the grounds thereof and paying a filing fee as prescribed by [Appendix A of the UDC and further referenced in](#) the Unified Development Code Supplemental Schedule. The Administrator will immediately transmit to the Board of Adjustment all the papers constituting the record upon which the action appealed from was taken.
- B. An appeal, properly filed as herein provided, will stay all proceedings in furtherance of the action appealed from, unless the Administrator certifies to the Board that by reason of facts stated in the certificate, a stay would, in his/her opinion, cause imminent peril to life or property, in which case the proceedings may continue, unless a restraining order is issued by the Board or by a court of record after notice to the Administrator and on due cause shown.
- C. [The decision of the Board is final unless it is timely appealed to a court of competent jurisdiction in accordance with Chapter 211 of the Texas Local Government Code.](#)~~A person may not appeal the same or related matter before the expiration of 180 days from a previous ruling by the Board on such matter unless the Board or City Council has taken action on other land in the immediate vicinity in a matter that alters the facts and conditions upon which the previous Board action was based. Such change of circumstances will permit the rehearing of an appeal by the Board before the expiration of the 180-day period, but the changed conditions will in no way have any force in law to compel the Board, after a hearing, to grant a subsequent appeal. A subsequent appeal will be considered entirely on its merits and the peculiar and specific conditions related to the property about which the appeal is brought.~~
- D. In exercising its powers, the Board may, in conformity with the provisions of the statutes of the State of Texas as existing or hereafter amended, reverse or affirm, wholly or partly, or modify the order, requirement, decision, or determination appealed from, make such order, requirement, decision, or determination as ought

to be made, and have all the powers of the Administrator. The Board has the power to impose reasonable conditions upon any decision that the applicant must comply with.

### **3.1315.3** Variances (Zoning)

#### A. Applicability

In accordance with the provisions of the Texas Local Government Code Chapter 211, the Board of Adjustment (~~Board~~BOA) shall have the authority to hear and grant requests for a zoning variance from the zoning provisions of the Unified Development Code. A variance to the development standards of this Code shall be considered an exception to the regulations, rather than a right.

#### B. Limitations

The Board of Adjustment may not grant a zoning variance when the effect of which would be any of the following:

1. To alter any procedural requirement established by this Chapter;
2. To allow a use in a district in which it is not permitted, conditionally permitted, or are specifically prohibited;
3. To increase the density of a use above that permitted by the applicable district;
4. To physically extend a nonconforming use of land;
5. To change the zoning district's boundaries shown on the Official Zoning Map;
6. To grant waivers or subdivision variances of the standards required for plat approval whereby the Planning and& Zoning Commission holds authority;
7. To grant architectural waivers whereby the Planning and Zoning Commission holds authority;
8. To amend or seek relief from conditional provisions of an ordinance approved by the specific use permit process; or
9. To grant sign variances, whereby the City Council holds authority.

#### C. Required Findings

The Board of Adjustment may authorize a variance from the requirements of the zoning provisions of this Unified Development Code if the variance from the terms of the zoning provisions is not contrary to the public interest and, due to special conditions, a literal enforcement of the requirements would result in unnecessary hardship, so the spirit of this Code is preserved, and substantial justice done. No variance shall be granted unless the Board finds all of the following:

1. Extraordinary Conditions: That there are extraordinary or special conditions affecting the land involved such that strict application of the provisions of this Unified Development Code will deprive the applicant of the reasonable use of their land. For example, a Variance might be justified because of topographic or other special conditions unique to the property itself and development involved, while it would not be justified due to inconvenience or financial disadvantage.

2. No Substantial Detriment: That the granting of the variance will not be detrimental to the public health, safety or welfare or injurious to other property in the area or to the City in administering this Code.
3. Other Property: That the conditions that create the need for the variance do not generally apply to other property in the ~~vicinity~~community.
4. Applicant's Actions: That the conditions that create the need for the variance are not the result of the applicant's own actions.
5. Comprehensive Plan: That the granting of the variance would not substantially conflict with the Comprehensive Plan and the purposes of this Code.
6. Utilization: That because of the conditions that create the need for the variance, the application of this Code to the particular piece of property would effectively prohibit or unreasonably restrict the utilization of the property.
7. Insufficient Findings: The following types of possible findings do not constitute sufficient grounds for granting a variance:
  - a. That the property cannot be used for its highest and best use.
  - b. That there is a financial or economic hardship.
  - c. That there is a self-created hardship by the property owner or their agent.

D. Expiration of Variance

Variance approval shall expire twenty-four (24) months from the date of BOA approval unless a building permit has been issued and construction commenced or, if no building permit is required, a certificate of occupancy has been issued.

~~3.13~~15.4 **Special Exceptions**

A. Applicability

In accordance with the provisions of the Texas Local Government Code Chapter 211, the Board of Adjustment, in appropriate cases and subject to appropriate conditions and safeguards, to make special exceptions to the terms of the zoning ordinance that are consistent with the general purpose and intent of the ordinance and in accordance with any applicable rules contained in the ordinance.

B. Approval for Criteria

The Board of Adjustment may grant the requested special exception in accordance with Subchapter 8 of this Chapter under specific circumstances therein established.

C. Expiration. A special exception shall expire six (6) months from the date of Board of Adjustment approval, unless a certificate of occupancy has been issued.

### 3.1416 ADMINISTRATIVE WAIVER

#### 3.1416.1 Site Development Waivers

The Planning Director may grant an administrative waiver for a reduction up to twenty percent (20%) for any numerical standard required per Subchapters 9, Architectural, Site Design, and Layout Provisions or Subchapter 10 Parking, Mobility, and Circulation of this Chapter. The Planning and Zoning Commission may grant a waiver to the architectural requirements reducing the architectural standards above the twenty percent (20%) and shall be considered fully discretionary.

#### 3.1416.2 Non-conforming Site Waivers

The Administrator may grant an administrative waiver for lawfully non-conforming sites created due to amendments to the zoning regulations over time. Its purpose is to provide temporary relief to such properties that would otherwise be required to bring such nonconformities up to City standards prior to its occupancy, expansion or other improvements to structures on the non-conforming property. The grant of a non-conforming site administrative waiver shall not confer conforming status to a non-conforming property; but, rather, provide a mechanism for which improvements shall be achieved over a specified time-frame, never to exceed 36 months. Such Administrative Waiver would allow the property to be occupied by a temporary certificate of occupancy until such time the City has inspected the site and determined such site's compliance with City standards.

A. ~~Approval for~~ Criteria for Approval

The Administrator may grant the requested administrative waiver for the continuation or expansion of a lawfully non-conforming site, with or without conditions, provided the request for the administrative waiver complies with the following criteria:

1. The land use is permitted within the zoning district;

~~1-2.~~ All health and safety regulations have been met; ~~and~~

~~2-3.~~ The granting of the administrative waiver prevents an unreasonable financial loss; ~~and~~

~~3-4.~~ The initial improvements installed prior to the temporary certificate of occupancy is a significant improvement to the non-conforming sites which are evident when viewed from off-site premises; ~~and~~

~~4-5.~~ The granting of the administrative waiver does not negatively impact adjacent properties in terms of visibility of outdoor storage or other commonly perceived negative impacts of development on adjacent property; ~~and~~

~~5-6.~~ The granting of the administrative waiver is in harmony with the purpose and intent of this Chapter and of the Comprehensive Plan for the physical development of the surrounding area; ~~and~~

~~6-7.~~ The granting of the administrative waiver is not to be contrary to the spirit and intent of this Chapter.

B. Expiration

An Administrative Waiver shall expire twelve (12) months from the date of Administrative approval, unless:

1. A permanent certificate of occupancy has been issued.
2. The Administrator, when approving the Administrative Waiver for non-conforming sites, and upon a finding of good cause, approves a longer expiration date, not to exceed thirty-six (36) months.

### **3.15—17 ADMINISTRATIVE INTERPRETATION**

#### **3.1517.1 Applicability**

The Administrator shall have authority to make all written interpretations concerning the provisions of this Code and other development related codes of the Ccity.

#### **3.1517.2 Request for Interpretation**

A request for interpretation shall be submitted to the Administrator in a form established by the Administrator and made available to the public. Such request shall only be made during development review of a pending application or when a code enforcement requirement is in question.

#### **3.1517.3 Interpretation by Administrator**

The Administrator shall:

- A. Review and evaluate the request in light of the text of this Code, the Official Zoning District Map, the Comprehensive Plan, and any other relevant information;
- B. Consult with other staff, as necessary; and
- ~~C. Render an opinion.~~
- D.C. ~~Provide the interpretation~~ to the applicant in writing.

#### **3.1517.4 Official Record**

The Administrator shall maintain an official record of interpretations. The record of interpretations shall be available for public inspection during normal business hours.

#### **3.1517.5 Appeal**

Appeals of written interpretations made by the Administrator shall be filed, only by a party affected by the written interpretation, with the Board of Adjustment for appeals of written interpretations of the Unified Development Code within thirty (30) days of the Administrator's decision in accordance with the procedures found in Section 3.13 of this Subchapter. If no appeal is filed within thirty (30) days, the written interpretation shall be deemed final.

### **3.18 APPLICATION FOR LEGAL NON-CONFORMING STATUS**

In accordance with Subchapter 8 of this Chapter, an applicant may apply for a legal non-conforming status determination for a land use, structure, lot, and site.