

# DRAFT



**MEETING OF THE  
UNIFIED DEVELOPMENT CODE (UDC)  
ADVISORY COMMITTEE**

**THURSDAY, FEBRUARY 29, 2024**

**ADDISON CONFERENCE CENTER  
15650 ADDISON ROAD, ADDISON, TX 75001**

**1:30 P.M. MEETING**

**The Unified Development Committee meeting will be held at the Addison Conference Center, 15650 Addison Road, Addison, Texas 75001 on Thursday, February 29, 2024 at 1:30 pm. For more information on the meeting location and ways to view and/or present comments, please contact Jade Broadnax prior to 10:30 am on the day of the meeting at 972-450-2820 or by emailing [jbroadnax@addisontx.gov](mailto:jbroadnax@addisontx.gov). For more detailed instructions on how to participate in this meeting, visit our Agenda Page. The meeting will be live streamed on Addison's website at [www.addisontexas.net](http://www.addisontexas.net).**

Call Meeting to Order

Regular Agenda:

1. Present and discuss the Administrative Procedures section of the Unified Development Code (UDC).

Citizen Comments: *At this time citizens will be allowed to speak on any matter other than personnel matters under litigation, for a length of time not to exceed three minutes. No Committee action or discussion may take place on any matter until such matter has been placed on an agenda and posted in accordance with law.*

Adjourn Meeting

**THE TOWN OF ADDISON IS ACCESSIBLE TO PERSONS WITH  
DISABILITIES. PLEASE CALL (972) 450-7017 AT LEAST 48 HOURS IN  
ADVANCE IF YOU NEED ASSISTANCE.**

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POSTED BY: \_\_\_\_\_  
Jade Broadnax, Comprehensive Planning Manager  
DATE POSTED: \_\_\_\_\_  
TIME POSTED: \_\_\_\_\_  
DATE REMOVED FROM BULLETIN BOARD: \_\_\_\_\_  
REMOVED BY: \_\_\_\_\_

## **Unified Development Code Committee Meeting**

1.

**Meeting Date:** 02/29/2024

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### **Agenda Caption:**

Present and discuss the Administrative Procedures section of the Unified Development Code (UDC).

### **Staff Report:**

The Town has engaged Clarion Associates to review Addison's current development regulations and to create a new Unified Development Code (UDC) shaped by a robust public review process. The UDC drafting and review process is comprised of four code drafting phases, a testing phase, and public review and adoption of the consolidated UDC document. The four code drafting phases are:

- Zoning Districts and Uses
- Development and Design Standards
- Signs and Wireless Communication Facilities
- Administration and Procedures (we are here)

During the April 2024 Committee meeting, a second review of the Zoning Districts and Land Use module will be coupled with a more complete discussion on the final draft review module, Administration and Procedures. The Zoning Districts and Land Use module is being revisited due to evolving conditions in the Town and major staff changes since the first review in September 2019. Following the April meeting, the project team will analyze feedback received throughout the drafting process to prepare the consolidated draft UDC. With the presentation of that draft, the project team will consolidate and present the feedback shared via the Konveio commenting platform.

### **Recommendation:**

Staff requests feedback from the Committee.

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### **Attachments**

Presentation - Addison UDC\_Advisory Committee\_Administration and Procedures

Addison UDC - Administrative Procedures - Public Review

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# ADDISON, TEXAS

## UNIFIED DEVELOPMENT CODE

### Part 3: Administration & Procedures

February 2024

# TEAM MEMBERS

## **Matt Goebel, AICP**

Clarion - Project Manager  
Code Drafting

## **Gabby Hart, AICP**

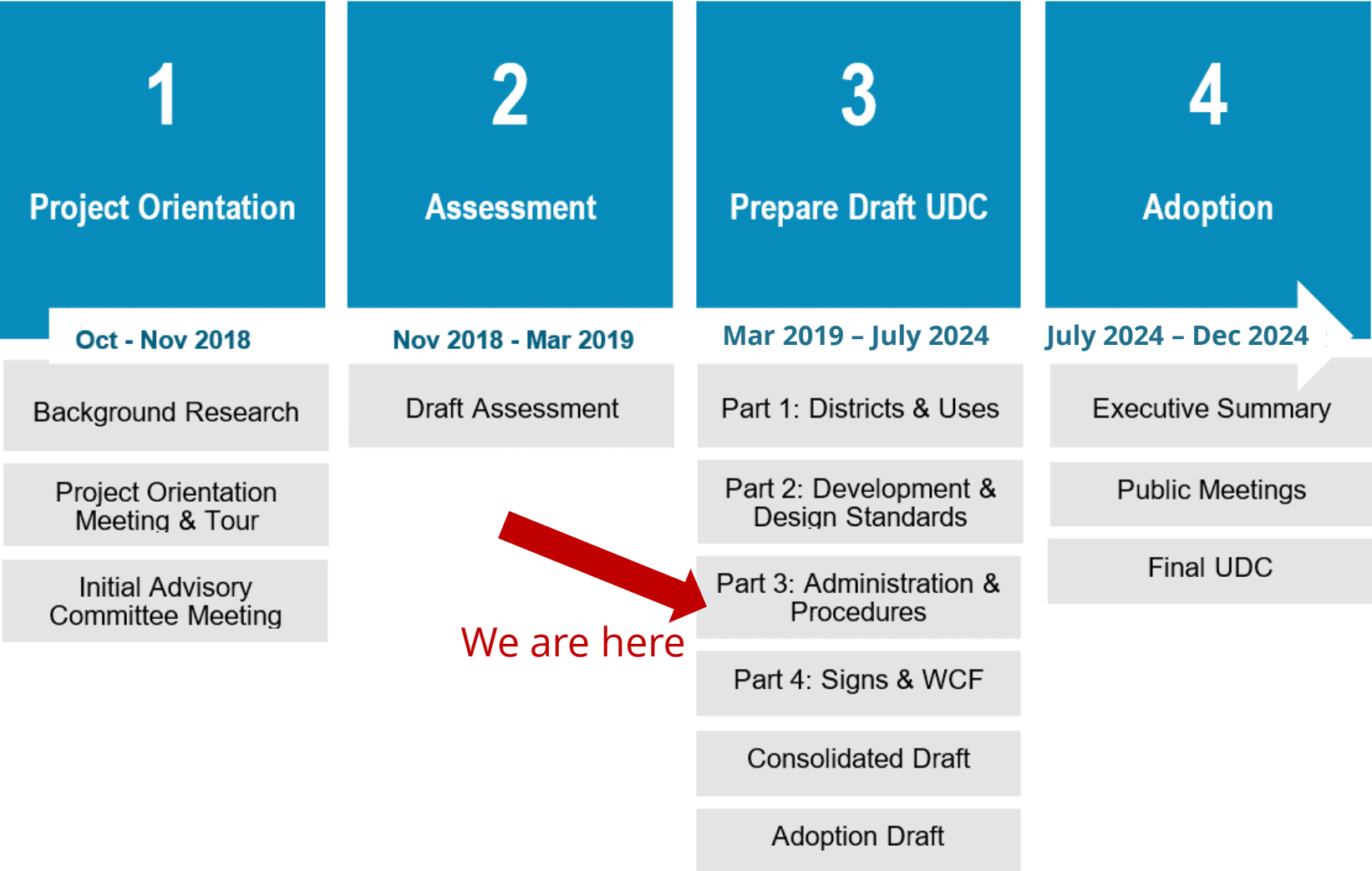
Clarion - Project Associate  
Code Drafting

## **Jim Dougherty, Esq.**

Texas Land-use Law Expert



# PROJECT SCOPE & TIMELINE







We are here

# MEETING AGENDA

- **Review and discuss final installment:**
  - General provisions
  - Summary table of review procedures
  - Common review procedures
  - Specific procedures (part 1)
- **Next steps**

**ADDISON, TEXAS**



**UNIFIED DEVELOPMENT CODE**  
PART 3: ADMINISTRATION & PROCEDURES

**CLARION**

FEBRUARY 2024  
**PUBLIC DRAFT**

# NEW UDC ORGANIZATION

- **Article 1: General Provisions**
- **Article 2: Administrations and Procedures (Part 1)**
- **Article 3: Zoning Districts**
- **Article 4: Use Regulations**
- **Article 5: Development Standards**
- **Article 6: Subdivision Standards**
- **Article 7: Definitions**

“Development regulations should **clearly describe the procedures** by which new development applications are accepted, considered, and acted upon by local officials. A well-written code makes it **easy for staff, the development community, and local officials** to know exactly what is required for project approval and helps ensure **consistent administration over time.**”

-Development Regulations Assessment





# GENERAL PROVISIONS

# ORGANIZATION

- 1. Title**
  - 2. Effective Date**
  - 3. Purpose**
  - 4. Authority, Applicability, and Jurisdiction**
  - 5. Transition from Prior Regulations**
- 1. How will the Ordinance be referred to?**
  - 2. When do the regulations go into effect?**
  - 3. How will the UDC support Town policies and priorities?**
  - 4. When does the UDC apply and how does it relate to other plans and regulations?**
  - 5. How are prior approvals, violations, and pending applications processed by the new UDC?**

# ORGANIZATION

- 6. **Nonconformities**
  - 7. **Enforcement**
  - 8. **Severability**
  - 9. **Review and Decision-Making Bodies**
- 6. **How are legal nonconformities administered and enforced?**
  - 7. **How will the Town enforce the provisions of the UDC?**
  - 8. **How do court decisions affect the UDC and applications?**
  - 9. **What are the powers, duties, and meeting procedures for Town decision-making authorities?**



# KEY FEATURES

- **Specifies different types of nonconformities and specific regulations for each**
  - Uses
  - Structures
  - Lots
  - Site Features (e.g., off-street parking or loading area, buffer, landscaping, screening, or exterior lighting)
- **Clarifies when a nonconformity loses its status and the extent of changes that can be made to a nonconformity (e.g., maintenance and repair and changes of ownership)**
- **Requires certain development proposals to bring nonconforming site features into compliance with the UDC**

# REVIEW & DECISION-MAKING BODIES

- **Describes the organization, powers, and duties of:**
  - City Council (Municipal Charter)
  - Planning and Zoning Commission
  - Board of Zoning Adjustment
  - Director of Development Services
  - Floodplain Administrator
- **Includes procedural details for meetings and requires compliance with Texas Open Meetings Act**



Addison, TX

Consent Agenda  
Planning & Zoning





# ADMINISTRATION & PROCEDURES

# ORGANIZATION

1. Purpose
2. Organization
3. Summary Table of Review Procedures
4. Common Review Procedures



**Foundational elements**

5. Rezoning, Zoning Text, and Plan Amendments
6. Site Planning and Miscellaneous Permits
7. Engineering Plans, Studies, and Site Development Permits
8. Agreements
9. Platting of Land
10. Flexibility and Relief

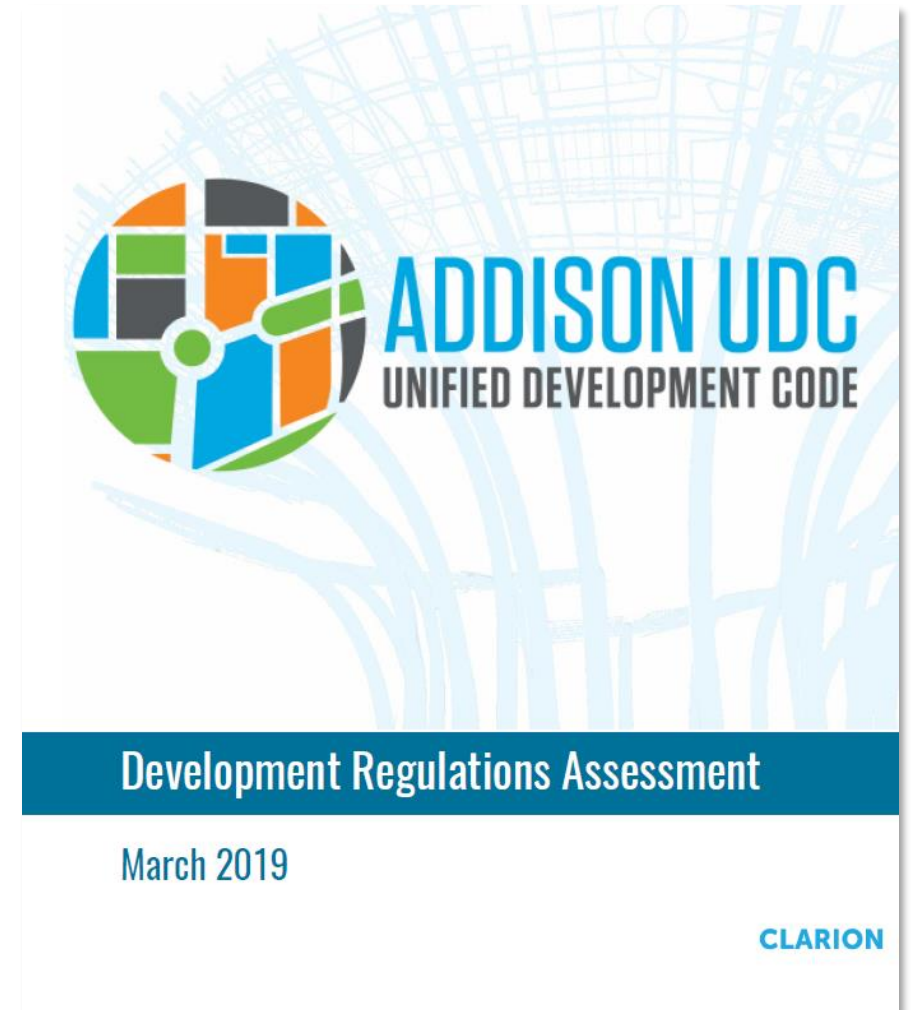


**Procedures that build on the foundation**



# KEY GOALS

- Delegate more decision-making power to staff
- Establish common review procedures
- Codify and update the site plan review procedures
- Establish process to allow minor modifications



# SUMMARY TABLE OF REVIEW PROCEDURES

- **Summarizes basic requirements for review and approval of development applications including:**
  - Application Type
  - UDC Reference (hyperlinked)
  - Pre-Application Activities – Preapplication Conference & Neighborhood Meeting
  - Review and Decision-Making Bodies
    - Who reviews and/or makes a recommendation?
    - Who decides?
    - To which body can the decision be appealed?
    - Is a public hearing required?

**Table 2.3-1: Summary Table of Review Procedures**

R = Review & recommend D = decide A = appeal

✓ = required ◊ = optional \* = public hearing required

Application Type	UDC Reference	Pre-Application Activities		Review & Decision-Making Bodies			
		Pre-application conference	Neighborhood Meeting	Staff	Planning and Zoning Commission	City Council	Board of Zoning Adjustment
<b>Rezoning, Zoning Text, and Plan Amendments</b>							
Special Use Permit	2.5.1	✓	◊	R	R*	D*	
Rezoning	2.5.1	✓	◊	R	R*	D*	
Rezoning to Planned Development (PD)	Preliminary	2.5.3	✓	◊	R	R*	D*
	Final	2.5.3	✓	◊	R	R*	D*
Zoning Text Amendment	2.5.4	◊	◊	R	R*	D*	
Comprehensive Plan Amendment	2.5.5	✓	◊	R	R*	D*	
Annexation	2.5.6	✓		R	R*	D*	
<b>Site Planning and Miscellaneous Permits</b>							
Concept Plan	For Rezoning	2.6.1C2.6.1	✓	◊	R	R*	D*
	Other	2.6.1D2.6.1	✓	◊	R	D*	
Site Plan	Major	2.6.2E0	✓	◊	R	D*	A*
	Minor	2.6.2D0	◊	◊	D		A*
Temporary Use Permit	2.6.32.6.3			D			A*
Sign Permit	2.6.42.6.4			D			A*
Zoning Verification Letter	2.6.52.6.5			D			A*
Change or Elimination of Nonconformity	2.6.62.6.6			R			D*

**Table 2.3-1: Summary Table of Review Procedures**

R = Review & recommend D = decide A = appeal

✓ = required ◊ = optional \* = public hearing required

Application Type	UDC Reference	Pre-Application Activities		Review & Decision-Making Bodies			
		Pre-application conference	Neighborhood Meeting	Staff	Planning and Zoning Commission	City Council	Board of Zoning Adjustment
<b>Engineering Plans, Studies, and Site Development Permits</b>							
Civil Engineering Plans	2.7			D			
Traffic Impact Analysis	2.7			D			
	2.7			D			
Parking Study	2.7			D			
Drainage Study	2.7			D			
Utility Study	2.7			D			
Site Development Permit	2.7			D			
Flood Hazard Development Permit	2.7			D			A*
<b>Agreements</b>							
Development Agreement	2.8					D <sup>[1]</sup>	
Parking Management Agreement	2.8					D <sup>[1]</sup>	
Real Estate Application	2.8			D <sup>[2]</sup>			

**Table 2.3-1: Summary Table of Review Procedures**

**R** = Review & recommend   **D** = decide   **A** = appeal

✓ = required   ◇ = optional   \* = public hearing required

Application Type	UDC Reference	Pre-Application Activities		Review & Decision-Making Bodies			
		Pre-application conference	Neighborhood Meeting	Staff	Planning and Zoning Commission	City Council	Board of Zoning Adjustment
<b>Platting of Land</b>							
Preliminary Plat or Preliminary Replat	2.9.2	✓	◇	R	D*		
Final Plat	2.9.3	◇		R	D		A*
Replat	2.9.4	◇		R	D*		A*
Minor Plat and Amending Plat	2.9.5	◇		D			A*
Vacating Plat	2.9.6	✓		R	D		A*
<b>Flexibility &amp; Relief</b>							
Variance	2.10.1	✓		R			D*
Subdivision Variance	2.10.2	✓		R	R*	D*	✓
Minor Modification	2.10.3			D <sup>[2]</sup>			A*
Alternative Equivalent Compliance	2.10.4	✓		D <sup>[2]</sup>	D <sup>[2]</sup>	D <sup>[2]</sup>	
Appeal of Administrative Decision	2.10.5	◇		R			D <sup>[2]</sup>
Alternative Sign Design	4.10.6 <sup>82</sup>	◇		R	D		

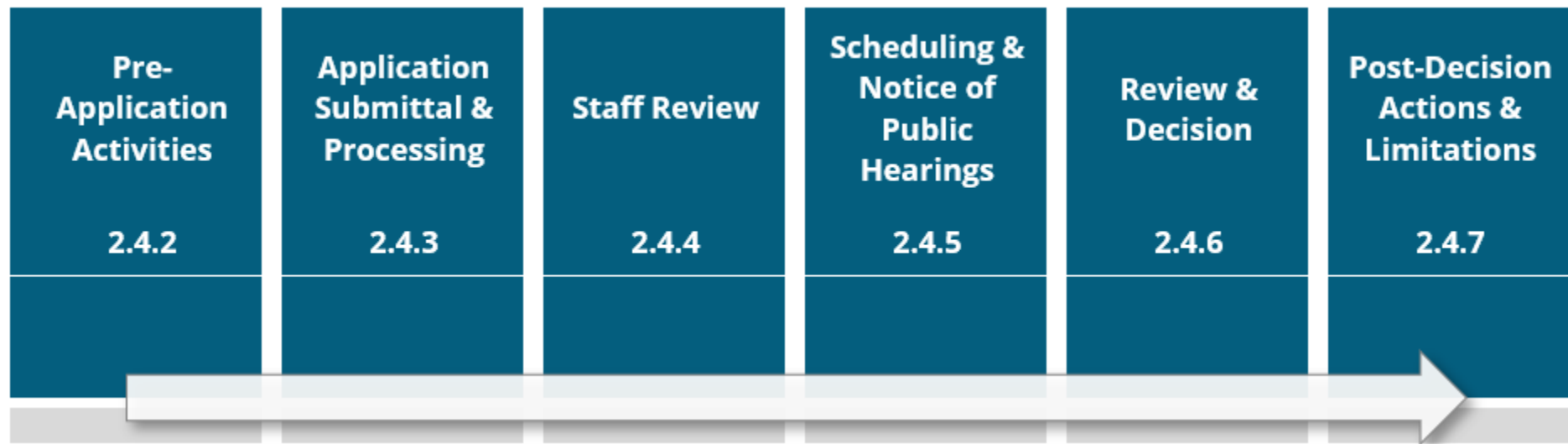
**Notes:**

<sup>[1]</sup> Except where authority is delegated by City Council to staff.

<sup>[2]</sup> Or the authorized decision-maker.

# COMMON PROCEDURES

- Elements that are common to most development application reviews
- Consolidated to avoid repetition
- Substantially rewritten for clarity and to reflect current practice



# COMMON PROCEDURES

- **Pre-application conference**
- **Neighborhood Meeting**
- **Application Submittal & Processing**
- **Staff Review**
- **Public Hearing Scheduling & Notice**
- **Review and Decision**
- **Post-Decision Actions & Limitations**

# COMMON PROCEDURES | KEY CHANGES

- New **neighborhood meeting** process to allow public involvement earlier in the review process for major projects
- Recommended for any application subject to discretionary review by the Planning and Zoning Commission
- **Applicant responsible for scheduling, noticing, and facilitating** the meeting – attendance by Town staff not required
- **Summary of meeting** required to be provided in application materials and staff report





# COMMON PROCEDURES | KEY CHANGES

- Scheduling and notice of public hearing section added to provide **more direction and clarity regarding Town procedures**
- **Includes minimum time frames** for mailed, published (newspaper or online), and posted (signs on property) notice
- New **summary table** of public notice requirements

Table 2.4-1: Summary of Public Notice Requirements			
Application Type	Published [1]	Mailed [2]	Posted [3]
<b>Site Planning and Miscellaneous Permits</b>			
Major Site Plan	✓	✓	n/a
<b>Land Division and Subdivision</b>			
Preliminary Plat	✓	✓	✓
Replat	Depends on application type	Depends on application type	Depends on application type
<b>Rezoning, Zoning Text and Plan Amendments</b>			
Special Use Permit	✓	✓	✓
Rezoning	✓	✓	✓
Zoning Text Amendment	✓	n/a	n/a
Comprehensive Plan Amendment	✓	n/a	n/a
Annexation	[4]	[4]	[4]
<b>Flexibility &amp; Relief</b>			
Variance	n/a	✓	✓
Minor Modification [5]	✓	✓	✓
Appeal Of Administrative Decision [5]	✓	✓	✓

**Notes:**

[1] 16 days prior to hearing or such longer period as may be required by state law.

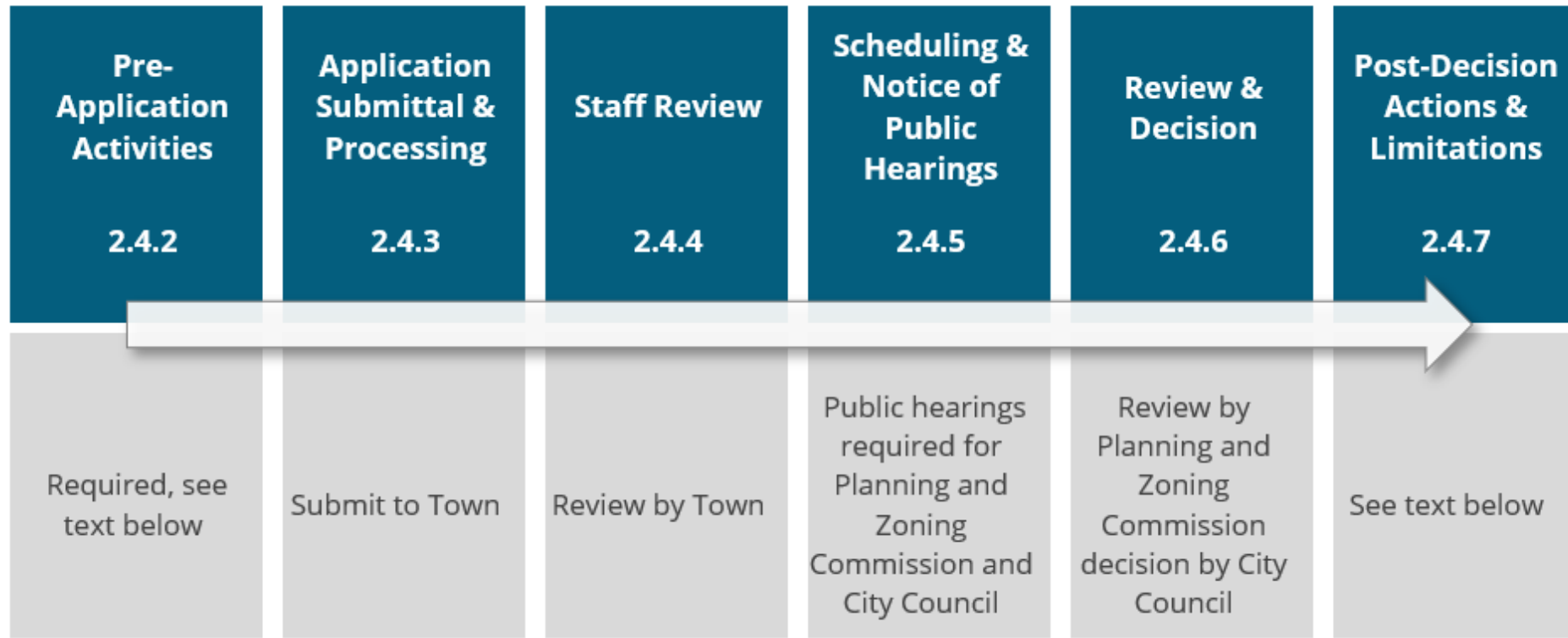
[2] Within 200 feet and 11 days prior to hearing or such longer period as may be required by state law.

# COMMON PROCEDURES | KEY CHANGES

- **New Post-Decisions Actions and Limitations section establishes:**
  - Notice of decision on an application to be provided within 10 days after decision
  - When development approvals expire, if they can be extended, and the ability for approvals to be revoked
  - Ability for the Director to approve minor changes to approved plans including:
    - Changes necessary in light of technical or engineering considerations first discovered during preparation of final engineering and building plans
    - Minor deviations in building footprint
    - Relocation of infrastructure (roads and water or sewage lines)
    - NOT reductions to amount of open space, buffering, or increase in building floor area

# REZONING

- Neighborhood meeting recommended
- Includes procedure for written protest and overrule of rezoning decisions



# REZONING


- **Rezoning review criteria:**
  - Is consistent with the Comprehensive Plan and the purposes of this UDC;
  - Is consistent with the purpose statement of the proposed zoning district;
  - There have been significant changes in the area to warrant a zoning change;
  - The intensity of development in the new zoning district is not expected to create significantly adverse impacts to surrounding properties or the neighborhood; and
  - Public facilities and services are available to adequately serve the subject property while maintaining adequate level of service to existing development; and/or:
  - There was an error in establishing the current zoning.

# REZONING

- **Rezoning to Planned Development (PD) follows same overall process for two different steps:**
  - Preliminary PD Concept Plan: evaluate and discuss basic concepts of the proposed PD and whether it will result in a significant improvement over its development within a base zoning district
  - Final PD Site Plan: prepare detailed engineering and site plans that respond to any issues raised during the review of the Preliminary PD Concept Plan
- **Goal to move away from site-specific PD applications and use the Major Site Plan process, reserving PDs for larger, more complex and unique development projects**

# SITE PLAN REVIEW

- Establishes a specific procedure to reflect current Town practices
- Proposed Major and Minor Site Plan processes
- Minor Site Plan Thresholds
  - Single use in an existing structure less than 10,000 square feet gross floor area
  - Combination of uses in an existing structure less than 20,000 square feet gross floor area
  - New nonresidential structure less than 5,000 square feet gross floor area
  - Single-family attached development of 40 or fewer dwelling units
  - Minor redevelopment



**SITE PLAN CHECKLIST**

PROVIDE COMPLETED CHECKLIST SIGNED BY PREPARER WITH SUBMITTAL

\* This checklist is not all inclusive of all Town ordinances and standards. Page 1 of 2

**GENERAL**

- Site boundaries, bearings and dimensions, lot lines, site acreage and square footage, and approximate distance to the nearest cross street
- Location map, north arrow, scale, title block (located in the lower right hand corner) containing the following information: proposed subdivision name, block designation, lot number, acreage, Abstract/Survey name and number, space for Town Project Number, and preparation date
- Legend, if abbreviations or symbols are used
- Name, address and phone number of owner, applicant, and surveyor and/or engineer
- Town Action block placed above title block

**IF APPLICABLE:**

- Number of Dwelling Units with Number of Bedrooms for multi-family developments
- Existing and proposed improvements within 100 feet of the subject property, subdivision name, zoning, and land use description of property adjacent to the subject property
- Existing and proposed building locations, building size and dimensions, finished floor elevation, density, height, dimensions between buildings on the same lot, building lines and setbacks, and use
- Existing and proposed easements (utility, fire lane, landscape, visibility, access and maintenance, public way access, drainage, and detention, etc.). Depict existing and proposed franchise utility easements.
- Parking areas and structures, including the number and layout of standard spaces, standard parking dimensions, two-foot overhang, if applicable, angle of parking if other than 90 degrees, handicap spaces, drive aisles, loading and unloading areas
- Location of ramps, crosswalks, sidewalks, and barrier free ramps with typical dimensions
- Location of off-street loading areas, dumpsters, and trash compactors with height and material of screening
- Proposed dedications and reservations of land for public use including but limited to: rights of way, easements, park land, open space, drainage ways, flood plains and facility sites with gross and net acreage
- Screening walls, fences, living screens, retaining walls, headlight screens and service area screens, including height and type of construction and/or planting specification
- Landscape islands with dimensions of the width for islands along a main driveway
- Landscape buffers with dimensions
- Additional information as requested by staff to clarify the proposed development and compliance with minimum development easement requirements
- Identify vegetation and sensitive areas
- Limited access control gates across fire lane easements shall be shown on the site plan and are subject to Fire Department approval
- Plan is consistent with zoning, overlay districts, heritage designations, and/or specific use permits approved for site.

**ACTION**

<b>APPROVED</b>	<b>DENIED</b>
<b>STAFF</b> _____ <small>Date</small>	_____ <small>Initials</small>
<b>COUNCIL</b> _____ <small>Date</small>	_____ <small>Initials</small>

See the Staff Approval Letter or Council Result Memo for any conditions associated with the approval of the project.

- For non-residential and multi-family developments, provide site data summary table using the following format:
  - For multi-lot developments, provide a column for each lot and a row for development totals
  - Zoning
  - Proposed Use
  - Lot Area, excluding right-of-way (square footage and acreage)
  - Building Area (gross square footage)
  - Building Height (feet and number of stories)
  - Lot Coverage
  - Total Parking Required (with ratio)
  - Total Parking Provided
  - Note: "Handicap parking is provided in accordance with ADA standards"
  - Areas of stormwater mitigation items, if applicable
  - Usable Open Space Required
  - Usable Open Space Provided
  - Square footage of Impervious Surface

**INFRASTRUCTURE & DEVELOPMENT SERVICES**

16801 Westgrove Drive  
Addison, TX 75001

P.O. Box 9010  
Addison, TX 75001

phone: 972.450.2880  
fax: 972.450.2837

ADDISONTEXAS.NET

IT ALL COMES TOGETHER.

ADDISON, TX | UNIFIED DEVELOPMENT CODE

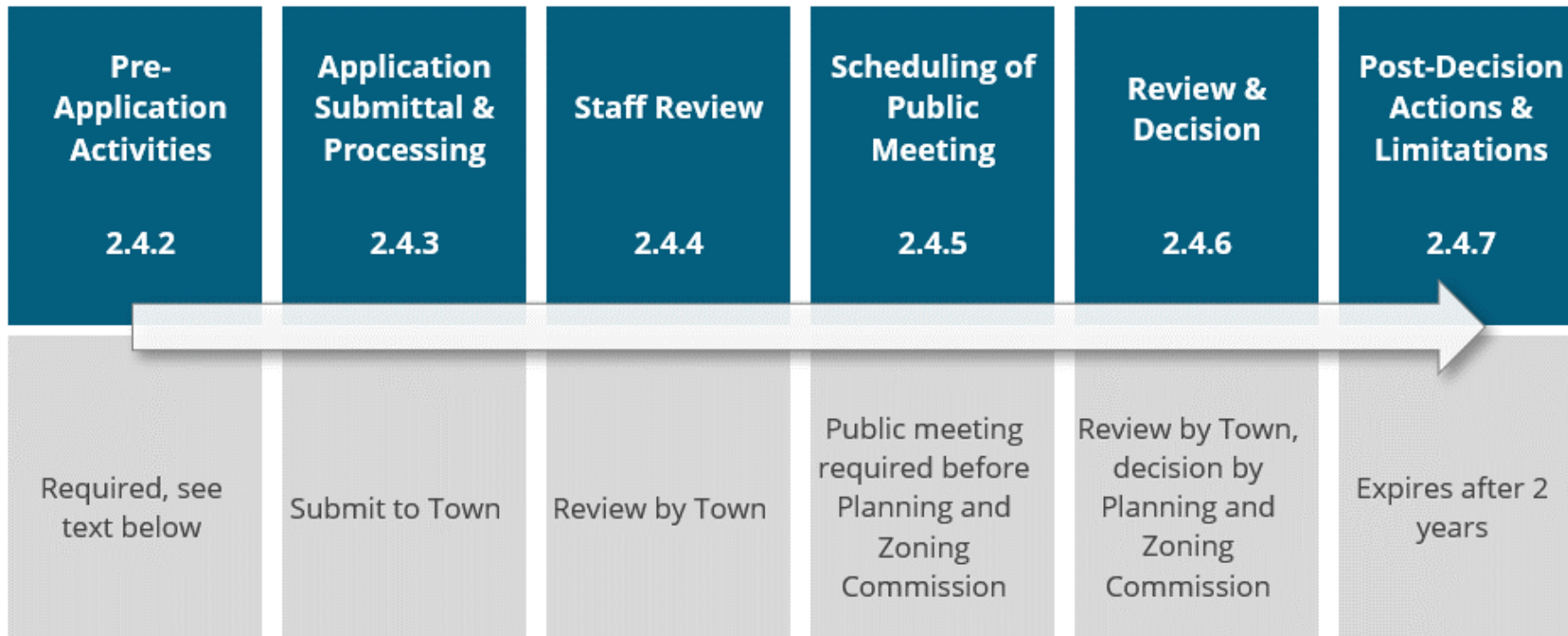
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# SITE PLAN REVIEW

- **Minor redevelopment (as initially proposed in Development Standards installment)**
  - Expansions, alterations, or modifications that increase the gross floor area of an existing structure by the greater of 10,000 square feet or between 10 and 50 percent;
  - Expansions, alterations, or modifications that increase the total number of existing dwelling units on a lot by the lesser of 10 dwelling units or between 10 and 25 percent;
  - The alteration or expansion of any vehicular parking area by the greater of six spaces or 50 percent, excluding resurfacing or restriping;
  - Any expansion or enlargement of a structure or land use that requires a Special Use Permit; or
  - Applications for building permits or for certificates of occupancy for buildings previously unoccupied for a period of six consecutive months.

# SITE PLAN REVIEW

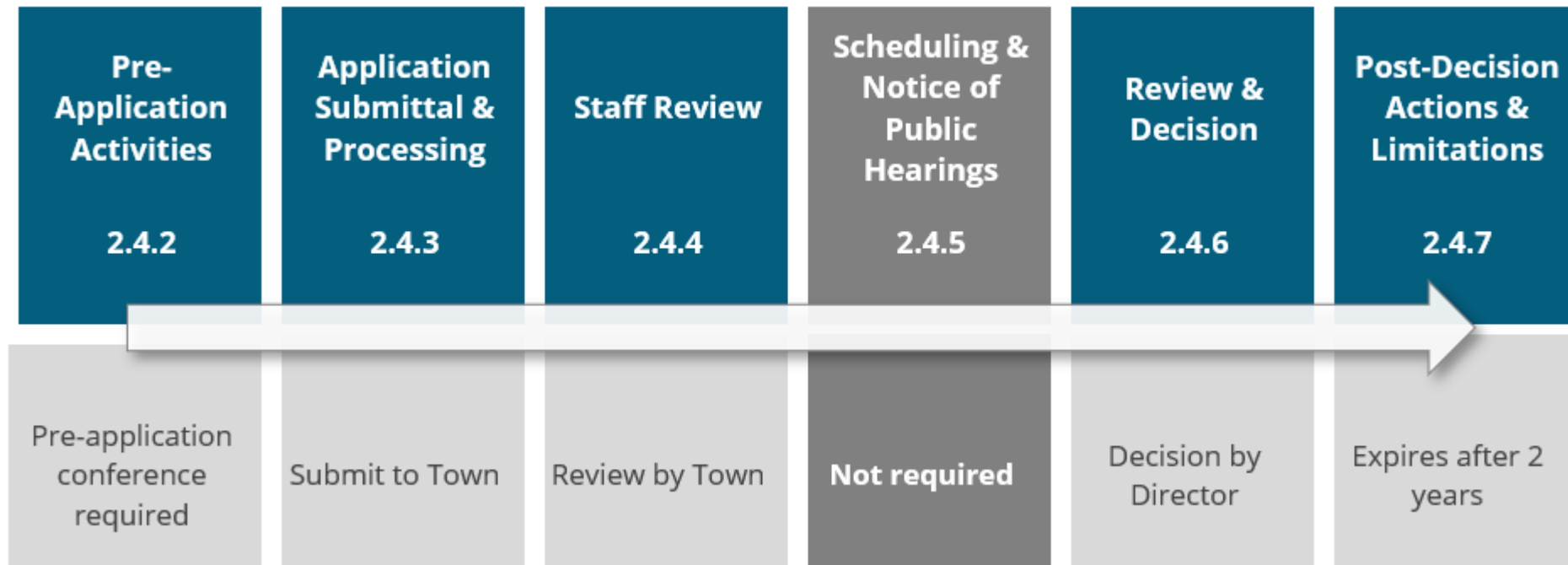
- **Major Site Plan**
  - Neighborhood Meeting recommended
  - Public meeting, not hearing, required





# SITE PLAN REVIEW

- **Minor Site Plan Procedure**



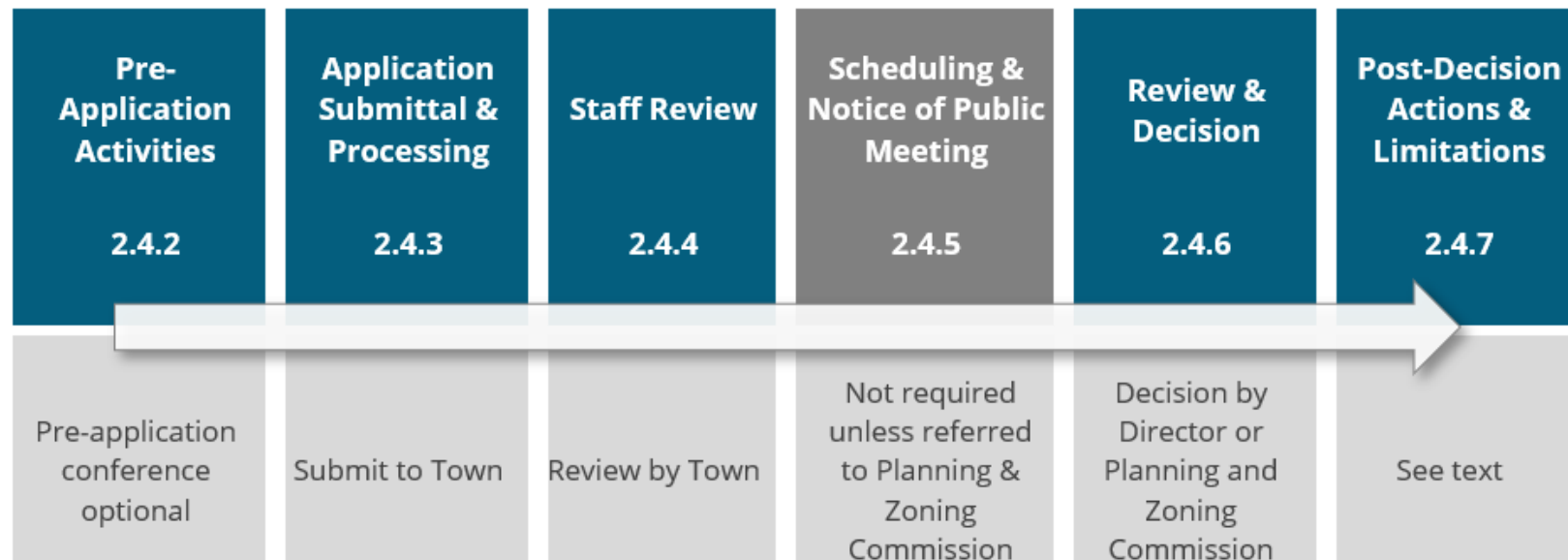
# SITE PLAN REVIEW

- **Approval Criteria for both Minor and Major Site Plans**
  - Compliance with UDC and other applicable plan regulations (Comprehensive Plan)
  - Compliance with prior approvals
  - Compliance with phasing plans
- **Major and Minor Site Plan decisions can be appealed to the Board of Zoning Adjustment**

# SUBDIVISION | MINOR PLAT

- **Procedure applies to plats that:**

- Involve four or fewer lots
- Front onto an existing street
- Do not require dedication of public right-of-way or other public improvements; and
- Do not require the creation of any new street or the extension of municipal facilities.



# SUBDIVISION | FINAL PLAT

- Follows Preliminary Plat or Preliminary Replat
- Must be submitted within 2 years of Preliminary Plat or Replat approval
- Final plats do not require public hearing (consent agenda item)



# FLEXIBILITY & RELIEF PROCEDURES

- **Variance:** allows for variance from development standards if hardship demonstrated
- **Subdivision Variance:** allows for variance from subdivision standards to address unforeseen circumstances (required to go to P&Z)
- **Minor Modification:** allows modifications from the dimensional or numerical standards of the UDC (see right)

UDC Standard	Allowable Modification (maximum percentage)
<b>Site Standards</b>	
Lot width, minimum	10
Lot depth, minimum	10
Lot area, minimum	10
Building coverage, maximum	10
Total impervious coverage, maximum	10
Block length	10
<b>Lot Dimensional Standards</b>	
Front building setback, minimum	15
Build-to range, minimum/maximum	15
Front building façade at build-to range, minimum	15

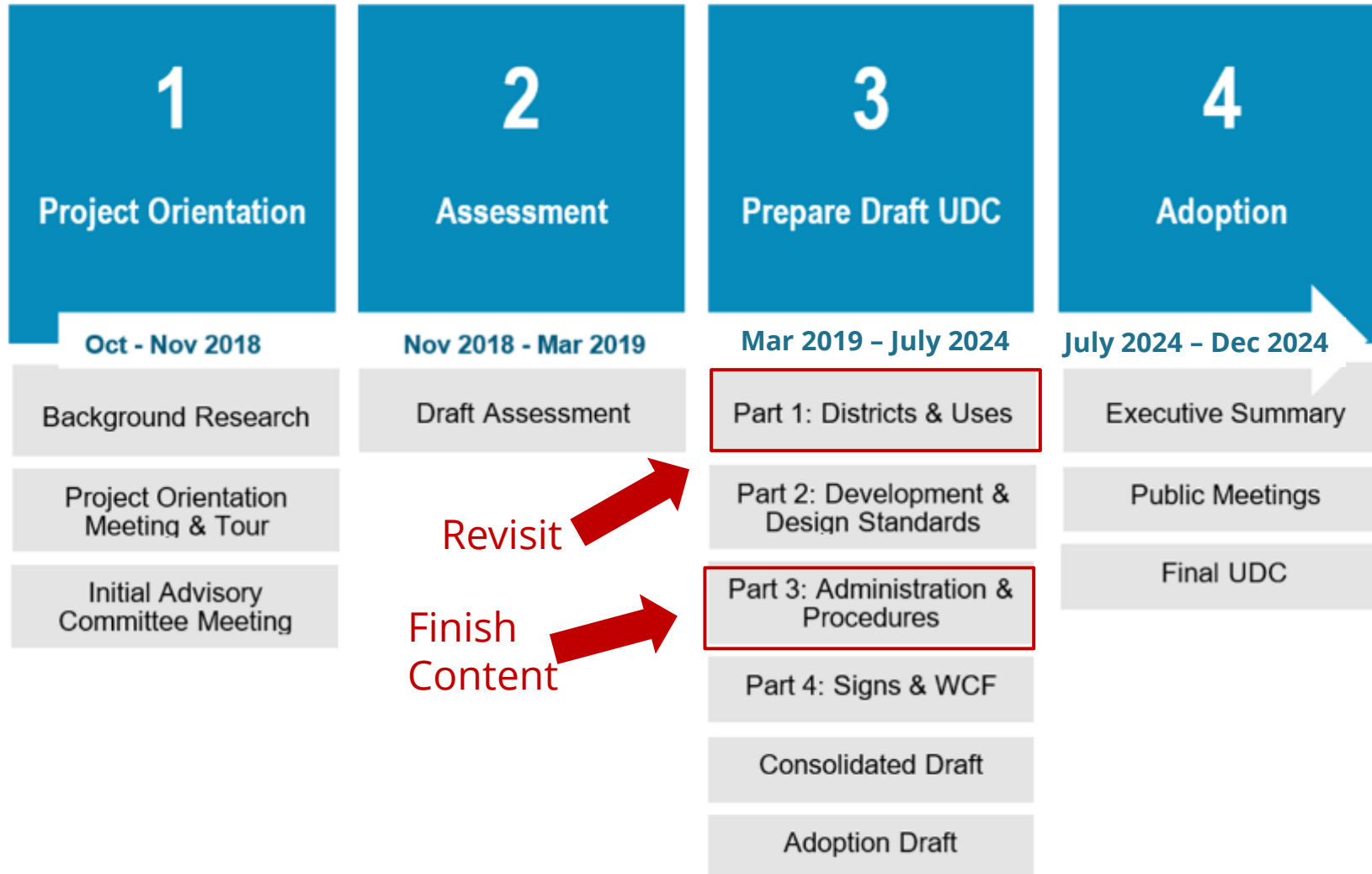
# FLEXIBILITY & RELIEF PROCEDURES

- **Alternative Equivalent Compliance:** allows the Director to approve a site-specific plan that is equal to or better than the strict application of the standard (more qualitative than quantitative)
- **Appeal of Administrative Decision:** procedure to appeal decision made by the Director or other administrative official (not P&Z/CC)
- **Interpretations:** mechanism for rendering formal written interpretations of the UDC



# QUESTIONS & DISCUSSION

# NEXT STEPS





# COMMENTS?

- Remember to use Konveio to record your comments and questions!
- You also may submit comments to:  
**udc@addisontx.gov**
- **www.AddisonUDC.org**



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## CONNECT WITH US TODAY

### JOIN THE EMAIL LIST

Don't miss a thing! Receive project updates and event notifications directly in your inbox.

Submit

### CONTACT US

Got a question or comment regarding the Addison UDC? Send us a note using the contact form!

Send



# ADDISON, TEXAS

## UNIFIED DEVELOPMENT CODE

### Part 3: Administration & Procedures

February 2024

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# Article 1: General Provisions

## Commentary:

This article includes general provisions that apply to the Unified Development Code (UDC) as a whole and set the overall legal foundation, such as the general purpose and intent and the applicability of the UDC. This article also addresses enforcement, including violations and penalties, and nonconformities.

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## 1.1 Title

This ordinance shall be known, cited, and referred to as the Unified Development Code of the Town of Addison, Texas. It is referred to in this ordinance as the “Unified Development Code,” or “this UDC.”

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## 1.2 Effective Date

This UDC shall become effective upon adoption by the City Council on **[insert effective date]**.

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## 1.3 Purpose<sup>1</sup>

Pursuant to the Texas Local Government Code (TLGC), the City Council enacts this UDC to:

- A.** Promote the public health, safety, and general welfare of Town residents;
- B.** Implement the policies and objectives in the Comprehensive Plan;
- C.** Secure safety from fire, panic, and other natural and man-made dangers;
- D.** Protect life and property in areas subject to floods and other natural disasters;<sup>2</sup>
- E.** Provide adequate light, air, and open space;
- F.** Lessen congestion in the streets while enhancing pedestrian and vehicular movement with the least detriment to environmental quality;<sup>3</sup>
- G.** Ensure environmentally sensitive Site Planning that preserves the Town’s tree canopy and natural areas;
- H.** Prevent the overcrowding of land and avoid undue concentration of population;
- I.** Facilitate the adequate provision of transportation infrastructure, water and sewage services, schools, parks, trails, and other public requirements and to avoid transportation, public service, and facility demands that cannot be satisfied;<sup>4</sup>
- J.** Ensure that development and resource decisions are sustainable not only for the current residents of Addison but for future residents and generations;<sup>5</sup>
- K.** Provide a mix of land uses that provide employment opportunities, social amenities, and housing within the Town to promote economic resiliency;<sup>6</sup>
- L.** Emphasize the importance of high-quality urban design in the built environment;
- M.** Consider the immediate and long-range financial impact of the application of particular land to particular kinds of development, and the relative suitability of the land for development;<sup>7</sup>
- N.** Conserve the value of buildings and encourage the appropriate use of land, buildings, and structures; and

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<sup>1</sup> Replaces current Appendix A, §2.

<sup>2</sup> New.

<sup>3</sup> Expanded to reference pedestrian and vehicular movement and environmental quality.

<sup>4</sup> Expanded to include language regarding avoiding demands that cannot be satisfied.

<sup>5</sup> New.

<sup>6</sup> New.

<sup>7</sup> New.

- O. Establish procedures for the processing of planning and zoning actions that affect the development and use of property in Addison.

---

## 1.4 Authority, Applicability, and Jurisdiction<sup>8</sup>

### 1.4.1 Authority

This UDC is adopted pursuant to the authority in Article I of the Addison Municipal Charter, as amended, and enacted pursuant to the powers granted and limitations imposed by provisions of the State of Texas, including the statutory authority granted in Chapters 42, 43, 211, 212, and 213 of the TLGC, and all other relevant provisions of the State of Texas.

### 1.4.2 Applicability<sup>9</sup>

- A. Unless otherwise stated or permitted by law, the provisions of this UDC shall apply to all land, buildings, structures, or appurtenances on such land located within the Town, that are occupied, used, erected, altered, removed, demolished, or converted after the effective date of this UDC.
- B. No permit, certificate, or approval of any use that is subject to this UDC shall be issued or granted by any department, agency, Town official, or Town employee without a finding of compliance with this UDC having been issued by the appropriate review authority.
- C. Unless otherwise stated in this UDC, no building or structure shall be erected, moved, converted, enlarged, reconstructed, or altered, nor shall any land, building, or structure be used, developed, or intended to be used for any purpose whatsoever, without a determination of compliance by the Director.
- D. No lot of record that did not exist prior to the effective date of this UDC shall be created unless it complies with this UDC.

### 1.4.3 Minimum Standards Required<sup>11</sup>

The provisions of this UDC, as amended, shall be the minimum requirements for the promotion of the public safety, health, convenience, comfort, prosperity, or general welfare, and shall be the minimum criteria required for a review procedure to commence.<sup>12</sup> Additional technical information and analysis may be required of applicants to demonstrate compliance with this UDC.<sup>13</sup>

### 1.4.4 Conflicts with Other Ordinances, Criteria Manuals, and Master Plans<sup>14</sup>

- A. Whenever any provision of this UDC refers to or cites a section of the Texas state statutes and that section is later amended or superseded, this UDC shall be deemed amended to refer to the amended section or the section that most nearly corresponds to the superseded section, as determined by the Director.
- B. Whenever a provision of this UDC requires or authorizes an officer or employee of the Town to do some act or perform some duty, it shall be construed to authorize the officer or employee to designate, delegate, and authorize subordinates to perform the act or duty, unless the terms of the provision designate otherwise.
- C. Whenever any provision of this UDC conflicts with other provisions of the Code of Ordinances, the stricter provision, as determined by the Director following the interpretation procedure in §2.10.6: *Interpretations*, shall govern.

---

<sup>8</sup> New.

<sup>9</sup> Replaces Article XXVI, Sec. 1.A.

<sup>11</sup> Carries forward Article XXXI, Sec. 1.

<sup>12</sup> "and shall be the minimum criteria required for a review procedure to commence" is new.

<sup>13</sup> New.

<sup>14</sup> New.

- D. Whenever any provision of this UDC conflicts with a Criteria Manual adopted by the Town of Addison, the more stringent controls, as determined by the Director.
- E. Whenever any provision of this UDC conflicts with a Master Plan adopted by the Town of Addison, the Master Plan shall govern, as determined by the Director.<sup>15</sup>
- F. All Criteria Manuals and Master Plans are available online on the Town’s website. Criteria Manuals and Master Plans are maintained and updated by the Town as necessary.

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### 1.4.5 Private Covenants<sup>16</sup>

This UDC is not intended to interfere with, revoke, or repeal any easement, covenant, or other agreement between private parties. No covenant or deed restriction shall excuse any failure to comply with this UDC. In no case shall the Town be obligated to monitor or enforce any easement, covenant, or agreement between private parties unless the Town is a party to such agreement and elects to pursue enforcement.

---

### 1.4.6 Transfer of Ownership<sup>17</sup>

Permits, licenses, or approvals authorizing a particular use of land or structure shall transfer with the ownership of the land or structure so long as the land or structures, or any portion of the land or structures, continue to be used for the purpose and in the manner authorized by a permit, license, or approval, unless otherwise provided in this UDC. No person, including a successor or assignee of the person who obtained the permit or approval, may use the land or structure except in accordance with all the terms, conditions, and requirements of the permit or approval.

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### 1.4.7 Emergency Powers

The Mayor and/or the City Council may authorize any deviation from this UDC during a local state of disaster in accordance with Texas Local Government Code Chapter 418. Such deviations may be authorized by resolution of the City Council during a local emergency without a requirement for prior notice or public hearing.

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## 1.5 Transition from Prior Regulations<sup>18 19</sup>

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### 1.5.1 Continuity of Provisions

The provisions of this UDC, insofar as they are substantially the same as previously existing regulations relating to the same subject matter, shall be construed as restatements and continuations thereof and not new enactments. Any actions, proceedings, permits, or approvals commenced or issued pursuant to any previously existing ordinance and subject to TLGC Chapter 245 shall not be affected by the enactment of this UDC.

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<sup>15</sup> New.

<sup>16</sup> Carries forward Article XXXI, Sec.1. Deleted “Where the regulations of this UDC are more restrictive or impose higher standards than such easement, covenant, or agreement, the regulations of this UDC shall govern.”

<sup>17</sup> New, often included in development codes for clarity.

<sup>18</sup> New. These provisions are intended to provide clarity for how the Town will transition from the old development regulations to this new UDC. As noted, some provisions could instead be located in the cover adoption ordinance, rather than the UDC itself.

<sup>19</sup> The following is intended for the adopting ordinance: “Pending Applications: A. Any complete application subject to TLGC § 245 that has been submitted for approval, but upon which no final action has been taken by the appropriate decision-making body prior to the effective date of this UDC, shall be reviewed in accordance with the regulations in effect on the date the application was deemed complete unless the applicant requests otherwise pursuant to §1.5.2B below. If the applicant fails to comply with any applicable required period for submittal or other procedural requirements, the application shall expire and subsequent applications shall be subject to the requirements of this UDC. Any re-application of an expired project approval shall meet the standards in effect at the time of re-application. B. An applicant with a complete application subject to TLGC § 245 that has been submitted for approval, but upon which no final action has been taken prior to the effective date of this UDC, may submit a written request for the complete application to be reviewed under this UDC.”



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### 1.5.2 Preliminary Plat Approvals<sup>21</sup>

- A. An application for which approval of a Preliminary Plat was granted prior to the effective date of this UDC shall be considered as having received Preliminary Plat approval under this UDC.
- B. Preliminary plat approvals granted under the previous regulations shall be valid for two years from the date of approval.
- C. Failure to obtain a Final Plat approval, within two years of the approval of a Preliminary Plat, shall result in the expiration of the Preliminary Plat.

---

### 1.5.3 Approved Plans<sup>22</sup>

- A. Any permits or licenses subject to the standards of this UDC that are valid on the effective date of this UDC shall remain valid until their expiration date. Projects with valid permits or licenses may be carried out in accordance with the zoning and subdivision regulations in effect at the time of approval, provided that the permit or license remains valid and has not lapsed.
- B. No provision of this UDC shall require any change in the plans, construction, or designated use of any structure for which a building permit has been issued prior to the effective date of this UDC, unless the building permit has expired.
- C. The Director may renew or extend the time of a previous approval of a plan that was administratively approved if the required findings or criteria for approval remain valid. Any extension granted shall not exceed one year in length, and no more than one extension may be granted.
- D. Non-administratively approved plans may be granted one extension not exceeding one year in length, from the reviewing body by which they were originally approved as identified in §2.3: *Summary Table of Review Procedures*, where such extension would be permissible under the zoning and subdivision regulations in effect at the time of approval.
- E. Any re-application for an expired project approval shall meet the standards in effect at the time of reapplication.

---

### 1.5.4 Nonconformities Under Prior Regulations

Any nonconformity under the previous zoning and subdivision regulations that has been issued a Certificate of Occupancy will remain a nonconformity under this UDC, as long as the situation that resulted in the prior nonconforming status continues to exist and complies with the provisions of this UDC. If a nonconformity under the previous zoning and subdivision regulations becomes conforming because of the adoption of this UDC, then the situation will no longer be a nonconformity.

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### 1.5.5 Uses, Lots, Structures, and Sites Rendered Nonconforming<sup>23</sup>

- A. When a lot is used for a purpose that was a lawful use before the effective date of this UDC, and when a Certificate of Occupancy was issued and this UDC no longer classifies such use as either a permitted use or special use in the zoning district in which it is located, such use shall be considered nonconforming and shall be controlled by the provisions of §1.6: *Nonconformities*.
- B. Where any building, structure, lot, or development site that legally existed on the effective date of this UDC and does not meet all standards set forth in this UDC, such building, structure, lot, or development shall be considered nonconforming and shall be controlled by the provisions of §1.6: *Nonconformities*.

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<sup>21</sup> Consider also moving this to the adopting ordinance.

<sup>22</sup> Replaces current Article XXXIII, Sec. 1.

<sup>23</sup> Replaces current Article XXXIV, Sec. 1.

### 1.5.6 Prior Violations

Any violation of the previous zoning and subdivision regulations will continue to be a violation under this UDC and be subject to penalties and enforcement under Section 1.7: *Enforcement*, unless the use, development, construction, or other activity complies with the provisions of this UDC. The enactment of this UDC shall not abate any pending prosecution and/or lawsuit or prevent any prosecution and/or lawsuit from being commenced for any violation of a previously existing ordinance occurring before the effective date of this UDC.

## 1.6 Nonconformities<sup>24</sup>

### Commentary:

This section expands current Article XXIII to specify different types of nonconformities (lots, structures, uses, site features, etc.) rather than using the more limiting term “nonconforming use.” This draft introduces new standards applicable to all nonconformities as well as additional standards specific to each type of nonconformity. This section includes flexible standards that make it clear what types of improvements are allowed to existing nonconformities.

### 1.6.1 Purpose<sup>25</sup>

- A. This section governs uses, structures, lots, and site features that came into existence legally prior to the effective date of this UDC or the effective date of any future amendments to this UDC and remained in continuous use from the time of their inception but do not now comply with or conform to one or more requirements of this UDC, as amended. All such situations are collectively referred to in this UDC as “nonconformities.”
- B. Any nonconformity resulting from the initial adoption or future amendment of this UDC, may be continued or maintained only in accordance with the terms of this section. While nonconformities may continue, the provisions of this section are designed to curtail substantial investment in nonconformities to bring about their eventual elimination in order to preserve the integrity of this UDC and the goals of the Town. This section also is intended to recognize the variety of practical issues in bringing nonconforming situations into compliance and give the Town discretion to balance competing demands.

### 1.6.2 Regulations Applicable to All Nonconformities<sup>26</sup>

#### A. Authority to Continue

1. Nonconformities may continue to be used and occupied, subject to regulations as to the maintenance of premises and conditions of operations set forth in this section, or unless such nonconformity is terminated as provided in this section.
2. Nonconformities shall not be modified in any way that increases the degree of nonconformity.
3. The right to continue nonconformities shall be subject to regulations prohibiting nuisances and shall be terminated when such use constitutes a nuisance. Such nonconformities shall be subject to such reasonable regulations as the Board of Zoning Adjustment may require to protect adjacent property and shall be subject to the specific nonconformity regulations herein contained.<sup>27</sup>
4. A nonconformity shall lose its nonconforming status when a use, structure, or site improvement modifies a nonconformity without being lawfully authorized in accordance with the provisions of this UDC. Such use and/or structure shall therefore cease all operations until such time that the required plans and/or permits are approved.

<sup>24</sup> The nonconforming sign provisions will be included in §4.10, Signs in the Consolidated Draft.

<sup>25</sup> New.

<sup>26</sup> New. Additional discussion necessary regarding the new Texas law on nonconforming uses, SB 929. It essentially requires two things: If a city, through a Rezoning, renders a use nonconforming, the city must notify the property owner, and if a city requires that nonconforming use to stop, the city must pay the costs to halt the use, plus lost market value costs.

<sup>27</sup> New.

<sup>27</sup> Carries forward current Article XXIII, Sec. 2.

**B. Determination of Nonconformity Status<sup>28</sup>**

The burden of establishing the existence of a nonconformity shall be solely on the owner of the property containing the nonconformity. Valid and compliant nonconforming status is an affirmative defense to violations of this UDC.

**C. Maintenance and Minor Repair<sup>29</sup>**

Minor repairs and maintenance of nonconformities are permitted and encouraged, provided that the repairs and maintenance do not increase the degree of nonconformity. Minor repairs and maintenance include the following:

1. Repairs necessary to maintain and to correct any damage or deterioration to the structural soundness of, or the exterior or interior appearance of, a structure without expanding the height or footprint of the structure, unless compliant with this UDC;
2. Maintenance of land to protect against and mitigate health and environmental hazards;
3. Repairs that are required to remedy unsafe conditions; and
4. Repairs necessary to comply with current building code requirements.

**D. Change of Ownership or Tenancy<sup>30</sup>**

Changes in ownership, tenancy, or management of property (that do not include changes in occupancy or operation) with an existing nonconformity may occur, but such nonconformities shall continue to be subject to the standards of this section.

**E. Compliance to the Maximum Extent Practicable**

Where compliance with the requirements of this UDC is precluded by a lack of sufficient developable area due to the size and disposition of the lot, the layout of existing development, or the presence of significant wetlands, floodplains, watercourses, hazard areas, or other significant environmental constraints, the applicant shall comply with the requirements of this section to the maximum extent practicable, as determined by the Director.

**F. Nonconformity Due to Outside Action<sup>32</sup>**

Where the acquisition of right-of-way or a portion of the property, by eminent domain, dedication or purchase, by a Town, county, state, or federal agency creates noncompliance of a lawful existing use, structure, lot, or site feature, such uses, structures, lots, or site features shall be deemed lawful despite a deficiency in required development standards created by the acquisition. Such designation shall apply only to noncompliance that results directly from the acquisition of right-of-way.

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**1.6.3 Nonconforming Uses**

Nonconforming uses of land or structures are subject to the following additional limitations:

**A. Limitation on Continuation of Nonconforming Uses<sup>33</sup>**

1. A nonconforming use may be extended throughout the same building, provided that:
  - a. The nonconforming use does not constitute a nuisance;
  - b. No structural alteration of the building (or portion of such building containing the nonconforming use in the case of buildings with multiple uses) shall be permitted;
  - c. No additional dwelling units shall be permitted in the building; and

---

<sup>28</sup> New. Some communities establish a Certificate of Zoning Compliance procedure to allow, in part, a determination of nonconforming status. Some communities also establish mapping and registration of nonconformities, though this is labor-intensive.

<sup>29</sup> New. This is increasingly common for cities looking to offer a more lenient approach to maintaining nonconformities.

<sup>30</sup> Replaces current Article XXIII, Sec. 8.

<sup>32</sup> Expands applicability of current Article XXIII, Sec. 11.

<sup>33</sup> Consolidates current Article XXIII, Sec. 2 and 6.

- d. No additional nonresidential units and/or uses shall be permitted.
- 2. Any existing occupied single-family residential dwelling that is deemed to be a nonconforming use may make improvements to the main and accessory structure so long as improvements do not increase the degree of nonconformity or increase the height or building footprint.<sup>34</sup>
- 3. No additional structure not conforming to the requirements of this UDC shall be erected in connection with the nonconforming use of land or building.<sup>35</sup>
- 4. Whenever a nonconforming use of land or a building has been replaced with a conforming use, the special equipment and furnishings particular to the nonconforming use have been removed from the premises and have not been replaced for a continuous period of six months, or the intention of the owner to permanently discontinue the use is apparent, the nonconforming use shall be considered discontinued and future use of the land or building shall comply with this UDC.<sup>36</sup>
- 5. A building occupied by a nonconforming use that has been destroyed by fire or extreme weather shall not be reconstructed or rebuilt except to conform with the provisions in this section. In the case of partial destruction by fire or other causes, not exceeding 50 percent of its current replacement value, the Building Official shall issue a permit for reconstruction. If greater than 50 percent, the building shall be made to conform with this UDC.<sup>37</sup>

**B. Change of Use<sup>38</sup>**

- 1. A nonconforming use shall not be changed to another nonconforming use.
- 2. A nonconforming use, if changed to a conforming use, may not be subsequently changed back to any nonconforming use unless otherwise permitted by this UDC.

---

**1.6.4 Nonconforming Structures**

Nonconforming structures are subject to the following additional limitations:

- A. A nonconforming structure may only be expanded pursuant to §1.6.2C: Maintenance and Minor Repair, and any such expansion shall be in full compliance with this UDC.<sup>39</sup>
- B. No nonconforming structure may be enlarged or altered in a way that increases the nonconformity of the structure, but any structure or portion of a structure may be altered to decrease the nonconformity of the structure.<sup>40</sup>
- C. Whenever a nonconforming structure is discontinued for one year or more, all nonconforming rights shall cease, and the use of the premises or the structure shall be in conformance with this UDC. A nonconforming structure shall be considered discontinued if the property or structure is vacant and no attempt to market the property is observable on the property or from the exterior of any structure, or that the property or structure is vacant and City taxes owed on the property are delinquent.<sup>41</sup>
- D. A nonconforming structure that has been damaged or destroyed by fire or other causes may be restored to its original condition, provided that such work is commenced within one year of such event and has been completed or diligently pursued within 18 months of such event. By written request from the property owner stating reasons for the delay, the Director may grant one extension of either the work commencement and/or the completion of work time period.<sup>42</sup>

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<sup>34</sup> New. This provision is intended to protect nonconforming single-family residences by allowing basic improvements to be performed.

<sup>35</sup> New.

<sup>36</sup> Replaces current Article XXIII, Sec. 10. Specific abandonment rules for structures added to the Nonconforming Structures section. Removed "the intention of the owner to permanently discontinue the use is apparent" as this language is challenging to enforce.

<sup>37</sup> Carries forward current Article XXIII, Sec. 4.

<sup>38</sup> Replaces current Article XXIII, Sec. 9.

<sup>39</sup> New.

<sup>40</sup> New.

<sup>41</sup> New.

<sup>42</sup> New accidental damage provision for nonconforming structures.

- E. The right to operate and maintain any nonconforming structure shall terminate and shall cease to exist whenever the nonconforming structure becomes substandard under any applicable ordinance of the Town and the cost of placing such structure in lawful compliance with the applicable ordinance exceeds 50 percent of the replacement cost of such structure on the date that the Building Official determines that such structure is substandard. In determining the replacement cost of any nonconforming structure, the cost of the land or any factors other than the nonconforming structure itself including foundation shall not be included.<sup>43</sup>

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### 1.6.5 Nonconforming Lots<sup>44</sup>

A nonconforming lot that was made nonconforming by virtue of enactment of this UDC may be used for construction of a building or structure allowed in the applicable zoning district, provided that all other zoning district and dimensional standards are met.<sup>45</sup>

---

### 1.6.6 Nonconforming Site Features<sup>46</sup>

#### A. Applicability

1. For purposes of this subsection, the term “nonconforming site feature” includes, but is not limited to any driveway, off-street parking or loading area, buffer, landscaping, screening, or exterior lighting element that lawfully existed in accordance with regulations in place prior to the effective date of this UDC. Site features required by this UDC that do not exist after the Effective Date are also considered nonconforming site features.
2. A nonconforming site feature may continue to exist even though it does not conform to current applicable standards of this UDC, subject to the requirements of this Subsection.
3. No action shall be taken that increases the degree of the nonconformity of a site feature.

#### B. Nonconforming Parking

##### 1. Continuation of Nonconforming Parking

Any parking spaces or parking lot access to public rights-of-way lawfully existing on the effective date of this UDC that are made nonconforming by virtue of enactment of this UDC shall be allowed to continue, provided that:

- a. If a change or expansion of a nonconforming use or structure is allowed under this §1.6, the additional number of parking spaces required to serve the changed or expanded area shall be provided in accordance with §4.6, *Parking and Loading*. For purposes of this provision, a change of use shall include reversion to a use that previously existed on a site but has not operated in more than six months.
- b. Nonconforming parking areas shall not be expanded, except pursuant to paragraph 2 below.

##### 2. Upgrading Nonconforming Parking<sup>47</sup>

Nonconforming off-street parking facilities shall be upgraded to comply with this UDC’s minimum parking lot design requirements in §---<sup>48</sup>, and landscaping requirements in §---<sup>49</sup>, when any development occurs that would result in an addition to or expansion of one or more buildings or

---

<sup>43</sup> Carries forward Article XXIII, Sec. 4 and 5.

<sup>44</sup> New.

<sup>45</sup> New. This type of provision is increasingly common and is intended to allow development of otherwise nonconforming lots.

<sup>46</sup> New section as recommended in the Assessment for consideration. This is commonly included to allow for expansion of uses and buildings even when the site features may not be conforming.

<sup>47</sup> Confirm consistency with final redevelopment table in Development Standards chapter.

<sup>48</sup> Link to §4.6.7: *Vehicle Parking Layout and Design*, to be added in Consolidated Draft.

<sup>49</sup> Link to §4.7.4D: *Parking Area Landscaping* to be added in Consolidated Draft.

structures that would increase the total gross floor area of the buildings or structures by more than 50 percent.

**C. Nonconforming Buffers, Landscaping, Screening, and Exterior Lighting<sup>51</sup>**

**1. Upgrading of Nonconforming Features Required for Certain Development**

Prior to the issuance of a Certificate of Occupancy, nonconforming buffers, landscaping, screening elements, and exterior lighting shall be upgraded to comply with this UDC's applicable standards for such features if any of the following development activities are proposed for the site containing the nonconforming site feature:

- a. An increase in the total square footage of the vehicular use area, including parking, loading, circulation, and driveway areas;
- b. A structural addition that increases the combined total gross floor area of all existing enclosed structures by more than 500 square feet or 20 percent, whichever is less;
- c. Building elevation changes involving 50 percent or more of the exterior walls of an enclosed structure on the property within a two-year period, excluding minor cosmetic maintenance such as painting or replacing lighting fixtures;
- d. The demolition of a building containing a principal use or the demolition of a suite or unit in a multitenant building;
- e. As determined by the Director, any request for a zoning map amendment, regardless of whether the nonconforming site feature is proposed to be changed; and/or
- f. Expansion of outdoor operations, storage, or display areas on a site containing nonconforming buffers or screening that increases the gross square footage of such areas by a certain percentage shall require upgrading to offset a corresponding percentage of the buffer or screening nonconformity, as determined by the Director.

**2. Alternatives to Upgraded Landscaping Authorized <sup>52</sup>**

In meeting the upgrading requirements in subsection 1 above, a reduction in the count, configuration, or location of required landscaping materials may be allowed for nonconforming buffers, landscaping, screening, and exterior lighting when alternatives are justified by site or development conditions through an alternative landscape plan.<sup>53</sup> Conditions justifying approval of an alternative landscape plan include:

- a. Natural conditions, such as watercourses, natural rock formations, or topography;
- b. The likelihood that required landscaping material at maturity would not achieve the intent of this UDC due to topography, placement, or other existing site conditions;
- c. Unique lot size or configuration;
- d. Challenges associated with infill development, reuse, or redevelopment on small lots;
- e. The presence of existing utility or other easements;
- f. The potential for interference with public safety;
- g. Preservation of natural vegetation; or
- h. Other situations where strict adherence to the buffer or landscaping standards in this UDC are determined impractical by the Director.

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<sup>51</sup> Confirm consistency with final redevelopment table in Development Standards chapter.

<sup>52</sup> Consider relocating to development standards article, landscaping section, in consolidated code.

<sup>53</sup> Further discussion is required to determine if and how an alternative landscape plan should be formalized in the Landscaping, Buffering, and Fences chapter.

### 3. Alternative Landscape Plan Approval Criteria

The Director may approve alternative landscape plans that do not meet the specific requirements stated in this §1.6.6, when the Director determines that the alternatives meet the following criteria:

- a. Are consistent with the purposes of this §1.6.6;
- b. Do not include invasive vegetation included in an adopted Town, county, or state list of prohibited or invasive species;
- c. Provide equal or superior buffering of adjacent properties from anticipated impacts of the proposed development; and
- d. Provide equal or superior visual appearance of the property when viewed from a public right-of-way.

## 1.7 Enforcement

### Commentary:

This section consolidates and expands current standards related to enforcement authority, procedures, actions, and penalties as well as new language to clarify when a violation of the UDC has occurred.

### 1.7.1 Purpose

This section establishes procedures through which the Town seeks to ensure compliance with the provisions of this UDC and obtain corrections for violations of this UDC. This section also sets forth the remedies and penalties that apply to violations of this UDC.

### 1.7.2 Violations

#### A. Activities Constituting a Violation<sup>55</sup>

Any person who violates any provision of this UDC or assists in the commission of any violation shall be guilty of a misdemeanor and shall be subject to a fine as provided in §1.7.4: *Penalties and Remedies*. Each of the following activities constitutes a violation of this UDC:

##### 1. Activity Inconsistent with UDC

Any construction, reconstruction, remodeling, alteration, maintenance, expansion, movement, or use of any land, building, structure, or sign that is inconsistent with this UDC.

##### 2. Activity Inconsistent with a Permit or Approval

Any development, use, or other activity that is in any way inconsistent with the terms or conditions of any permit or approval required to engage in such activity under this UDC.

##### 3. Illustrative Examples of Violations

Example violations of this UDC include but are not limited to:

- a. Increase the density or intensity of any use or structure except in accordance with the requirements of this UDC;
- b. Reduce or diminish the lot area, setbacks, buffers, landscaping, trees, open space, or other standards below the minimum requirements established by this UDC;
- c. Failure to install, improve, or maintain any public or private improvements required by the terms of any permit or approval;
- d. Failure to abide by conditions of any approval or agreements executed in association with an approval;
- e. Failure to comply with applicable requirements for a certificate of occupancy or building permit; or

<sup>55</sup> Replaces current Article XXVIII, Sec. 1. New.

- f. Failure to obtain any required permit.

### **B. Continuing Violations<sup>56</sup>**

Any violation of this UDC shall be considered a separate offense for each day during any portion of which any violation of this UDC is continued past the date of the issuance of notice of violation, with each violation punishable in accordance with §1.7.4: *Penalties and Remedies*.

### **C. Prior Violations<sup>57</sup>**

Violations of the prior development regulations are continued in effect and are not excused by the adoption of this UDC. If a development or activity in violation of the prior development regulations fully complies with this UDC, that development or activity shall no longer be deemed a violation.

### **D. Violations within the Extraterritorial Jurisdiction<sup>58</sup>**

Any person who violates any applicable provision of this UDC within the extraterritorial jurisdiction shall not be guilty of a misdemeanor; however, the Town may institute any appropriate action or proceeding in the District Court to enjoin the violation of this UDC.

### **E. Persons Liable<sup>59</sup>**

The owner, tenant, or occupant of any building or land, or any part thereof, and any architect, builder, contractor, agent, or other person who participates in, assists, directs, creates, or maintains any situation that is contrary to the requirements of this UDC or a permit or approval issued pursuant to this UDC, may be held responsible for the violation and be subject to the penalties and remedies provided in this section.

## **1.7.3 Enforcement Actions<sup>60</sup>**

### **A. Responsibility for Enforcement<sup>61</sup>**

The Director shall be entitled to enforce the provisions of this UDC, any amendment hereto, and any order or regulation made hereunder. It shall be unlawful for any person to hinder, prevent, delay, or interfere with authorized enforcement personnel in the performance of their duties. This shall not be construed as an attempt to prohibit the pursuit of any legal or equitable remedy in a court of competent jurisdiction for the protection of personal or property rights by any property owner within the town.

### **B. Investigation**

Whenever the Director or other enforcement authority receives a complaint alleging a violation of this UDC or a permit or approval issued under this UDC, the enforcement authority shall investigate the complaint and identify any enforcement action that may need to be taken.

### **C. Procedures Upon Discovery of Violations<sup>63</sup>**

1. If the Director finds that any provision of this UDC is being violated, they may send a written notice to the person responsible for such violation, indicating the nature of the violation and ordering the action necessary to correct it. The notice shall advise that the Director's decision or order may be appealed to the Board of Zoning Adjustment, pursuant to §2.10.5: *Appeal of Administrative Decision*.

<sup>56</sup> New.

<sup>57</sup> New.

<sup>58</sup> New.

<sup>59</sup> New language clarifying who is liable in the event of a violation as recommended in the Review of Current Ordinances, broadens current Chapter 62, §62-35.

<sup>60</sup> New section to describe the enforcement process including timeframe for coming into compliance.

<sup>61</sup> Consolidates Sec. 30-211, Sec. 62-31 and Article XXVII, Sec. 1. and broadens the authority to enforce the UDC, rather than specifying certain positions for different sections of the code .

<sup>63</sup> Replaces and expands Sec. 30-211 to be applicable to all violations, not solely landscaping violations.



2. If the person responsible for the violation does not take action to correct the violation or to appeal the notice of violation within 10 days of the first notice, additional written notices that state the action the Director intends to take if the violation is not corrected may be sent at the Director's discretion.
3. When a delay would seriously threaten the effective enforcement of this UDC, or pose a danger to the public health, safety, and welfare, the Director may immediately issue an order for compliance by personal service, posting of the property, or certified mail.

**D. Continuation of Prior Enforcement Actions**

Nothing in this UDC shall prohibit the continuation of previous enforcement actions undertaken by the Town pursuant to previous regulations.

**1.7.4 Penalties and Remedies**

**A. Fines**

Any violation of this UDC shall be subject to a fine as provided in §1-7 of the Code of Ordinances.

**B. Deny, Withhold or Revoke Entitlements<sup>65</sup>**

The City may utilize any enforcement remedies available in compliance with state law in order to gain compliance with the standards of this Code. Remedies include, but are not limited to: deny, withhold or revoke permits; ordering repair, removal, replacement, or alteration; fees/fines; or ordering discontinuance of those features or uses found to be out of compliance with this Code.

**C. Stop-Work Orders<sup>66</sup>**

1. The Building Official or Director may issue a stop-work order whenever any building, structure, site, or portion of a building, structure, or site is being demolished, constructed, reconstructed, altered, or repaired in a hazardous manner, in substantial violation of any state or local building law, or in a manner that endangers life or property.
2. The Director may issue a stop-work order on any property with an uncorrected violation of this UDC or approval issued under this UDC.
3. A stop-work order shall be in writing and directed to the person doing the work and shall specify the provision of this UDC or other law in violation.
4. If a stop-work order is issued, no work shall proceed on any building, structure, site, or portion of a building, structure, or site subject to the order except to correct a violation or to comply with the order.
5. Once conditions cited in the stop-work order have been adequately addressed, the Building Official or Director shall rescind the stop-work order.

**1.8 Severability<sup>69</sup>**

A determination by a court of competent jurisdiction that any section, paragraph, subdivision, clause, phrase, or provision of this UDC is unconstitutional or invalid does not make the remainder of the UDC unconstitutional or invalid. A determination by a court that the application of this UDC to a particular structure or parcel of land is unconstitutional or invalid does not apply to any other structure or parcel of land.

<sup>65</sup> Replaces current Sec. 30-211 and Sec. 62-55.

<sup>66</sup> New.

<sup>69</sup> Replaces current Article XXXVI.

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## 1.9 Review and Decision-Making Bodies

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### 1.9.1 Purpose

This section describes the organization, powers, and duties of the offices responsible for the administration of this UDC.

### 1.9.2 City Council

The City Council shall have all powers granted to it by the Municipal Charter. In the administration and enforcement of this UDC, the City Council has the review and decision authority as shown in §2.3: *Summary Table of Review Procedures*.

### 1.9.3 Planning and Zoning Commission<sup>70</sup>

#### A. Duties and Authority<sup>71</sup>

The Planning and Zoning Commission is hereby charged with the duty and invested with the authority to:

1. Exercise the powers set forth in § 211.007 of the TLGC.
2. Review and make recommendations or decisions as show in Table 2.3-1: *Summary Table of Review Procedures* pursuant to the application-specific procedures outlined in this UDC.
3. Conduct related business and make other recommendations on matters that are specifically requested, assigned, or required by the City Council or Director.
4. Submit each year a progress report to the City Council summarizing its activities, major accomplishments for the past year, and a proposed work program for the coming year.
5. Adopt rules to govern its proceedings provided that such rules comply with state law or the provisions of the Town's Code of Ordinances.

#### B. Officers<sup>72</sup>

The commission shall elect a chairperson and vice-chairperson from among its members. The commission shall also elect a secretary and any other officers as it deems necessary either from its membership or from staff representatives assigned by the City Manager to work with the commission.

#### C. Compensation

Planning and Zoning Commissioners shall be compensated as determined by the Town.

#### D. Meetings<sup>73</sup>

1. All meetings of the commission shall be open to the public, unless otherwise specified for closed and executive sessions in the Texas Open Meetings Act.
2. The dates, time, and place of commission meetings shall be set by the commission in consultation with Town officials.
3. All proceedings of the commission shall be recorded in minutes of meetings, and such minutes be approved by the commission and made a matter of public record.

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<sup>70</sup> Planning and Zoning Commission details currently split between Chapter 2 of Municipal Code and Article XXIX of the Zoning Code (Appendix A) – current draft integrates the content from the zoning code and cross-references Chapter 2.

<sup>71</sup> Replaces Article XXIX, Sec. 19. Consolidated (b), (c), (e), (f), (g), and (h) to reference the Summary Table of Review Procedures rather than list authority for individual development review procedures.

<sup>72</sup> Carries forward Article XXIX, Sec. 18.

<sup>73</sup> Replaces Article XXIX, Sec. 20

**E. Appointment, Removal, Vacancy and Reappointment**

See Chapter 2, Sec. 2-310 of the Code of Ordinances.

**F. Initial Appointments and Terms**

See Chapter 2, Sec. 2-311 of the Code of Ordinances.

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**1.9.4 Board of Zoning Adjustment<sup>75</sup>**

A Board of Zoning Adjustment is hereby established in accordance with the provisions of TLGC § 211.008 et seq., regarding the zoning of cities and with the powers and duties as provided in said statutes.

**A. Duties and Authority**

1. The Board of Zoning Adjustment shall have the review and decision authority as shown in §2.3: *Summary Table of Review Procedures* pursuant to the application-specific procedures outlined in this UDC.
2. The Board of Zoning Adjustment also has the powers and duties permitted under TLGC § 211.009.
3. In exercising its powers, the board may, in conformity with the provisions of Chapter 211 of the TLGC, revise or reform, wholly or partly, or may modify the order, requirement, decision or determination as ought to be made and shall have all the powers of the officer from whom the appeal is taken.
4. The Board of Zoning Adjustment shall serve as the Board of Appeals in accordance with the City's adopted building codes.

**B. Meetings**

1. Meetings of the Board shall be held at the call of the Director. The Chairperson may administer oath and compel the attendance of witnesses.
2. All meetings of the Board shall be open to the public, unless otherwise specified for closed and executive sessions in the Texas Open Meetings Act.
3. The Board shall keep minutes of its proceedings showing the vote of each member upon each question, or, if absent or failing to vote, indicate such fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the Board and shall be of public record.
4. A decision of the Board shall be in writing and shall be filed in the Board's office and with the Director on the day of the decision.

**C. Appointment, Removal, Vacancy and Reappointment**

See Chapter 2, Sec. 2-315 of the Code of Ordinances.

**D. Initial Appointments and Terms**

See Chapter 2, Sec. 2-316 of the Code of Ordinances.

**E. Record of Petition<sup>77</sup>**

Any person or persons, jointly or severally, aggrieved by any decision of the Board of Zoning Adjustment or any taxpayer or any officer, department, or board of the municipality may present a verified petition to an authorized court of record in conformance with TLGC § 211.011, setting forth that such decision is illegal, in whole or in part, specifying the grounds of the illegality. Such petition shall be presented to the court within ten days after the filing of the decision in the Development Services Department and not thereafter.

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<sup>75</sup> Replaces Article XXIV.

<sup>77</sup> Carries forward Article XXIV, Sec. 6.

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### 1.9.5 Director of Development Services

- A. The Director and their designees shall have the authority to review and make decisions as shown in §2.3: *Summary Table of Review Procedures* pursuant to the application-specific procedures outlined in this UDC.
- B. The Director shall have the right to enter upon any premises at any reasonable time for the purpose of making inspections of buildings or premises necessary to carry out their duties in the enforcement of this UDC. The Director may apply to the municipal court or other court of competent jurisdiction for such rights-of-entry or search warrants as may be required by law to carry out the foregoing duties.<sup>78</sup>

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### 1.9.6 Floodplain Administrator<sup>79</sup>

The Floodplain Administrator is appointed by the City Manager to administer and implement the standards set forth in §---<sup>80</sup> and other appropriate sections of Title 44 of the UDC of Federal Regulations (National Flood Insurance Program Regulations) pertaining to floodplain management.

#### A. Duties and Responsibilities

Duties and responsibilities of the floodplain administrator include, but are not limited to, the following:

1. Maintaining for public inspection all records pertaining to the provisions of this article.
2. Reviewing permit applications to determine whether proposed building sites, including the placement of manufactured homes, will be reasonably safe from flooding.
3. Reviewing all applications for development permits required by this article to determine that all permit requirements have been satisfied.
4. Reviewing permits for proposed development to determine that all necessary permits have been obtained from those federal, state, or local governmental agencies (including §404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334) from which prior approval is required.
5. Making interpretations, where needed, as to the exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions).
6. Notifying adjacent communities and the Texas Water Development Board prior to any alteration or relocation of a watercourse, and submitting evidence of such notification to the Federal Emergency Management Agency (FEMA).
7. Assuring that the flood carrying capacity within the altered or relocated portion of any watercourse is maintained.
8. Obtaining, reviewing, and reasonably utilizing any base flood elevation data and floodway data available from a federal, state, or other source, in order to administer this article, when base flood elevation data has not been provided in accordance with §42-37.
9. Requiring that no new construction, substantial improvements, or other development (including fill) shall be permitted within Zones A1-30 and AE on the FIRM when a regulatory floodway has not been designated, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the town.
10. Under the provisions of Title 44, Chapter 1, §65.12 of the National Flood Insurance Program regulations in the UDC of Federal Regulations, a community may approve certain development in Zones A1-30, AE, AH, on the community's FIRM which increases the water surface elevation of the base flood by more than one foot, provided that the community first completes all of the provisions required by §65.12 of the Code of Federal Regulations.

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<sup>78</sup> Replaces Sec. 34-34(a).

<sup>79</sup> Carries forward Sec. 42-56 & 57.

<sup>80</sup> Link to §4.3: *Floods* to be added in Consolidated Draft.

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# Article 2: Administration and Procedures

## Commentary:

This article describes the process for reviewing and approving development applications in Addison. An introductory summary table provides an overview of the review procedures, the review and decision-making authorities, and public notice requirements.

The next section includes common review procedures that apply to most development application types. Common review procedures will help Addison avoid repetition throughout the UDC and eliminate conflicting information among development applications. The remaining sections describe the application-specific development procedures, linking back to common review procedures and noting any modifications or additions. Each specific procedure includes a flowchart depicting the steps for review and approval. The final section of this article describes the decision-making authorities in Addison as they relate to this UDC.

In this section, we refer to an “administrative manual,” which is proposed to include the requirements for application submittal materials, fees, time periods for review, and other administrative information that does not need to be included in this UDC.

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## 2.1 Purpose

This article describes the review and approval procedures for land use and development applications in the Town.

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## 2.2 Organization

This article is divided into the following sections:

- A. §2.3: *Summary Table of Review Procedures*, summarizes the development procedures in this UDC.
- B. §2.4, *Common Review Procedures*, describes the standard procedures that apply to most development application types.
- C. §2.5: *Rezoning, Zoning Text, and Plan Amendment Procedures*, contains criteria and any modifications to the common review procedures for major planning and zoning applications.
- D. §2.6:

- E. *Site Planning and Miscellaneous Permits*, contains approval criteria and any modifications to the common review procedures for administratively approved site-specific development applications.
- F. *§2.7: Engineering Plans, Studies, and Site Development Permits*, describes plans and studies that may be required to inform the review and approval of development applications.
- G. *§2.8: Agreements*, describes formal agreements that applicants may enter into with the Town.
- H. *§2.9: Platting Procedures*, contains approval criteria and any modifications to the common review procedures for applications related to the division and conveyance of land.
- I. *§2.10: Flexibility and Relief Procedures*, contains approval criteria and any modifications to the common review procedures for applications to vary from strict conformance with this UDC or to obtain other forms of relief.

## 2.3 Summary Table of Review Procedures

The table below lists the development applications authorized in this UDC, including recommended or required pre-application activities and the role of Town review and decision-making authorities.

**Table 2.3-1: Summary Table of Review Procedures**

R = Review & recommend D = decide A = appeal

✓ = required ◇ = optional \* = public hearing required

Application Type	UDC Reference	Pre-Application Activities		Review & Decision-Making Bodies			
		Pre-application conference	Neighborhood Meeting	Staff	Planning and Zoning Commission	City Council	Board of Zoning Adjustment
<b>Rezoning, Zoning Text, and Plan Amendments</b>							
Special Use Permit	2.5.1	✓	◇	R	R*	D*	
Rezoning	2.5.1	✓	◇	R	R*	D*	
Rezoning to Planned Development (PD)	Preliminary	2.5.3	✓	◇	R	R*	D*
	Final	2.5.3	✓	◇	R	R*	D*
Zoning Text Amendment	2.5.4	◇	◇	R	R*	D*	
Comprehensive Plan Amendment	2.5.5	✓	◇	R	R*	D*	
Annexation	2.5.6	✓		R	R*	D*	
<b>Site Planning and Miscellaneous Permits</b>							
Concept Plan	For Rezoning	2.6.1C2.6.1	✓	◇	R	R*	D*
	Other	2.6.1D2.6.1	✓	◇	R	D*	
Site Plan	Major	2.6.2E0	✓	◇	R	D*	A*
	Minor	2.6.2D0	◇	◇	D		A*
Temporary Use Permit	2.6.32.6.3			D			A*
Sign Permit	2.6.42.6.4			D			A*
Zoning Verification Letter	2.6.52.6.5			D			A*

**Table 2.3-1: Summary Table of Review Procedures**

R = Review & recommend D = decide A = appeal

✓ = required ◊ = optional \* = public hearing required

Application Type	UDC Reference	Pre-Application Activities		Review & Decision-Making Bodies			
		Pre-application conference	Neighborhood Meeting	Staff	Planning and Zoning Commission	City Council	Board of Zoning Adjustment
Change or Elimination of Nonconformity	2.6.62.6.6			R			D*
<b>Engineering Plans, Studies, and Site Development Permits</b>							
Civil Engineering Plans	2.7			D			
Traffic Impact Analysis	Major	2.7		D			
	Minor	2.7		D			
Parking Study	2.7			D			
Drainage Study	2.7			D			
Utility Study	2.7			D			
Site Development Permit	2.7			D			
Flood Hazard Development Permit	2.7			D			A*
<b>Agreements</b>							
Development Agreement	2.8					D <sup>[1]</sup>	
Parking Management Agreement	2.8					D <sup>[1]</sup>	
Real Estate Application	2.8			D <sup>[2]</sup>			
<b>Platting of Land</b>							
Preliminary Plat or Preliminary Replat	2.9.2	✓	◊	R	D*		
Final Plat	2.9.3	◊		R	D		A*
Replat	2.9.4	◊		R	D*		A*
Minor Plat and Amending Plat	2.9.52.9.5	◊		D			A*
Vacating Plat	2.9.62.9.6	✓		R	D		A*
<b>Flexibility &amp; Relief</b>							
Variance	2.10.1	✓		R			D*
Subdivision Variance	2.10.2	✓		R	R*	D*	✓
Minor Modification	2.10.3			D <sup>[2]</sup>			A*
Alternative Equivalent Compliance	2.10.4	✓		D <sup>[2]</sup>	D <sup>[2]</sup>	D <sup>[2]</sup>	
Appeal of Administrative Decision	2.10.5	◊		R			D <sup>[2]</sup>
Alternative Sign Design	4.10.6 <sup>82</sup>	◊		R	D		

<sup>82</sup> Link to §4.10.6: *Alternative Sign Design*, to be added in Consolidated Draft.

**Table 2.3-1: Summary Table of Review Procedures**

R = Review & recommend D = decide A = appeal

✓ = required ◊ = optional \* = public hearing required

Application Type	UDC Reference	Pre-Application Activities		Review & Decision-Making Bodies			
		Pre-application conference	Neighborhood Meeting	Staff	Planning and Zoning Commission	City Council	Board of Zoning Adjustment

**Notes:**

<sup>[1]</sup> Except where authority is delegated by City Council to staff.

<sup>[2]</sup> Or the authorized decision-maker.



## 2.4 Common Review Procedures

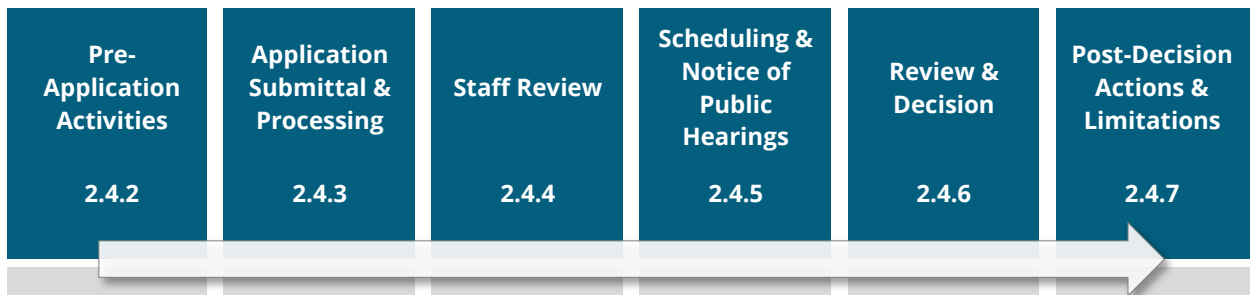
**Commentary:**

This section is new and consolidates several “common” or generally applicable procedures that apply to all types of applications, unless specified otherwise. These basic steps are currently scattered in approximately 15 different articles. The level of detail for each process is inconsistent in the current ordinance and many key details are left unanswered. A lack of common procedures makes the code longer, with unnecessary duplication of provisions addressing the same or similar steps and requirements.

The content in this section codifies existing practices, incorporates procedures located in other Town documents, and introduces professional best practices. Generally, this is intended to help code users better understand the Town’s basic procedural steps and requirements, avoid unnecessary duplication of text, ensure consistent application of generally applicable procedural steps and requirements, and eliminate the need to amend multiple sections of the UDC if a process is revised. The specific procedures that follow this section refer back to the common review procedures, noting any deviations from the general rules.

### 2.4.1 Purpose

This section describes the standard procedures and rules applicable to all development applications unless otherwise stated in this UDC. Common review procedures include six steps, as shown below, not all of which are applicable to every application. Application-specific procedures in §2.5 through 2.10 identify additional procedures and rules beyond those in this section.



### 2.4.2 Pre-Application Activities

#### A. Pre-Application Conference

**Commentary:**

Addison currently uses “pre-submittal” meetings for several application types; however, the current Code of Ordinances does not provide details for why, when, and how a pre-submittal meeting is held. This text is new and is intended to clarify the process. A suggested new name for the practice can help stress that this procedure will be conducted differently moving forward.

**1. Purpose**

The pre-application conference is intended to provide an opportunity for the potential applicant to meet with Town staff to review applicable submittal requirements and review procedures associated with the proposed application request.

**2. When Required**

A pre-application conference is required for certain application types according to §2.3: *Summary Table of Review Procedures*, and is optional for all other applications.

**3. Procedure**

- a. The potential applicant shall submit a request for a pre-application conference through the Development Services Department website. Planning staff shall schedule the pre-application conference and notify appropriate staff and the potential applicant of the time and location of the meeting.
- b. To maximize the benefit of this meeting, the potential applicant should submit a concept sketch and narrative description of their proposal with the pre-application conference request.
- c. At the meeting, Town staff will assist the potential applicant to identify key issues and concerns regarding the proposed development project so the potential applicant may address them as part of their formal application submittal. At the conclusion of the pre-application conference, Town staff will summarize key outcomes from the meeting and will provide a projection of anticipated development review timelines based on the information presented at the meeting.

**4. Effect**

Any comments or commitments made by Town staff during the pre-application conference are preliminary in nature and may change significantly as the project is more clearly defined in later stages of the development review process. Discussions of potential conditions to mitigate impacts do not reflect actions by the decision-making body until and unless a decision-making body takes formal action to attach that condition to a development approval.

**B. Neighborhood Meeting**

**Commentary:**

The neighborhood meeting procedure is new for Addison and was recommended in the Assessment Report. During initial stakeholder interviews, several community members expressed concern that adequate notice is not provided for large projects. This procedure allows public involvement earlier in the review process for major projects to allow residents an opportunity to speak with developers early in the process to voice concerns and influence the final design. As drafted, this is optional, but could be required for some projects. Internal guidelines will be important to ensure these are handled consistently.

**1. Purpose**

The purpose of a neighborhood meeting is to provide an opportunity to inform the residents and landowners of the surrounding neighborhood(s) of the details of a proposed development, how the applicant intends to meet the standards contained in this UDC, and to receive public comment and encourage dialogue at an early time in the review process.

**2. Applicability**

A neighborhood meeting is recommended for any development proposal that will be subject to a discretionary review process by the Planning and Zoning Commission. The neighborhood meeting is optional unless expressly stated otherwise in this Article 6 or as required by the Director in their discretion.

**3. Notice of Neighborhood Meeting**

- a. An applicant holding a neighborhood meeting is encouraged to provide mailed, published, and posted notice of the meeting in the same manner that would be required for public hearings on the application pursuant to the common development review procedures.
- b. Notice is required if the neighborhood meeting is required by the Director or this UDC. The applicant shall notify the Development Services Department in writing of the meeting date, time, and location no less than 14 days prior to the scheduled date of the meeting, if the meeting was required to be held by the Director or this UDC.
- c. An affidavit certifying that the applicant completed the notice procedures shall be included with the development application submittal.

**4. Attendance at Neighborhood Meeting**

The applicant shall be responsible for scheduling, coordinating, and facilitating the meeting, and for retaining an independent facilitator if needed. The meeting shall be held prior to submittal of the subject development application. Attendance at the meeting by Town staff is not required and will be determined by the Director on a case-by-case basis.

**5. Summary of Neighborhood Meeting**

The applicant shall prepare and deliver a written summary of the neighborhood meeting to the Development Services Department within 10 business days following the date of the meeting. The written summary shall be included in the staff report provided to the decision-making body at the time of the first public meeting to consider the application. At a minimum, the following information shall be included in the meeting summary:

- a. Date, time, and location of the meeting;
- b. A copy of the meeting sign-in sheet; and
- c. A summary description of how the applicant has addressed or proposes to address the issues, concerns, and objections identified during the meeting.

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**2.4.3 Application Submittal and Processing<sup>83</sup>**

**A. Authority to Submit Application**

Unless expressly stated otherwise in this UDC, a development application shall be submitted by:

- 1. The owner of the land on which development is proposed;
- 2. A person authorized to submit the application on behalf of the owner, as evidenced by a letter or document signed by the owner; or
- 3. If there are multiple owners, all such persons shall sign the application or a letter or document consenting to the application.

**B. Application Content**

- 1. The application shall be submitted to the Development Services Department on a form established by the Director.
- 2. The applicant shall ensure that an application contains sufficient information to demonstrate compliance with all application requirements specific in this UDC, the Administrative Manual and associated Criteria Manuals, and any additional application requirements specified by the Director during a pre-application conference.
- 3. Application processing will not begin until the Director determines that the application materials submitted are complete and sufficient.

**C. Waivers of Submittal Requirements**

The Director may waive certain submittal requirements in order to reduce the burden on the applicant and to tailor the requirements to the information necessary to review a particular application. The Director may waive such requirements upon finding that the projected size, complexity, anticipated impacts, or other factors associated with the proposed development clearly, in his or her opinion, support such waiver.

**D. Application Fees**

- 1. Application fees, as set forth in Article IX, Chapter 2 of the Town's Code of Ordinances, shall be paid at the time of submittal according to the type of application.
- 2. All required fees shall be paid to and collected by the Development Services Department.

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<sup>83</sup> This content is new and is intended to provide more direction and clarity to code users regarding application submittal and routing processes in Addison.

**E. Submittal and Review Schedule**

The Director shall establish a submittal and review schedule for development applications and shall post that schedule on the Development Services Department website. The Director may amend the schedule to ensure effective and efficient review under this UDC.

**F. Determination of Application Completeness**

**1. Application Materials**

- a. No application is complete unless all of the information required by this UDC, the Administrative Manual and associated Criteria Manuals, and any application materials required by the Development Services Department, are included, and all required filing fees are paid.
- b. An application is not considered filed until it is complete.
- c. The applicant shall file an application in advance of any required public hearing or public meeting where the application is to be considered.
- d. The Director may establish a schedule for filing and reviewing any application that requires action by a Town review or decision-making body. The schedule shall provide adequate time for notice and/or publication consistent with the applicable state statutes and this article.
- e. Completed applications shall be filed according to any published schedule. The Director may accept applications filed in conflict with the published submittal and review schedule at their discretion.
- f. A determination of completeness shall not constitute a determination of compliance with the substantive requirements of this UDC, other Ordinances of the Town of Addison, or state or federal law.

**2. Review Procedure**

- a. No later than 10 business days after an application is submitted, the Director shall determine whether the application is complete and shall transmit a written determination to the applicant. If the written determination is not made within this time period, the application is deemed complete. Failure to complete this review within the specified time does not constitute approval and does not give rise to any cause of action against the Town.
- b. If the application is determined to be incomplete, the Director shall provide written notice to the applicant. The notice shall specify the necessary documents or other information required to resolve the identified application deficiencies and the date the application will expire if those deficiencies are not addressed. The Director shall provide this notice no later than the 10th business day after the date the application is filed.
- c. Pursuant to Chapter 245 of the Texas Local Government Code, the application shall expire on or after the 45th day after the date the application is filed if:
  - i. The Director provides the notice described in §2.4.3F.2.a, above; and
  - ii. The applicant fails to provide the specified documents or other information required to resolve identified deficiencies within 45 days following notice.
- d. If an application expires, the Town shall not process the application. The applicant shall file a new application and pay the required fees to have their request processed.

**3. Time Limits Triggered by Complete Application**

Whenever this article establishes a time period for processing an application, the time period does not begin until the Director has reviewed the application for completeness and the applicant has corrected all deficiencies in the application. The fact that a Town employee reviewed an application to determine whether it is complete shall not be binding on the Town as the official acceptance of the application for filing.

**4. Appeal of Application Completeness Determination**

If the application is determined to be incomplete, the applicant may appeal that decision in writing within 10 calendar days of the determination to the Board of Zoning Adjustment pursuant to §2.10.5: *Appeal of Administrative Decision*.

**G. Concurrent Applications**

Review and decision-making bodies considering applications submitted simultaneously shall render separate recommendations and decisions on each application based on the specific standards applicable to each approval.

**H. Application Withdrawal**

1. After an application has been accepted for review, the applicant may withdraw the application at any time by submitting a letter of withdrawal to the Director.
2. An applicant is not entitled to a refund of application fees for withdrawn applications; however, the Director may refund fees where staff review or public notice has not been substantially initiated for the application.
3. If an applicant fails to respond to staff comments within 45 days, or an application is otherwise determined by the Director to be inactive for a period of 45 days, then the application is no longer valid.

**I. Resubmittal of an Application**

A development application denied by the Town, or approved and subsequently revoked pursuant to §1.7, *Enforcement*, may be resubmitted only if the applicant makes significant changes to address the reasons stated for the denial or revocation. The Director will determine if the changes are sufficient to allow a resubmittal.

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**2.4.4 Staff Review<sup>85</sup>**

**A. Referral to Staff and Review Agencies**

The Director shall distribute the complete application to appropriate staff and review agencies.

**B. Staff Review and Application Revisions**

Staff shall review the application and shall consult with applicable Town departments and other participating reviewing agencies. Staff shall submit recommendations and comments to the applicant in a form established by the Director. The application shall not move forward for further review until the Director determines that the applicant has adequately responded to the Town's recommendations and comments, or the applicant requests that the application move forward without responding to the Town's recommendations and comments.

**C. Applications Subject to Staff Recommendation**

**1. Staff Report**

If an application is subject to staff review and recommendation to the Planning and Zoning Commission, Board of Zoning Adjustment, and/or City Council per §2.3: *Summary Table of Review Procedures*, staff shall prepare a written staff report that summarizes the proposal, findings, and recommendations.

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<sup>85</sup> This content is new and is intended to provide more direction and clarity to code users regarding staff's role in processing applications in Addison.

**2. Distribution and Availability of Application and Staff Report**

The Director shall submit a copy of the staff report to the review and/or decision-making body and shall make the staff report and related application materials available for public review prior to the hearing at which the application is scheduled to be heard.

**D. Applications Subject to Staff Decision**

**1. Decision**

If an application is subject to staff review and a final decision by the Director per §2.3: *Summary Table of Review Procedures*, the Director shall make a decision based on the review standards applicable to the application type. The decision shall be in writing and shall clearly state reasons for a denial or for conditions of approval.

**2. Appeals**

Appeals of administrative decisions may be made pursuant to §2.10.5: *Appeal of Administrative Decision*.

**3. Referrals to Planning and Zoning Commission**

- a. If §2.3: *Summary Table of Review Procedures*, authorizes the Director to make a decision, and the Director determines that the application is unusually complex or raises potentially unique or serious impacts on the Town or the surrounding neighborhoods, the Director may refer the application to the Planning and Zoning Commission for decision pursuant to the same criteria under which the Director would have been required to apply to that application.
- b. In cases where the Director refers the decision to the Planning and Zoning Commission, all applicable noticing requirements per §2.4.5: *Scheduling and Notice of Public Hearings*, shall apply.

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**2.4.5 Scheduling and Notice of Public Hearings<sup>86</sup>**

**A. Scheduling**

- 1. If an application is subject to a public hearing per §2.3: *Summary Table of Review Procedures*, the Director shall schedule the public hearing for either a regularly scheduled meeting or special meeting of the appropriate review and/or decision-making body.
- 2. The public hearing shall be scheduled to allow sufficient time to prepare a staff report per §2.4.4.
- 3. The Development Services Department website shall include a submittal and review schedule that the Town will follow if the applicant submits a complete application that addresses staff review feedback by the deadline established for each step in the submittal and review process. The submittal and review schedule is based on time frames established by state statute for reviewing agency response times and minimum requirements for notice of public hearings.

**B. Notice Format and Content**

**1. Content of Mailed and Published Notices**

At a minimum, required notice shall:

- a. Identify the application by type and case number;
- b. Describe the land involved by street address, or by legal description and the nearest cross street, and project area (size) that is the subject of the application;
- c. Provide a general description of the proposed project;
- d. Specify the date, time, and location of the hearing being noticed;

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<sup>86</sup> This content is new and is intended to provide more direction and clarity to code users regarding public hearing noticing requirements and procedures in Addison.

- e. Include a telephone number, email address, and/or website for additional information;
- f. Include a statement that the public may appear at the public hearing or be heard and submit evidence and written comments with respect to the application; and
- g. Provide any additional information as may be required by the Administrative Manual or state law.

**2. Mailed Notice**

Applications requiring mailed notice in accordance with this UDC shall comply with the following:

- a. Notice of a public hearing shall be sent to the owner of the property for which the approval is sought.
- b. Notice of a public hearing shall be sent to all owners of property, as indicated by the most recently adopted municipal tax roll, that is located within 200 feet of any property affected by the proposal.
- c. Notice of a public hearing shall be sent to any other parties entitled to receive written notice by mail under state law.
- d. The mailed notice will be postmarked at least 11 days prior to the date of the public hearing at which the item will be considered.
- e. The notice may be served by using the last known address as reflected by the Dallas Central Appraisal District, and depositing the notice, properly addressed and postage paid, in the United States mail.

**3. Posted Notice**

Applications requiring posted notice in accordance with this UDC shall comply with the following:

- a. The Town shall post the required number of notification signs on the subject property at least 10 days prior to the date of the public hearing before the Planning and Zoning Commission.
- b. The signs shall be posted at a prominent location adjacent to a public street and be easily visible from the street.
- c. Photos of the posted notification signs and a required affidavit shall be provided to the Development Services Department in accordance with the Administrative Manual.
- d. The applicant is responsible for maintaining the required number of notification signs posted on the subject property until final action is taken on the application by the City Council.
- e. Signs shall be constructed and posted in accordance with the Administrative Manual.
- f. Signs shall include the following information:
  - i. Type of application
  - ii. Public hearing requirement
  - iii. Town logo
  - iv. Website and phone number to learn more about the application.
- g. The signs shall be removed within five days after final action on the application by the City Council.
- h. It is unlawful to intentionally or knowingly remove a notification sign that has been posted pursuant to this UDC, or to in any way tamper with or conceal the sign message.

**4. Published Notice**

Applications requiring published notice in accordance with this UDC shall comply with the following:

- a. When published notice is required, the Director shall prepare the content of the notice and publish the notice in an official newspaper or a newspaper of general circulation in the town. The content and form of the published notice shall be consistent with the requirements of the applicable provisions of state law.

## Article 2: Administration and Procedures

### 2.4 Common Review Procedures

#### 2.4.5 Scheduling and Notice of Public Hearings

- b. The first date of the publication shall be at least 16 days prior to the date of the public hearing at which the item will be considered.

#### **C. Public Hearing Notice**

All public hearings required by this UDC shall be preceded by the notices identified in the table below. Procedures not listed in the table do not require public hearing notice.



<b>Table 2.4-1: Summary of Public Notice Requirements</b>			
<b>Application Type</b>	<b>Published <sup>[1]</sup></b>	<b>Mailed <sup>[2]</sup></b>	<b>Posted <sup>[3]</sup></b>
<b>Rezoning, Zoning Text and Plan Amendments</b>			
Special Use Permit	✓	✓	✓
Rezoning	✓	✓	✓
Rezoning to Planned Development	✓	✓	✓
Zoning Text Amendment	✓	n/a	n/a
Comprehensive Plan Amendment	✓	n/a	n/a
Annexation	<sup>[4]</sup>	<sup>[4]</sup>	<sup>[4]</sup>
<b>Site Planning and Miscellaneous Permits</b>			
Major Site Plan	✓	✓	n/a
<b>Platting of Land</b>			
Preliminary Plat	✓	✓	✓
Replat	Depends on application type	Depends on application type	Depends on application type
<b>Flexibility &amp; Relief</b>			
Variance	n/a	✓	✓
Minor Modification <sup>[5]</sup>	✓	✓	✓
Appeal Of Administrative Decision <sup>[5]</sup>	✓	✓	✓
<b>Notes:</b>			
<sup>[1]</sup> 16 days prior to hearing or such longer period as may be required by state law.			
<sup>[2]</sup> Within 200 feet and 11 days prior to hearing or such longer period as may be required by state law.			
<sup>[3]</sup> 10 days prior to hearing or such longer period as may be required by state law.			
<sup>[4]</sup> In accordance with Texas Local Government Code Chapter 43.			
<sup>[5]</sup> If required by the applicable subsection of S2.10: <i>Flexibility and Relief Procedures</i> .			

**D. Constructive Notice**

1. Minor defects in any notice shall not impair the notice or invalidate proceedings pursuant to the notice if a bona fide attempt has been made to comply with applicable notice requirements. Minor defects in a notice shall be limited to non-substantive errors in a property description or typographical or grammatical errors that do not impede communication of the notice to affected parties. In all cases, however, the requirements for the timing of the notice and for specifying the time, date, and place of a hearing shall be strictly construed.
2. Failure of a party to receive notice shall not invalidate subsequent action. If questions arise at the public hearing regarding the adequacy of notice, the decision-making body shall make a formal finding as to whether there was substantial compliance with the notice requirements of this UDC.
3. In addition to notice by the means set forth above, the Town may give notice of the hearing in a specific case in such other manner as it deems necessary or appropriate.

**E. Protest Procedures**

A proposed zoning action may be protested pursuant to Chapter 211 of the Texas Local Government Code and the requirements below. A valid, written protest shall require an affirmative vote of at least three-fourths of all members of the City Council for approval of the protested zoning action.

**1. Submittal Requirements**

- a.** A written protest may be submitted by property owners of lots or land either covered by the proposed change or located within 200 feet of the area covered by the proposed change.
- b.** A written protest shall be submitted on a form provided by the City and shall contain the following information:
  - i.** description of the zoning case at issue;
  - ii.** Email and phone number of the protest petitioner(s);
  - iii.** The names and original signatures of all persons protesting the proposed zoning action; and
  - iv.** A description or address of the area of lots or land owned by the protesting parties.
- c.** The written protest form must be signed by the owner of the property, or by their authorized representative. The signature of any one owner of a property with multiple owners shall bind the entire property to the protest.
- d.** In the case of a property owned by a corporation, the protest must be signed by the president, a vice president, or by an attorney-in-fact authorized to sign the protest on behalf of the corporation. In the case of a property owned by a general or limited partnership, the protest must be signed by a general partner or by an attorney-in-fact authorized to sign the protest on behalf of the partnership.
- e.** For condominium lots or land to be included in calculating the lots or land area protesting a zoning action, the written protest form must state that the governing body of the condominium has authorized a protest in accordance with procedures required by its bylaws, and that the person signing the protest is authorized to act on behalf of the governing body of the condominium. A written protest signed by the owner of an individual condominium unit shall not be accepted unless the filing party produces legal documents governing the condominium which clearly establish the right of an individual owner to act with respect to the owner's respective undivided interest in the common elements of the condominium.
- f.** Except for those properties owned by corporations or jointly owned by multiple people as described in provisions d and e of this subsection, all signatures on a written protest form shall be notarized or witnessed. The notary requirement is fulfilled if the person who obtains the signatures signs a certification stating that:
  - i.** They witnessed those signatures; and
  - ii.** The signatory represented their authority to sign the petition.
- g.** In all cases where a written protest form has been properly signed pursuant to this subsection, the City shall presume that the signatures are authentic and that the persons or officers whose signatures appear on the protest form are either owners of the property or authorized to sign on behalf of one or more owners as represented. The City Attorney may advise the City Council that this presumption of validity should not be followed in a specific case based on evidence presented.

**2. Filing Deadline**

- a.** A written protest must be filed with the City Secretary before 5:00 p.m. of the 4th working day prior to the City Council public hearing when the proposed zoning action is scheduled to be acted upon. For example, a written protest must be received by 5:00 p.m. on the Wednesday prior to a regularly scheduled Tuesday City Council meeting. A written protest form sent through the mail must be received by the City Secretary before the deadline.
- b.** Before the public hearing on the zoning action begins, the filing deadline for a protest is automatically extended whenever the public hearing is re-advertised in the official newspaper of the City pursuant to statutory notice requirements.

- c. After the public hearing has begun, the filing deadline may only be extended by calling a subsequent public hearing and advertising that public hearing in the official newspaper of the City pursuant to statutory notice requirements or if the item is tabled or continued. In such a case, the new filing deadline is noon of the 2nd working day immediately preceding the newly advertised public hearing date or the date to which the item is tabled or continued. For example, the written protest must be received by 12:00 p.m. on the Friday prior to the newly scheduled Tuesday City Council meeting.

**3. Withdrawal of Protest Signature(s) or Protest Form(s)**

- a. A protest, once filed, remains in effect unless withdrawn in accordance with this subsection, irrespective of any amendments made to the zoning proposal. Requests to withdraw a protest form or individual protest signature(s) that have been filed must be in writing and filed with the City Secretary before the filing deadline.
- b. The provisions of this subsection governing the form and filing of protests apply equally to withdrawals.

**4. Conflicting Submissions**

If multiple protests and withdrawals are filed on behalf of the same owner, the submission with the latest date and time of execution controls.

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**2.4.6 Review and Decision<sup>89</sup>**

**A. Hearing, Review, and Decision**

- 1. The application shall be subject to hearings, review, recommendations, and decisions as indicated in §2.3: *Summary Table of Review Procedures*.
- 2. If the application is subject to a public hearing, the applicable review and/or decision-making body shall hold a public hearing in accordance with §2.4.5: *Scheduling and Notice of Public Hearings*.
- 3. The City Council may hold a joint public hearing with the Planning and Zoning Commission as provided for by state law. In case of a joint hearing, the City Council may not act on the request until it receives the report of the Planning and Zoning Commission.<sup>90</sup>
- 4. The applicable review and/or decision-making body shall consider the following:
  - a. The application and supportive material submitted by the applicant;
  - b. The testimony of the applicant;
  - c. The testimony of the public during the public hearing, when applicable;
  - d. The Development Services Department staff report; and
  - e. Such other additional information as may be required by the review and/or decision-making body to evaluate the application.
- 5. The applicable review and/or decision-making body may approve, approve with conditions, or deny the application based on the applicable approval criteria listed in the application-specific procedures in §2.5 through 2.10. The review and/or decision-making body may also continue the hearing in accordance with the review and/or decision-making body's adopted rules and procedures.
- 6. If the review involves a quasi-judicial hearing, the recommendation or decision (as applicable) shall be based only on the record of the public hearing; shall be in writing; shall include findings of fact based on competent, material, and substantial evidence presented at the hearing; shall reflect the determination of contested facts; and shall state how the findings support compliance with applicable review standards.

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<sup>89</sup> This content is new and is intended to provide more direction and clarity to code users regarding review and decision-making processes in Addison.

<sup>90</sup> New.

7. The applicable review and/or decision-making body shall clearly state the factors considered in making its recommendation or decision, as well as the basis or rationale for the recommendation or decision.
8. All approvals and decisions under this UDC require the weighing of facts and applicable laws and regulations and thus are discretionary, unless clearly indicated otherwise by the use of wording requiring ministerial, non-discretionary approval (e.g., “shall issue,” or “shall approve” upon request).

## **B. Public Hearing Procedures**

Whenever a public hearing is required by this UDC, the following public hearing procedures shall apply:

### **1. Conduct of Public Hearings**

#### **a. Generally**

Any person can appear at a public hearing and testify or submit evidence. Each person appearing at a public hearing must be identified by name and address.

#### **b. Exclusion of Testimony**

If necessary, the review or decision-making body conducting the public hearing can establish time limits for testimony and may exclude testimony or evidence that is irrelevant, immaterial, or repetitious.

#### **c. Tabling of Public Hearing**

The review or decision-making body conducting the public hearing can, on its own motion or at the request of any person, table the public hearing to a specified date. Tabling may occur more than once. However, tabling for more than 40 days without the applicant's consent is not permitted. Every effort must be made to conduct each public hearing expeditiously and without undue delay.

### **2. Public Hearing Order of Proceedings**

The order of proceedings at a public hearing will be as follows. The applicable review and/or decision-making body may adjust this order as necessary.

#### **a. Narrative and Description**

The Director presents a narrative and/or graphic description of the project.

#### **b. Staff Report**

The Director presents a staff report addressing compliance with relevant Town plans and standards contained in this UDC and the recommendations of review boards and commissions.

#### **c. Applicant Presentation**

The applicant may present testimony or evidence in support of the project.

#### **d. Public Testimony**

The public may present evidence and testimony concerning the proposed project.

#### **e. Applicant Response**

The applicant may respond to any evidence or testimony presented by the public.

#### **f. Town Staff Response**

The Director, City Attorney, or any other Town staff may respond to the evidence and testimony offered by the applicant and the public as well as questions from the review or decision-making body.

#### **g. Decision of Review or Decision-Making Body**

The review or decision-making body makes its decision or recommendation to approve, approve with conditions or deny the application.

**h. Notice of Decision**

The Director notifies the applicant in writing of the review or decision-making body decision within a reasonable time after the decision.

**i. Record**

The audio and/or video of the hearing, minutes, all applications, exhibits, and papers submitted during the proceedings, Development Services Department files, staff report, and decision of the review or decision-making body constitute the complete record. The record will remain in the possession of the Director.

**C. General Approval Criteria**

**1. Generally**

- a. Unless otherwise specified in this UDC, Town review and decision-making bodies shall review all development applications submitted pursuant to this article for compliance with the general review criteria stated below.
- b. The application may also be subject to additional review criteria specific to the type of application, as set forth in §2.5 through 2.10.
- c. If there is a conflict between the general review criteria in this section and the specific review criteria in §2.5 through 2.10, the specific review criteria in §2.5 through 2.10 control.

**2. Compliance with UDC and Other Applicable Plans Regulations**

The proposed use and development shall comply with all other Town regulations and with all applicable regulations of the federal or state governments and other relevant entities with jurisdiction over the property or the current or proposed use of the property, including but not limited to this UDC, the Comprehensive Plan, and where applicable, other master plans and Town-wide studies.

**3. Compliance with Prior Approvals**

The proposed use and development shall be consistent with the terms and conditions of any prior land use, plan, or plat approval for all or part of the property that is in effect and not proposed to be changed. This includes consistency with any approved phasing plan for development and installation of public improvements and amenities.

**4. Compliance with Phasing Plans**

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

**D. Conditions of Approval**

- 1. Where this UDC authorizes a review and/or decision-making body to approve or deny an application subject to applicable criteria, the review and/or decision-making body may approve the application with conditions necessary to bring the proposed development into compliance with this UDC or other regulations, or to mitigate the impacts of that development on the surrounding properties and streets.
- 2. All conditions of approval shall be reasonably related to the anticipated impacts of the proposed use or development or shall be based upon standards duly adopted by the Town. Such conditions may include those necessary to carry out the purpose and intent of the Comprehensive Plan, other adopted plans, and this UDC.
- 3. During its consideration, the review and/or decision-making body may consider alternative potential conditions, and no discussion of potential conditions shall be deemed an attempt or intent to impose any condition that would violate the federal or state constitutions, statutes, or regulations. Discussions of potential conditions to mitigate impacts do not reflect actions by the review and/or decision-making

body unless and until the review and/or decision-making body takes formal action to attach that condition to a development approval.

4. Unless otherwise provided in this UDC, any representations of the applicant in submittal materials or during public hearings shall be binding as conditions of approval.
5. Any conditions shall be listed in or attached to the approval document, and violation of any approved condition shall be a violation of this UDC.

## 2.4.7 Post-Decision Actions and Limitations<sup>92</sup>

### A. Notice of Decision

1. Within 10 days after a final decision on an application, the Director shall provide written notification of the decision via personal delivery, electronic mail, or first-class mail to the applicant and make a copy of the decision available to the public in the Development Services Department.
2. If the review involves a quasi-judicial hearing, the Director shall, within 10 days after a final decision on the application, also provide a written notification of the decision via personal delivery, electronic mail, or first-class mail to the owner(s) of the subject site, and any other person that submitted a written request for a copy of the decision before its effective date.

### B. Effect of Approval

1. Approval of any development application in accordance with this Code, whether granted or deemed granted by expiration of a “shot clock,” authorizes only the particular use, plan, or other specific activity approved, and not any other development requiring separate application.
2. Approvals, whether granted or deemed granted, do not vary or change this Code or excuse non-compliance, extent to the extent specified in a variance, interpretation, special exception, or amendment that is duly approved in writing by the authorized decision-maker.
3. If one development permit or approval is a prerequisite to another permit or approval (e.g., variance approval prior to a site plan approval), development may not take place until all required permits and approvals are obtained. Approval of one application does not necessarily guarantee approval of any subsequent application.

### C. Appeal

1. A party aggrieved or adversely affected by any decision by the City Council, Planning and Zoning Commission, or Board of Zoning Adjustment may seek review of the decision in accordance with applicable state law.
2. A party aggrieved by other final decisions may appeal the decision in accordance with the procedures and standards in Section 2.10.5: *Appeal of Administrative Decision*.

### D. Expiration and Revocation of Approval

#### 1. Expiration of Approval

Approval under this article may be granted subject to a schedule of development or set time period of no earlier than the fifth anniversary date of the approval for development of specific improvements, and/or establishment of a special use or uses for which the approval is requested. Approval shall expire at the end of this period or, if a specific time period is not specified, after two years following the date upon which the final approval became effective, if none of the following have occurred:

- a. The subject property has been improved for the development for which it was approved, and a building permit has been issued and construction commenced and is being diligently pursued toward completion of the site for which the approval was originally granted; or

<sup>92</sup> This content is new and is intended to provide more direction and clarity to code users regarding what happens after an application has been acted on.

- b. A Certificate of Occupancy has been issued for structure(s) that were the subject of the application; or
- c. The site has been occupied for a permitted use if no building permit or Certificate of Occupancy is required.
- d. For purposes of this subsection, progress towards completion of the project is as defined in Chapter 245 of the Texas Local Government Code.

**2. Revocation of Approval**

Upon expiration, the approval shall be considered revoked, unless a request for a time extension is made by the applicant to the Director at least 15 days prior to the date of the expiration of the original approval in accordance with established application submittal scheduling requirements. The applicant is responsible for keeping track of application expiration dates.

**3. Request for Extension of Approval**

Unless otherwise specified in a specific procedure, the original approval body may grant extensions of the expiration time period for up to one year, following a written request to the Director for such extension prior to the expiration date. The request shall include reasonable cause for an extension.

**E. Modification or Amendment of Approval**

**1. Minor Changes Allowed**

Development authorized by any approval under this article may incorporate minor changes from the approved plan, permit, or conditions of approval, as appropriate, without the need for a new application, subject to the limitations below.

- a. Authorized minor changes are limited to those that appear necessary in light of technical or engineering considerations first discovered during the preparation of final engineering and building plans and were not reasonably anticipated during the initial approval process, as long as they comply with the standards of this UDC and any other applicable approval conditions or design criteria.
- b. Minor changes may include minor deviations in the building footprint or relocation of infrastructure (roads and water or sewage lines) so long as the relocation complies with the conditions of any approval and this UDC.
- c. Minor changes shall not include reductions in the amount of open space, buffering, or increases in building floor area.
- d. The Director shall determine that the proposed minor changes:
  - i. Comply with the standards of this UDC and applicable design criteria;
  - ii. Are necessary to meet conditions of approval; and
  - iii. Would not significantly alter the function, form, intensity, character, demand on public facilities, or impact on adjacent properties as approved.

**2. Major Changes**

Any modification of an approved plan, permit, or condition of approval that the Director determines does not meet the criteria in paragraph 1 above shall require a new application that is submitted and reviewed in accordance with the applicable procedure and fee requirements.

**F. Limitation on Subsequent Similar Applications**

Following denial of an application, the decision-making body shall deny any applications that are the same or substantially similar within one year of the previous denial. This waiting period may be waived by the decision-making body provided that:

1. There is a substantial change to circumstances, or new information available, relevant to the issues or facts considered during the previous application review; or
2. The new application is materially different from the previous application, as determined by the Director.

**G. Site Development Permit**

Prior to the commencement of any improvements associated with an approved project, the applicant must obtain all necessary site development permits from the Town.

**H. Building Permits<sup>93</sup>**

All applications for building permits shall be accompanied by an accurate plat and approved development plan in accordance with the Town’s administrative procedures.

**I. Certificate of Occupancy<sup>94</sup>**

**1. Compliance Required**

No building hereafter erected or structurally altered shall be used, occupied, or changed in use until a certificate of occupancy has been issued by the Building Official or Director.

**2. Procedures**

- a. Certificates of occupancy shall be applied for following the approval of the necessary building permits for each project type and shall be issued within 10 days after the erection or structural alteration of such building shall have been completed in conformity with the provisions of this UDC.
- b. Certificates of occupancy shall be applied for following a change in ownership or tenant of buildings requiring a building permit.<sup>95</sup>
- c. No permit for excavation for any building shall be issued before application has been made for a site development permit.

**3. Record of Certificate of Occupancy**

A record of all certificates shall be kept on file in the Development Services Department and copies shall be furnished in accordance with the Town’s administrative procedures upon request to any person having a propriety or tenancy interest in the building affected.

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<sup>93</sup> From current Article XXVII Sec. 1. We did not carry forward the submittal requirements for the plat – these should be relocated to the administrative manual.

<sup>94</sup> Replaces current Article XXVI, Sec. 1.

<sup>95</sup> New.



## 2.5 Rezoning, Zoning Text, and Plan Amendment Procedures

### 2.5.1 Special Use Permit<sup>97</sup>

#### A. Purpose

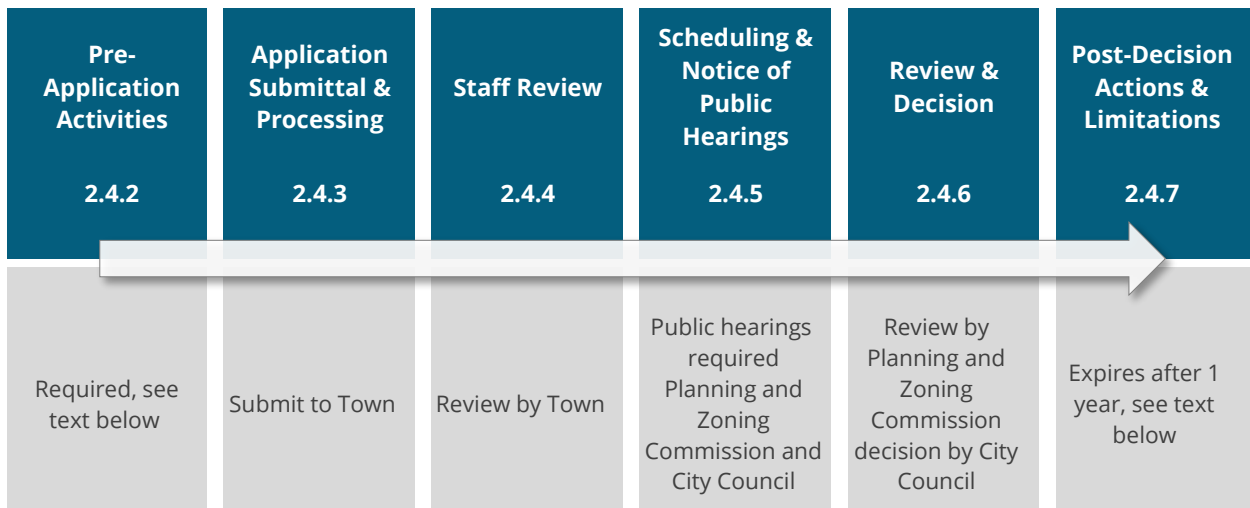
The Special Use Permit review procedure provides a mechanism for the Town to evaluate proposed development and land uses that have unique or widely varying operating characteristics or unusual site development features to ensure compatibility with surrounding areas and the goals of the Comprehensive Plan and this UDC. The procedure considers the location, design, configuration, intensity, density, natural hazards, and other relevant factors pertaining to the proposed use to evaluate the potential impacts of such uses on surrounding properties and to ensure that such uses are compatible with surrounding properties and that adequate mitigation is provided to minimize potential impacts on those surrounding properties and/or the Town.

#### B. Applicability

Special use permit review is required for certain land uses and zoning districts as specified in [Table ---<sup>98</sup>](#). Special use permit review approval is also required for modification or expansion of an existing special use.

#### C. Special Use Permit Procedure

The process diagram below identifies the applicable steps from §2.4: *Common Review Procedures*, that apply to the review of Special Use Permit applications. Additions or modifications to the common review procedures are noted below.



#### 1. Pre-Application Activities

##### a. Pre-Application Conference

A pre-application conference is required in accordance with §2.4.2A: *Pre-Application Conference*.

<sup>97</sup> Replaces current Appendix A, Article XX and the “conditional use permit” procedures applicable to the UC zoning district located in Appendix A, Article XIX, Sec. 10.

<sup>98</sup> Link to Table of Allowed Uses to be added in Consolidated Draft.

**b. Neighborhood Meeting**

A neighborhood meeting is recommended in accordance with §2.4.2B: *Neighborhood Meeting*.

**2. Application Submittal & Processing**

The application shall be submitted, accepted, revised, and may be withdrawn, in accordance with §2.4.3: *Application Submittal and Processing*.

**3. Staff Review**

The staff shall review the application and prepare a staff report and recommendation in accordance with §2.4.4: *Staff Review*.

**4. Scheduling and Notice of Public Hearings**

The application shall be scheduled for public hearings before the Planning and Zoning Commission and City Council and shall be noticed pursuant to §2.4.5: *Scheduling and Notice of Public Hearings*.

**5. Review and Decision**

The application shall be reviewed and decided upon by the City Council in accordance with §2.4.6: *Review and Decision*, with the following modifications:

**a. Planning and Zoning Commission Review and Recommendation**

The Planning and Zoning Commission shall review the application in accordance with the approval criteria in §2.5.1D: *Review Criteria* and shall forward its recommendation to the City Council.

**b. City Council Review and Decision**

The City Council may review and approve, approve with conditions, or deny the application in accordance with the approval criteria in §2.5.1D: *Review Criteria*, and in consideration of the following:

- i. Whether the request complies with all site specifications adopted by the City, including the base zoning district and/or the PD entitlements;
- ii. Whether the site, buildings, and use meet the criteria specified for the use in §---, *Use-Specific Standards*;
- iii. Whether the proposed use will be detrimental to the adjacent properties or to the City as a whole;
- iv. Whether the proposed uses are compatible in terms of scale (building massing, form, orientation, and location), intensity, and operating characteristics with uses and structures on adjacent properties and properties in the vicinity of the proposed application; and
- v. Whether potential impacts associated with such use are adequately mitigated through enhanced site or building design, including but not limited to additional landscaping, buffers, or screening, to minimize adverse impacts on surrounding uses and the City.

**6. Post-Decision Actions and Limitations<sup>101</sup>**

All common procedures in §2.4.7: *Post-Decision Actions and Limitations*, shall apply with the following modifications:

**a. Lapse of Permit**

If no building permit has been issued within one year of date of approval of the Special Use Permit, such permit shall lapse and construction shall not be permitted, nor use be established, until a new application for Special Use Permit is submitted and approved for the intended use.

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<sup>101</sup> From current Appendix A, Article XX, Sec. 1 and Article XIX, Sec. 10.

**b. Extension**

If the applicant requests an extension of the Special Use Permit in writing at least 60 days prior to the date of lapse to the City Council, the City Council shall consider such extension request, prior to the expiration date. For good cause shown, the permit may be extended for a period not to exceed one year.

**c. Effect**

Every Special Use Permit granted under the provisions of this article shall be considered as an amendment to the zoning ordinance as applicable to such property.

**d. Certificate of Occupancy**

In granting such permit the City Council may impose conditions that shall be complied with by the grantee before Certificate of Occupancy may be issued by the Building Official for the use of the buildings on such property pursuant to said Special Use Permit. Such conditions shall not be construed as conditions precedent to the granting of a Special Use Permit for the change in zoning of such property but shall be construed as conditions precedent to the granting of the Certificate of Occupancy.

**D. Review Criteria**

In reviewing a proposed Special Use Permit application, the review and decision-making body shall consider the general approval criteria in paragraph 2.4.6C: *General Approval Criteria*, and if the proposed Special Use Permit:

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

Adequate public service and facility capacity shall exist to accommodate uses permitted under the proposed development at the time the needs or demands arise, while maintaining adequate levels of service to existing development. Public services and facilities include, but are not limited to, streets, potable water, sewer, stormwater management infrastructure, schools, public safety, fire protection, parks, trails, open space, and recreation features, and vehicle/pedestrian connections and access within the site and to adjacent properties.

**2. Minimizes or Mitigates Adverse Impacts**

- a.** The proposed use and development shall not result in the excessive destruction, loss, or damage of any natural, scenic, or historic feature of significant importance, as determined by the Town.
- b.** The proposed development shall not cause significant adverse impacts on surrounding properties nor create a nuisance by reason of noise, smoke, odors, vibrations, or objectionable lights.
- c.** The hours of operation, outside lighting, and trash and waste collection shall not pose a hazard, hardship, or nuisance to the neighborhood.
- d.** The applicant shall make a good-faith effort to address concerns of the adjoining property owners in the immediate neighborhood as defined in the pre-submittal neighborhood meeting process for the specific use proposal.

## 2.5.2 Rezoning<sup>102</sup>

### A. Purpose

Under the provisions of Texas Local Government Code Chapter 211, the City Council is authorized to amend by ordinance the boundaries of the various zoning districts. The Rezoning procedure is intended to make amendments to the Official Zoning Map of the Town of Addison to reflect changes in public policy, changed conditions, or to advance the welfare of the Town. The purpose is neither to relieve particular hardships nor to confer special privileges or rights on any person.

### B. Applicability

1. A Rezoning may be approved by the City Council following review and recommendation by the Planning and Zoning Commission.
2. Rezonings should not be used when a Special Use Permit, or Minor Modification could be used to achieve a similar result.
3. Changes to the characteristics of zoning districts (such as setback requirements) and development standards (such as parking requirements) shall be processed as Zoning Text Amendments according to §2.5.4: *Zoning Text Amendment*.
4. A Rezoning to a Planned Development is a distinct type of amendment to the Official Zoning Map and shall follow the procedures in §2.5.3: *Rezoning to Planned Development*.

### C. Zoning Map Amendment Procedure

The process diagram below identifies the applicable steps from §2.4: *Common Review Procedures*, that apply to the review of zoning map amendment applications. Additions or modifications to the common review procedures are noted below.



#### 1. Pre-Application Activities

##### a. Pre-application conference

A pre-application conference is required in accordance with §2.4.2A: *Pre-Application Conference*.

##### b. Neighborhood Meeting

A neighborhood meeting is recommended in accordance with §2.4.2B: *Neighborhood Meeting*.

<sup>102</sup> Replaces current Article XXIX, Sec. 1 through Sec. 16.

**2. Application Submittal & Processing<sup>103</sup>**

The application shall be submitted, accepted, revised, and may be withdrawn, in accordance with §2.4.3: *Application Submittal and Processing*.

**3. Staff Review**

The staff shall review the application and prepare a staff report and recommendation in accordance with §2.4.4: *Staff Review*.

**4. Scheduling and Notice of Public Hearings**

The application shall be scheduled for public hearings before the Planning and Zoning Commission and City Council and shall be noticed pursuant to §2.4.5: *Scheduling and Notice of Public Hearings*, with the following modifications:

**5. Review and Decision**

The application shall be reviewed and decided upon by the Planning and Zoning Commission and City Council in accordance with §2.4.6: *Review and Decision*, with the following modifications:

**a. Planning and Zoning Commission Review and Recommendation**

The Planning and Zoning Commission shall review the application in accordance with the approval criteria in §2.5.2D and shall forward its recommendation to the City Council.

**b. City Council Review and Decision**

The City Council may review and approve, approve with conditions, or deny the application in accordance with the approval criteria in §2.5.2D.

**6. Post-Decision Actions and Limitations<sup>104</sup>**

All common procedures in §2.4.7: *Post-Decision Actions and Limitations*, shall apply, with the following modifications:

- a.** If a written protest against such proposed amendment has been filed pursuant to §2.4.5E, *Protest Procedures*, the amendment shall not become effective except by the favorable vote of six of the seven members of City Council.
- b.** Where there is not a written protest against such a proposed amendment, supplement or change, and the decision of the Planning and Zoning Commission is for denial, a three-fourths vote of all of the City Council shall be required to overrule the decision of the Planning and Zoning Commission.
- c.** Following approval of a Rezoning by City Council, the Director shall prepare a revision to the Official Zoning Map.

**D. Review Criteria<sup>105</sup>**

In reviewing a proposed zoning map amendment application, the review and decision-making body shall consider if the proposed zoning map amendment application:

- a.** Is consistent with the Comprehensive Plan and the purposes of this UDC;
- b.** Is consistent with the purpose statement of the proposed zoning district;
- c.** There have been significant changes in the area to warrant a zoning change;
- d.** The intensity of development in the new zoning district is not expected to create significantly adverse impacts to surrounding properties or the neighborhood; and

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<sup>103</sup> Did not carry forward the content of application requirements in current Article XXIX, Sec. 8. We recommend this material be relocated to an Administrative Manual outside of the UDC.

<sup>104</sup> Paragraphs (i) and (ii) are from current Article XXIX, Sec. 4. Replaced "governing body" with "City Council."

<sup>105</sup> New. For discussion purposes, these are review criteria we have drafted for other communities.

## **Article 2: Administration and Procedures**

### **2.5 Rezoning, Zoning Text, and Plan Amendment Procedures**

#### **2.5.2 Rezoning**

- e.** Public facilities and services are available to adequately serve the subject property while maintaining adequate level of service to existing development; and/or:
- f.** There was an error in establishing the current zoning.

### 2.5.3 Rezoning to Planned Development (PD)

**Commentary:**

This section replaces and collapses several stand-alone procedures related to the review of concept, preliminary, and final development plans in the current MXR district; UC district; Belt Line district; and general Planned Development (PD) procedures. As recommended in the Assessment Report, this draft formalizes a uniform two-step approach to establishing a PD district and corresponding PD plan and PD agreement, rather than having discrete processes for different areas of the Town. This refined procedure is intended to simplify and streamline an otherwise complicated PD review process. This draft also introduces clearer and more objective standards and approval criteria to help review and decision-making bodies evaluate the merits of a PD request.

The following are the sections from the existing ordinance that help provide the foundation for this new section but that are intended to be replaced by this new procedure:

**General PD procedure (Article XV).** Single-step process requiring a Rezoning and concurrent development plan approval subject to review and recommendation by the Planning and Zoning Commission and final approval by the City Council.

**MXR zoning district procedure (Article XVIII, Sec. 4).** Two-step process (Concept Plan approval and development plan approval). Both steps require Planning and Zoning Commission review and recommendation and City Council approval.

**UC zoning district procedure (Article XIX, Sec. 7; Sec. 8; and Sec. 9).** Three-step process (concept review (concurrent with Rezoning), preliminary development plan approval, and final development plan approval). All three steps require Planning and Zoning Commission review and recommendation and City Council approval.

**Belt Line zoning district process (Article XIX.A, Sec. VIII).** Two-step process (concept review (concurrent with Rezoning, making direct reference to the procedures for the UC district), and development plan approval). The concept review and Rezoning require Planning and Zoning Commission review and recommendation and final review by the City Council. This procedure differs from the MXR and UC district standards because the City Manager is authorized to approve development plans (after concept approval); however, if a major amendment is requested as part of the development then that triggers review and recommendation by the Planning and Zoning Commission and final approval by the City Council. This procedure includes a two-tiered approach to waivers of development standards – minor and major. The City Manager is authorized to approve minor waivers, while major waivers require a public hearing before the Planning and Zoning Commission and City Council.

**A. Purpose**

The Rezoning to Planned Development (PD) procedure is intended to achieve greater flexibility than allowed by the strict application of this UDC, and to encourage unique or innovative land use concepts, while providing greater benefit to the Town and to ensure efficient provision of services and utilities. The Rezoning to PD procedure shall not be used when a Special Use Permit, Variance, Minor Modification, or Rezoning to an existing base zoning district could achieve a similar result.

**B. Applicability**

1. This procedure applies to new PD proposals, and to any proposed amendment to an existing PD that would affect either the text of the PD district ordinance or the general layout of any element of the preliminary PD plan, and that does not contain its own amendment procedures or qualify for approval pursuant to §2.10.3: *Minor Modification* 2.10.2.
2. Any property owner in a zoning district other than the M-4 or M-5 zoning district<sup>106</sup> may propose a PD zoning district in accordance with these procedures.

<sup>106</sup> The M-4 and M-5 zoning districts are called out here to be consistent with the standards drafted in Part 1 (2.7.2B) prohibiting the establishment of a PD in the M-4 and M-5 districts.

- 3. A parcel proposed for a PD is not required to be under single ownership. However, if not under single ownership, the multiple owners shall all consent to the development of their individual properties consistent with the requirements of the proposed PD district ordinance. Any transfer of land within the development resulting in ownership within the development by two or more parties after an application has been filed shall not alter the applicability of the regulations contained in this UDC.
- 4. All applications that involve subdivision of a lot or parcel shall also be subject to the platting procedures in §2.9: *Platting Procedures*.

**C. Overview of Two-Step PD Process**

Evaluation and approval of an application for Rezoning to PD shall occur in two phases, each of which is further detailed in the sections that follow.

**1. Preliminary PD Concept Plan**

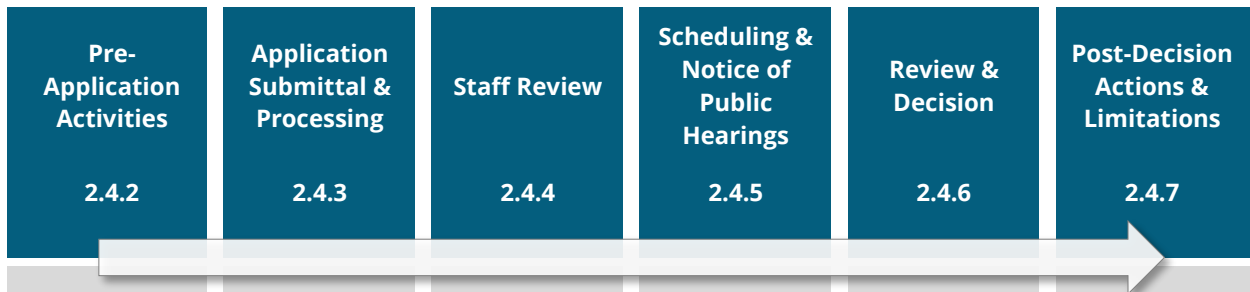
- a. The purpose of the Preliminary PD Concept Plan is to allow the applicant, the Town, and the public to evaluate and discuss basic concepts of the proposed PD and to consider whether the development of the property as a PD will result in a significant improvement over its development within a base zoning district.
- b. The review and consideration of the preliminary PD plan provides the opportunity to discuss and evaluate conceptual issues such as the appropriate number and types of residential units and commercial area; the types of uses and dimensional standards; the development standards applicable to the site; the general locations intended to be developed; and the initial planning for delivery of utilities and infrastructure and whether they will be provided on-site and/or connected to public systems.
- c. The outcome of the Preliminary PD Concept Plan review shall be an identification of issues and concerns that the applicant shall address to receive approval for a Final PD Site Plan from the Town.

**2. Final PD Site Plan**

The purpose of the Final PD Site Plan is for the applicant to respond to the issues raised during the review of the Preliminary PD Concept Plan and to prepare detailed engineering solutions to those issues and concerns that conform to the approved Preliminary PD Concept Plan.

**D. Preliminary Planned Development (PD) Procedure**

The process diagram below identifies the applicable steps from §2.4: *Common Review Procedures*, that apply to the review of preliminary PD applications. Additions or modifications to the common review procedures are noted below.





**Article 2: Administration and Procedures**

2.5 Rezoning, Zoning Text, and Plan Amendment Procedures

2.5.3 Rezoning to Planned Development (PD)

Pre-Application Activities	Application Submittal & Processing	Staff Review	Scheduling & Notice of Public Hearings	Review & Decision	Post-Decision Actions & Limitations
Required, see text below	Submit to Director	Review by Director	Public hearings required Planning and Zoning Commission and City Council	Review by Planning and Zoning Commission decision by City Council	City Council action is final

**1. Pre-Application Activities**

**a. Pre-Application Conference**

A pre-application conference is required in accordance with §2.4.2A: *Pre-Application Conference*.

**b. Neighborhood Meeting**

A neighborhood meeting is recommended in accordance with §2.4.2B: *Neighborhood Meeting*.

**2. Application Submittal & Processing<sup>107</sup>**

The application shall be submitted, accepted, revised, and may be withdrawn, in accordance with §2.4.3: *Application Submittal and Processing*, with the following modifications:

**a.** The Preliminary PD Concept Plan submittal requirements are identified in the Administrative Manual. At a minimum, the Preliminary PD Concept Plan shall indicate the following:

- i.** Analysis as to why other flexibility and relief procedures in this UDC are not sufficient to accommodate the proposed development.
- ii.** For the proposed development, the following characteristics, as applicable:
  - a.** Description of the existing conditions of the site;
  - b.** Statement of consistency with the Comprehensive Plan;
  - c.** General site characteristics including but not limited to topography, utility corridors/easements, drainage patterns, significant natural features, or other details deemed necessary by the Director;
  - d.** Proposed land uses, including the approximate number and type of residential units and the approximate square footage and type of nonresidential uses;
  - e.** Floor area of proposed buildings;
  - f.** General site planning layout, including vehicular and pedestrian access, open space, landscape area, and streetscape;
  - g.** Preliminary façade plans such as conceptual renderings and/or precedent imagery, as determined by the Town;
  - h.** Proposed public improvements;
  - i.** Proposed deviations from this UDC; and
  - j.** Proposed phasing schedule, if applicable.

<sup>107</sup> We did not carry forward the detailed application submittal requirements listed in Article XIX, Sec. 8(B); Article XV, Sec. 5(2); or Article XIX, Sec. 7(B)(1). We recommend this list be relocated to and Administrative Manual outside of the UDC to allow for streamlined updates.

**b. PD Agreement**

- i. A PD agreement that specifies the terms and conditions defining the development parameters and provides for management and maintenance of development.
- ii. The agreement shall establish the responsibility of the developer to design and construct or install required and proposed on- and off-site public facilities in compliance with applicable Town, state, and federal regulations. This shall include the responsibility to dedicate to the public the rights-of-way and easements necessary for the construction and installation of such improvements.

**c. Phasing Plan**

If development in the proposed PD is proposed to be phased, the Preliminary PD Concept Plan and agreement shall include a development phasing plan that includes the general sequence and timing of development, including types and number of units and the timing of infrastructure and public improvements.

**3. Staff Review**

The staff shall review the application and prepare a staff report and recommendation in accordance with §2.4.4: *Staff Review*.

**4. Scheduling and Notice of Public Hearings**

The application shall be scheduled for public hearings before the Planning and Zoning Commission and City Council and shall be noticed pursuant to §2.4.5: *Scheduling and Notice of Public Hearings*.

**5. Review and Decision**

The application shall be reviewed and decided upon by the City Council in accordance with §2.4.6: *Review and Decision*, with the following modifications:

**a. Planning and Zoning Commission Review and Recommendation**

The Planning and Zoning Commission shall review the application in accordance with the approval criteria in §2.5.3F: *Review Criteria* and shall forward its recommendation to the City Council.

**b. City Council Review and Decision**

The City Council may review and approve, approve with conditions, or deny the application in accordance with the approval criteria in §2.5.3F: *Review Criteria*.

**6. Post-Decision Actions and Limitations**

All common procedures in §2.4.7: *Post-Decision Actions and Limitations*, shall apply, with the following modifications:

**a. Expiration of Approval<sup>108</sup>**

- i. If a Final PD Site Plan has not been submitted within two years following approval of the Preliminary PD Concept Plan and PD agreement, the preliminary PD concept plan approval shall expire unless the property owner requests an extension prior to the expiration of the two-year period.
- ii. The Planning and Zoning Commission and City Council have the option to extend these time periods upon written request prior to the expiration. The burden is on the applicant to present evidence showing:<sup>109</sup>
  - a. Failure to proceed with development of the Final PD Site Plan was beyond the applicant's control;

<sup>108</sup> Current Belt Line district standards.

<sup>109</sup> New. The proposed criteria to evaluate requests for time extensions is more objective.

- b. The development complies with this UDC and the Comprehensive Plan; and
- c. There is a reasonable likelihood that the next step in the development application will be submitted in the next calendar year.

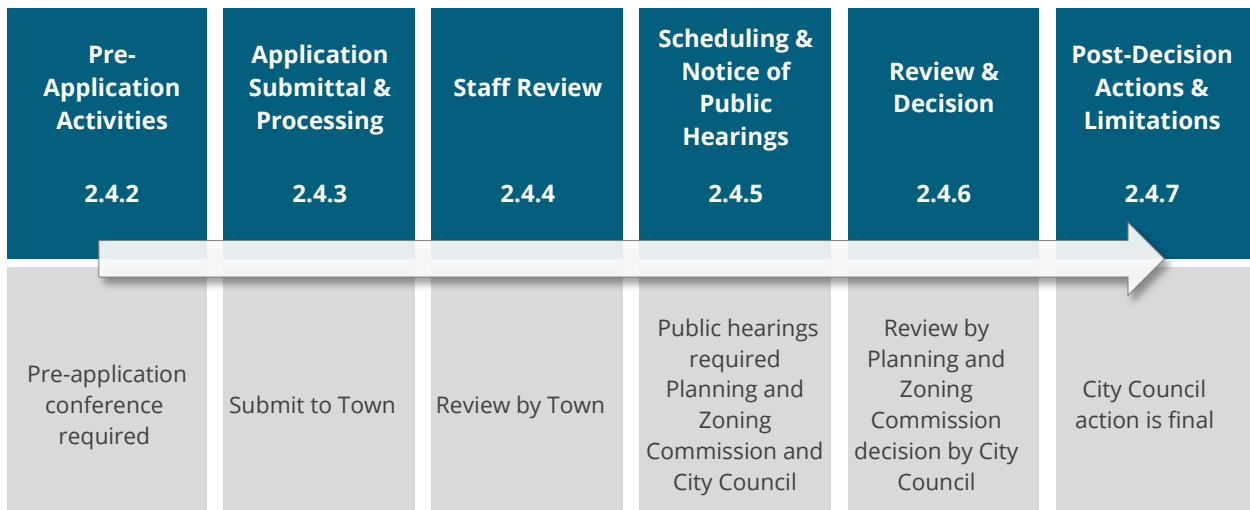
iii. Permitted time frames do not change with successive owners.

**b. Effect of Approval**

Approval of a Preliminary PD Concept Plan shall be deemed to authorize the applicant to submit to the Town an application for a Final PD Site Plan pursuant to the procedure below. It shall not constitute final approval for the PD. Preliminary PD concept plan approval vests no development rights.

**E. Final Planned Development (PD) Procedure**

The process diagram below identifies the applicable steps from §2.4: *Common Review Procedures*, that apply to the review of final PD applications. Additions or modifications to the common review procedures are noted below.



**1. Pre-Application Activities**

A pre-application conference is required in accordance with §2.4.2A: *Pre-Application Conference*.

**2. Application Submittal & Processing**

The application shall be submitted, accepted, revised, and may be withdrawn, in accordance with §2.4.3: *Application Submittal and Processing*, with the following modifications:

**a. Plan Requirements<sup>110</sup>**

The Final PD Site Plan submittal requirements are identified in the Administrative Manual. The Final PD Site Plan shall at a minimum include the following:

- i. The location of individual development areas, identified by land use and development density and intensity;
- ii. The land area, use types, and number of units by type;
- iii. The location, amount, and type of common open space, parks, and recreation areas;

<sup>110</sup> We did not carry forward the detailed list of plan submittal contents in current MXR Article XVIII, Sec. 4(Q) or UC Article XIX, Sec. 9(B), we recommend this material be relocated to an Administrative Manual outside of the UDC to allow for more streamlined updates.

- iv. The location of landscaping and installation plans;
- v. The location of environmentally sensitive lands, wildlife habitat, areas of visual impact, and waterways;
- vi. Tree inventory and tree preservation plan;
- vii. On-site circulation system, including the location of all public and/or private streets, drive aisles and fire lanes, existing transportation corridors, and pedestrian and bicycle paths and how they connect to existing and planned systems;
- viii. Final façade plans including colored elevations for each façade of all buildings proposed;
- ix. The location of water and wastewater facilities and how they will connect to existing and planned systems;
- x. The location of on-site storm drainage facilities and how they will connect to existing and planned systems;
- xi. The location of all other public facilities serving the development;
- xii. Provisions addressing how on- and off-site transportation, water, wastewater, stormwater management, and other public facilities will be provided to accommodate the proposed development;
- xiii. Any other provisions the Planning and Zoning Commission determine relevant and necessary regarding the development of the PD in accordance with applicable standards and regulations.

**b. Public Benefit**

An analysis of how the proposed PD addresses a demonstrated community need or otherwise results in one or more benefits that offset the impacts of the requested flexibility from the requirements of this UDC.

**c. Conformance with the Preliminary PD Concept Plan and Agreement<sup>111</sup>**

The Final PD Site Plan shall conform to the approved Preliminary PD Concept Plan and agreement and any associated conditions of approval. If the Final PD Site Plan includes any of the following modifications from the Preliminary PD Concept Plan, then the application shall not be approved and a new application for a Preliminary PD Concept Plan shall be required.

- i. A reduction by greater than five percent of the open space proposed;
- ii. An increase by greater than 10 percent in the proposed commercial floor area;
- iii. An increase by greater than five percent of the approved number of residential dwelling units;  
or
- iv. Any change that is substantially inconsistent with a condition of the preliminary PD plan approval.

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<sup>111</sup> These criteria replace those found in current Article XIX, Sec. 12 that define a “minor amendment” to a development plan: “Minor amendments are those changes of detail which do not alter the basic relationship of the proposed development to adjacent property; which do not alter the uses permitted, or increase residential density by more than five percent; which do not change the minimum number of units necessary to satisfy minimum residential standards for the residential subdistrict; which do not decrease off-street parking ratios, or open space requirements; which do not significantly alter the architecture, or landscape, as indicated by the approved development plan; and which do not alter special conditions attached by the Planning and Zoning Commission, or city council, to the approved Concept Plan or development plan.” This also replaces the amendment and “minor” and “major” waiver standards in the current Belt Line standards found in Article XIX.A, Sec. III(C) and Article XIX.A, Sec. VIII(E). These revised criteria are for discussion purposes and may be revised in future drafts following discussion with staff and stakeholders.

**3. Staff Review**

The staff shall review the application and prepare a staff report and recommendation in accordance with §2.4.4: *Staff Review*.

**4. Scheduling and Notice of Public Hearings**

The application shall be scheduled for public hearings before the Planning and Zoning Commission and City Council and shall be noticed pursuant to §2.4.5: *Scheduling and Notice of Public Hearings*.

**5. Review and Decision**

The application shall be reviewed and decided upon by the City Council in accordance with §2.4.6: *Review and Decision*, with the following modifications:

**a. Planning and Zoning Commission Review and Recommendation**

After receipt of the staff report, the Planning and Zoning Commission shall conduct a public hearing on the application for the Final PD Site Plan. The Planning and Zoning Commission shall recommend to the City Council to approve, approve with conditions, or deny the application for a Final PD Site Plan based on the criteria in §2.5.3F: *Review Criteria* and whether it conforms to the approved Preliminary PD Concept Plan.

**b. City Council Review and Decision**

After receipt of a recommendation from the Planning and Zoning Commission, the City Council shall conduct a public hearing on the application for the final PD plan and PD agreement. The City Council shall approve, approve with conditions, or deny the application for a final PD plan and agreement based on the criteria in §2.5.3F: *Review Criteria* and whether it conforms to the approved preliminary PD plan.

**6. Post-Decision Actions and Limitations**

All common procedures in §2.4.7: *Post-Decision Actions and Limitations*, shall apply, with the following modifications:

**a. Map Revision**

Following approval of a Rezoning to PD, the Director shall prepare an appropriate revision to the Official Zoning Map.

**b. Effect of Approval<sup>112</sup>**

Review of a Final PD Site Plan may be conducted simultaneously with Preliminary Platting review pursuant to §2.9: *Platting Procedures*, if applicable. Platting requirements otherwise applicable to the development may be waived by the City Council where it finds that such waiver is not in conflict with zoning district standards and regulations and the approved Preliminary PD Concept Plan.

**c. Binding Approval**

An approved Final PD Site Plan shall be binding upon the petitioner, their successors and assigns, and shall limit and control the issuance and validity of all certificates of zoning compliance.

**d. Expiration of Approval<sup>113</sup>**

i. If a building permit has not been obtained within two years following approval of the Final PD Site Plan, the Final PD Site Plan shall expire unless the property owner requests an extension prior to the expiration of the two-year period.

<sup>112</sup> From current Article XVIII, Sec. 4 (S).

<sup>113</sup> Replaces current Article XVIII, Sec. 4(T); and Article XIX, Sec. 13.

## Article 2: Administration and Procedures

### 2.5 Rezoning, Zoning Text, and Plan Amendment Procedures

#### 2.5.3 Rezoning to Planned Development (PD)

- ii. If the Final PD Site Plan consists of more than a single use, the property owner must make substantial progress in obtaining building permits for the remainder of the uses authorized by the Final PD Site Plan, in accordance with an adopted phasing plan. The Planning and Zoning Commission or the City Council may initiate review of the development in order to determine whether significant progress is being made. In the event that the City Council determines that significant progress is not being made, following notice and a public hearing, the City Council may terminate the PD plan and PD agreement or may attach additional conditions to the extension of the PD plan or PD agreement.
- iii. The Planning and Zoning Commission and City Council have the option to extend these time periods upon written request prior to the expiration. The burden is on the applicant to present evidence showing :<sup>114</sup>
  - a. Failure to proceed with development of the PD plan was beyond the applicant's control;
  - b. The development complies with this UDC and the Comprehensive Plan; and
  - c. There is a reasonable likelihood that the next step in the development application will be submitted within the next calendar year.
- iv. Permitted time frames do not change with successive owners.

#### e. Reversion to Previous Zoning

If a Final PD Site Plan expires, the Director may initiate a Rezoning process to consider a reversion to the prior zoning designation.

#### f. Relationship to Code

Except as expressly provided otherwise in a Final PD Site Plan, all development of property within the PD district shall conform to all other standards of this UDC. If the approved Final PD Site Plan falls silent concerning a requirement but this UDC does not, the UDC shall be the controlling document. If the Final PD Site Plan conflicts with this UDC, the Final PD Site Plan shall control.

#### g. Amendments to Preliminary Concept and Final Planned Development Site Plan<sup>115</sup>

##### i. Generally

- a. The applicant or its successors may request amendments to the Preliminary PD Concept Plan and agreement or the Final PD Site Plan.
- b. Amendments to the approved Preliminary PD Concept Plan or Final PD Site Plan shall be delineated as major or minor amendments, according to the criteria set forth in this subsection.
- c. Amendments to the approved Preliminary PD Concept Plan or Final PD Site Plan will not affect development units not included in the proposed amendment.
- d. Upon receipt of a PD amendment application, the Director shall determine if the proposed amendment constitutes a major or minor amendment subject to the criteria in Sii and iii below.

##### ii. Major Amendments

- a. An amendment will be deemed major if it involves any one of the following:
  - i. A change in the overall PD district boundary;
  - ii. A significant change to the approximate boundary of one or more development unit(s) from that approved in the PD district, as determined by the Director. A change to an individual development unit generally shall be deemed to be

<sup>114</sup> New. The proposed criteria to evaluate requests for time extensions is more objective.

<sup>115</sup> New provisions specifying the amount of minor changes that can be made to a final PD plan without requiring a new Rezoning request.

- significant if it represents a 10 percent increase to the approximate gross area of the development unit as approved in the PD district;
- iii. An increase of five percent or more of the approved number of projected dwelling units or 10 percent of the gross leasable area (GLA) for an individual development unit;
  - iv. Any change in land use or density that is likely to substantially impact or burden public facilities and utilities infrastructure as determined by the Director;
  - v. Any change in land use or density that is likely to substantially impact or burden mobility adjacent to the PD district or to the overall major street system;
  - vi. Any other proposed change to the Preliminary PD Concept Plan or Final PD Site Plan, which substantively alters one or more components of the PD district.
- b. If the Director determines the amendment to be major, the amendment request shall be processed under the Rezoning procedure described in this subsection.

**iii. Minor Amendments**

Amendments not meeting one or more of the criteria listed above for major amendments shall be considered minor. If the Director determines the amendment to be minor, the Director may administratively act on the amendment and attach stipulations or conditions of approval thereto, to protect the public health, safety, and welfare.

**F. Review Criteria<sup>116</sup>**

Amending the Official Zoning Map to approve a PD is a matter committed to the legislative discretion of the City Council. In deciding the application, the Planning and Zoning Commission in their review and recommendation, and the City Council in their decision shall consider whether and the extent to which the proposed PD meets the general approval criteria for Rezoning in §2.5.2D, and also the following:

- 1. Whether the proposed PD plan:
  - a. Addresses a unique situation;
  - b. Provides benefit to the Town;
  - c. Incorporates innovative design, layout, or configuration resulting in enhanced development feasibility and quality over what could have been accomplished through strict application of a base zoning district or other standards of this UDC. The improvements in quality may include, but are not limited to:
    - i. Improvements in open space provision and access;
    - ii. Enhanced landscape;
    - iii. Environmental protection;
    - iv. Tree/vegetation preservation;
    - v. Creation of multiple-use projects including residential, commercial, and social amenities;
    - vi. Efficient provision of streets, utilities, and public services; or
    - vii. Increased diversity of housing options and neighborhood typologies;
- 2. Whether the proposed PD plan meets the other standards of this UDC not expressly modified by the PD plan or development agreement; and

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<sup>116</sup> New approval criteria for PDs used to directly evaluate each proposal.

3. The applicant's proposal is impracticable to achieve within one of the Town's residential, mixed-use, or nonresidential base zoning districts in accordance with Article ---<sup>117</sup>, but is consistent with the above criteria.

### 2.5.4 Zoning Text Amendment<sup>118</sup>

#### A. Purpose

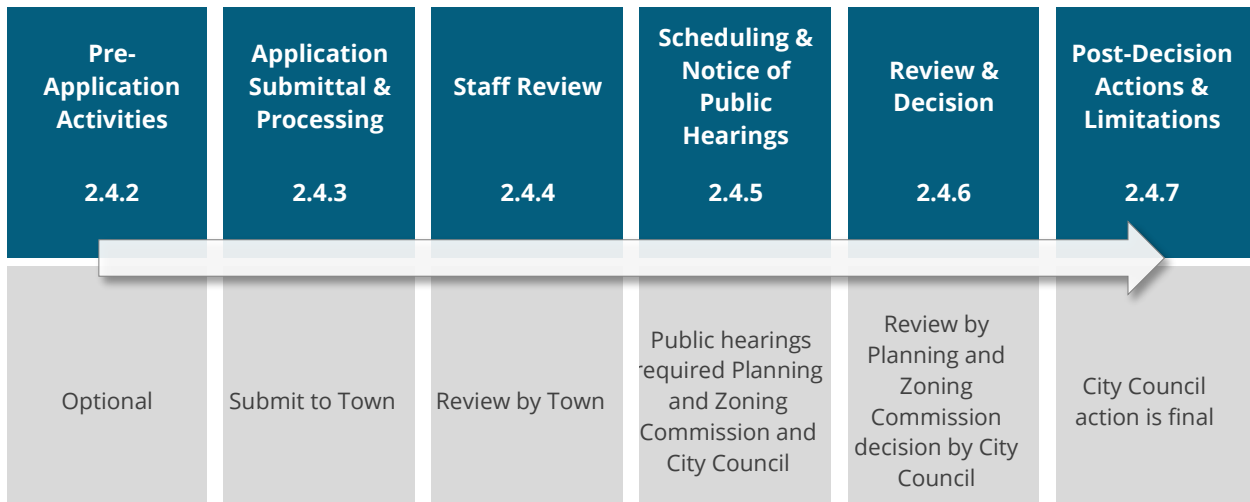
Under the provisions of Texas Local Government Code Chapter 211, the City Council is authorized to amend, change, or supplement by ordinance the text of the UDC. The Zoning Text Amendment procedure is intended to provide a method for changing the text of this UDC.

#### B. Applicability

The provisions of this UDC may periodically be amended or repealed.

#### C. Zoning Text Amendment Procedure

The process diagram below identifies the applicable steps from §2.4: *Common Review Procedures*, that apply to the review of Zoning Text Amendment applications. Additions or modifications to the common review procedures are noted below.



#### 1. Application Submittal & Processing

The application shall be submitted, accepted, revised, and may be withdrawn, in accordance with §2.4.3: *Application Submittal and Processing*, with the following modifications:

- a. A Zoning Text Amendment application shall be prepared by the Director. If the Zoning Text Amendment is initiated by the Planning and Zoning Commission or City Council, the Director shall prepare the application at the request of the Planning and Zoning Commission or City Council.

#### 2. Staff Review

The staff shall review the application and prepare a staff report and recommendation in accordance with §2.4.4: *Staff Review*.

<sup>117</sup> Link to Article 2: *Zoning Districts* to be added in Consolidated Draft.

<sup>118</sup> New. This procedure formalizes the process by which amendments to the text of this UDC can be made.



**3. Scheduling and Notice of Public Hearings**

The application shall be scheduled for public hearings before the Planning and Zoning Commission and City Council and shall be noticed pursuant to §2.4.5: *Scheduling and Notice of Public Hearings*.

**4. Review and Decision**

The application shall be reviewed and decided upon by the City Council in accordance with §2.4.6: *Review and Decision*, with the following modifications:

**a. Planning and Zoning Commission Review and Recommendation**

The Planning and Zoning Commission shall review the application in accordance with the approval criteria in §2.5.4D: *Review Criteria* and shall forward its recommendation to the City Council.

**b. City Council Review and Decision**

The City Council may review and approve, approve with conditions, or deny the application in accordance with the approval criteria in §2.5.4D: *Review Criteria*.

**5. Post-Decision Actions and Limitations**

All common procedures in §2.4.7: *Post-Decision Actions and Limitations*, shall apply, with the following modifications:

- a. Approval of a Zoning Text Amendment authorizes the approved revision to the text of this UDC only. A Zoning Text Amendment shall not authorize specific development activity.
- b. A Zoning Text Amendment shall remain valid until the revised text of this UDC is subsequently amended in accordance with this §2.5.4: *Zoning Text Amendment*.

**D. Review Criteria**

In reviewing a proposed Zoning Text Amendment application, the review and decision-making body shall consider if the proposed Zoning Text Amendment:

- 1. Is consistent with the Comprehensive Plan, other adopted plans, and other Town policies;
- 2. Does not conflict with other provisions of this UDC or other provisions in the Addison Code of Ordinances;
- 3. Is necessary to address a demonstrated community need;
- 4. Is necessary to address state law;
- 5. Is necessary to respond to changes in conditions and/or policy;
- 6. Is necessary to correct an omission or error in this UDC; and/or
- 7. Is consistent with the general purpose and intent of this UDC.

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**2.5.5 Comprehensive Plan Amendment<sup>119</sup>**

**A. Purpose**

The Comprehensive Plan Amendment procedure is intended to provide a mechanism for the Town to amend the text and or maps of the Comprehensive Plan or for adoption of a new Comprehensive Plan. The amendment process is established to provide flexibility in response to changing circumstances and to reflect changes in public policy, and to advance the general welfare of the Town.

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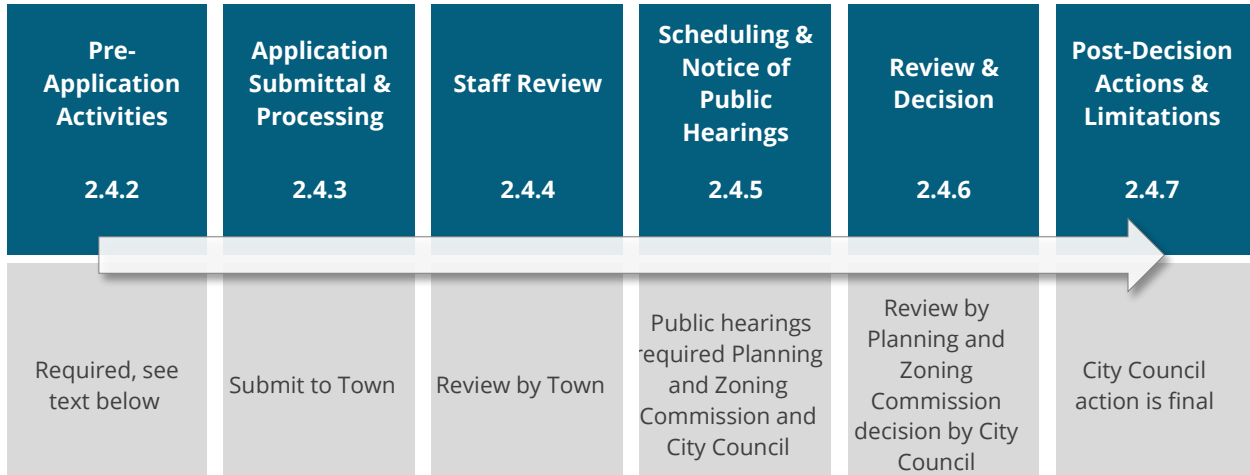
<sup>119</sup> New. While the Town has a Comprehensive Plan, there is not an established procedure in the current Code of Ordinances for processing amendments. It is intended more for targeted amendments to the plan, as opposed to wholesale plan revisions.

**B. Applicability**

An amendment to the Comprehensive Plan may be initiated by the City Council, the Planning and Zoning Commission, the Director, or the property owner(s) with an application executed by all property owners, or their authorized agents.

**C. Comprehensive Plan Amendment Procedure**

The process diagram below identifies the applicable steps from §2.4: *Common Review Procedures*, that apply to the review of Comprehensive Plan Amendment applications. Additions or modifications to the common review procedures are noted below.



**1. Pre-Application Activities**

**a. Pre-application Conference**

A pre-application conference is required in accordance with §2.4.2A: *Pre-Application Conference*.

**b. Neighborhood Meeting**

A neighborhood meeting is recommended in accordance with §2.4.2B: *Neighborhood Meeting*.

**2. Application Submittal & Processing**

The application shall be submitted, accepted, revised, and may be withdrawn, in accordance with §2.4.3: *Application Submittal and Processing*.

**3. Staff Review**

The staff shall review the application and prepare a staff report and recommendation in accordance with §2.4.4: *Staff Review*.

**4. Scheduling and Notice of Public Hearings**

The application shall be scheduled for public hearings before the Planning and Zoning Commission and City Council and shall be noticed pursuant to §2.4.5: *Scheduling and Notice of Public Hearings*, with the following modifications.

**5. Review and Decision**

The application shall be reviewed and decided upon by the City Council in accordance with §2.4.6: *Review and Decision*, with the following modifications:

**a. Planning and Zoning Commission Review and Recommendation**

The Planning and Zoning Commission shall review the application in accordance with the approval criteria in §2.5.5D, and shall forward its recommendation to the City Council.

**b. City Council Review and Decision**

The City Council may review and approve, approve with conditions, or deny the application in accordance with the approval criteria in §2.5.5D.

**6. Post-Decision Actions and Limitations**

The City Council decision is a final action and may not be appealed.

**D. Review Criteria<sup>120</sup>**

In reviewing a proposed Comprehensive Plan Amendment application, the review and decision-making body shall consider if:

1. There was an error in the original Comprehensive Plan adoption;
2. Events, trends, or facts after adoption of the Comprehensive Plan have changed the City Council's original findings made upon plan adoption; and/or
3. Events, trends, or facts after adoption of the Comprehensive Plan have changed the character or condition of an area so as to make the proposed amendment necessary.
4. The amendment is not in conflict with any portion of the goals and policies of the plan.
5. The amendment constitutes a substantial benefit to the Town and is not solely for the good or benefit of a particular landowner or owners at a particular point in time.
6. The proposed amendment and other amendments in the general area are compatible with the land use goals of the plan and that they avoid creation of isolated uses that will cause incompatible community form and a burden on public services and facilities.

---

**2.5.6 Annexation**

**A. Procedure**

Annexation into the Town of Addison may occur in accordance with the procedures in Texas Local Government Code (TLGC), Chapter 43 and §212.172; §1.04 of the Town's Charter; and other applicable Town ordinances.<sup>121</sup>

**B. Concurrent Zoning<sup>122</sup>**

In the event that the Planning and Zoning Commission holds a hearing on proposed Annexation, it may, at its discretion, at the same time hold a hearing upon the permanent zoning that is to be given to the area or tract to be annexed, and make a recommendation on both matters to the city council so that the city council can, if it desires, act on the matter of permanent zoning and Annexation at the same time.

**C. Newly Annexed Territory<sup>123</sup>**

All territory annexed to the Town hereafter shall be temporarily classified for R-1 single-family dwelling purposes only until permanently zoned by the governing body of the Town. The Planning and Zoning Commission shall, as soon as practicable after Annexation of any of the territory to the town, institute proceedings on its own motion to give the newly annexed territory a permanent zoning, and the procedure to be followed shall be the same as is provided by law for the adoption of original zoning regulations.

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<sup>120</sup> New. These are review criteria we have drafted for other communities.

<sup>121</sup> New.

<sup>122</sup> Replaces Appendix A, Article XXV, Sec. 3.

<sup>123</sup> Replaces Appendix A, Article II, Sec. 1.



## 2.6 Site Planning and Miscellaneous Permits

### 2.6.1 Concept Plan<sup>124</sup>

#### A. Purpose

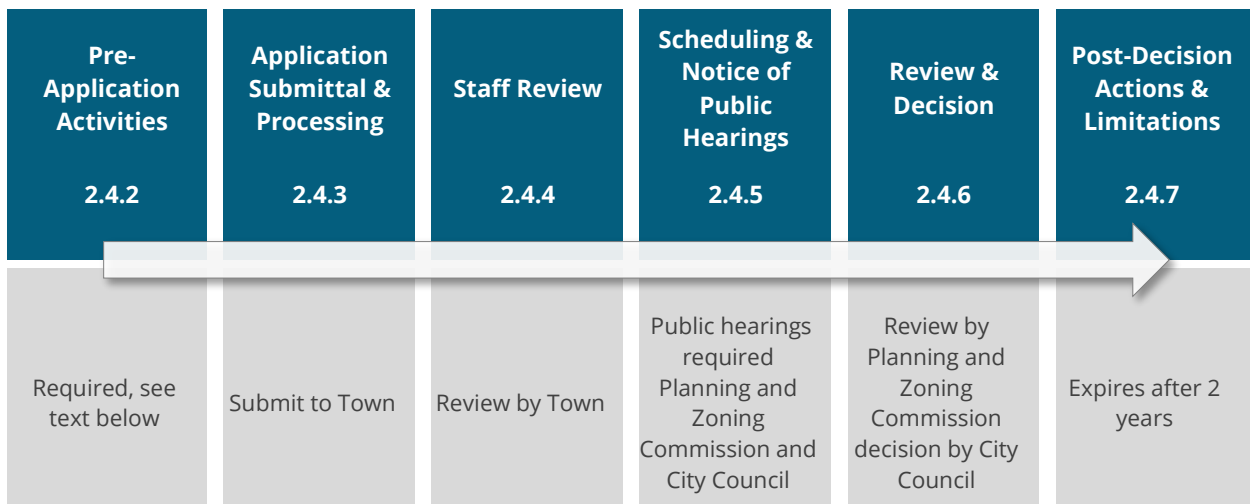
The Concept Plan review procedure is intended to provide a mechanism for review of large and/or complex or phased projects as well as to provide an option to assist any applicant for development in determining the general feasibility of land. A Concept Plan may be submitted either in conjunction with an application for Rezoning or as a precursor to the preparation and submittal of the more specific and detailed plans required for platting of land, major Site Plan, or Special Use Permit approvals.

#### B. Applicability<sup>125</sup>

1. A Concept Plan shall be required for any application that meets either of the following criteria:
  - a. The application proposes to phase initiation of the development over three or more years; or
  - b. The Director determines that the application is unusually complex or raises potentially unique or serious impacts on the town or the surrounding areas.
2. A Concept Plan is optional for any other platting of land, major Site Plan, or Special Use Permit application.

#### C. Concept Plan for Rezoning Procedure

The process diagram below identifies the applicable steps from §2.4: *Common Review Procedures*, that apply to the review of Concept Plan applications submitted in conjunction with a request for Rezoning. Additions or modifications to the common review procedures are noted below.



#### 1. Pre-Application Activities

##### a. Pre-Application Conference

A pre-application conference is required in accordance with §2.4.2A: *Pre-Application Conference*.

##### b. Neighborhood Meeting

A neighborhood meeting is recommended in accordance with §2.4.2B: *Neighborhood Meeting*.

<sup>124</sup> New.

<sup>125</sup> The proposed limitations are a starting point for discussion and may be further refined in the Consolidated Draft.

**2. Application Submittal & Processing**

The application shall be submitted, accepted, revised, and may be withdrawn, in accordance with §2.4.3: *Application Submittal and Processing*, with the following modifications:

- a. The Concept Plan must contain a general site layout plan that includes the following:<sup>126</sup>
  - i. Overall property boundary;
  - ii. Proposed and existing thoroughfares, boulevards and large streets;
  - iii. A time schedule of development;
  - iv. Identification of development areas such as districts, blocks or parcels, with proposed phasing; and
  - v. All other features necessary to show the arrangement and pattern of public and private land uses.

**3. Staff Review**

The staff shall review the application and prepare a staff report and recommendation in accordance with §2.4.4: *Staff Review*.

**4. Scheduling and Notice of Public Hearings**

The application shall be scheduled for public hearings before the Planning and Zoning Commission and shall be noticed pursuant to §2.4.5: *Scheduling and Notice of Public Hearings*.

**5. Review and Decision**

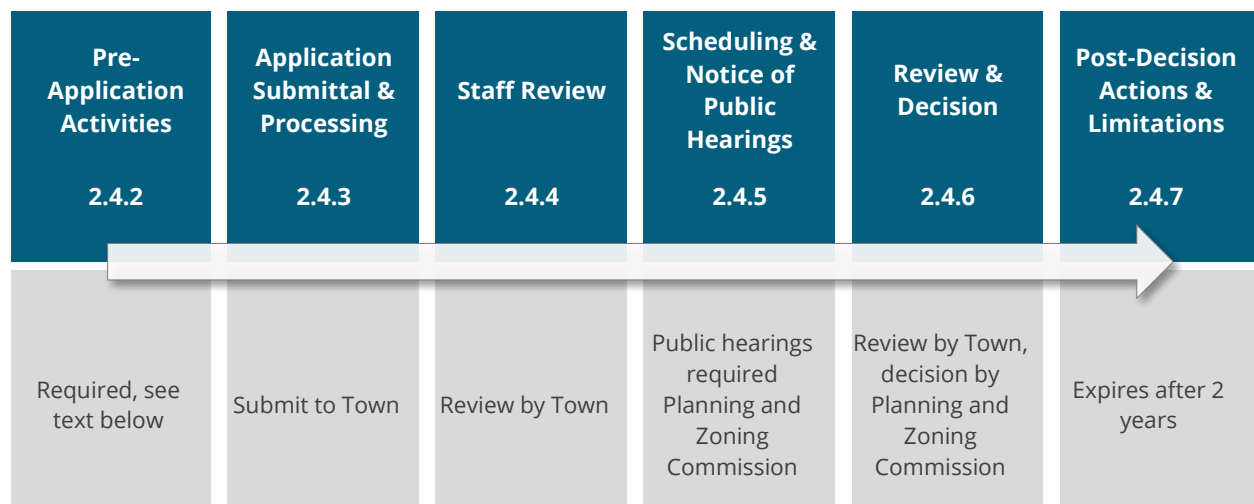
The application shall be reviewed and decided upon by the Planning and Zoning Commission in accordance with §2.4.6: *Review and Decision*, and the approval criteria in §2.6.2F: *Review Criteria*.

**6. Post-Decision Actions and Limitations**

All common procedures in §2.4.7: *Post-Decision Actions and Limitations*, shall apply.

**D. All Other Concept Plans Procedure**

The process diagram below identifies the applicable steps from §2.4: *Common Review Procedures*, that apply to the review of Concept Plan applications that are not associated with requests for Rezoning. Additions or modifications to the common review procedures are noted below.



<sup>126</sup> Based on Sec. 4, Article XVIII (Concept Plans in the MXR residential district).

**1. Pre-Application Activities**

**a. Pre-Application Conference**

A pre-application conference is required in accordance with §2.4.2A: *Pre-Application Conference*.

**b. Neighborhood Meeting**

A neighborhood meeting is recommended in accordance with §2.4.2B: *Neighborhood Meeting*.

**2. Application Submittal & Processing**

The application shall be submitted, accepted, revised, and may be withdrawn, in accordance with §2.4.3: *Application Submittal and Processing*, with the following modifications:

- a. The Concept Plan must contain a general site layout plan that includes the following:<sup>127</sup>
  - i. Overall property boundary;
  - ii. Proposed and existing thoroughfares, boulevards and large streets;
  - iii. A time schedule of development;
  - iv. Identification of development areas such as districts, blocks or parcels, with proposed phasing; and
  - v. All other features necessary to show the arrangement and pattern of public and private land uses.

**3. Staff Review**

The staff shall review the application and prepare a staff report and recommendation in accordance with §2.4.4: *Staff Review*.

**4. Scheduling and Notice of Public Hearings**

The application shall be scheduled for public hearings before the Planning and Zoning Commission and shall be noticed pursuant to §2.4.5: *Scheduling and Notice of Public Hearings*.

**5. Review and Decision**

The application shall be reviewed and decided upon by the Planning and Zoning Commission in accordance with §2.4.6: *Review and Decision*, and the approval criteria in §2.6.2F: *Review Criteria*.

**6. Post-Decision Actions and Limitations**

All common procedures in §2.4.7: *Post-Decision Actions and Limitations*, shall apply.

**E. Review Criteria**

In reviewing a proposed Site Plan application, the review and decision-making body shall consider the general approval criteria in §2.4.6C: *General Approval Criteria*.

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<sup>127</sup> Based on Sec. 4, Article XVIII (Concept Plans in the MXR residential district).

## 2.6.2 Site Plan Review<sup>128</sup>

### Commentary:

While Addison currently requires Site Plan review for development permits, there are no clear processes established in the development regulations outlining that procedure (though there is a “preliminary Site Plan” application on the website). Other revisions to the UDC are intended to reduce reliance on PDs, in part by improving the regulations generally through a better lineup of zoning districts; more complete use permissions that respond better to market demand; and more calibrated, flexible, and predictable development standards. If all those tools are embraced, and by-right development does become more common in Addison, then a revised Site Plan tool would provide an important mechanism for the Town to evaluate compliance with the new UDC, and to make more efficient use of Town resources.

### A. Purpose

The Site Plan review procedure is intended to ensure compliance with the development and design standards of this UDC and to encourage quality development reflective of the adopted goals and objectives of the Town. The Site Plan review procedure ensures that proposed development applications address and mitigate potential adverse impacts associated with the proposal.

### B. Applicability

#### 1. Review Required

Major or minor site plan review is required for the following types of activities.

- a. New construction of nonresidential buildings, or residential buildings or sites resulting in three or more additional dwellings units.
- b. Change in use that involves or requires other site improvements such as parking, landscaping, screening, buffering, drainage facilities, or other changes to the site that may be required by this UDC.
- c. Modifications to site improvements such as parking, landscaping, screening, buffering, drainage facilities, or other changes to the site that may be required by this UDC.
- d. As a component of any Special Use Permit, request to rezone to Planned Development, or request to amend an existing Planned Development or Special Use Permit.

#### 2. Exemptions from Site Plan Review

Site plan review is not required for the following activities, but such activities shall be subject to the standards of this UDC and building permit review:

- a. Construction of a single-family detached dwelling on a single lot or duplex dwelling on a single lot, additions to such dwellings and structures accessory to such dwellings;
- b. A change in use that does not involve a Rezoning action or Special Use Permit, or require other site improvements such as parking, landscaping, screening, buffering, drainage facilities, or other changes to the site that may be required by this UDC;
- c. Tenant improvements that do not involve a Rezoning action or Special Use Permit, or require other site improvements such as parking, landscaping, screening, buffering, drainage facilities, or other changes to the site that may be required by this UDC;
- d. Construction or erection of accessory buildings or structures, fences, or screening walls;
- e. Construction or erection of temporary uses or structures; and
- f. Any project where the Director determines that the review criteria for Site Plan review in §2.6.2F: *Review Criteria*, have been met or will be satisfied through the building permit process.

<sup>128</sup> New. As recommended in the Assessment Report, this section formalizes two Site Plan procedures (minor and major) and strengthens the approval criteria to ensure more predictable outcomes.



**C. Thresholds for Site Plan Review Type<sup>129</sup>**

**1. Minor Site Plan**

The following types of projects may be approved by the Director through the minor Site Plan approval process:

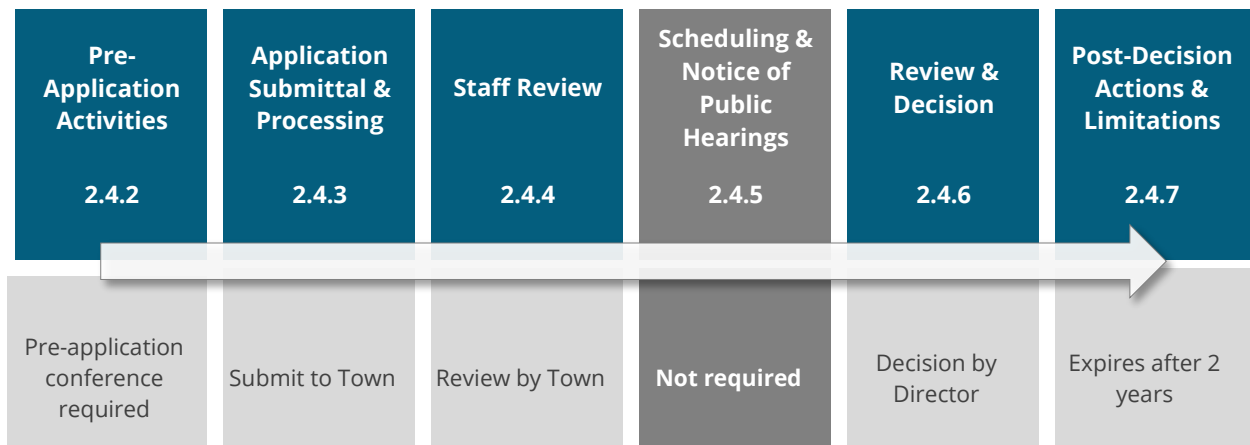
- a. A single use proposed in an existing structure that is less than 10,000 square feet in gross floor area for that use, not including a single-family detached or duplex dwelling.
- b. A combination of uses proposed in an existing structure that is less than 20,000 square feet in gross floor area, not including a single-family detached or duplex dwelling.
- c. Any new nonresidential structure less than 5,000 square feet in gross floor area.
- d. Any single-family attached development comprised of 40 or fewer dwelling units.
- e. Any application that does not exceed the thresholds for minor redevelopment, listed below:<sup>131</sup>
  - i. Expansions, alterations, or modifications that increase the gross floor area of an existing structure by the greater of 10,000 square feet or between 10 and 50 percent;
  - ii. Expansions, alterations, or modifications that increase the total number of existing dwelling units on a lot by the lesser of 10 dwelling units or between 10 and 25 percent;
  - iii. The alteration or expansion of any vehicular parking area by the greater of six spaces or 50 percent, excluding resurfacing or restriping;
  - iv. Any expansion or enlargement of a structure or land use that requires a Special Use Permit; or
  - v. Applications for building permits or for certificates of occupancy for buildings previously unoccupied for a period of six consecutive months.

**2. Major Site Plan**

All other applications that meet the criteria in subsection 2.6.2B, *Applicability*, but that may not be processed as minor Site Plans shall require a major Site Plan.

**D. Minor Site Plan Procedure**

The process diagram below identifies the applicable steps from §2.4: *Common Review Procedures*, that apply to the review of minor Site Plan applications. Additions or modifications to the common review procedures are noted below.



<sup>129</sup> This subsection requires further discussion and will be further refined in the Consolidated Draft.

<sup>131</sup> These thresholds (drafted in the Development Standards draft) will be revisited and further refined in the Consolidated Draft.

**1. Pre-Application Activities**

A pre-application conference is required in accordance with §2.4.2A: *Pre-Application Conference*.

**2. Application Submittal & Processing**

The application shall be submitted, accepted, revised, and may be withdrawn, in accordance with §2.4.3: *Application Submittal and Processing*.

**3. Staff Review**

The staff shall review the application in accordance with §2.4.4: *Staff Review*.

**4. Review and Decision**

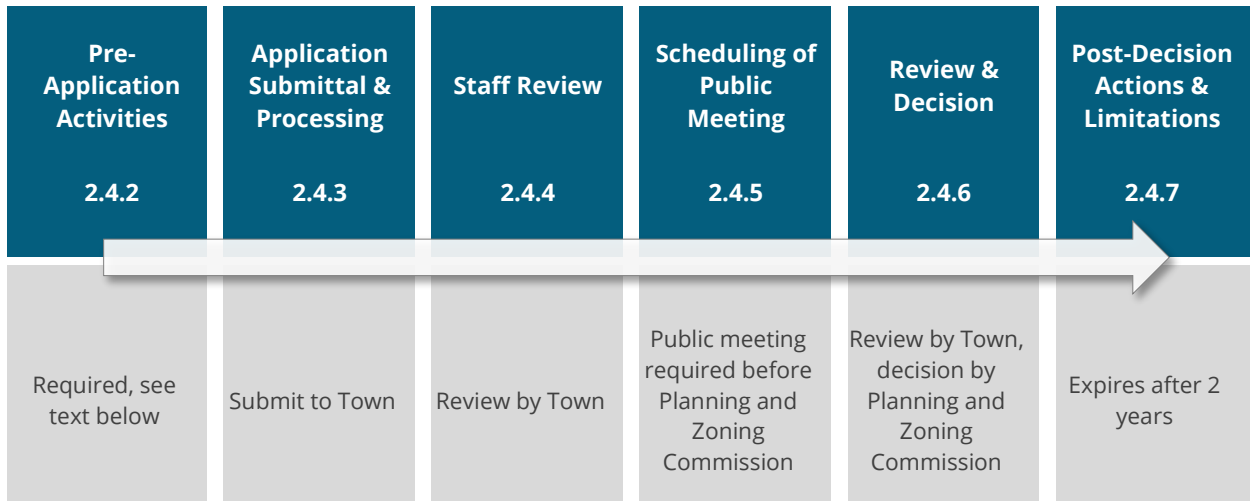
The application shall be reviewed and decided upon by the Director in accordance with §2.4.6: *Review and Decision*, and the review criteria in §2.6.2F: *Review Criteria*.

**5. Post-Decision Actions and Limitations**

All common procedures in §2.4.7: *Post-Decision Actions and Limitations*, shall apply.

**E. Major Site Plan Procedure**

The process diagram below identifies the applicable steps from §2.4: *Common Review Procedures*, that apply to the review of major Site Plan applications. Additions or modifications to the common review procedures are noted below.



**1. Pre-Application Activities**

**a. Pre-Application Conference**

A pre-application conference is required in accordance with §2.4.2A: *Pre-Application Conference*.

**b. Neighborhood Meeting**

A neighborhood meeting is recommended in accordance with §2.4.2B: *Neighborhood Meeting*.

**2. Application Submittal & Processing**

The application shall be submitted, accepted, revised, and may be withdrawn, in accordance with §2.4.3: *Application Submittal and Processing*.

**3. Staff Review**

The staff shall review the application and prepare a staff report and recommendation in accordance with §2.4.4: *Staff Review*.

**4. Scheduling and Notice of Public Meeting**

The application shall be scheduled for a public meeting before the Planning and Zoning Commission and shall be noticed pursuant to §2.4.5: *Scheduling and Notice of Public Hearings*.

**5. Review and Decision**

The application shall be reviewed and decided upon by the Planning and Zoning Commission in accordance with §2.4.6: *Review and Decision*, and the approval criteria in §2.6.2F: *Review Criteria*.

**6. Post-Decision Actions and Limitations**

All common procedures in §2.4.7: *Post-Decision Actions and Limitations*, shall apply.

**F. Review Criteria**

In reviewing a proposed Site Plan application, the review and decision-making body shall consider the general approval criteria in 2.4.6C: *General Approval Criteria*.

## 2.6.3 Temporary Use Permit<sup>132</sup>

### A. Purpose

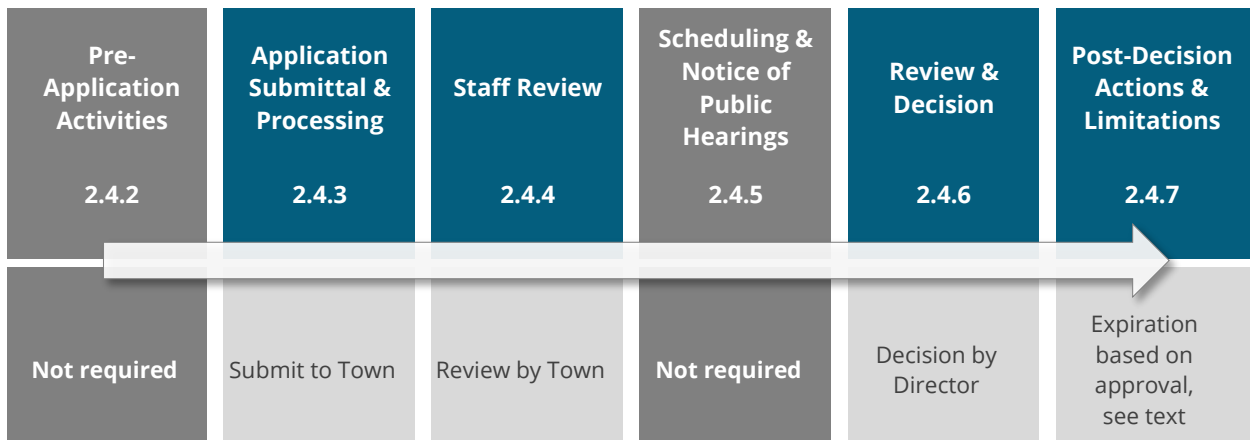
The temporary use permit review procedure is intended to provide a mechanism for enforcement of the temporary use regulations of this UDC, in order to allow short-term and minor deviations for uses that are temporary in nature, that will not adversely impact surrounding properties and land uses, and that can be terminated and removed at will.

### B. Applicability

A temporary use permit is required before establishing, constructing, or installing any temporary or seasonal use or structure designated as requiring a temporary use permit in §---<sup>133</sup> or §---,<sup>134</sup>

### C. Temporary Use Permit Procedure

The process diagram below identifies the applicable steps from §2.4: *Common Review Procedures*, that apply to the review of temporary use permit applications. Additions or modifications to the common review procedures are noted below.



#### 1. Application Submittal & Processing

The application shall be submitted, accepted, revised, and may be withdrawn, in accordance with §2.4.3: *Application Submittal and Processing*.

#### 2. Staff Review

The staff shall review the application in accordance with §2.4.4: *Staff Review*.

#### 3. Review and Decision

The application shall be reviewed and decided upon by the Director in accordance with §2.4.6: *Review and Decision*, and the review criteria in §2.6.3D: *Review Criteria*.

#### 4. Post-Decision Actions and Limitations

All common procedures in §2.4.7: *Post-Decision Actions and Limitations*, shall apply, with the following modifications:

<sup>132</sup> New. This section establishes a procedure to obtain a temporary use permit associated with the new temporary use and structure standards introduced in Installment 1.

<sup>133</sup> Link to §3.5 to be added in Consolidated Draft.

<sup>134</sup> Link to §3.2 to be added in Consolidated Draft.

**a. Effect of Approval**

A temporary use permit authorizes establishment, construction, or installation of the approved temporary use or structure in accordance with the terms and conditions of the permit.

**b. Expiration of Approval**

- i. A temporary use permit shall be valid beginning on the date specified on the permit and shall remain valid for the time period indicated on the permit, but in no event, longer than 12 months.
- ii. Upon request, the Director may grant a one-year extension; however, in no case shall a temporary use permit be valid for more than one year after its original expiration date. This one-year extension period may not be further extended.
- iii. Any temporary use permit requesting an approval period beyond one year shall require a special use permit approval pursuant to 2.5.1: *Special Use Permit*.

**c. Removal and Restoration**

Before the expiration of a temporary use permit, the permittee shall discontinue all temporary uses and remove all temporary structures, and associated property and equipment, and free the temporary use site from all trash, litter, and debris to the satisfaction of the Director.

**D. Review Criteria**

In reviewing a proposed temporary use permit application, the review and decision-making body shall consider the general approval criteria in §2.4.6C: *General Approval Criteria*, and the standards in §---.<sup>135</sup>

**2.6.4 Sign Permit<sup>142</sup>****A. Purpose<sup>143</sup>**

The Sign Permit procedure is intended to provide a mechanism for enforcement of the sign regulations of this UDC in order to:

1. Establish for all signs located on any premises a reasonable and impartial means to permit adequate communication;
2. Control confusing sign displays that present a hazard to pedestrians and motorists along streets;
3. Ensure light, air, and open space;
4. Protect the natural beauty and environment of the Town;
5. Safeguard and enhance property values;
6. Protect public and private investment in buildings and open spaces;
7. Protect the public health, safety, and general welfare; and
8. Comply with all state and federal laws and settle case law applicable to the Town concerning freedom of expression.

**B. Applicability<sup>144</sup>**

No person shall cause a sign to be erected, constructed, relocated, altered, repaired, or maintained until a permit for such has been issued and the fee paid, except as otherwise provided in this UDC.

<sup>135</sup> Link to §3.5: *Temporary Uses and Structures* will be added in Consolidated Draft.

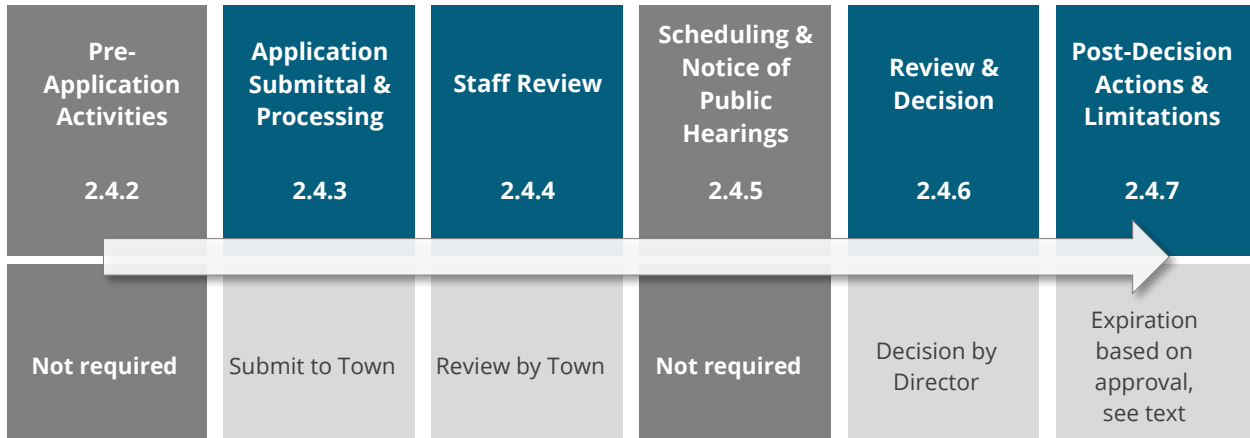
<sup>142</sup> Replaces permitting procedures in Chapter 62.

<sup>143</sup> New.

<sup>144</sup> From current Chapter 62, Sec. 62-51.

**C. Sign Permit Procedure**

The process diagram below identifies the applicable steps from §2.4: *Common Review Procedures*, that apply to the review of Sign Permit applications. Additions or modifications to the common review procedures are noted below.



**1. Application Submittal & Processing**

The application shall be submitted, accepted, revised, and may be withdrawn, in accordance with §2.4.3: *Application Submittal and Processing*, with the following modifications:

**a. Application Contents<sup>145</sup>**

All applications for permits under this article shall include a drawing to scale of the proposed sign, all existing signs maintained on the premises and visible from the right-of-way, a site plan or property survey, and façade plan indicating the proposed location of the sign and specifications.

**2. Staff Review**

The staff shall review the application in accordance with §2.4.4: *Staff Review*.

**3. Review and Decision**

The application shall be reviewed and decided upon by the Director in accordance with §2.4.6: *Review and Decision*, and the review criteria in §2.6.3D: *Review Criteria*.

**4. Post-Decision Actions and Limitations**

All common procedures in §2.4.7: *Post-Decision Actions and Limitations*, shall apply, with the following modifications:

**a. Electrical Permit<sup>147</sup>**

Prior to issuance of a Sign Permit for a sign in which electrical wiring and connections are to be used, an electrical permit must be obtained according to the existing fee schedule. The electrical inspector shall examine the plans and specifications submitted with the application to ensure compliance with the electrical code of the Town. No sign shall be erected in violation of the electrical code.

<sup>145</sup> From current Chapter 62, Sec. 62-52.

<sup>147</sup> From Chapter 62, Sec. 62-58.

**b. Lapse of Sign Permit<sup>148</sup>**

A Sign Permit shall lapse automatically if not renewed or if the Certificate of Occupancy of business registration for the premises expires, is revoked, or is not renewed.

**c. Revocation<sup>149</sup>**

The Director may suspend or revoke any Sign Permit issued under the provisions of this UDC whenever they determine that the permit was issued in error or on the basis of incorrect or false information supplied, or if such permit was issued in violation of any of the provisions of this UDC or any other local, state, or federal law. Such suspension or revocation shall be effective when communicated in writing to the person to whom the permit is issued, the owner of the sign or the responsible party of the premises upon which the sign is located.

**d. Duration<sup>151</sup>**

If the work authorized by a Sign Permit issued under this UDC has not commenced within 180 days after the date of issuance, the permit shall become null and void.

**e. Abandoned Signs<sup>152</sup>**

Within 30 days after any business has abandoned its location or tenant space, the building or former tenant owner, or the building or former tenant agent, or the person having beneficial use of the building, structure, or the lot or tract where such business was located shall remove all signs related to such business or have the sign face replaced with a weatherproof, blank face.

**f. Notice of Condemnation<sup>153</sup>**

Signs adjudged by the Director, to be structurally unsafe or to be more than 50 percent destroyed or dilapidated, may be condemned. A condemnation letter will be sent to the owner of the property stating that the sign must be demolished within 15 days of the receipt of the letter. If the sign is not removed within the period allotted, the Town may remove the sign at the property owner's expense.

**D. Review Criteria**

In reviewing a proposed Sign Permit application, the review and decision-making body shall consider the general approval criteria in §2.4.6C: *General Approval Criteria*, and the standards in §---, <sup>154</sup>

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**2.6.5 Zoning Verification Letter<sup>155</sup>**

**A. Purpose**

The Zoning Verification Letter review procedure is intended to provide a mechanism for the Town to issue a formal confirmation of a property's zoning. The Zoning Verification Letter is an informational document not intended to grant approval for land development in any way.

**B. Applicability**

A Zoning Verification Letter can be requested by any property owner or entity seeking to confirm the zoning of a property.

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<sup>148</sup> Replaces Chapter 62, Sec. 62-54.

<sup>149</sup> From Chapter 62, Sec. 62-55.

<sup>151</sup> From Chapter 62, Sec. 62-56.

<sup>152</sup> From Chapter 62, Sec. 62-81.

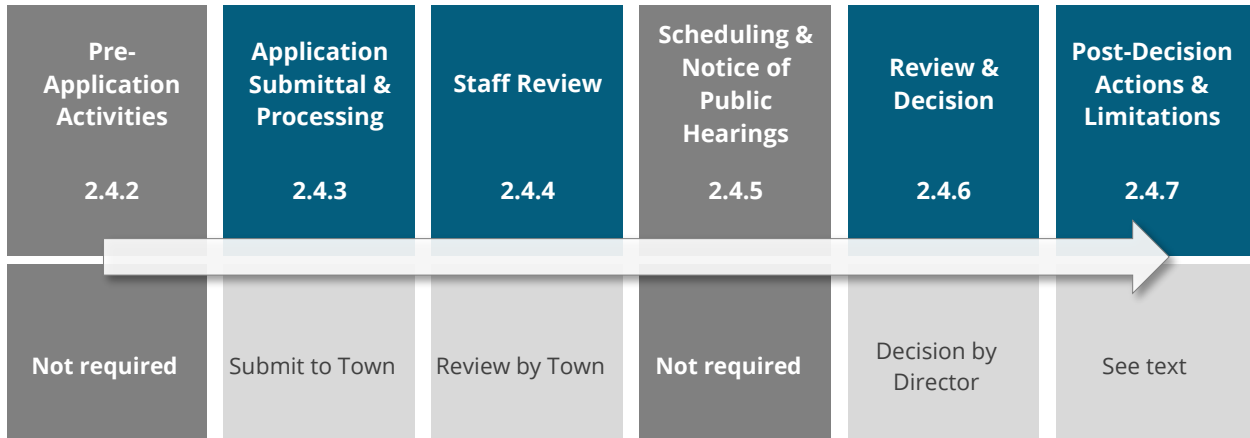
<sup>153</sup> From Chapter 62, Sec. 62-59.

<sup>154</sup> Link to §4.10: *Signs* to be added in Consolidated Draft.

<sup>155</sup> New.

**C. Zoning Verification Procedure**

The process diagram below identifies the applicable steps from §2.4: *Common Review Procedures*, that apply to the review of Zoning Verification Letter applications. Additions or modifications to the common review procedures are noted below.



**1. Application Submittal & Processing**

The application shall be submitted, accepted, revised, and may be withdrawn, in accordance with §2.4.3: *Application Submittal and Processing*.

**2. Staff Review**

The staff shall review the application in accordance with §2.4.4: *Staff Review*.

**3. Review and Decision**

The application shall be reviewed and decided upon by the Director in accordance with §2.4.6: *Review and Decision*.

**4. Post-Decision Actions and Limitations**

All common procedures in §2.4.7: *Post-Decision Actions and Limitations*, shall apply, with the following modification: A Zoning Verification Letter serves as confirmation of the zoning of a property.

**2.6.6 Change or Elimination of Nonconformity<sup>156</sup>**

<sup>156</sup> New.



## 2.7 Engineering Plans, Studies, and Site Development Permits<sup>157</sup>

### A. Purpose

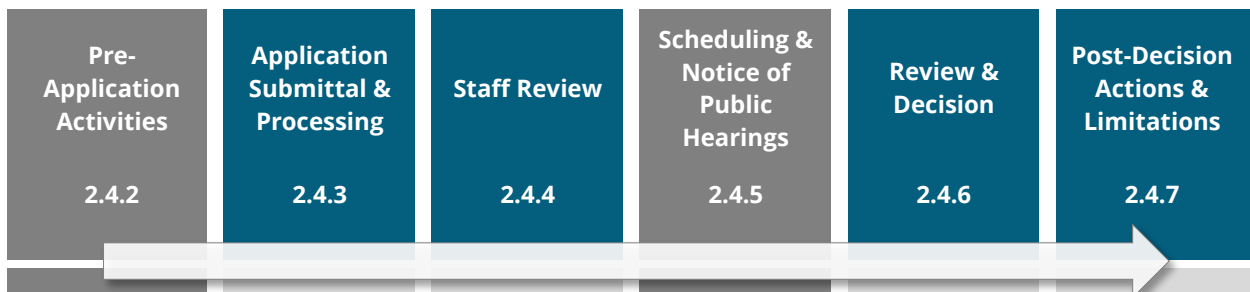
The engineering plans, studies, and site development procedure is intended to ensure compliance with the development standards of this UDC and technical standards of associated Criteria Manuals and to protect the general health, safety, and welfare of the public by reducing the risk of flooding private property and public rights-of-way and ensure that development provides the facilities necessary to accommodate the traffic impacts of the proposed development.

### B. Applicability

1. This procedure shall be required for the following plans, studies, and permits:
  - a. Civil engineering plans
  - b. Minor and major traffic impact analysis
  - c. Parking study
  - d. Drainage study
  - e. Utility study
  - f. Site development permit
  - g. Flood hazard development permit
2. The plans, studies, and permits listed above may be submitted concurrently with any other required development application.
3. Flood hazard development permits shall also comply with the following:
  - a. A flood hazard development permit must be obtained before construction or development begins within any special flood hazard area (SFHA) and known flood prone areas to ensure conformance with the provisions of this UDC.
  - b. Compliance with the standards in this UDC shall not relieve any person of the independent obligation to comply with all applicable standards and practices established in federal and state law and all other applicable rules, regulations, standards and specifications of the Town regarding development within a SFHA.

### C. Procedures

The process diagram below identifies the applicable steps from §2.4: *Common Review Procedures*, that apply to the review of the applications listed in §B. Additions or modifications to the common review procedures are noted below.



<sup>157</sup> New.

Pre-Application Activities	Application Submittal & Processing	Staff Review	Scheduling & Notice of Public Hearings	Review & Decision	Post-Decision Actions & Limitations
Not required	Submit to Town	Review by Town	Not required	Decision by Director	Expiration based on approval, see text

**1. Application Submittal & Processing<sup>158</sup>**

The application shall be submitted, accepted, revised, and may be withdrawn, in accordance with §2.4.3: *Application Submittal and Processing*.

**2. Staff Review**

The staff shall review the application in accordance with §2.4.4: *Staff Review*.

**3. Review and Decision**

The application shall be reviewed and decided upon by the Director or Floodplain Administrator in accordance with §2.4.6: *Review and Decision*, and the review criteria in §2.7D: *Review Criteria*.

**4. Post-Decision Actions and Limitations**

All common procedures in §2.4.7: *Post-Decision Actions and Limitations*, shall apply, with the following modifications:

**D. Review Criteria**

**1. Review Criteria for Flood Hazard Permits**

In reviewing a proposed flood hazard development permit application, the review and decision-making body shall consider the general approval criteria in §2.4.6C: *General Approval Criteria*, and the following relevant factors:

- a. The danger to life and property due to flooding or erosion damage;
- b. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
- c. The danger that materials may be swept onto other lands to the injury of others;
- d. The compatibility of the proposed use with existing and anticipated development;
- e. The safety of access to the property in times of flood for ordinary and emergency vehicles;
- f. The costs of providing governmental services during and after flood conditions including maintenance and repair of streets and bridges, and public utilities and facilities such as sewer, gas, electrical, and water systems;
- g. The expected heights, velocity, duration, rate of rise and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site;
- h. The necessity to the facility of a waterfront location, where applicable;
- i. The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use; and
- j. The relationship of the proposed use to the Comprehensive Plan for that area.

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<sup>158</sup> Removed application contents from current Sec. 42-59. We recommend this material be relocated to an Administrative Manual outside of the UDC to allow for streamlined updates.

## Article 2: Administration and Procedures

### 2.7 Engineering Plans, Studies, and Site Development Permits

#### 2.6.6 Change or Elimination of Nonconformity

#### **2. Review Criteria for All Other Engineering Plans, Studies, and Site Development Permits**

In reviewing civil engineering plans, a minor or major traffic impact analysis, a parking study, a drainage study, a utility study, or a site development permit, the review and decision-making body shall consider the general approval criteria in §2.4.6C: *General Approval Criteria* and all applicable requirements of the associated Criteria Manuals.

## **2.8 Agreements**

I don't think we have enough background context of what staff wants from these to draft this right now. Think we keep it as a placeholder for Consolidated Draft. Especially with my question about what a "real estate application" means and I'm also curious if Development Agreements would go to P&Z/CC vs. parking agreements which may be able to be approved administratively?

## 2.9 Platting Procedures<sup>159</sup>

**Commentary:**

This draft aligns platting procedures with the Texas Local Government Code to help streamline and simplify the development review process. The first §5.5.1 identifies the procedural requirements applicable to all subdivision types, beyond those procedures identified in §5.3.

### 2.9.1 Standards that Apply to All Platting Procedures

**A. Applicability**

**1. Generally**

This article shall apply to all land and all developments within the corporate limits of the Town of Addison, except as otherwise provided in this subchapter.

**2. Land Included**

Except where otherwise specifically provided for in this article, all the provisions of this article shall apply to the following lands located within the corporate limits of the Town:

- a. Any tract of land that has not been recorded by plat in the plat records of Dallas County, Texas, and that is intended to be sold, leased, or otherwise subdivided from another tract of land or which is intended or proposed to be used for the purpose of development.
- b. Any tract of land which has been recorded as a lot or block by plat in the plat records of Dallas County, Texas; prior to and upon which no development has been constructed or placed prior to the effective date of this article.
- c. The division of any previously platted lot into two or more parts.
- d. The removal of one or more lot lines of any platted lot so as to permit the combining of two or more contiguous platted lots into one or more new lots.
- e. Any easements for right-of-way, access, utilities, and drainage included on a plat.

**3. Exemptions**

The following are exempt from the subdivision regulations of this article, but are subject to all other standards in this UDC:

- a. The division of land into two or more parts, other than for purposes of development, if the smallest resulting parcels, tract, or site is five acres or larger in size where each part has access and no public improvement is being dedicated.
- b. Construction of additions or alterations to an existing building where no drainage, street, utility extension or improvement, additional parking or street access changes required to meet the standards of this article are necessary to support such building addition or alterations.
- c. Construction of accessory structures or fences.
- d. Dedication of easement or right-of-way by separate document recordable in the county records if approved by Town.
- e. Cemeteries complying with all state and local laws and regulations.
- f. Divisions of land created by order of a court of competent jurisdiction.
- g. A change in ownership of a property through inheritance or the probate of an estate.
- h. Divisions of land resulting from acquisition or condemnation to support public projects.

<sup>159</sup> Replaces Appendix B of the current Code of Ordinances. Current Appendix B, §VII was not carried forward because it overlaps with the traditional purposes of a Preliminary Plat and to better align with current practices.

**B. Zoning<sup>160</sup>**

All divisions of land shall conform to all applicable zoning regulations. A plat submission reflecting a condition not in conformity with applicable zoning regulations shall not be approved until any available relief from the Board of Zoning Adjustment has been finally obtained. If the property is not zoned as required for the proposed division of land, permanent zoning shall be requested. Application for zoning includes completion of application forms, payment of required fees, and performance of other requirements of the UDC and the rules and regulations of the Town, as amended.

**C. Finding of Proportionality<sup>161</sup>**

Any payment of fees or construction costs or required easement, dedication, or reservation of land included on any plat application required in this section shall meet the requirements of TLGC, § 212.904.

**D. Completeness Review**

If the Director determines that any plat is incomplete or does not meet all requirements, they shall provide written confirmation of the determination and the reasons therefore. If the applicant disagrees with a determination that the plat does not comply with all requirements, the applicant shall submit a written objection to the Director within five business days of the postmark date of the written confirmation. If a written objection is submitted, the director shall schedule the plat for consideration by the Planning and Zoning Commission. The official filing date for any plat that is not checked and verified as to its completeness within 10 days of its submission shall be the 11th day after its submission.<sup>162</sup>

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<sup>160</sup> Replaces Appendix B, §VI.

<sup>161</sup> New.

<sup>162</sup> Carries forward a portion of Appendix B, §IX.

## 2.9.2 Preliminary Plat or Preliminary Replat<sup>163</sup>

### A. Purpose

The Preliminary Plat and Preliminary Replat review procedure is intended to provide a mechanism for the Town to review an overall plan for proposed platting or replatting of land to ensure compliance with this UDC, the Comprehensive Plan, and the adequate provision of facilities and services within the Town.

### B. Applicability<sup>164</sup>

A Preliminary Plat is required if the proposed subdivision meets any of the following:

- a. Is on land that has not yet been platted;
- b. Is on land that will be developed in phases;
- c. Will include the dedication of public right-of-way, other public tracts, or public improvements not determined to be eligible for Minor Plat processing; or
- d. Is not eligible to be processed as a Minor Plat, pursuant to §2.9.5: *Minor or Amending Plat*.

2. A Preliminary Replat is required if:

- a. A Replat necessitates the construction of public infrastructure or requires amendments to previously approved infrastructure construction plans;
- b. The Director determines a proposed Replat unusually complex or raises potentially unique or serious impacts on the town or the surrounding areas; or
- c. The applicant of a Replat requests a Preliminary Replat review.

### C. Preliminary Plat Procedure

The process diagram below identifies the applicable steps from §2.4: *Common Review Procedures*, that apply to the review of Preliminary Plat and Preliminary Replat applications. Additions or modifications to the common review procedures are noted below.



#### 1. Pre-Application Activities

A pre-application conference is required in accordance with §2.4.2A: *Pre-Application Conference*.

<sup>163</sup> Replaces Appendix B, §VIII. References to Preliminary Replat are new.

<sup>164</sup> New.

**2. Application Submittal & Processing<sup>165</sup>**

The application shall be submitted, accepted, revised, and may be withdrawn, in accordance with §2.4.3: *Application Submittal and Processing*, with the following modifications:

- a. The application is also subject to the standards in §2.9.1: *Standards that Apply to All Platting Procedures*.

**3. Staff Review**

The staff shall review the application and prepare a staff report and recommendation in accordance with §2.4.4: *Staff Review*.

**4. Scheduling and Notice of Public Meetings**

The application shall be scheduled for a public meeting before the Planning and Zoning Commission and shall be noticed pursuant to §2.4.5: *Scheduling and Notice of Public Hearings*.

**5. Review and Decision**

The application shall be reviewed and decided upon by the Planning and Zoning Commission in accordance with §2.4.6: *Review and Decision*.

**6. Post-Decision Actions and Limitations**

All common procedures in §2.4.7: *Post-Decision Actions and Limitations*, shall apply, with the following modifications:

**a. Effect of Approval**

Approval of the Preliminary Plat or Preliminary Replat shall in no way constitute final acceptance or approval of the subdivision.

**b. Preliminary Plat Expiration**

- i. When a Preliminary Plat or Preliminary Replat has been approved, a Final Plat or Replat for all or a part of the area shall be submitted within two years; otherwise, the approval of the Preliminary Plat or Preliminary Replat shall terminate and shall be void. However, prior to the expiration of such approval, the time for filing of the application for Final Plat or Replat may be extended at the written request of the property owner. The first filing extension (not to exceed 90 days) shall be granted by the Director. Any further requests for extensions shall be considered by the Planning and Zoning Commission.
- ii. If a Final Plat or Replat for any portion of the area shown on the Preliminary Plat or Preliminary Replat has been filed for record with the county clerk, the Preliminary Plat or Preliminary Replat approval shall remain valid indefinitely.
- iii. If no Final Plat or Replat is filed, the Preliminary Plat or Preliminary Replat approval shall remain valid for so long as any associated development agreement, Annexation agreement, or facilities agreement remains binding or in effect.
- iv. Following the expiration of the Preliminary Plat or Preliminary Replat, the property owner may submit a new Preliminary Plat or Preliminary Replat for Planning and Zoning Commission approval following the procedures and regulations then in effect.

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<sup>165</sup> Did not carry forward the content of application requirements in current Appendix B, §VIII. We recommend this material be relocated to an Administrative Manual outside of the UDC to allow for streamlined updates.



**D. Review Criteria<sup>166</sup>**

In reviewing a proposed Preliminary Plat or Preliminary Replat application, the review and decision-making body shall consider the general approval criteria in §2.4.6C: *General Approval Criteria* and if the proposed Preliminary Plat or Preliminary Replat:

1. Is consistent with the intent and complies with applicable use requirements of the underlying zoning district;
2. Complies with applicable dimensional and development standards in this UDC;
3. Does not affect a recorded easement without approval from the easement holder, unless otherwise approved by the Director;
4. Provides a layout of lots, streets, utilities, drainage, and other public facilities and services that minimize the disturbance to sensitive natural areas or resources;
5. Provides evidence of public water and sewer provision; and
6. Proposes reasonable phasing as it relates to infrastructure capacity.

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<sup>166</sup> New.

## 2.9.3 Final Plat

### A. Purpose

The purpose of the Final Plat procedure is to demonstrate compliance with an approved Preliminary Plat and applicable standards of this UDC.

### B. Final Plat Procedure

The process diagram below identifies the applicable steps from §2.4: *Common Review Procedures*, that apply to the review of Final Plat applications. Additions or modifications to the common review procedures are noted below.



#### 1. Pre-Application Activities

A pre-application conference is optional, and if elected shall be held in accordance with §2.4.2A: *Pre-Application Conference*.

#### 2. Application Submittal & Processing<sup>167</sup>

The application shall be submitted, accepted, revised, and may be withdrawn, in accordance with §2.4.3: *Application Submittal and Processing*, with the following modifications:

- a. The application is also subject to the standards in §2.9.1: *Standards that Apply to All Platting Procedures*.
- b. The Final Plat application shall be submitted within two years of Preliminary Plat approval and shall not be submitted prior to the approval and implementation of all required civil engineering and construction plans.

#### 3. Staff Review

The staff shall review the application and prepare a staff report and recommendation in accordance with §2.4.4: *Staff Review*.

#### 4. Scheduling and Notice of Public Hearings

The application shall be scheduled for a public meeting before the Planning and Zoning Commission and shall be noticed pursuant to §2.4.5: *Scheduling and Notice of Public Hearings*.

<sup>167</sup> Did not carry forward the content of application requirements in current Appendix B, §IX. We recommend this material be relocated to an Administrative Manual outside of the UDC to allow for streamlined updates.

**5. Review and Decision<sup>170</sup>**

The application shall be reviewed and decided upon by the Planning and Zoning Commission in accordance with §2.4.6: *Review and Decision*, with the following modifications:

- a. The Planning and Zoning Commission shall not approve any Final Plat of any subdivision within any area where a petition or ordinance for Annexation or a recommendation for Annexation to the town is pending before the City Council.

**6. Post-Decision Actions and Limitations**

All common procedures in §2.4.7: *Post-Decision Actions and Limitations*, shall apply, with the following modification:

**a. Recording<sup>171</sup>**

After approval of the Final Plat by the Planning and Zoning Commission, the applicant shall submit the required number of copies for recording, along with all tax certificates required for recording by the County Clerk to the Development Services Department. These copies shall bear all signatures but those of the Town officials. After signature by the Town officials, the Development Services Department shall complete the recording process and return two filed copies to the applicant or the applicant may elect to complete the recording process. Said copies shall show the volume and page of the map and plat records into which the plat was filed by the County Clerk.

**b. Prior to Construction<sup>172</sup>**

Prior to authorizing construction, the Director of Public Works and Engineering<sup>173</sup> shall be satisfied that the following conditions have been met:

- i. All required contract documents shall be completed and filed with the Public Works and Engineering Department.
- ii. All necessary easements or dedications not shown on the Final Plat must be completed, properly signed, and filed with the County Clerk. The original of the filed documents, bearing the stamp of the County Clerk, shall be filed with the Development Services Department.
- iii. All contractors participating in the construction shall be presented with a set of approved plans bearing the stamp of approval of the Public Works and Engineering Department. These plans shall remain on the job site at all times.
- iv. If required by the Director of the Public Works and Engineering, all parties participating in the construction shall meet for a preconstruction conference to discuss the project prior to beginning work.
- v. A complete list of the contractors, their representatives on the site, e-mail addresses, and telephone numbers where a responsible party may be reached at all times, must be submitted to the Director of Public Works and Engineering.
- vi. Manufacturer's drawings for all fabricated appurtenances or special construction items shall be submitted to the Director of Public Works and Engineering.

**c. Construction of Improvements<sup>174</sup>**

- i. Construction shall be supervised by the Public Works and Engineering Department.

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<sup>170</sup> Carries forward Article XXV, Sec. 1 and 2.

<sup>171</sup> Replaces Appendix B, §X.

<sup>172</sup> Carries forward Appendix B, §XI.

<sup>173</sup> Updated reference from "Town Engineer."

<sup>174</sup> Carries forward Appendix B, §XII.

- ii. Completion of construction in accordance with the approved plans and standard specifications of the Town is the entire responsibility of the developer and their contractors. The responsibility of the Public Works Department is to assure conformance to the approved plans and specifications.
  - iii. Any change in design required during construction shall be made by the engineer whose seal and signature are shown on the plans and shall be approved by the Director of Public Works and Engineering.
- d. Acceptance of Improvements<sup>175</sup>**
- i. After completion of all items required in the plans and specifications, the contractor shall submit a bond in the amount of 10 percent of the contract amount guaranteeing workmanship and materials for a period of one year from the date of final acceptance by the Town. The Director of Public Works and Engineering shall verify that all items have been completed, including filing of the plat and all related easements and documents, and payment of all applicable development fees.
  - ii. The Director of Public Works and Engineering shall conduct a final inspection of the project and, if all work is found to be acceptable, shall issue a letter of acceptance. Any items of exception noted in the acceptance letter shall be immediately satisfied.
  - iii. Acceptance of the public improvements shall mean that title to all improvements is vested in the Town. The applicant and their contractor shall, however, be bound to the town for a period of one year to repair any defects in the improvements.
- e. As-Built Plans<sup>176</sup>**
- Within 30 days of acceptance of the subdivision, the applicant shall submit a complete set of drawings of the paving, drainage, water, and sewer improvements showing all changes made in the plans during construction and containing on each sheet an "As-Built" stamp bearing the signature of the Director of Public Works and Engineering and the date. In addition, one reproducible drawing of the utility plan sheets, containing the as-built information, shall be submitted to the Public Works and Engineering Department.
- f. Expiration**
- A recorded Final Plat shall not expire.

**C. Review Criteria<sup>179</sup>**

In reviewing a proposed Final Plat application, the Planning and Zoning Commission shall consider the general approval criteria in §2.4.6C: *General Approval Criteria* and the following:

1. The Final Plat shall conform to the approved Preliminary Plat, including any conditions of approval.
2. The development will comply with the applicable technical standards and specifications adopted by the Town.

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<sup>175</sup> Carries forward Appendix B, §XIII.

<sup>176</sup> Carries forward Appendix B, §XIV.

<sup>179</sup> Paragraphs 3-6 carry forward Appendix B, §XVI.G.2-5. Some of these provisions should potentially be moved into the Subdivision Design Standards in Article 4.

### 2.9.4 Replat<sup>180</sup>

#### A. Purpose

The Replat procedure is intended to provide a process for replatting any portion of an approved Final Plat, other than those used to amend through Minor Plats or vacate the plat through the vacation procedures.

#### B. Applicability

1. A Replat of a subdivision or part of a subdivision may be recorded and controls over the preceding plat without vacation of that plat if the Replat:
  - a. Is signed and acknowledged by the owners of the property being replatted;
  - b. Is approved in accordance with Chapter 212 of the Texas Local Government Code; and
  - c. Does not attempt to amend or remove any covenants or restrictions.
2. In the instance of large tracts or blocks of land contained within a recorded subdivision and intended or designed for replatting into smaller tracts, lots, or building sites, the replatting shall comply with all provisions of this UDC.

#### C. Replat Procedure

The process diagram below identifies the applicable steps from §2.4: *Common Review Procedures*, that apply to the review of Replat applications. Additions or modifications to the common review procedures are noted below.



##### 1. Pre-Application Activities

A pre-application conference is optional, and if elected shall be held in accordance with §2.4.2A: *Pre-Application Conference*.

##### 2. Application Submittal & Processing<sup>181</sup>

The application shall be submitted, accepted, revised, and may be withdrawn, in accordance with §2.4.3: *Application Submittal and Processing*, with the following modifications:

<sup>180</sup> New. The current *Code of Ordinances* does not specifically describe the process to submit and file a Replat but includes Replat in the general definition of plat.

<sup>181</sup> Did not carry forward the content of application requirements in current Appendix B, §IX. We recommend this material be relocated to an Administrative Manual outside of the UDC to allow for streamlined updates.

- a. The application is also subject to the standards in §2.9.1: *Standards that Apply to All Platting Procedures*.
- b. The Final Plat application shall be submitted within two years of Preliminary Plat approval and shall not be submitted prior to the approval and implementation of all required civil engineering and construction plans.

**3. Staff Review**

The staff shall review the application and prepare a staff report and recommendation in accordance with §2.4.4: *Staff Review*.

**4. Scheduling and Notice of Public Hearings**

The application shall be scheduled for a public hearing before the Planning and Zoning Commission and shall be noticed pursuant to §2.4.5: *Scheduling and Notice of Public Hearings*, with the following modifications:

- a. For any proposed replat that requires a variance, waiver, or special exception, a public hearing shall be held prior to taking action on the proposed replat.
- b. If a proposed replat requires a variance, waiver, or exception and includes (i) any property that was limited by an interim or permanent zoning classification to residential uses for not more than two residential units per lot at any time during the preceding five years, or (ii) any lot from the preceding plat that was limited by deed restrictions to residential uses for not more than two residential units per lot, a public hearing shall be held regarding the replat by the Planning and Zoning Commission or City Council.
- c. If the proposed Replat requires a variance or waiver and is protested in accordance with this subsection, the proposed Replat must receive, in order to be approved, the affirmative vote of at least three-fourths of the members present of the Planning and Zoning Commission or City Council, or both. For a legal protest, written instruments signed by the owners of at least 20 percent of the area of the lots or land immediately adjoining the area covered by the proposed replat and extending 200 feet from that area, but within the original subdivision, must be filed with the Planning and Zoning Commission or City Council, or both, prior to the close of the public hearing. In computing the percentage of land area under this subsection, the area of streets and alleys shall be included.

**5. Review and Decision<sup>184</sup>**

The application shall be reviewed and decided upon by the Planning and Zoning Commission in accordance with §2.4.6: *Review and Decision*, with the following modification:

- a. If a proposed Replat for residentially zoned or deed-restricted property as specified in Texas Local Government Code § 212.015 does not require a variance or exception and is approved by the City Council or Planning and Zoning Commission, the Town will deliver a written notice by mail regarding the approval of the replat no later than the 15th day after the date the replat is approved to each owner of a lot in the original subdivision that is within 200 feet of the lots that were replatted according to the most recent Town tax roll.

**6. Post-Decision Actions and Limitations**

All common procedures in §2.4.7: *Post-Decision Actions and Limitations*, shall apply, with the following modification:

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<sup>184</sup> Carries forward Article XXV, Sec. 1 and 2.

**a. Recording<sup>185</sup>**

After approval of the Replat by the Planning and Zoning Commission or City Council, the applicant shall submit the required number of copies for recording, along with all tax certificates required for recording by the County Clerk to the Development Services Department. These copies shall bear all signatures but those of the Town officials. After signature by the Town officials, the Development Services Department shall complete the recording process and return two filed copies to the applicant or the applicant may elect to complete the recording process. Said copies shall show the volume and page of the map and plat records into which the plat was filed by the County Clerk.

**b. Expiration**

A recorded Replat shall not expire.

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## 2.9.5 Minor or Amending Plat<sup>193</sup>

**A. Purpose**

The Minor Plat review procedure is intended to provide a mechanism for administrative platting decisions, to address plat errors, and to apply minor adjustments to property boundaries.

**B. Applicability<sup>194</sup>**

1. In accordance with TLGC § 212.0065, the Minor Plat procedure shall apply to plats that:
  - a. Involve four or fewer lots;
  - b. Front onto an existing street;
  - c. Do not require dedication of public right-of-way or other public improvements; and
  - d. Do not require the creation of any new street or the extension of municipal facilities.
2. The Director shall also have authority to approve Amending Plats using this Minor Plat procedure provided the Amending Plat is intended for one or more of the following purposes:
  - a. To correct an error in a course or distance shown on the preceding plat;
  - b. To add a course or distance that was omitted on the preceding plat;
  - c. To correct an error in a real property description shown on the preceding plat;
  - d. To indicate monuments set after the death, disability, or retirement from practice of the engineer or surveyor responsible for setting monuments;
  - e. To show the location or character of a monument that has been changed in location or character or that is shown incorrectly as to location or character on the preceding plat;
  - f. To correct any other type of scrivener or clerical error or omission previously approved by the municipal authority responsible for approving plats, including lot numbers, acreage, street names, and identification of adjacent recorded plats;
  - g. To correct an error in courses and distances of lot lines between two adjacent lots if:
    - i. Both lot owners join in the application for amending the plat;
    - ii. Neither lot is abolished;
    - iii. The amendment does not attempt to remove recorded covenants or restrictions; and
    - iv. The amendment does not have a material adverse effect on the property rights of the other owners in the plat.

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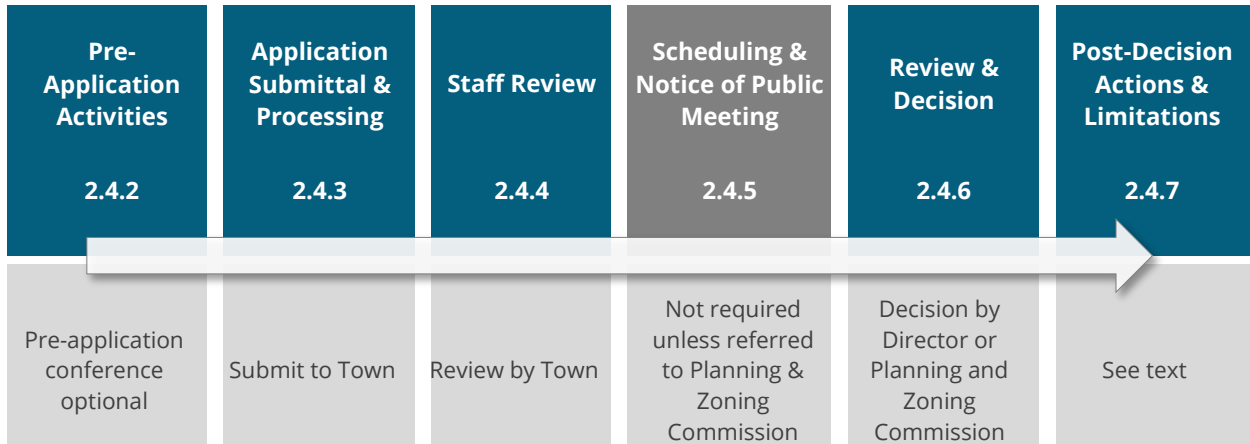
<sup>185</sup> Replaces Appendix B, §X.

<sup>193</sup> New. This section introduces an abbreviated subdivision process for smaller projects.

<sup>194</sup> Includes thresholds from TLGC § 212.0065 and carries forward Appendix B, §XVII.

**C. Minor Plat Procedure**

The process diagram below identifies the applicable steps from §2.4: *Common Review Procedures*, that apply to the review of Minor Plat applications. Additions or modifications to the common review procedures are noted below.



**1. Pre-Application Activities**

A pre-application conference is optional, and if elected shall be held in accordance with §2.4.2A: *Pre-Application Conference*.

**2. Application Submittal & Processing**

The application shall be submitted, accepted, revised, and may be withdrawn, in accordance with §2.4.3: *Application Submittal and Processing*.

**3. Staff Review**

The staff shall review the application and if referred to Planning and Zoning Commission, prepare a staff report and recommendation, in accordance with §2.4.4: *Staff Review*.

**4. Scheduling and Notice of Public Meeting**

Public notice and a public meeting is not required unless the Director refers a Minor Plat application to the Planning and Zoning Commission for review and decision. If the application is referred to the Planning and Zoning Commission, then the application shall be scheduled for a public hearing before the Planning and Zoning Commission and noticed in accordance with §2.4.5: *Scheduling and Notice of Public Hearings*.

**5. Review and Decision**

The application shall be reviewed and decided upon by the Director in accordance with §2.4.6: *Review and Decision*, with the following modifications:

- a. The Director shall review the Minor Plat application according to the approval criteria in §2.9.5D, below.
- b. The Director may, for any reason, elect to refer the Minor Plat to the Planning and Zoning Commission for approval.

**6. Post-Decision Actions and Limitations**

All common procedures in §2.4.7: *Post-Decision Actions and Limitations*, shall apply, with the following modifications:



**a. Recording**

Following approval of a Minor Plat, the applicant shall submit, and the Town shall record the plat in accordance with the requirements for Final Plats in §2.9.3: *Final Plat*.

**D. Review Criteria**

In reviewing a proposed Minor Plat application, the Director shall consider the general approval criteria in §2.4.6C: *General Approval Criteria* and if the proposed Minor Plat:

1. Is consistent with the intent and complies with the applicable use requirements of the underlying zoning district;
2. Complies with applicable dimensional and development standards in this UDC;
3. Does not affect a recorded easement without approval from the easement holder, unless otherwise approved by the Director;
4. Will not result in adverse impacts to surrounding property; and
5. Will not limit the Town’s ability to provide adequate and sufficient facilities or services.

**2.9.6 Vacating Plat<sup>195</sup>**

**A. Purpose**

The Vacating Plat review procedure is intended to outline the process for vacation of all or a portion of a prior-approved plat.

**B. Applicability**

The property owner of the tract covered by a plat may vacate the plat pursuant to TLGC § 212.013, as amended.

**C. Vacating Plat Procedure**

The process diagram below identifies the applicable steps from §2.4: *Common Review Procedures*, that apply to the review of Vacating Plat applications. Additions or modifications to the common review procedures are noted below.



**1. Pre-Application Activities**

A pre-application conference is required in accordance with §2.4.2A: *Pre-Application Conference*.

<sup>195</sup> New procedure for vacating plat as allowed by state law.

**2. Application Submittal & Processing**

The application shall be submitted, accepted, revised, and may be withdrawn, in accordance with §2.4.3: *Application Submittal and Processing*.

**3. Staff Review**

The staff shall review the application and prepare a staff report and recommendation in accordance with §2.4.4: *Staff Review*.

**4. Scheduling and Notice of Public Meeting**

The application shall be scheduled for a public meeting before the Planning and Zoning Commission and shall be noticed pursuant to §2.4.5: *Scheduling and Notice of Public Hearings*.

**5. Review and Decision**

The application shall be reviewed and decided upon by the Planning and Zoning Commission in accordance with §2.4.6: *Review and Decision*, with the following modification:

- i. As a condition of approval, the Planning and Zoning Commission may require the applicant to prepare a revised Vacating Plat in accordance with §2.9.3: *Final Plat*.

**6. Post-Decision Actions and Limitations**

All common procedures in §2.4.7: *Post-Decision Actions and Limitations*, shall apply, with the following modification:

- a. Regardless of the Planning and Zoning Commission's action on the application, the applicant will have no right to a refund of any monies, fees, or charges paid to the Town nor to the return of any property or consideration dedicated or delivered to the Town except as may have previously been agreed to by the Planning and Zoning Commission.

**D. Review Criteria**

In reviewing a proposed vacating plat application, the Planning and Zoning Commission shall consider the general approval criteria in §2.4.6C: *General Approval Criteria*.

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## 2.10 Flexibility and Relief Procedures

### 2.10.1 Variance

**Commentary:**

There are several references to a Variance procedure in Addison; however, the current *Code of Ordinances* does not specifically describe the process for seeking a Variance. This new subsection codifies current practice and includes specific review criteria by which the Board of Zoning Adjustment would make a determination.

**A. Purpose**

The Variance procedure provides a mechanism for the Town to authorize Variances from the development standards of this UDC when it is demonstrated that such a Variance will not be contrary to the public interest or the spirit of this UDC, where, owing to special conditions, literal enforcement of this UDC will result in practical difficulties or unnecessary hardship.

**B. Applicability**

Any property owner seeking relief from this UDC may request a Variance when the strict application of this UDC meet the approval criteria listed in §2.10.1D.

**C. Variance Procedure**

The process diagram below identifies the applicable steps from §2.4: *Common Review Procedures*, that apply to the review of Variance applications. Additions or modifications to the common review procedures are noted below.



**1. Pre-Application Activities**

A pre-application conference is required in accordance with §2.4.2A: *Pre-Application Conference*.

**2. Application Submittal & Processing**

The application shall be submitted, accepted, revised, and may be withdrawn, in accordance with §2.4.3: *Application Submittal and Processing*.

**3. Staff Review**

The staff shall review the application and prepare a staff report and recommendation in accordance with §2.4.4: *Staff Review*.

**4. Scheduling and Notice of Public Hearings**

The application shall be scheduled for public hearings before the Board of Zoning Adjustment and shall be noticed pursuant to §2.4.5: *Scheduling and Notice of Public Hearings*.

**5. Review and Decision**

- a. The application shall be reviewed and decided upon by the Board of Zoning Adjustment in accordance with §2.10.1D.
- b. After closing the public hearing, the Board of Zoning Adjustment shall take action consistent with this UDC and state law. A concurring vote of 75 percent of the members of the Board of Zoning Adjustment shall be required to approve a Variance request.<sup>196</sup>

**6. Post-Decision Actions and Limitations**

All common procedures in §2.4.7: *Post-Decision Actions and Limitations*, shall apply.

**D. Review Criteria**

- 1. In reviewing a Variance application, the Board of Zoning Adjustment shall find that all of the following exist:
  - a. Special circumstances or conditions apply to the lot or parcel for which the Variance is sought, which circumstances or conditions are peculiar to such lot or parcel and do not apply generally to

<sup>196</sup> Carries forward Appendix A, Article XXIV, Sec. 5.

- other lot or parcels in the same zoning district or neighborhood and that said circumstances or conditions are such that the strict application of the provisions of this UDC would deprive the applicant of the reasonable use of such lot or parcel;
- b. The granting of the Variance will not be detrimental to the public welfare or injurious to other property or improvements in the zoning district or neighborhood in which the lot or parcel is located;
  - c. The Variance requested is the minimum Variance that will accomplish this purpose;
  - d. The literal enforcement and strict application of the provisions of this UDC will result in an unnecessary hardship inconsistent with the general provisions and intent of this UDC and that in granting such Variance the spirit of the UDC will be preserved and substantial justice done;
  - e. The granting of a Variance is not solely for the purpose of mitigating a financial hardship; and
  - f. The condition or feature that creates the need for the Variance did not result from the owner's actions.
2. Any person desiring to erect or increase the height of any structure, or permit the growth of any object of natural growth or use his property, in violation of the airport zoning regulations prescribed in §---<sup>197</sup> shall comply with the following standards:<sup>198</sup>
- a. The applicant shall provide determination from the Federal Aviation Administration as to the effect of the proposal on the operation of air navigation facilities and the safe, efficient use of navigable airspace.
  - b. Such Variances shall be allowed where it is duly found that a literal application or enforcement of the regulations will result in unnecessary hardship and the relief granted would not be contrary to the public interest, but will do substantial justice, and will be in accordance with the spirit of §---,<sup>199</sup> pursuant to V.T.C.A., Local Government Code Chapter 41.
  - c. No application for Variance to the requirements of §---<sup>200</sup> shall be considered by the Board of Zoning Adjustment unless a copy of the application has been furnished to the building official for advice as to the aeronautical effects of the Variance. If the building official does not respond to the application within 15 days after receipt, the Board of Zoning Adjustment may act on its own to grant or deny such application.

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## 2.10.2 Subdivision Variance<sup>201</sup>

### A. Purpose

The Variance procedure provides a mechanism for the Town to authorize Variances from the development standards of this UDC when it is demonstrated that such a Variance will not be contrary to the public interest or the spirit of this UDC, where, owing to special conditions, literal enforcement of this UDC will result in practical difficulties or unnecessary hardship.

### B. Applicability

Any property owner seeking relief from this UDC may request a Variance when the strict application of this UDC meet the approval criteria listed in §2.10.1D.

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<sup>197</sup> Link to §2.8.1: *AO-Airport Overlay* to be added in Consolidated Draft.

<sup>198</sup> Carries forward Chapter 14-127.

<sup>199</sup> Link to §2.8.1: *AO-Airport Overlay* to be added in Consolidated Draft.

<sup>200</sup> Link to §2.8.1: *AO-Airport Overlay* to be added in Consolidated Draft.

<sup>201</sup> New.

**C. Variance Procedure**

The process diagram below identifies the applicable steps from §2.4: *Common Review Procedures*, that apply to the review of Variance applications. Additions or modifications to the common review procedures are noted below.



**1. Pre-Application Activities**

A pre-application conference is required in accordance with §2.4.2A: *Pre-Application Conference*.

**2. Application Submittal & Processing**

The application shall be submitted, accepted, revised, and may be withdrawn, in accordance with §2.4.3: *Application Submittal and Processing*.

**3. Staff Review**

The staff shall review the application and prepare a staff report and recommendation in accordance with §2.4.4: *Staff Review*.

**4. Scheduling and Notice of Public Hearings**

The application shall be scheduled for public hearings before the Board of Zoning Adjustment and shall be noticed pursuant to §2.4.5: *Scheduling and Notice of Public Hearings*.

**5. Review and Decision**

- a. The application shall be reviewed and decided upon by the Board of Zoning Adjustment in accordance with §2.10.1D.
- b. After closing the public hearing, the Board of Zoning Adjustment shall take action consistent with this UDC and state law. A concurring vote of 75 percent of the members of the Board of Zoning Adjustment shall be required to approve a Variance request.<sup>202</sup>

**6. Post-Decision Actions and Limitations**

All common procedures in §2.4.7: *Post-Decision Actions and Limitations*, shall apply.

**D. Review Criteria**

- 1. In reviewing a Variance application, the Board of Zoning Adjustment shall find that all of the following exist:
  - a. Special circumstances or conditions apply to the lot or parcel for which the Variance is sought, which circumstances or conditions are peculiar to such lot or parcel and do not apply generally to

<sup>202</sup> Carries forward Appendix A, Article XXIV, Sec. 5.

- other lot or parcels in the same zoning district or neighborhood and that said circumstances or conditions are such that the strict application of the provisions of this UDC would deprive the applicant of the reasonable use of such lot or parcel;
- b. The granting of the Variance will not be detrimental to the public welfare or injurious to other property or improvements in the zoning district or neighborhood in which the lot or parcel is located;
  - c. The Variance requested is the minimum Variance that will accomplish this purpose;
  - d. The literal enforcement and strict application of the provisions of this UDC will result in an unnecessary hardship inconsistent with the general provisions and intent of this UDC and that in granting such Variance the spirit of the UDC will be preserved and substantial justice done;
  - e. The granting of a Variance is not solely for the purpose of mitigating a financial hardship; and
  - f. The condition or feature that creates the need for the Variance did not result from the owner's actions.
2. Any person desiring to erect or increase the height of any structure, or permit the growth of any object of natural growth or use his property, in violation of the airport zoning regulations prescribed in §---<sup>203</sup> shall comply with the following standards:<sup>204</sup>
- a. The applicant shall provide determination from the Federal Aviation Administration as to the effect of the proposal on the operation of air navigation facilities and the safe, efficient use of navigable airspace.
  - b. Such Variances shall be allowed where it is duly found that a literal application or enforcement of the regulations will result in unnecessary hardship and the relief granted would not be contrary to the public interest, but will do substantial justice, and will be in accordance with the spirit of §---,<sup>205</sup> pursuant to V.T.C.A., Local Government Code Chapter 41.
  - c. No application for Variance to the requirements of §---<sup>206</sup> shall be considered by the Board of Zoning Adjustment unless a copy of the application has been furnished to the building official for advice as to the aeronautical effects of the Variance. If the building official does not respond to the application within 15 days after receipt, the Board of Zoning Adjustment may act on its own to grant or deny such application.

### 2.10.3 Minor Modification

**Commentary:**

This procedure replaces the current waiver procedures available in the UC and MXR zoning districts (current Article XVIII, §5; Article XIX, §6; and Article XIX, §11). The Minor Modification procedure is now available for properties town-wide allowing for slight deviations from some development standards and is reviewed concurrently with another application type. Applications that would already require a public hearing, would include the evaluation of the Minor Modification request during that public hearing (and would not authorize all Minor Modifications administratively). The review standards are intended to ensure that they are approved only when justified by unique circumstances, rather than assumed an automatic deviation by right. This procedure is intended to streamline development review times and to allow a degree of flexibility often required when developing challenging sites.

Many communities use the Minor Modification procedure modestly at first, and then revise it to add additional adjustments or remove adjustments if the tool proves successful. In this draft, we include a table of allowable Minor Modifications to indicate which standards may be adjusted, and to what extent.

<sup>203</sup> Link to §2.8.1: *AO-Airport Overlay* to be added in Consolidated Draft.

<sup>204</sup> Carries forward Chapter 14-127.

<sup>205</sup> Link to §2.8.1: *AO-Airport Overlay* to be added in Consolidated Draft.

<sup>206</sup> Link to §2.8.1: *AO-Airport Overlay* to be added in Consolidated Draft.

**A. Purpose**

The purpose of the Minor Modification procedure is to allow adjustments, modifications, or deviations from the dimensional or numerical standards of this UDC. Minor modifications are intended to provide greater flexibility when necessary without requiring a formal zoning amendment. The Minor Modification procedure is not a waiver of standards, but rather a procedure for modifying standards up to a specified amount when circumstances or site conditions warrant such modification.

**B. Applicability**

**1. Table of Allowable Minor Modifications**

An application for a Minor Modification that is not related to a request for reasonable accommodation under the federal Fair Housing Act Amendments of 1988 (FFHA) or the Religious Land Use and Institutionalized Persons Act of 2000 (RLUIPA) may request only the types of modifications shown below.

UDC Standard	Allowable Modification (maximum percentage)
<b>Site Standards</b>	
Lot width, minimum	10
Lot depth, minimum	10
Lot area, minimum	10
Building coverage, maximum	10
Total impervious coverage, maximum	10
Block length	10
<b>Lot Dimensional Standards</b>	
Front building setback, minimum	15
Build-to range, minimum/maximum	15
Front building façade at build-to range, minimum	15
Side building setback, minimum	15
Rear building setback, minimum	15
<b>Building Standards</b>	
Building height, maximum	10
Building height, minimum for street facing facades	10
<b>Development Standards</b>	
Number of required vehicle parking spaces, minimum	20
Minimum landscaped\ area	10
Residential density	10

**2. Limitations on Minor Modifications**

The Minor Modification procedure shall not be used to:

- a. Modify standards outside of this UDC;
- b. Modify the uses or activities allowed on the property;

- c. Modify the standards that apply to a specific use or activity, including dimensional and numerical standards; or
- d. Modify a standard that is already modified through a separate Minor Modification, Variance, or other adjustment procedure.

**3. Reasonable Accommodations Under the FFHA**

- a. The Town may approve a Minor Modification to accommodate requirements under the FFHA provided:
  - i. The modification is the minimum change from the provisions of this UDC necessary to comply with the requirements of the FFHA; and
  - ii. The modification will not cause adverse impacts on the surrounding area.
- b. The Town may approve a type of accommodation that is different than the applicant's request if the Town deems such accommodation would satisfy the requirements of the FFHA and have fewer impacts on the surrounding area.
- c. The Town may be required to approve requests for reasonable accommodations under the FFHA regardless of whether such request qualifies as a Minor Modification.

**4. Accommodations Under RLUIPA**

- a. The Town may approve a modification to avoid or eliminate a substantial burden on religious exercise as guaranteed by RLUIPA.
- b. Under no circumstance may the Town approve a modification that allows a use, structure, or activity in a zoning district where such use, structure, or activity is prohibited.
- c. The Town may approve a modification to accommodate a person's free exercise of religion pursuant to federal or state law.

**C. Minor Modification Procedure**

**1. Application**

- a. An application for a Minor Modification may only be submitted and reviewed as part of a concurrent application for a Special Use Permit, Major or Minor Site Plan, Temporary Use Permit, or platting procedure. Standalone Minor Modification applications shall not be considered.
- b. Multiple requests for eligible modifications pursuant to §2.10.3B.1 may be considered under the same Minor Modification application.

**2. Review and Decision**

**a. Applications Approved Administratively**

- i. When the request for a Minor Modification is submitted concurrently with and associated with an application that requires approval by the Director, the Director shall review and approve, approve with conditions, or deny the modification in accordance with the criteria in subsection 2.10.3C.3.a below.
- ii. The Director shall provide notice of the application for the Minor Modification and an opportunity for interested persons to submit comments on the application. Notice must be provided by posting details of the request:
  - a. On a clearly visible sign on the subject property for a period of at least seven days; and/or
  - b. In a designated location within Town Hall; and/or
  - c. Mailed notice to surrounding property owners within 200 feet; or
  - d. Mailed notice to adjacent property owners.



- iii. The Director may refer the Minor Modification application to the Planning and Zoning Commission if the Director determines that the nature of the request warrants additional feedback through a public hearing.

**b. Applications Approved by the Planning and Zoning Commission or City Council**

When the request for a Minor Modification is submitted concurrently with and associated with an application that requires approval by the Planning and Zoning Commission or City Council, the applicable final decisionmaker shall review the modification and approve, approve with conditions, or deny the modification in accordance with the criteria in subsection 2.10.3C.3.a below.

**3. Post-Decision Actions and Limitations**

All common procedures in §2.4.7: *Post-Decision Actions and Limitations*, shall apply, with the following modifications:

**a. Effect of Approval**

- i. Approval of a Minor Modification only authorizes the modifications as approved and only on the subject property associated with the application.
- ii. A Minor Modification may be suspended or revoked after notice and an opportunity to be heard is provided to the applicant, if there is:
  - a. A failure to comply with related provisions of this UDC;
  - b. A failure to comply with any conditions included with the Minor Modification; or
  - c. A change in use or activity established on the site.

**b. Expiration of Minor Modification**

Approval of a Minor Modification shall automatically expire if the development application or permit associated with the Minor Modification is denied or otherwise deemed invalid.

**D. Review Criteria**

- 1. In reviewing a request for a Minor Modification, the decisionmaker shall consider whether the Minor Modification would result in development that complies with the intent of the standard being modified and the overall intent of this UDC, and the extent to which the requested Minor Modification:
  - a. Is technical in nature;
  - b. Compensates for an unusual site condition or circumstance not shared by surrounding properties in general;
  - c. Meets all other applicable building and safety codes;
  - d. Benefits the Town by protecting community assets, features, and sensitive areas; and
  - e. Avoids creating adverse impacts to surrounding areas.
- 2. An application shall be approved if the application supports the criteria listed above, and the applicant has provided any additional data and references, if requested by the Director, the Planning and Zoning Commission, or the City Council.

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**2.10.4 Alternative Equivalent Compliance<sup>209</sup>**

**A. Purpose**

The alternative equivalent compliance procedure is intended to encourage creative and unique design by allowing development to occur in a manner that meets the intent of this section, yet through an alternative

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<sup>209</sup> New. This procedure is intended to provide flexibility for certain development standards that would not be possible under the Minor Modification tool. This is more for qualitative deviations, rather than quantitative deviations. This is an example of how such a tool can be structured in the procedures chapter. If this is a good direction, then we will need to coordinate it with the alternative compliance references scattered in the development standards article.

design that does not strictly adhere to the section's standards. This is not a general waiver of regulations. Rather, this authorizes the Director to approve a site-specific plan that is equal to or better than the strict application of the standard.

**B. Applicability**

The alternative equivalent compliance procedure is available for the standards in Article 5: *Development Standards*, unless otherwise described in the applicable subsection.

**C. Pre-Application Conference Required**

An applicant proposing alternative equivalent compliance shall request and attend a pre-application conference prior to submitting application materials for the applicable permit(s), to determine the preliminary response from the Director. Based on the response, the application shall include sufficient explanation and justification, in both written and graphic form, for the requested alternative compliance. The Director may require that the applicant provide additional drawings and/or material samples in order to better understand the need for the proposed alternative.

**D. Decision-Making Responsibility**

Final approval of any proposed alternative equivalent compliance shall be the responsibility of the decision-making body responsible for deciding upon the application. Administratively approved projects proposing alternative compliance shall receive written approval of the alternative compliance from the Director.

**E. Criteria**

Alternative equivalent compliance may be approved if the applicant demonstrates that the following criteria have been met by the proposed alternative:

1. Achieves the intent of the subject standard to the same or better degree than the subject standard;
2. Advances the goals and policies of this UDC to the same or better degree than the subject standard;
3. Results in benefits to the community that are equivalent to or exceed benefits associated with the subject standard; and
4. Imposes no greater impacts on surrounding properties than would occur through compliance with the specific requirements of this UDC.

**F. Effect of Approval**

Alternative equivalent compliance shall apply only to the specific site for which it is requested and shall not establish a precedent for approval of other requests.

**G. Timing of Alternative Equivalent Compliance Review**

1. Review for compliance with these standards shall occur at the time of Site Plan review. Where Site Plan review is not required, review for compliance with these standards shall occur prior to issuance of a building permit.
2. Interpretations as to applicability or design requirements contained within this section shall be the responsibility of the Director. Appeals of the Director's interpretations shall be heard according to the process set forth in §2.10.5: *Appeal of Administrative Decision*.

## 2.10.5 Appeal of Administrative Decision<sup>210</sup>

### A. Purpose

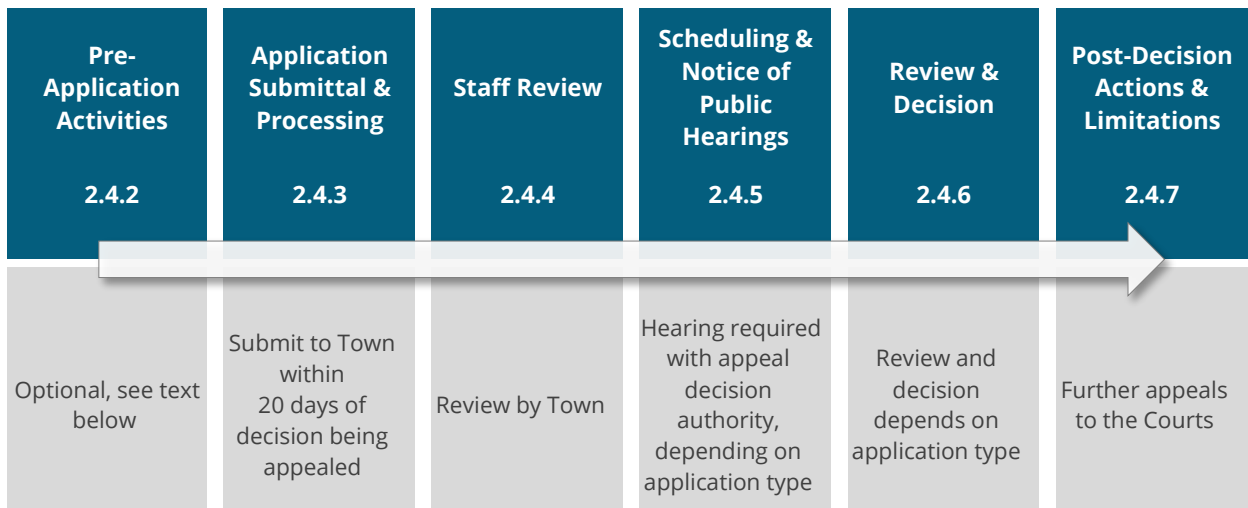
The appeal of administrative decision procedure is intended to establish a remedy whereby persons claiming to have been aggrieved by a decision of the Director or other administrative official in administering this UDC may appeal that decision.

### B. Applicability

Any person may appeal a decision of an administrative office or agency made in the administration or enforcement of this UDC. Appeals shall be made to the appropriate body as indicated in §2.3: *Summary Table of Review Procedures*, and in accordance with state law.

### C. Appeal of Administrative Decision Procedure

The process diagram below identifies the applicable steps from §2.4: *Common Review Procedures*, that apply to the review of appeal of administrative decision applications. Additions or modifications to the common review procedures are noted below.



#### 1. Pre-Application Activities

A pre-application conference is optional, but if elected such meeting shall be held in accordance with §2.4.2A: *Pre-Application Conference*.

#### 2. Application Submittal & Processing

The application shall be submitted, accepted, revised, and may be withdrawn, in accordance with §2.4.3: *Application Submittal and Processing*, with the following modifications:

##### a. Time Limit

Appeals shall be made in writing and filed with the Director within 20 calendar days of the action or decision being appealed.

##### b. Pause of Proceedings

An appeal pauses all proceedings from further action unless the Director determines that a stay would create adverse impacts to the health, safety, or welfare of the Town or neighborhood. In

<sup>210</sup> New. This procedure formalizes and codifies the appeal process for any administrative decision related to this UDC. This section incorporates procedural details in Appendix A, Article XXIV, Sec. 2.

such case, proceedings shall not be stayed, otherwise than by a restraining order which may be granted by the Board of Zoning Adjustment or by a court of record or application on notice to the officer from whom the appeal is taken and on due cause shown.

**3. Staff Review**

The staff shall review the application and prepare a staff report and recommendation in accordance with §2.4.4: *Staff Review*.

**4. Scheduling and Notice of Public Hearings**

The application shall be scheduled for public hearings before the appropriate appeal authority and shall be noticed pursuant to §2.4.5: *Scheduling and Notice of Public Hearings*.

**5. Review and Decision**

- a. The appropriate appeal authority may affirm, reverse, or amend a decision or interpretation made by the Director or an administrative official in accordance with the approval criteria in §2.10.5D: *Review Criteria*.
- b. The appropriate appeal authority may reverse a previous decision in whole or in part, or may modify the order, requirement, decision, or determination appealed from.
- c. The appropriate appeal authority may attach conditions of approval on any appeal to ensure the health, safety, and welfare of the Town.

**6. Post-Decision Actions and Limitations**

All common procedures in §2.4.7: *Post-Decision Actions and Limitations*, shall apply. Any further appeals from the appropriate appeal authority shall be made to the courts in accordance with state law.

**D. Review Criteria**

In reviewing a proposed appeal of administrative decision application, the appropriate appeal authority shall consider the following:

- 1. The facts stated in the application, as presented by the appellant and/or the Director;
- 2. The written and oral testimony of the public;
- 3. The testimony of the appellant;
- 4. The requirements and intent of the applicable standards from this UDC compared to the written decision that is being appealed; and
- 5. The testimony of the administrative official or body from which the appeal is taken.

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**2.10.6 Interpretations<sup>211</sup>**

**A. Purpose**

The interpretations procedure is intended to provide a uniform mechanism for rendering formal written interpretations of this UDC.

**B. Applicability**

Responsibility for making interpretations of provisions of this UDC is assigned as follows:

- 1. The Director shall be responsible for all interpretations of the zoning and platting provisions in the text of this UDC, including, but not limited to: interpretations as to which is the stricter and thus controlling provision in case of conflict with this UDC and other provisions of the Municipal Code of Ordinances; interpretations of compliance with a condition of approval; and interpretations of whether an

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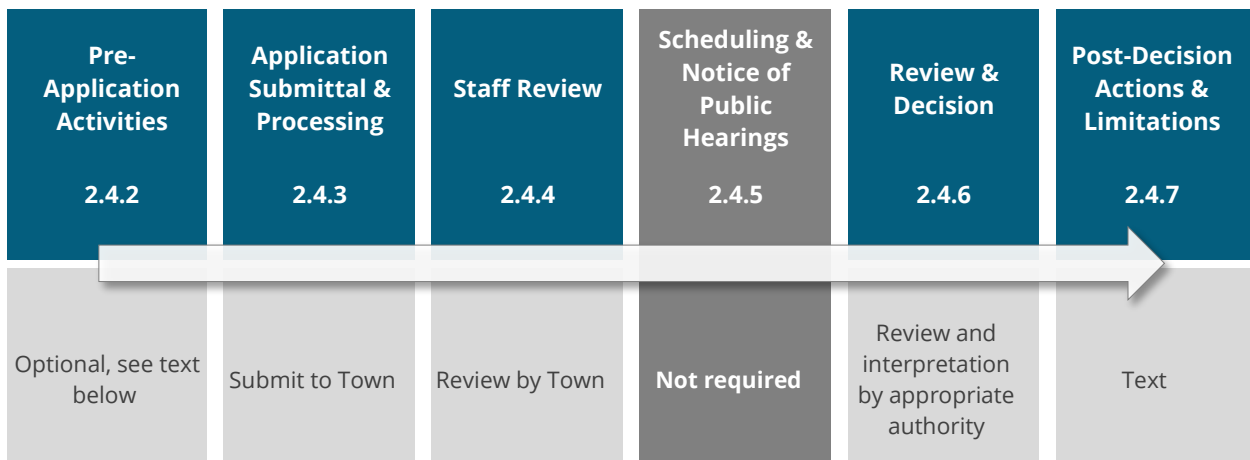
<sup>211</sup> New. This procedure formalizes and codifies the interpretation process for any matter related to this UDC. This procedure replaces the general interpretation language in Article XXXI, Sec. 1 and Sec. 2.

unspecified use falls within a use classification, use category, or use type allowed in a zoning district. The Director shall also be responsible for interpretations of the zoning district boundaries on the Official Zoning Map.

2. The Director of Public Works and Engineering shall be responsible for all interpretations of the floodplain management and engineering provisions in the text of this UDC.
3. The Building Official or Fire Marshall shall be responsible for all interpretations of Building and Fire Code provisions as they relate to this UDC including interpretations relating to issuance of a Certificate of Compliance/Occupancy.

**C. Interpretation Procedure**

The process diagram below identifies the applicable steps from §2.4: *Common Review Procedures*, that apply to the review of interpretation applications. Additions or modifications to the common review procedures are noted below.



**1. Pre-Application Activities**

A pre-application conference is optional, but if elected such meeting shall be held in accordance with §2.4.2A: *Pre-Application Conference*.

**2. Application Submittal & Processing**

The application shall be submitted, accepted, revised, and may be withdrawn, in accordance with §2.4.3: *Application Submittal and Processing*, with the following modifications:

- a. A request for administrative interpretation may be filed by any person having a legal or equitable interest in property that gives rise to the need for an interpretation; provided that interpretations shall not be sought by any person based solely on hypothetical circumstances or where the interpretation would have no effect other than as an advisory opinion.

**3. Staff Review**

The staff shall review the application and may choose to prepare a staff report and recommendation in accordance with §2.4.4: *Staff Review*, as determined by the Director.

**4. Review and Decision**

The application shall be reviewed and decided upon by the appropriate interpretation authority in accordance with §2.10.6D: *Review Criteria*. The decision shall be in the form of a written interpretation and the decision-maker shall consult with the City Attorney and affected Town officials before rendering the interpretation.

## 5. Post-Decision Actions and Limitations

All common procedures in §2.4.7: *Post-Decision Actions and Limitations*, shall apply, with the following modifications:

### a. Effect of Approval

The written interpretation shall be binding on subsequent decisions by the Director or other Town administrative officials in applying the same provision of this UDC or the Official Zoning Map in the same circumstance, unless the interpretation is reversed or modified on appeal pursuant to §2.10.5: *Appeal of Administrative Decision*.

### b. Official Record of Interpretations

The Director shall maintain a record of written interpretations that shall be available for public inspection, on reasonable request, during normal business hours.

## D. Review Criteria

In reviewing a proposed interpretation application, the appropriate interpretation authority shall consider the following:

### 1. Statutory References

Unless otherwise specified, statutory references are to be construed as currently amended or superseded.

### 2. Text Provisions

Interpretation of text provisions and their application shall be based on the standards in §7.1: *Rules of Construction*, and the following considerations:

- a. The clear and plain meaning of the provision's wording, as defined by the meaning and significance given specific terms used in the provision as established in Article 7: *Definitions*, and by the common and accepted usage of the term;
- b. The intended purpose of the provision, as indicated by purpose statements, its context and consistency with surrounding and related provisions, and any legislative history to its adoption;
- c. The intent to give every provision meaning;
- d. The general purposes served by this UDC, as set forth in §1.3: *Purpose*; and
- e. Consistency with the Comprehensive Plan and other applicable Town policies.

### 3. Unspecified Uses

Interpretation of whether an unspecified use falls within a use classification, use category, or use type allowed in a zoning district shall be based on the standards in §---<sup>212</sup>, and the Comprehensive Plan.

### 4. Zoning Map Boundaries

Interpretation of zoning district boundaries on the Official Zoning Map shall be in accordance with the standards in §---<sup>213</sup>, and consistent with the Comprehensive Plan.

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# Article 3: Zoning Districts

[Submitted with Part 1]

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<sup>212</sup> Link to §3.2.5: *Classification of New and Unlisted Uses* to be added in Consolidated Draft.

<sup>213</sup> Link to §2.2.2: *Zoning District Boundaries* to be added in Consolidated Draft.

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## **Article 4: Use Regulations**

[Submitted with Part 1]

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## **Article 5: Development Standards**

[Submitted with Part 2]

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## **Article 6: Subdivision Standards**

[Submitted with Part 2]

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# Article 7: Definitions<sup>214</sup>

## Commentary:

This section includes general rules of construction and defined terms. Many of the rules of construction are new. This definitions article will continue to grow as future material is developed. Many of the terms were carried forward from the current Code of Ordinances and revised as noted. New terms are also noted and are based on our work in other jurisdictions and tailored for Addison. There are several placeholders where we will prepare graphics to supplement the text definitions, both by updating existing graphics and creating new graphics.

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## 7.1 Rules of Construction<sup>215</sup>

### 7.1.1 Meanings and Intent

All provisions, terms, phrases, and expressions contained in this UDC shall be construed according to the general purpose set forth in §1.3, and the specific purpose statements set forth throughout this UDC. When, in a specific section of this UDC, a different meaning is given for a term defined for general purposes in this UDC, the specific section's meaning and application of the term shall control.

### 7.1.2 Headings, Illustrations, and Text

In the event of a conflict or inconsistency between the text of this UDC and any heading, caption, figure, illustration, table, or map, the text shall control.

### 7.1.3 Lists and Examples

Unless otherwise specifically indicated, lists of items or examples that use terms such as "for example," "including," and "such as," or similar language are intended to provide examples and are not exhaustive lists of all possibilities.

### 7.1.4 Computation of Time

The time in which an act is to be done shall be computed by excluding the first day and including the last day. If a deadline or required date of action falls on a Saturday, Sunday, holiday observed by the Town, or other day that Town offices are not open, the deadline or required date of action shall be the next day that is not a Saturday, Sunday, holiday observed by the Town, or other day that Town offices are not open. References to days are calendar days unless otherwise stated.

### 7.1.5 Technical and Non-Technical Terms

Words and phrases shall be construed according to the common and approved usage of the language, but technical words and phrases that may have acquired a peculiar and appropriate meaning in law shall be construed and understood according to such meaning.

### 7.1.6 Mandatory and Discretionary Terms

The words "shall," "must," and "will" are mandatory, establishing an obligation or duty to comply with the particular provision. The words "may" and "should" are discretionary.

### 7.1.7 Conjunctions

Unless the context clearly suggests the contrary, conjunctions shall be interpreted as follows:

- A.** "And" indicates that all connected items, conditions, provisions, or events apply; and

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<sup>214</sup> Discussion Item: There may be several definitions in current Chapter 18, Article 8, Sec. 18-451; and Chapter 34, Article 34, that may need to be reconciled with definitions found in this UDC (e.g., dwelling unit, owner, structure, etc.). We recommend a uniform set of definitions be used in the UDC and the Code of Ordinances, if possible.

<sup>215</sup> New.



B. "Or" indicates that one or more of the connected items, conditions, provisions, or events apply.

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### 7.1.8 Tenses, Plurals, and Gender

Whenever appropriate with the context, words used in the present tense include the future tense. Words used in the singular number include the plural. Words used in the plural number include the singular, unless the context of the particular usage clearly indicates otherwise. Words used in the masculine gender include the feminine gender, and vice versa.

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### 7.1.9 Titles and Headings

All titles and headings of articles, sections, or subsections of this UDC are to be used for convenience in arrangement only and shall not be construed to alter the intended meaning.

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## 7.2 Use-Related Definitions

[Included in Part 1]

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## 7.3 Other Defined Terms

### Commentary

New terms added are highlighted yellow.

The following words, terms and phrases when used in this UDC, shall have the meanings ascribed to them in this article, except where the context clearly indicates a different meaning:

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### 7.3.1 Flood Definitions

[Reference Part 2: Development Standards]

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### 7.3.2 Airport Definitions

#### Airport

The area of land owned by the Town and known as Addison Airport.

#### Employee

For purposes of airport regulations, an individual who works for an aircraft owner, and for which the aircraft owner files federal income taxes and tax withholding with the IRS on behalf of the employee.

#### Entity

For purposes of airport regulations, a person, firm, corporation, partnership, limited liability company, or other entity recognized in law.

#### Lease

For purposes of airport regulations, a written contractual agreement by and between the Town and an entity granting the entity the exclusive right to use and occupy certain airport land and/or facilities in consideration of the payment of rent and other terms and conditions. In addition, lease also includes a sublease agreement between an airport tenant (who has a legal and authorized lease with the Town) and an entity in which the tenant grants to the entity a right to use and occupy all or a portion of the airport land and/or facilities that the tenant leases from the Town, but only if the sublease was properly contracted, executed and agreed to according to the rules and regulations and was consented to in writing by the Town.

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### 7.3.3 All Other Definitions

#### Abandon

For purposes of airport regulations, that property has been left on non-leased property at the airport without the consent of the Town for a period of 48 hours or more without the owner moving or claiming it, or on leased property at the airport without the consent of the tenant.

#### Access or Access Way<sup>216</sup>

The place, means, or way by which pedestrians or vehicles shall have safe, adequate, and usable ingress/egress to a property or use as required by this UDC.

#### Administrative Official

That person within a Town department having the final decision-making authority within the department relative to a zoning issue such as the Building Official or Director of Public Works and Engineering or their designees.

#### Alley<sup>217</sup>

A minor or secondary right-of-way that provides only a secondary means of access to abutting property and that is used primarily for vehicular service to the back or side of properties that otherwise front on a street.

#### Applicant

The owner(s), developer(s), or their representative(s) with written authorization to act on behalf of said parties from all of the lots in the proposed subdivision or property owners' association, as the context allows.

#### Board of Zoning Adjustment

The Board of Zoning Adjustment appointed to hear appeals under this UDC.

#### Building

Any structure or building for the support, shelter, and enclosure of persons, animals, possessions, or movable property of any kind. For purposes of airport regulations, the main portion of each structure, all projections or extensions therefrom, and any additions or changes thereto including, but not limited to, garages, outside platforms, docks, carports, canopies, eaves, and porches.

#### Building Façade, Primary

Any façade that fronts a public or private street or open space.

#### Building Height<sup>219</sup>

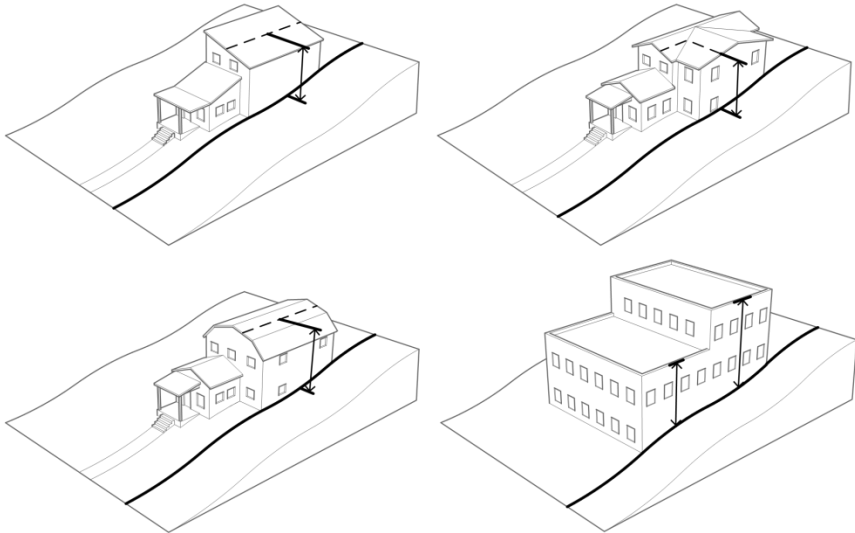
The height of a building measured as the vertical distance above the average finished grade measured to the highest point of the roof of a flat roof or to the deck line of a mansard roof, or to the midpoint of the highest gable of a pitched or hipped roof.

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<sup>216</sup> New.

<sup>217</sup> Replaces current definition.

<sup>219</sup> Did not carry forward last sentence exempting some architectural features, those are addressed in building height exceptions. Replaces current definition, did not carry forward references to the street lot line or average natural ground level. Illustration is new.

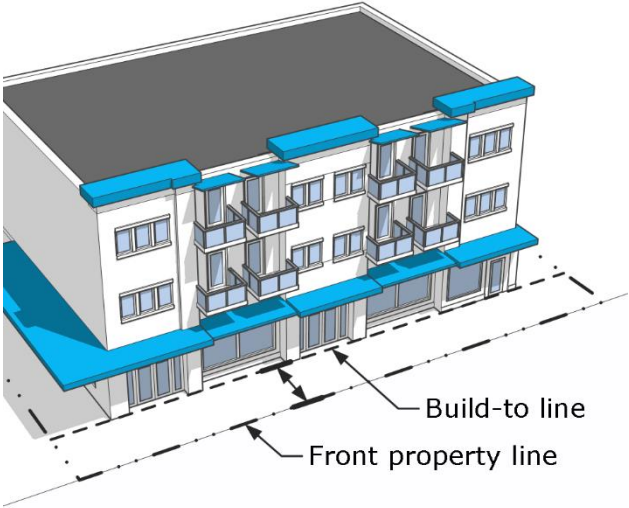


**Building Official**

The Building Official of the Town of Addison or their designated representative.

**Build-to**

An alignment establishing a certain distance from the front property line where a building must be constructed.



**Business**

Any for-profit or non-profit commercial, industrial, or professional operation, occupation, work, or trade, or any other business of any kind, including, without limitation, any sole proprietorship, partnership, limited partnership, joint venture, association, corporation, limited liability company, franchisee, cooperative, or any other entity recognized by law that owns, leases, or occupies any premises.

**City Council (or "Council")**

The city council of the Town of Addison, Texas.

### Criteria Manual

Any document containing formally established design standards for the Town of Addison including but not limited to engineering technical standards, construction details, and other technical specifications.

### Dedication

An offer of real property by its owner(s) and its acceptance by the Town for any general or public use.

### Development<sup>220</sup>

The new construction or the enlargement of any exterior dimension of any building, structure, or improvement.

### Director<sup>221</sup>

Unless otherwise specified, the Director of Development Services or their designee.

### Driveway

The primary improved or unimproved parking surface that provides egress and ingress from a garage, carport, or off-street parking area to an adjacent street or alley.

### Dwelling Unit

A building or portion of a building which is arranged, occupied, or intended to be occupied as living quarters.

### Easement

The portion of a lot or lots reserved for present or future use by a person or agency other than the legal fee owner(s) of the property. The easement may be for use under, on or above said lot or lots.

### Fence

A vertical device used as a boundary or means of providing protection, confinement or privacy.

### Final Plat

The Final Plat of a subdivision prepared for recording in conformance with Section 2.9.3: *Final Plat*.

### Floodplain<sup>222</sup>

See [§---<sup>223</sup>](#) for definitions.

### Frontage<sup>224</sup>

The width of a lot or parcel abutting a public right-of-way measured at the front property line.

### Gross Floor Area (GFA)<sup>225</sup>

The total floor area of all stories of a building or buildings, measured by taking the outside dimensions of the building at each floor level intended for occupancy or storage (including basements), but not including any uncovered or unenclosed porches, patios, or decks, unless otherwise permitted in this UDC.

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<sup>220</sup> Updated to align with TLGC Chapter 212.

<sup>221</sup> New.

<sup>222</sup> New.

<sup>223</sup> Link to §7.3.1: *Flood Definitions* to be added in Consolidated Draft.

<sup>224</sup> New.

<sup>225</sup> Replaces current definition.

**Impervious Coverage<sup>226</sup>**

Any hard surface, man-made area that does not absorb water, including but not limited to principal and accessory building roofs, sidewalks, paved parking, driveways, and other paved surfaces.

**Improved Parking Surface<sup>227</sup>**

An area used for the parking or storage of vehicles that is overlaid or otherwise paved with concrete, asphalt, paving stones or other approved hard surfaced durable material.

**Landscape Plan<sup>228</sup>**

A detailed drawing that identifies the quantities or numbers, placement, type, and common and botanical names of plant materials to be used on a development site.

**Lot<sup>229</sup>**

A designated parcel, tract or area of land established by a plat or otherwise permitted by law to be used, developed, or built upon as a unit.

**Lot of Record**

See lot.

**Lot Area<sup>230</sup>**

The total horizontal area within the lot lines of a lot, said area to be exclusive of street right-of-way.

**Lot Depth<sup>231</sup>**

The horizontal distance from the midpoint of the rear of lot line to the midpoint of the front lot line.

**Lot Lines<sup>232</sup>**

A boundary of a lot. "Lot line" is synonymous with "property line."

**Lot Width<sup>233</sup>**

The horizontal distance between the side lines, measured at the front property line adjacent to the public right-of-way. The lot width for a corner lot shall be measured along the right-of-way upon which the address is assigned.

**Maximum Extent Feasible<sup>234</sup>**

As determined by the Director, no feasible and prudent alternative exists, and all possible efforts to comply with the regulation or minimize potential harm or adverse impacts have been undertaken. Economic considerations may be taken into account but shall not be the overriding factor in determining "maximum extent feasible."

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<sup>226</sup> Replaces current definition for "lot coverage."  
<sup>227</sup> Did not carry forward "as approved by the Building Official."  
<sup>228</sup> Detailed specifications removed.  
<sup>229</sup> Replaces current definition.  
<sup>230</sup> Replaces current definition for "area of the lot."  
<sup>231</sup> Replaces current definition.  
<sup>232</sup> Replaces current definition.  
<sup>233</sup> Replaces current definition.  
<sup>234</sup> New.

**Maximum Extent Practicable<sup>235</sup>**

As determined by the Director, under the circumstances, reasonable efforts have been undertaken to comply with the regulation, the costs of compliance clearly outweigh the potential benefits to the public or would unreasonably burden the proposed project, and reasonable steps have been undertaken to minimize any potential harm or adverse impacts resulting from noncompliance with the regulation.

**Minor Plat**

A map, drawing, or chart prepared according to the provisions of this UDC, and containing all engineering and legal data, dedications, and certificates necessary to the recording of same in the map and plat records of the county, and meeting the criteria defined in §2.9.2.

**Nonconforming Lot**

A lawfully established lot created prior to adoption of this UDC that does not comply with the minimum lot size requirements of this UDC.

**Nonconforming Sign**

A lawfully established sign constructed or installed prior to adoption of this UDC or any amendment thereafter that does not comply with the sign regulations of this UDC.

**Nonconforming Site Feature**

Any driveway, off-street parking and loading, landscaping, buffer, screening, or exterior lighting that lawfully existed prior to adoption of this UDC or any amendment thereafter but does not comply with the driveway, off-street parking and loading, landscaping, buffer, screening, or exterior lighting standards of this UDC.

**Nonconforming Structure**

A lawfully established building or structure constructed or installed prior to adoption of this UDC or any amendment thereafter that does not comply with the area, height, or placement regulations of this UDC. A nonconforming structure shall not be deemed to include signs.

**Nonconforming Use<sup>236</sup>**

A use that lawfully existed prior to adoption of this UDC or any amendment thereafter, but does not comply with the terms of this UDC.

**Nonconformity**

An existing use, structure, lot of record, site feature, or sign that was lawfully established prior to the Effective Date or any amendment thereafter and that does not conform to one or more provisions of this UDC.

**Nonconformity, Illegal**

Any site feature or land use that did not lawfully exist per Town regulations at the time of construction, and is, therefore, not protected under the nonconformities section of this UDC.

**Parking Area<sup>237</sup>**

An area designed and constructed for the parking, storage and maneuvering of vehicles.

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<sup>235</sup> New.

<sup>236</sup> Replaces current “nonconforming uses” definition.

<sup>237</sup> New.

### **Parking Space<sup>238</sup>**

A space within a public or private parking area, exclusive of driveways, ramps, columns, offices, and work areas, which is for the temporary parking or storage of one vehicle.

### **Person<sup>239</sup>**

An individual, assumed name entity, partnership, joint venture, association, corporation, or other legal entity including the Town and other governmental entities. For purposes of airport regulations, an individual, corporation, company, association, firm, partnership, society, government, tenant, lessee, concessionaire, passenger, visitor, customer, contractor, and other entities doing business on, employed at, or otherwise using Town property as the context shall deem appropriate. It includes a trustee, receiver, assignee, successor, or similar representative of any of them.

### **Planning and Zoning Commission**

The Planning and Zoning Commission of the Town of Addison, Texas.

### **Preliminary Plat**

A map showing the conceptual design of a proposed development as required by this UDC submitted for the purpose of preliminary consideration prior to the submission of a Final Plat or Replat.

### **Plat**

The graphic presentation of one or more lots or tracts of land, or of a subdivision, resubdivision, combination, or recombination of lots or tracts.

### **Property Owner**

The owner, occupant, tenant, manager, or other person in control of property or his agent or designee.

### **Public Property**

Interests in easements, rights-of-way, fee simple property and public ways owned by the town.

### **Replat**

A change in a map of an approved or recorded subdivision plat if such change affects any street layout on such map or area reserved thereon for public use or any lot line or if it affects any map or plan legally recorded prior to the adoption of any regulations controlling subdivisions.

### **Right-of-Way<sup>240</sup>**

The surface of and the space above and below, any street, road, highway, freeway, tollway, lane, path, drainageway, channel, fee interest, public way or place, sidewalk, alley, boulevard, parkway, drive, fire lane, or other easement now or hereafter held by the Town or over which the Town exercises any rights of management or control and shall include, but not be limited to, all easements now held, or hereafter held, by the Town, but shall specifically exclude private property.

### **Setback**

The minimum distance between a lot line and a building or structure required by this UDC.

### **Site Plan, Major**

See §2.6.2C.2.

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<sup>238</sup> New.

<sup>239</sup> From current Chapter 70, Article VII, Sec. 70-320.

<sup>240</sup> From current Sec. 70-36.

### Site Plan, Minor

See §2.6.2C.1.

### Special Flood Hazard Area (SFHA)<sup>241</sup>

The land subject to a one percent or greater chance of flooding in any given year. The SFHAs within the Town of Addison are generally identified as such on the Incorporated Area Flood Insurance Rate Map prepared by the Federal Emergency Management Agency (FEMA), as amended, revised, and prepared by the Federal Emergency Management Agency with the most recent date.

### Street<sup>242</sup>

Any thoroughfare or public driveway, other than an alley, that has been dedicated or deeded to the public for public use.

### Structure

Any manmade construction in, on, or over the ground or water that is affixed to a site or usually left in one place for an indefinite period of time.

### Subdivision

The division of any tract or parcel of land into two or more lots for the purpose, whether immediate or future, of sale or building development, and shall include resubdivision. "Subdivision" shall also mean the division or redivision of an existing subdivision together with any change of lot size therein or with the relocation of any street. "Subdivision" shall also mean the combination of lots or tracts into one or more lots and shall include recombination. "Subdivision" shall also mean a tract of land intended to be built upon and for which a building permit is required.

### TLGC

The Texas Local Government Code.

### Town

The Town of Addison, Texas. For purposes of airport regulations, the Town of Addison, Texas. Where approval, enforcement, or other act on the part of the Town is referred to herein, the Town shall act by and through its Town ordinances unless otherwise specifically indicated.

### Unified Development Code (UDC)

This Code, including any and all amendments to this UDC.

### Utility Services

The facilities of any person, firm or corporation providing electrical, telephone, television cable or any other such item or service for public use that are within the present or future town limits of the Town of Addison, Texas.

### Vacating Plat

A plat that is granted pursuant to the terms of §2.9.6: *Vacating Plat*.

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<sup>241</sup> New.

<sup>242</sup> New definitions for "arterial," "collector," and "local" streets, currently not defined.



**Zoning District<sup>243</sup>**

A specific delineated area on the Zoning Map established by this UDC within which a prescribed set of use and development standards are applied to various types of development.

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<sup>243</sup> New.