

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF DENTON, TEXAS AMENDING THE DENTON DEVELOPMENT CODE'S LAND OCCUPANCY PROCESS; AMENDMENTS INCLUDE BUT ARE NOT LIMITED TO: TABLE 2.2-A: SUMMARY OF DEVELOPMENT REVIEW PROCEDURES AND SECTION 2.5: DEVELOPMENT PERMITS AND PROCEDURES; PROVIDING FOR A PENALTY IN THE MAXIMUM AMOUNT OF \$2,000.00 FOR VIOLATIONS THEREOF; PROVIDING A SEVERABILITY CLAUSE AND AN EFFECTIVE DATE. (DCA24-0002b)

WHEREAS, pursuant to Ordinance No. DCA18-0009q, the City Council of the City of Denton adopted the newly revised 2019 Denton Development Code, the ("DDC"); and

WHEREAS, the City desires to amend the DDC to establish a new Certificate of Land Use process to review the use of land when a building or other improvement will not be occupied to confirm that a proposal meets all zoning and development standards; and

WHEREAS, the amendments include the following:

1. Table 2.2-A: Summary of Development Review Procedures – create a separate Certificate of Land Use procedure
2. Section 2.5.11: Certificate of Land Use – establish a procedure for application, review, and effect of a Certificate of Land Use

WHEREAS, on March 20, 2024, the Planning and Zoning Commission, in compliance with the laws of the State of Texas, gave the requisite notices by publication, held due hearings and recommended approval [7-0] of the amendment to the Denton Development Code; and

WHEREAS, on April 16, 2024 the City Council likewise conducted a public hearing in accordance with local and state law and the City Council hereby finds that the Code amendments are consistent with the City's comprehensive plan, and the federal, state, and local law are in the best interests of the City of Denton; NOW, THEREFORE,

THE COUNCIL OF THE CITY OF DENTON HEREBY ORDAINS:

SECTION 1. The findings and recitations contained in the preamble of this ordinance are incorporated herein by reference and found to be true.

SECTION 2. Table 2.2-A: Summary of Development Review Procedures and Section 2.5: Development Permits and Procedures of the DDC are amended as set forth in **"Exhibit A"** which is attached and fully incorporated herein by reference.

SECTION 3. Any person, firm, partnership, or corporation violating any provision of this ordinance shall, upon conviction, be deemed guilty of a misdemeanor and shall be punished by a fine in a sum not exceeding \$2,000.00 for each offense. Each day that a provision of this ordinance is violated, shall constitute a separate and distinct offense.

SECTION 4. If any provision of this ordinance or the application thereof to any person or circumstance is held invalid by any court, such invalidity shall not affect the validity of the provisions or applications, and to this end the provisions of this ordinance are severable.

SECTION 5. That an offense committed before the effective date of this ordinance is governed by prior law and the provisions of the Denton Development Code of Ordinances, as amended, in effect when the offense was committed, and the former law is continued in effect for this purpose.

SECTION 6. In compliance with Section 2.09(c) of the Denton Charter, this ordinance shall become effective fourteen (14) days from the date of its passage, and the City Secretary is hereby directed to cause the caption of this ordinance to be published twice in the Denton Record Chronicle, a daily newspaper published in the City of Denton, Texas, within ten (10) days of the date of its passage.

The motion to approve this ordinance was made by _____ and seconded by _____, the ordinance was passed and approved by the following vote [____ - ____]:

	Aye	Nay	Abstain	Absent
Mayor Gerard Hudspeth:	_____	_____	_____	_____
Vicki Byrd, District 1:	_____	_____	_____	_____
Brian Beck, District 2:	_____	_____	_____	_____
Paul Meltzer, District 3:	_____	_____	_____	_____
Joe Holland, District 4:	_____	_____	_____	_____
Brandon Chase McGee, At Large Place 5:	_____	_____	_____	_____
Chris Watts, At Large Place 6:	_____	_____	_____	_____

PASSED AND APPROVED this the _____ day of _____, 2024.

GERARD HUDSPETH, MAYOR

ATTEST:
LAUREN THODEN, CITY SECRETARY

BY: _____

APPROVED AS TO LEGAL FORM:
MACK REINWAND, CITY ATTORNEY

 Hilary Negrón
2024.04.04
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BY: _____

EXHIBIT A

Table 2.2-A Summary of Development Review Procedures

R = Review/recommendation D = Decision A = Appeal [R/D/A] = Public hearing required

<R/D/A> = Public meeting required ◇ = Recommended ✓ = Required

Procedure	DDC Reference	Public Notice				Pre-Application Activities		Review and Decision-Making Bodies				
		Online	Mailed	Published	Posted Sign	Pre-App. Conference	Citizen Participation	Development Assistance Team	Director	Planning and Zoning Commission	City Council	Zoning Board of Adjustment

DEVELOPMENT PERMITS AND PROCEDURES

Zoning Compliance Plan Review	2.5.1					◇		R	D			<A>
Specific Use Permit	2.5.2	✓	✓	✓	✓	◇	◇	R	R	[R]	[D]	
Temporary Use Permit	2.5.3							At Director discretion	D			<A>
Zoning Verification Letter	2.5.4								D			<A>
Environmental Sensitive Areas (ESAs) Field Assessment	2.5.5								D		<A>	
Business Registration	2.5.8							D				
Traffic Impact Analysis	2.5.9							D		<A>		
Real Estate Application	2.5.10						◇	R	R		<D>	
Gas Well Development Site Plan	6.2.4							R	D			<A>
Watershed Protection Permit	6.3.9						◇	R	D			<A>
Vested Rights	See Subsection 2.5.6: <i>Vested Rights</i>											
Exaction Proportionality Determination and Appeal	See Subsection 2.5.7: <i>Exaction Proportionality Determination and Appeal</i>											
Rayzor Ranch Site Plan	See Appendix A											
Tree Survey and Preservation/Replacement Plan	See paragraph 7.7.4E: Tree Survey and Preservation/Replacement Plan											
Certificate of Land Use	2.5.11					◇		R	D			<A>

SUBDIVISION PROCEDURES

Administratively Approved Plat (Amending Plat, Conveyance Plat, Minor Plat, Minor Replat)	2.6.2					◇		At Director discretion	D [1]			
Preliminary Plat	2.6.3					◇	◇	R	R	<D>		
Final Plat	2.6.4					◇	◇	R	R	<D>		
Development Plat	2.6.5					◇		R	D			
Gas Well Development Plat	2.6.6	See TLGC § 212.041 through 212.050										
Replat [2]	2.6.7					◇		R	R/D	D		
Vacating Plat	2.6.8	✓	✓	✓		◇		R	R	<D>		

<R/D/A> = Public meeting required ♦ = Recommended ✓ = Required

Procedure		DDC Reference	Public Notice				Pre-Application Activities		Review and Decision-Making Bodies				
			Online	Mailed	Published	Posted Sign	Pre-Appl. Conference	Citizen Participation	Development Assistance Team	Director	Planning and Zoning Commission	City Council	Zoning Board of Adjustment
Civil Engineering Plans		2.6.9							D		<A>		
PLAN AND DDC AMENDMENTS													
Comprehensive Plan Amendment		2.7.1	✓	✓	✓	✓	◇	◇	R	R	[R]	[D]	
Zoning Amendment	Map	2.7.2	✓	✓	✓	✓	◇	◇	R	R	[R]	[D]	
	Rezone to PD	2.7.3	✓	✓	✓	✓	◇	◇	R	R	[R]	[D]	
	Text	2.7.4	✓		✓			◇	R	R	[R]	[D]	
Annexation		See Subsection 2.7.5: <i>Annexation</i>											
FLEXIBILITY AND RELIEF PROCEDURES													
Variance		2.8.1					◇		R	R			<D>
Minor Modification		2.8.2	Pursuant to application procedure warranting the request										
Appeal of Administrative Decision [3]		2.8.3	✓	✓	✓					R	Appeal authority determined by original application type and in accordance with this Table 2.2-A		
Alternative ESA Plan		2.8.4	✓	✓	✓	✓	◇	◇	R	R	[R]	[D]	
Alternative Tree Preservation Plan		See paragraph 7.7.4F: <i>Alternative Tree Preservation/Replacement Plan</i>											
Watershed Protection Permit Relief		2.8.5								R		<D>	
Interpretations		2.8.6								D [4]			<A>
Subdivision Variance		2.8.7					◇		R	R	<D>	<A>	
Reasonable Accommodation		See Substation 2.8.8: Reasonable Accommodation											
Alternative Landscape Plan		See paragraph 7.7.3C: Alternative Landscaping											
Tree Preservation Relief		See paragraph 7.7.4J: Tree Preservation Relief Provisions											
Alternative Water and Sewer Systems		See Subsection 7.6.16: Alternative Water and Sewer Facilities											
HISTORIC PRESERVATION PROCEDURES													
Certificate of Appropriateness		See Subsection 2.9.2: <i>Certificate of Appropriateness</i>											

Table 2.2-A Summary of Development Review Procedures

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Procedure	DDC Reference	Public Notice				Pre-Application Activities		Review and Decision-Making Bodies				
		Online	Mailed	Published	Posted Sign	Pre-Appl. Conference	Citizen Participation	Development Assistance Team	Director	Planning and Zoning Commission	City Council	Zoning Board of Adjustment
Historic and Conservation District Designation	See Subsection 2.9.3: <i>Historic and Conservation District Designation</i>											
Historic Landmark Designation	See Subsection 2.9.4: <i>Historic Landmark Designation</i>											
DESIGN STANDARDS REVIEW PROCEDURES												
Certificate of Design Consistency - Administrative	2.10.1	✓				◇		R	D		<A>	
Certificate of Consistency – Design Standards Review City Council	2.10.1	✓				◇	◇		R		[D]	

Notes:

- [1] The Director, at his or her discretion, may refer the plat to the Planning and Zoning Commission. The Director shall not disapprove an administratively approved plat but shall refer such plat to the Planning and Zoning Commission if the recommendation is denial.
- [2] Non-residential minor replats may be approved by Staff pursuant to TLGC 212.0065, as amended. The Director at their discretion may refer a minor replat to the Planning and Zoning Commission. The Director shall not disapprove a minor replat but shall refer such plat to the Planning and Zoning Commission if the recommendation is denial. See Section 2.6.7 for notification requirements and public hearing requirements by type of replat.
- [3] The appeal authority is determined based on the original approval body (i.e., if the Planning and Zoning Commission is the approval authority then the appeal authority is the City Council; if City Staff is the approval authority then the appeal authority is Zoning Board of Appeals.
- [4] The Director, City Engineer, or Building Official may make an interpretation based on the criteria in Subsection 2.8.6.

2.5.11 Certificate of Land Use

A. Purpose

The certificate of land use procedure provides a mechanism for the city to evaluate new, existing, and/or changes in the use of land to ensure compliance with applicable standards of this DDC.

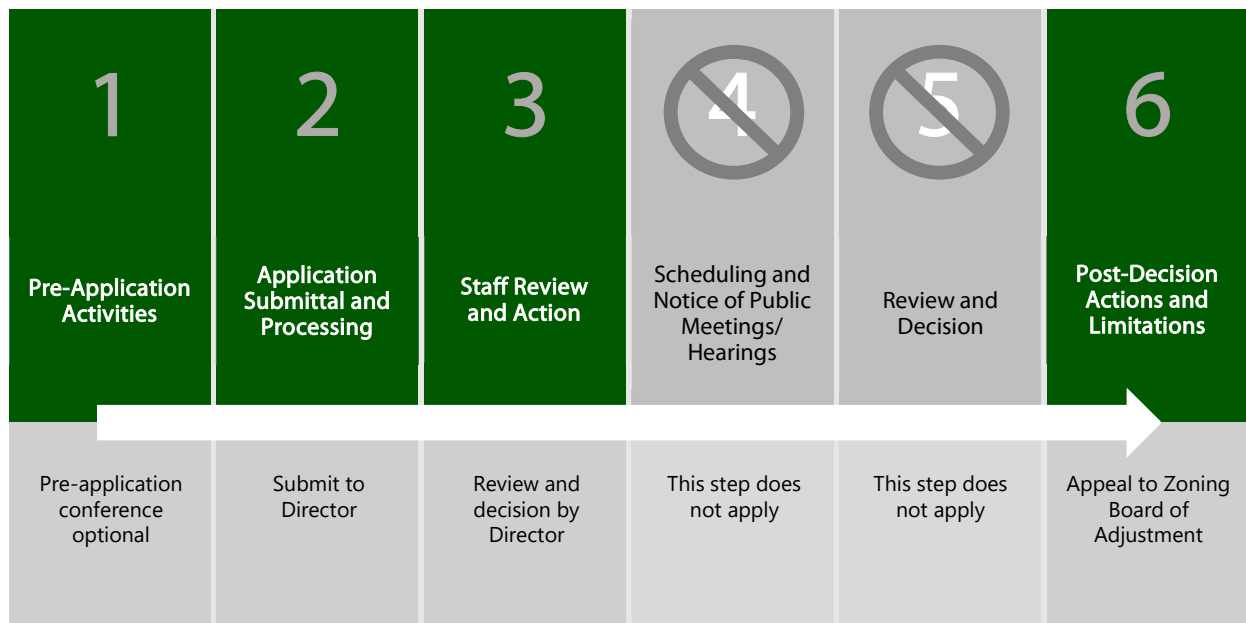
B. Applicability

A certificate of land use shall be required prior to the use of land, except when a Certificate of Occupancy or Temporary Use Permit is required. The certificate of land use shall be used to confirm the proposed use is permitted as a primary use of the property or may be used to confirm the proposed use is a permitted accessory use to an established primary use of the property.

C. Certificate of Land Use Procedure

Figure 2.5-11 identifies the applicable steps from the common review procedures in Section 2.4 that apply to the review of a certificate of land use. Additions or modifications to the common review procedures are noted below.

Figure 2.5-11: Summary of Certificate of Land Use Procedure



1. Step 1: Pre-Application Activities

a. Pre-Application Conference

A pre-application conference is optional in accordance with Subsection 2.4.3.

b. Citizen Participation

Not required.

2. Step 2: Application Submittal and Processing

The certificate of land use application shall be submitted and accepted, and may be revised or withdrawn, in accordance with Subsection 2.4.4.

3. **Step 3: Staff Review and Action**

The Director shall review the application and/or examine the site to determine conformance with the applicable standards. The applicable standards may include, but are not limited to: zoning, platting, parking, landscaping, lighting, noise, and other standards in accordance with Subsection 2.4.5.

4. **Step 4: Scheduling and Notice of Public Meetings/Hearings**

Not required.

5. **Step 5: Review and Decision**

The Director shall issue a certificate of land use, subject to any additional conditions, if the Director finds that the land use complies with the applicable provisions of this DDC and other applicable ordinances of the city in accordance with Subsection 2.4.7.

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

Post-decision actions and limitations in Subsection 2.4.8 shall apply, with the following modifications:

a. **Effect of Approval**

- i. A certificate of land use authorizes establishment of a particular use on land, subject to any additional conditions.
- ii. The certificate of land use shall clearly state the approved permitted use of the land and any conditions associated with that use.

b. **Appeal to the Zoning Board of Adjustment**

The applicant may appeal the denial, revocation, or suspension of a certificate of land use to the Zoning Board of Adjustment in accordance with Subsection 2.8.3.