

**Proposed Redlined HB 24 Amendments to the Denton Development Code and Code of Ordinances**

# Subchapter 2: Administration and Procedures

**Table 2.4-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
<b>DEVELOPMENT PERMITS AND PROCEDURES</b>												
Zoning Compliance Plan Review	Error! Reference source not found.					◇		R	D			<A>
Specific Use Permit	0	✓	✓	✓	✓	◇	◇	R	R	[R]	[D]	
Temporary Use Permit	Error! Reference source not found.							At Director discretion	D			<A>
Zoning Verification Letter	2.5.4								D			<A>
Environmental Sensitive Areas (ESAs) Field Assessment	Error! Reference source not found.								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>	
Certificate of Land Use	2.5.11					◇		R	D			<A>
Gas Well Development Site Plan	Error! Reference source not found.							R	D			<A>
Watershed Protection Permit	Error! Reference source not found.						◇	R	D			<A>
Vested Rights	See Subsection Error! Reference source not found.: Error! Reference source not found.											
Exaction Proportionality Determination and Appeal	See Subsection Error! Reference source not found.: Error! Reference source not found.											
Rayzor Ranch Site Plan	See Appendix A											

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		Online	Mailed	Published	Posted Sign	Pre-App. Conference	Citizen Participation	Development Assistance Team	Director	Planning and Zoning Commission	City Council	Zoning Board of Adjustment
Tree Survey and Preservation/Replacement Plan		See paragraph 7.7.4E: Tree Survey and Preservation/Replacement Plan										
<b>SUBDIVISION PROCEDURES</b>												
Administratively Approved Plat (Amending Plat, Conveyance Plat, Minor Plat, Minor Replat)	Error! Reference source not found.					◇		At Director discretion	D [1]			
Preliminary Plat	Error! Reference source not found.					◇	◇	R	R	<D>		
Final Plat	Error! Reference source not found.					◇	◇	R	R	<D>		
Development Plat	Error! Reference source not found.					◇		R	D			
Gas Well Development Plat	Error! Reference source not found.	See TLGC § 212.041 through 212.050										
Replat [2]	Error! Reference source not found.					◇		R	R/D	D		
Vacating Plat	2.6.8	✓	✓	✓		◇		R	R	<D>		
Civil Engineering Plans	2.6.9							D		<A>		
<b>PLAN AND DDC AMENDMENTS</b>												
Comprehensive Plan Amendment [3]	0	✓	✓	✓	✓	◇	◇	R	R	[R]	[D]	
Zoning Amendment	Map [4]	0	✓	✓	✓	✓	◇	◇	R	R	[R]	[D]
	Rezone to PD	0	✓	✓	✓	✓	◇	◇	R	R	[R]	[D]
	Text [4]	0	✓	✓	✓			◇	R	R	[R]	[D]
Annexation		See Subsection <b>Error! Reference source not found.</b> : <b>Error! Reference source not found.</b>										
<b>FLEXIBILITY AND RELIEF PROCEDURES</b>												

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		Online	Mailed	Published	Posted Sign	Pre-App. Conference	Citizen Participation	Development Assistance Team	Director	Planning and Zoning Commission	City Council	Zoning Board of Adjustment
Variance	<b>Error! Reference source not found.</b>					◇		R	R			<D>
Minor Modification	<b>Error! Reference source not found.</b>	Pursuant to application procedure warranting the request										
Appeal of Administrative Decision [53]	0	✓	✓	✓					R	Appeal authority determined by original application type and in accordance with this Table 2.4-A		
Alternative ESA Plan	0	✓	✓	✓	✓	◇	◇	R	R	[R]	[D]	
Alternative Tree Preservation Plan	See paragraph <b>Error! Reference source not found.: Error! Reference source not found.</b>											
Watershed Protection Permit Relief	<b>Error! Reference source not found.</b>								R			<D>
Interpretations	<b>Error! Reference source not found.</b>								D [64]			<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											
<b>HISTORIC PRESERVATION PROCEDURES</b>												
Certificate of Appropriateness	See Subsection <b>Error! Reference source not found.: Error! Reference source not found.</b>											
Historic and Conservation District Designation	See Subsection <b>Error! Reference source not found.: Error! Reference source not found.</b>											
Historic Landmark Designation	See Subsection <b>Error! Reference source not found.: Error! Reference source not found.</b>											
<b>DESIGN STANDARDS REVIEW PROCEDURES</b>												

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		Online	Mailed	Published	Posted Sign	Pre-App. Conference	Citizen Participation	Development Assistance Team	Director	Planning and Zoning Commission	City Council	Zoning Board of Adjustment
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] [City-wide Comprehensive Plan Amendments and City-initiated amendments for multiple properties or larger land areas shall not require mailed notices or posted sign notices. Applicant-initiated Comprehensive Plan amendments associated with development projects shall require mailed notices and posted sign notices.](#)

[4] [In accordance with TLGC Chapter 211 \(as amended by HB 24 in the 89<sup>th</sup> Legislative Session and as may be amended in the future\), certain zoning map changes and regulatory amendments to the DDC may not require mailed notice. See Subsection 2.4.6 for more information.](#)

[53] 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.

[64] The Director, City Engineer, or Building Official may make an interpretation based on the criteria in Subsection **Error! Reference source not found.**

## 2.4 Common Review Procedures

### 2.4.1 Overview

- A. These common review procedures provide the foundation for specific review and approval procedures identified in Sections **Error! Reference source not found.** through **Error! Reference source not found.**. The common review procedures are illustrated in Figure 2.4-1. Tailored versions of this illustration appear in each of the specific application types.
- B. Not all common review procedures apply to every development application type. Sections **Error! Reference source not found.** through **Error! Reference source not found.** identify how these common review procedures are applied to specific application types, and identify additional procedures and requirements beyond the common review procedures.

**Figure 2.4-1: Summary of Common Review Procedures**



### 2.4.2 Consistency with State and Federal Provisions

The notice, decision-making authority, public hearing, and other requirements for all approvals shall comply with the TLGC and other applicable state and federal provisions. This Subchapter shall be interpreted and applied in accordance with all applicable state and federal provisions. If these requirements conflict with state or federal provisions, then the state or federal provisions shall control.

### 2.4.3 Step 1: Pre-Application Activities

#### A. Pre-Application Conference

##### 1. Purpose

Pre-application conferences are intended to provide an opportunity for a potential applicant to meet with city staff to review submittal requirements, procedures, and schedules; discuss details and potential impacts of the proposed project; and establish points of contact for the development review process.

##### 2. Applicability

A pre-application conference is recommended prior to submittal of certain types of applications, as listed in Table 2.4-A.

3. **Procedure**

a. **Request**

The applicant may submit a request for a pre-application conference to the Development Services Department.

b. **Scheduling**

The Director shall coordinate with the applicant and facilitate the meeting, including the time and location of the meeting.

c. **Meeting Process**

The meeting shall be conducted pursuant to the requirements in the Development Handbook.

4. **Effect**

a. Any information, comments, or other material provided to the potential applicant by the city shall expire after 45 calendar days of the pre-application conference.

b. Any information or discussions held as part of the pre-application conference shall be binding on the city or the potential applicant, up to 45 calendar days.

c. 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. **Citizen Participation**

1. **Purpose**

The citizen participation process provides the residents of Denton with an opportunity to actively participate in the city's development review procedures to help shape the direction of the city's development, thereby enhancing the welfare of the community.

2. **Applicability**

The preparation and execution of a Citizen Participation Plan and submittal of a Citizen Participation Report is recommended prior to submittal of certain types of applications, as listed in Table 2.4-A Summary of *Development Review Procedures*.

3. **Citizen Participation Plan**

a. **Director Review**

The Citizen Participation Plan is recommended to be reviewed by the Director prior to its execution by the applicant.

b. **Property Owner Names and Mailing Addresses**

Upon request by the applicant, staff will provide to the applicant the names and mailing addresses of property owners within 200 feet of the subject property and residents within 500 feet of the subject property.

c. **Neighborhood Meetings**

i. **Two Neighborhood Meetings**

The applicant is recommended to conduct a minimum of two neighborhood meetings.

- a. The first neighborhood meeting is recommended to occur prior to distribution of the city's first set of development review comments to the applicant.
- b. The second neighborhood meeting is recommended to occur prior to the first public meeting/hearing in which the application is heard.

ii. **Generally**

- a. Neighborhood meeting invitations should be sent out in advance to allow attendees time to prepare for the meeting.
- b. The invitation should include the date, time, and location of the scheduled neighborhood meeting.
- c. The invitation should include as much information about the project and subject request as possible to inform attendees regarding what is being proposed.
- d. Neighborhood meetings should be located in the City of Denton and as close to the subject property as is practical to help minimize the distance that attendees need to travel to participate.
- e. Neighborhood meetings should be scheduled to avoid, as much as possible, any conflict with other publicly scheduled meetings.
- f. Neighborhood meetings should take place during non-business hours to allow attendees who work during the day an opportunity to attend.

d. **Staff Attendance**

- i. It is recommended that the applicant keep the Development Services Department informed of the status of its citizen participation efforts by informing staff regarding the details for the neighborhood meeting.
- ii. Staff may attend neighborhood meetings to observe, collect information, and provide answers related to the Comprehensive Plan, this DDC, and all other applicable codes and ordinances of the City.

4. **Citizen Participation Report**

a. **Contents**

A Citizen Participation Report prepared by the applicant is recommended and should include the following:

- i. Dates, times, and locations of all meetings that attendees were invited to attend to discuss the project and subject request.
- ii. The names and affiliation of those that attended that represent the applicant.
- iii. The names and department of staff that attended the meeting.
- iv. A sign-in sheet listing the names of the attendees that participated in the process.
- v. A written summary of the issues and/or concerns raised by the attendees and how the applicant proposes to resolve these issues and/or concerns. If the applicant is unable to resolve the issues and/or concerns raised by the attendees, the summary should state the reason why these issues and/or concerns cannot be resolved.

b. **Public Meeting/Hearing**

- i. Prior to the public meeting/hearing, staff may prepare a summary of the neighborhood meeting and include it as part of the staff's analysis.
- ii. If a Citizen Participation Report is submitted by the applicant, the report will be reviewed by staff and included as an exhibit as part of the backup that is sent to the decision-making body prior to the public meeting/hearing.

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## **2.4.4 Step 2: Application Submittal and Processing**

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A. **Authority to Submit Application**

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

1. The property owner, contract purchaser, or any other person having a recognized property interest in the land on which development is proposed; or
2. A person authorized to submit the application on behalf of the owner, contract purchaser, or other person having a recognized property interest in the land; or
3. If there are multiple owners, contract purchasers, or other persons authorized to submit the application, 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.
2. The application shall be submitted on a form established by the Director.
3. The applicant bears the burden of ensuring that an application contains sufficient information to demonstrate compliance with application requirements.
4. The application shall include all required information as indicated in the Development Handbook, and any additional information requested by the Director or other staff during a pre-application conference to help demonstrate compliance with this DDC and other applicable city codes.

C. **Application Fees**

1. Application fees shall be paid at the time of submittal according to the type of application. Fees shall be established by ordinance by the City Council.
2. All fees required according to the City's adopted Fee Schedule, or otherwise prescribed in the Municipal Code of Ordinances shall be paid to and collected by the Development Services Department.
3. Where initial application fees are based on the estimated costs of review of the application by an outside consultant (for example, review of a project's traffic impacts by a traffic consultant), and the Director determines that additional funds are needed to complete the consultant's review, the Director may impose additional application fees to recover the city's actual costs in completing review. Prior to imposing such additional fees, the Director shall notify the applicant of the additional fees and provide the applicant with the option to move forward or withdraw the application.

D. **Submittal and Review Schedule**

The Director shall establish a submittal and review schedule for development applications and shall include that information in the Development Handbook. The Director may amend the schedule to ensure effective and efficient review under this DDC.



## E. **Determination of Application Completeness**

### 1. **Application Materials**

- a. No application is complete unless all of the information required by Subchapter 2: *Administration and Procedures*, the Development Handbook, 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 considered.
- d. The Director may establish a schedule for filing and reviewing any application that requires action by the City Council, Planning and Zoning Commission, Zoning Board of Adjustment, Historic Landmark Commission, Director, or Building Official. The schedule shall provide adequate time for notice and/or publication consistent with the applicable state statutes and this Subchapter.
- e. Completed applications shall be filed according to any published schedule.
- f. A determination of completeness shall not constitute a determination of compliance with the substantive requirements of this DDC, other Ordinances of the City of Denton, or state or federal law.

### 2. **Review Procedure**

- a. No later than 10 business days after an application is filed, 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 City.
- b. If the application is determined not to be complete, the Director shall provide written notice to the applicant of the failure. The notice shall specify the necessary documents or other information and the date the application will expire if the documents or other information is not provided.
- c. Pursuant to TLGC 245.002(e), the application shall expire on or after the 45th calendar day after the date the application is filed if:
  - i. The applicant fails to provide documents or other information required by Subsection 2.4.4B above; or
  - ii. The Director provides the notice described in paragraph 2.4.4E.2.b, above; and
  - iii. The applicant fails to provide the specified documents or other information within the time provided in the notice.
- d. If an application expires, the city shall not process the application. The applicant shall file a new application and pay the required fees to obtain the requested approval.

### 3. **Notice of Application Acceptance**

When the Director determines that an application is filed in proper form and is ready to be formally accepted, the Director shall notify the applicant in writing. The application is then processed according to the remainder of this subchapter and the Development Handbook, including referrals to outside agencies and scheduling for public hearing and/or meetings, as applicable.

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

Whenever this subchapter 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.

5. **Appeal**

If the application is determined to be incomplete, the applicant may appeal that decision in writing to the Zoning Board of Adjustment pursuant to Subsection 0, 2.8.3 *Appeal of Administrative Decision*.

F. **Minor Application Revisions**

1. An applicant may revise an application after receiving notice of deficiencies following staff review according to Subsection 2.4.5, or on requesting and receiving permission from an advisory or decision-making body after that body has reviewed, but not yet taken action on, the application.
2. Revisions shall be limited to changes that directly respond to specific requests or suggestions made by staff or the advisory or decision-making body, as long as they constitute only minor additions, deletions, or corrections and do not include significant substantive changes to the development proposed in the application or do not increase the intensity of land use, as determined by the Director.
3. Whenever this subchapter establishes a time period for processing an application, minor application revisions may warrant restarting the time period, as determined by the Director.
4. All other application revisions shall be processed as a new application per this Subsection 2.4.4.

G. **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 not expended if the application is withdrawn.
3. If an applicant fails to respond to staff comments within 45 calendar days, or an application is otherwise determined by the Director to be inactive for a period of 45 calendar days, then the application is no longer valid.

H. **Concurrent Review**

1. Where possible, without creating an undue administrative burden on the city's decision-making bodies and staff, this subchapter intends to accommodate the simultaneous processing of applications for different permits and approvals that may be required for the same development project in order to expedite the overall review process.
2. Review and decision-making bodies considering concurrent applications shall render separate reports, recommendations, and decisions on each application based on the specific standards applicable to each request.
3. Some forms of approval depend on the applicant having previously received another form of approval, or require the applicant to take particular action within some time period following the approval in order to avoid having the approval lapse. Therefore, even though this subchapter intends to accommodate simultaneous processing, applicants should note that each of the permits and approvals set forth in this subchapter has its own timing and review sequence.

4. Environmental Sensitive Areas (ESAs) Compliance Review shall be reviewed concurrently with an application for a zoning compliance plan in accordance with Subsection 7.4.4: *ESAs Procedures*.
5. An application for a zoning compliance plan approval may be submitted and reviewed concurrently with re-zonings, specific use permits, subdivision applications, and variance applications, provided that the Director shall not decide the zoning compliance plan approval application until after an official decision is made on the rezoning, subdivision, and/or variance application.

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### **2.4.5 Step 3: Staff Review and Action**

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#### **A. Refer Application to Staff and Review Agencies**

The Director shall distribute the complete application to appropriate staff and appropriate internal and external review agencies per the Development Handbook.

#### **B. Staff Review and Application Revisions**

Staff shall review the application and submit recommendations and comments to the applicant in a form established by the Director. The application shall not move forward for further review by the recommending or decision-making body until the Director determines that the applicant has adequately addressed staff's comments, or the applicant requests that the application move forward with a staff recommendation of denial.

#### **C. Applications Subject to Staff Recommendation**

##### **1. Staff Report**

The Director shall submit a written report to the recommending or decision-making body. The Director's report should include the reports and recommendations of other city departments, if applicable, and should state whether or not the application complies with all applicable DDC requirements. The staff report may also include a recommendation for a decision by the authorized recommending or decision-making body and recommend how noted deficiencies may be corrected and negative impacts mitigated.

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

The Director must submit a copy of the staff report to the applicant and recommending or decision-making body and must make the staff report and all related materials available for public review pursuant to the Development Handbook.

##### **3. Forwarding Applications for Review**

A recommending or decision-making body may remand the application back to the Director for further consideration, and the City Council may remand the application back to a recommending body for further consideration.

#### **D. Applications Subject to Staff Decision**

If an application is subject to staff review and a final decision by the Director pursuant to Table 2.4-A, the Director shall make a decision based on the development 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. The Director may, at his or her discretion, require that the application be forwarded to the recommending or decision-making body for review.

## E. **Approval Criteria Applicable to all Applications**

### 1. **Generally**

- a. Unless otherwise specified in this DDC, the staff, recommending and decision-making bodies must review all development applications submitted pursuant to this subchapter 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 sections **Error! Reference source not found.** through REF\_Ref505164984 \w \h **Error! Reference source not found.**
- c. If there is a conflict between the general review criteria in this section and the specific review criteria in sections **Error! Reference source not found.** through **Error! Reference source not found.**, the applicable review criteria in sections **Error! Reference source not found.** through **Error! Reference source not found.** controls.

### 2. **Prior Approvals**

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

### 3. **Consistent with Comprehensive Plan and Other Applicable Plans**

The proposed development shall be consistent with the Comprehensive Plan and any applicable plans. The decision-making authority:

- a. Shall weigh competing plan goals, policies, and strategies; and
- b. May approve an application that furthers the overall goals of the Comprehensive Plan even if the development does not match the future land use designation in the Comprehensive Plan.

### 4. **Compliance with this DDC**

- a. The proposed development shall comply with all applicable standards in this DDC, unless the standard is to be lawfully modified.
- b. Compliance with these standards is applied at the level of detail required for the subject submittal.

### 5. **Compliance with Other Applicable Regulations**

The proposed development shall comply with all other city regulations and with all applicable regulations, standards, requirements, or plans of the federal or state governments and other relevant jurisdictions. This includes, but is not limited to, wetlands, water quality, erosion control, and wastewater regulations.

### 6. **Consistent with Interlocal and Development Agreements**

The proposed development shall be consistent with any adopted interlocal and applicable development agreements, and comply with the terms and conditions of any such agreements incorporated by reference into this DDC.

### 7. **Minimizes Adverse Environmental Impacts**

The proposed development should be designed to minimize negative environmental impacts, and should not cause significant adverse impacts on the natural environment. Examples of the natural environment include water, air, noise, stormwater management, scenic resources, wildlife habitat, soils, and native vegetation.

8. **Minimizes Adverse Impacts on Surrounding Property**  
The proposed development should not cause significant adverse impacts on surrounding properties. The results of the citizen participation process may be appropriately considered under this section.
9. **Minimizes Adverse Fiscal Impacts**  
The proposed development should not result in significant adverse fiscal impacts on the city.
10. **Compliance with Utility, Service, and Improvement Standards**  
As applicable, the proposed development shall comply with federal, state, county, service district, city and other regulatory authority standards, and design/construction specifications for roads, access, drainage, water, sewer, schools, emergency/fire protection, and similar standards.
11. **Provides Adequate Road Systems**  
Adequate road capacity shall exist to serve the uses permitted under the proposed development, and the proposed uses shall be designed to ensure safe ingress and egress onto the site and safe road conditions around the site, including adequate access onto the site for fire, public safety, and EMS services.
12. **Provides Adequate Public Services and Facilities**  
Adequate public service and facility capacity 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, roads, domestic water, sewer, schools, public safety, fire protection, utilities, libraries, and vehicle/pedestrian connections and access within the site and to adjacent properties.
13. **Rational Phasing Plan**  
If the application involves phases, each phase of the proposed development shall contain all of the required streets, utilities, landscaping, open space, and other improvements that are required for that phase, and may not defer those improvements to subsequent phases.

**F. Conditions of Approval**

1. Except for zoning map amendments or annexations, or where otherwise prohibited by law, where this DDC authorizes a review body to approve or deny an application subject to applicable criteria, the review body may approve the application with conditions necessary to bring the proposed development into compliance with this DDC 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 city. Such conditions may include those necessary to carry out the purpose and intent of the City's Comprehensive Plan, development agreements, other adopted city plans, and this DDC.
3. No conditions of approval shall be less restrictive than the requirements of this DDC, except where the DDC expressly allows deviations.
4. Any condition of approval that requires an applicant to dedicate land or pay money to a public entity in an amount that is not calculated according to a formula applicable to a broad class of applicants shall be roughly proportional both in nature and extent to the

anticipated impacts of the proposed development, as shown through an individualized determination of impacts.

5. During its consideration, the decision-making body may consider alternative potential conditions; however, 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 decision-making body unless and until the decision-making body takes formal action to attach that condition to a development approval.
6. Unless otherwise provided in this DDC, any representations of the applicant in submittal materials or during public hearings shall be binding as conditions of approval.
7. Failure to meet any condition of approval prior to the issuance of any type of permit shall negate the approval and the application shall be deemed denied.

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

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##### **A. Scheduling**

1. If an application is subject to a public hearing pursuant to *Table 2.4-A Summary of Development Review Procedures*, the Director shall schedule the public hearing for either a regularly scheduled meeting or special meeting of the appropriate recommending or decision-making body following submission of a completed application.
2. Unless otherwise specified, notice for public hearings shall meet or exceed TLGC requirements.

##### **B. Public Notice Requirements**

1. All public hearings required by this DDC shall be preceded by the notices identified in *Table 2.4-A Summary of Development Review Procedures*, and all such notices shall meet the content, timing, and other specifications **in the Chapter 211 of the TLGC, as amended, and as provided below and** in the Development Handbook.

- a. When applicable, mailed notices shall be sent in the form of a letter mailed to property owners within a 200-foot radius as required under Chapter 211 of the TLGC, as amended, and a courtesy postcard may be mailed to current residents within a 500-foot radius of the subject property of the application.
    - i. In accordance with Chapter 211.0063 of the TLGC, as amended, zoning map amendments and DDC text amendments that meet the criteria of a “proposed comprehensive zoning change” do not require mailed notices except those described below, if applicable.
    - ii. Any zoning map amendment and DDC text amendment that would have the effect of rendering a current conforming use of a property nonconforming requires specific mailed notice as detailed in Chapter 211.006(a-1) of the TLGC, as amended.
  - b. Unless authorized by the Director and otherwise in accordance with the timelines established by state law, any required mailed notices, online notices, or published newspaper notices shall be prepared and sent to the appropriate posting or publishing service at least 17 days in advance of the public hearing to ensure compliance with all legally required deadlines.
  - c. The applicant shall be responsible for the cost of all notices as indicated in the adopted fee ordinance.
  - d. The applicant shall be responsible for the fabrication and posting any applicable sign notices on the subject property as required by Chapter 211.0073, as amended, of the TLGC and the City’s published sign specifications.
2. Applicants are responsible for any additional notice beyond the requirements in this DDC, other city ordinances, or state law.

**C. Constructive Notice**

1. **Minor Defects in Notice Shall Not Invalidate Proceedings**  
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 notice shall be limited to errors in a legal 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 to Receive Notice Shall Not Invalidate Action**  
Failure of a party to receive written notice shall not invalidate subsequent action.
3. **Re-Noticing**  
A new notice is required if there is an increase in land use intensity, as determined by the Director, between the action described in the original notice and the final action.

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### **2.4.7 Step 5: Review and Decision**

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The application shall be subject to review, hearings, recommendations, and decisions as indicated in Table 2.4-A and the following:

**A. Generally**

1. If the application is subject to a public hearing, the applicable review body shall hold a public hearing on the application in accordance with Subsection 2.4.6.
2. The applicable review body shall consider the application, relevant support materials, staff report, and any evidence and public comments from the public hearing (if required).
3. The applicable review body shall approve, approve with conditions, or deny the application based on the applicable approval criteria, including the general criteria in Subsection 2.4.5E, *Approval Criteria Applicable to all Applications*, and the specific standards in sections **Error! Reference source not found.** through **Error! Reference source not found.**.
4. 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 and shall:
  - a. Be made in writing;
  - b. Include findings of fact based on competent, material, and substantial evidence presented at the hearing;
  - c. Reflect the determination of contested facts; and
  - d. State how the findings support compliance with applicable review standards.

**B. Conditional Approvals**

The decision-making body may incorporate or require, as part of a condition of approval, a written agreement between the applicant and the city that enforces the conditions. All conditions shall comply with the limitations in Subsection 2.4.5F, *Conditions of Approval*.

**C. Postponement of Public Hearings at Applicant's Request**

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

**D. Continuances**

The decision-making body may continue a public hearing to a specified date, time, and place. The date of continuance shall be made part of the motion and publicly announced at the public hearing. Publication or property owner notification of the continued date is not required, unless required by state law or recommended by the hearing body or the Director.

**E. Postpone a Decision**

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

**F. Other Rules to Govern**

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

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## **2.4.8 Step 6: Post-Decision Actions and Limitations**

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**A. Notice of Decision**

1. Within 10 days after a final decision on an application, the Director shall provide written notification of the decision, unless the applicant was present at the meeting where the decision was made or required by law.



2. If the review involves a quasi-judicial hearing, the Director shall, within 10 days after a final decision on the application, provide a written notification of the decision to the owner(s) of the subject site (unless the applicant was present at the meeting where the decision was made or required by law), and any other person that submitted a written request for a copy of the decision before its effective date.

## B. Appeal

1. A party aggrieved or adversely affected by any decision by the City Council or Zoning Board of Adjustment may seek review of the decision in the courts 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 Subsection 0 and as set forth in sections **Error! Reference source not found.** through **Error! Reference source not found.**, as applicable.

## C. Expiration of Approval

1. An application approval under this subchapter expires if no progress is made towards completion of the project within the established expiration dates provided in sections **Error! Reference source not found.** through **Error! Reference source not found.**
2. Upon the expiration of an approved application, all previously approved applications for the same land shall also expire on the expiration date if the filing of an application was required to avoid expiration for the previously approved application(s).
3. A project expires if, on the fifth anniversary of the date the first permit application was filed, no progress has been made towards completion of the project. A project also expires if on the fifth anniversary of the date of the last instance of progress toward completion of the project, and no additional progress toward completion has occurred.
4. A change in ownership of the land shall not affect the established expiration time period of an approval.
5. For purposes of this subsection, "project" and "progress towards completion of the project" are as defined in TLGC § 245, as amended.
6. Any new application under this subchapter, or application to modify an existing approved application under this subchapter, shall be deemed to be a continuation of the same project, if the Director determines that the new or modified application is not materially different from the approved applications preceding it.

## D. Extensions of Approval Period

1. The original approval body may grant one extension of an approval period of up to one year for good cause.
2. All requests for extensions shall be submitted in writing to the Director at least 30 calendar days prior to the expiration of approval.
3. An extension request shall include:
  - a. A narrative stating the reasons for the applicant's inability to comply with the specified deadlines; and
  - b. A narrative describing any changes in the character of the neighborhood, the Comprehensive Plan, or this DDC that have occurred since approval of the permit/plan, and how any such changes affect the permit/plan; and

- c. The anticipated time schedule for completing the review project and/or the specific project.
4. Additional review of the permit/plan may result in additional conditions, as applicable.

**E. Modification or Amendment of Approval**

Unless otherwise provided in this DDC, any modification of an approved plan, permit, or condition of approval shall require a new application that is submitted and reviewed in accordance with the full procedure and fee requirements applicable to the particular type of the original application.

**F. Limitation on Subsequent Similar Applications**

1. Except at City Council's request, following denial of an application, no application that is the same or substantially similar will be accepted within one year of the previous denial. For purposes of this provision, "substantially similar" shall mean any application that is not materially different in terms of proposed development or activities relative to the reasons for denial of a previously submitted application, as determined by the Director.
2. This waiting period may be waived by the decision-making body provided that:
  - a. There is a substantial change to circumstances, or new information available, relevant to the issues or facts considered during the previous application review; or
  - b. The new application is materially different from the previous application, as determined by the Director.

## 2.5.2 Specific Use Permit (SUP)

### A. Purpose

The specific use permit (SUP) procedure provides a mechanism for the city to evaluate proposed development and land uses that have unique or widely varying operating characteristics or unusual features. This procedure is intended to ensure compatibility with surrounding areas and that adequate mitigation is provided for anticipated impacts.

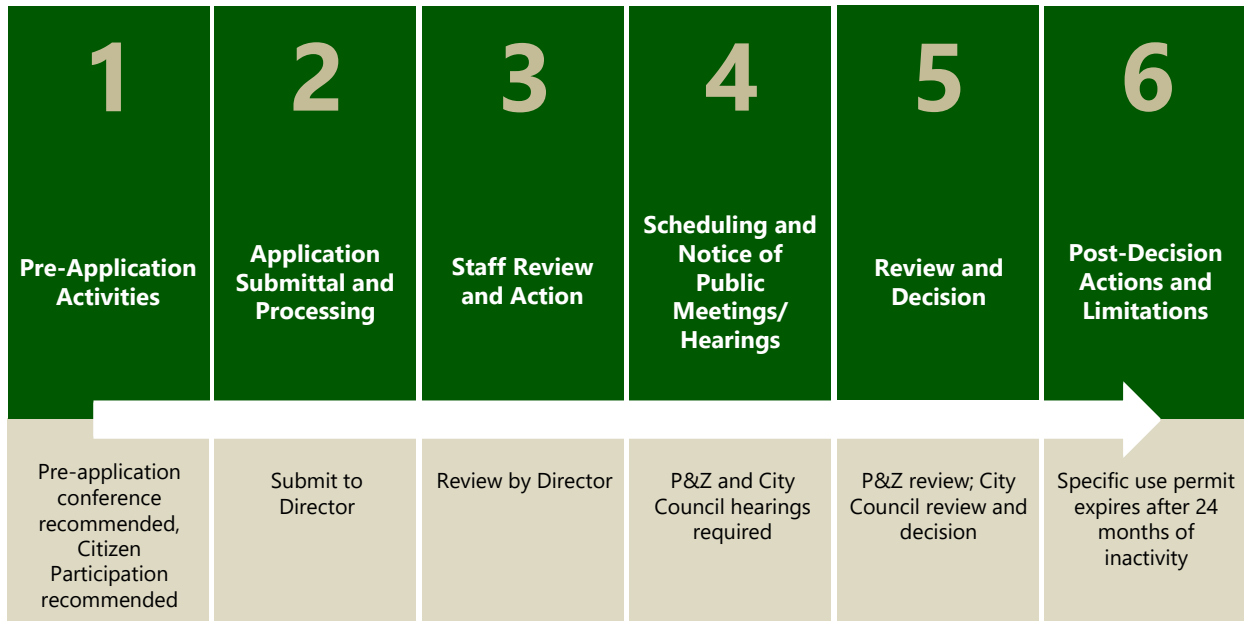
### B. Applicability

1. The SUP procedure shall apply to uses identified in **Error! Reference source not found.**, as requiring a SUP. No such use may be established, enlarged, or altered without approval of a SUP.
2. The City Council may grant, repeal, and amend SUPs for certain uses, but only where specified in this DDC.

### C. Specific Use Permit Procedure

Figure 2.4-2 identifies the applicable steps from the common review procedures in Section 2.4 that apply to the review of SUPs. Additions or modifications to the common review procedures are noted below.

**Figure 2.4-2: Summary of Specific Use Permit Procedure**



#### 1. Step 1: Pre-Application Activities

##### a. Pre-Application Conference

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

##### b. Citizen Participation

Citizen Participation is recommended in accordance with Subsection 2.4.3B: *Citizen Participation*.

2. **Step 2: Application Submittal and Processing**  
The SUP 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 SUP application and prepare a staff report and recommendation in accordance with the approval criteria in Subsection 2.4.8D below.
4. **Step 4: Scheduling and Notice of Public Meetings/Hearings**  
The SUP application shall be scheduled for public hearings before the Planning and Zoning Commission and the City Council and shall be noticed pursuant to Table 2.4-A Summary of *Development Review Procedures* and Subsection 2.4.6.
5. **Step 5: Review and Decision**
  - a. **Planning and Zoning Commission Review and Recommendation**  
The Planning and Zoning Commission shall review the SUP application in accordance with the approval criteria in Subsection 2.4.8D below, and shall forward its recommendation to the City Council.
  - b. **City Council Review and Decision**
    - i. The City Council may review and approve, approve with conditions, or deny the SUP application in accordance with the approval criteria in Subsection 2.4.8D below.
    - ii. If the Planning and Zoning Commission recommends denial of the SUP, the SUP shall become effective only by a three-fourths vote of all members of the City Council.
  - c. **Concurrent Review**  
An applicant may request a SUP approval concurrent with a rezoning.
  - d. **Protest Procedure**
    - i. The rules governing protest of adoption of a SUP ordinance are contained in TLGC, Chapter 211, as amended. The Director may prescribe forms for protest petitions.
    - ii. Property owners within 200 feet of a proposed SUP, as indicated on the most recently approved city tax roll, may file a written protest against the SUP. If written protests are received by owners of 20 percent or more of the area within 200 feet of the proposed SUP or of the area covered by the proposed SUP, approval shall require three-fourths vote of the City Council for a SUP to become effective unless the change meets the criteria relating to residential development in Section 211.0061(b)(3) of the TLGC, as amended. In such case, a supermajority vote shall not be required by the Planning and Zoning Commission.
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**

Approval of a Specific Use Permit authorizing the proposed specific land use to be developed on the subject property does not preclude or limit the development on the subject property for other uses permitted by right that do not require an approved Specific Use Permit within the subject property's zoning district.

b. **Expiration of a Specific Use Permit**

If the authorized use or construction is not substantially underway within 24 months after the date of SUP approval, or an extension is granted pursuant to Subsection 2.4.8C, the SUP shall expire.

c. **Expansion or Enlargement**

- i. Expansion or enlargement of a SUP shall require a new application, unless the Director determines that the expansion or enlargement:
  - a. Is not expected to increase potential negative impacts to surrounding property or the city; and
  - b. Will not require adjustments to any standards greater than allowed through the minor modification procedures in Subsection **Error! Reference source not found.**
- ii. Any expansion or enlargement of a SUP that does not meet the criteria for Director approval established above shall require review and recommendation by the Planning and Zoning Commission and review and approval by the City Council.

d. **Denial or Revocation of Permit**

- i. A SUP may be revoked or modified after notice to the property owner and a hearing before the City Council, for any of the following reasons:
  - a. The SUP was obtained or extended by fraud or deception; or
  - b. One or more of the conditions of approval imposed on the SUP has not been met or has been violated; or
  - c. At the time of change of ownership or condition indicated in the original approval.
- ii. If a SUP is denied or revoked in accordance with this section, then the subject property shall not be eligible for resubmittal for 12 months unless the applicant can show a substantial change in circumstances to justify a resubmittal.

e. **Recording**

All approved SUPs shall be referenced on the Official Zoning Map of City as "SUP."

D. **Specific Use Permit Approval Criteria**

In reviewing a proposed SUP, the Planning and Zoning Commission and City Council shall consider the general approval criteria in Subsection 2.4.5 and whether:

1. The specific use proposed is compatible with the surrounding area;
2. The specific use proposed has negative impacts on future development of the area; and
3. Any impacts associated with access, traffic, emergency services, utilities, parking, refuse areas, noise, glare, and odor have been adequately mitigated.

## 2.7.1 Comprehensive Plan Amendment

### A. Purpose

The purpose of this section is to provide standards for amending the text and or maps of the Comprehensive Plan or for adoption of a new Comprehensive Plan. **This process also applies to amendments to or adoption of a Mobility 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 city.

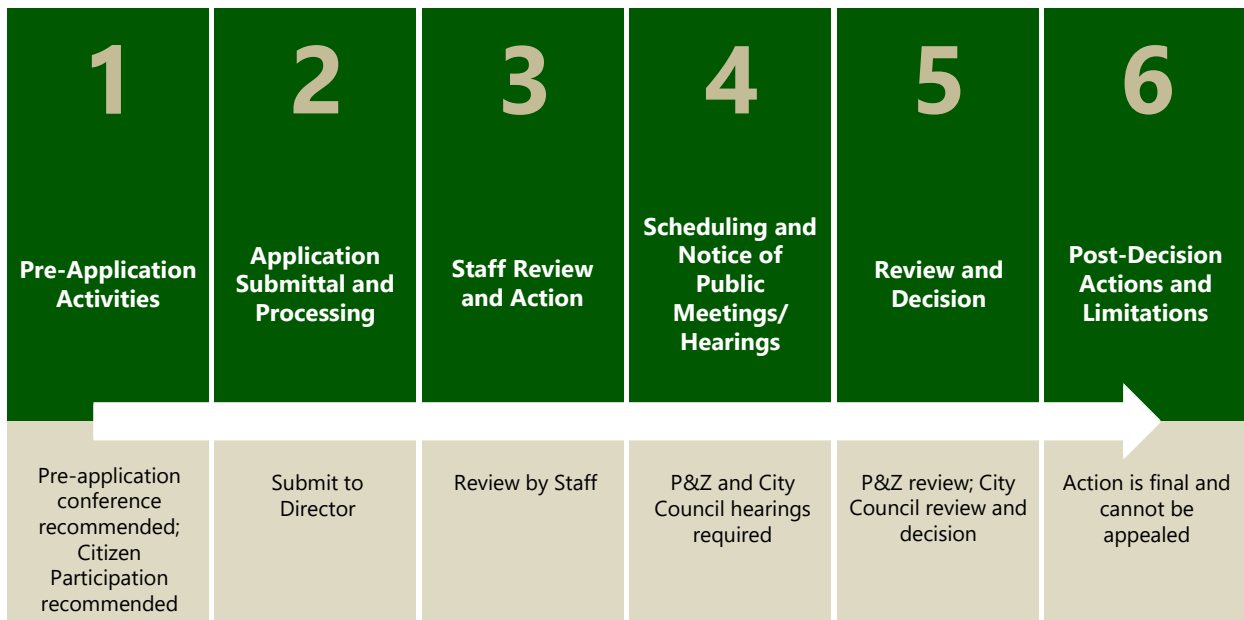
### B. Applicability

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

Figure 2.4-3 identifies the applicable steps from the common review procedures in Section 2.4 that apply to the review of Comprehensive Plan amendments. Additions or modifications to the common review procedures are noted below.

**Figure 2.4-3: Summary of Comprehensive Plan Amendment Procedure**



#### 1. Step 1: Pre-Application Activities

##### a. Pre-Application Conference

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

##### b. Citizen Participation

Citizen Participation is recommended in accordance with Subsection 2.4.3B: *Citizen Participation*.

#### 2. Step 2: Application Submittal and Processing

The comprehensive plan amendment 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**

a. **Director Review and Recommendation**

The Director shall review the comprehensive plan amendment application and prepare a staff report and recommendation in accordance with the approval criteria in Subsection 2.4.8D below.

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

The comprehensive plan amendment application shall be scheduled for public hearings before the Planning and Zoning Commission and the City Council and shall be noticed pursuant to Table 2.4-A Summary of *Development Review Procedures*, and Subsection 2.4.6.

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

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

The Planning and Zoning Commission shall review the comprehensive plan amendment application in accordance with the approval criteria in Subsection 2.4.8D below, and shall forward its recommendation to the City Council.

b. **City Council Review and Decision**

The City Council may approve, approve with conditions, or deny the comprehensive plan amendment application in accordance with the approval criteria in Subsection 2.4.8D below. The adoption or amendment of a new comprehensive plan shall become effective by a simple majority vote of all members of the City Council.

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

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

D. **Comprehensive Plan Amendment Approval Criteria**

1. Comprehensive plan amendments may be approved by the City Council only following a determination that the proposed amendment is consistent with the overall purpose and intent of the Comprehensive Plan and that any one of the following criteria has been met:

- a. There was an error in the original Comprehensive Plan adoption;
- b. The City Council failed to take into account then-existing facts, projections, or trends that were reasonably foreseeable to exist in the future;
- c. Events, trends, or facts after adoption of the Comprehensive Plan have changed the City Council's original findings made upon plan adoption; or
- d. 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.

2. In addition to the above-listed criteria, any proposed amendment is subject to the following additional review standards:

- a. That the amendment is not in conflict with any portion of the goals and policies of the plan.
- b. That the amendment constitutes a substantial benefit to the city and is not solely for the good or benefit of a particular landowner or owners at a particular point in time.
- c. The extent to which 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.

- d. That the development pattern contained in the existing plan does not provide adequate and appropriate optional sites for the use or change being proposed in the amendment.
- e. That the impact of the amendment, when considered cumulatively with other applications and development in the general area, will not adversely impact the city or a portion of the city by:
  - i. Significantly altering acceptable existing land use patterns;
  - ii. Having significant adverse impacts on public services and facilities that are needed to support the current land use and that cannot be mitigated to the maximum extent feasible;
  - iii. Adversely impacting environmentally sensitive areas or resources; or
  - iv. Adversely impacting existing uses because of increased traffic on existing systems.
- f. That site conditions, including but not limited to topography, utility corridors/easements, drainage patterns, noise, odors, or environmental contamination, would make development under the current plan designation inappropriate.



## 2.7.2 Zoning Map Amendment (Rezoning)

### A. Purpose

The purpose of the zoning map amendment procedure (referred to as “rezoning”) is to make amendments to the Official Zoning Map of the City of Denton to reflect changes in public policy, changed conditions, or to advance the welfare of the City. The purpose is neither to relieve particular hardships nor to confer special privileges or rights on any person.

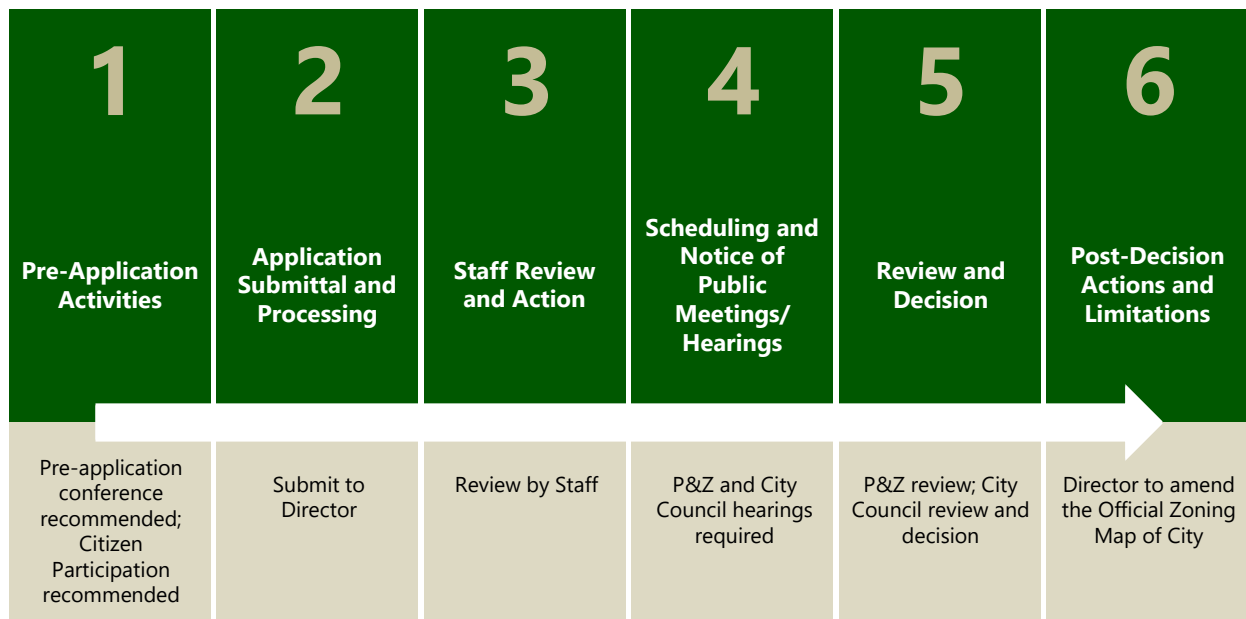
### B. Applicability

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 specific 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 Subsection 0.
4. A rezoning to a Planned Development is a distinct type of amendment to the Official Zoning Map and shall follow the procedures in Subsection 0.

### C. Rezoning Procedure

Figure 2.4-4 identifies the applicable steps from the common review procedures in Section 2.4 that apply to the review of rezonings. Additions or modifications to the common review procedures are noted below.

**Figure 2.4-4: Summary of Rezoning Procedure**



1. **Step 1: Pre-Application Activities**
  - a. **Pre-Application Conference**

A pre-application conference is recommended in accordance with Subsection 2.4.3.
  - b. **Citizen Participation**

Citizen Participation is recommended in accordance with Subsection 2.4.3B: *Citizen Participation*.
2. **Step 2: Application Submittal and Processing**
  - a. The zoning map amendment application shall be submitted and accepted, and may be revised or withdrawn, in accordance with Subsection 2.4.4.
  - b. In addition to the persons authorized to submit an application listed in Subsection 2.4.4A, the City of Denton may initiate a rezoning application following discussion at any Planning and Zoning Commission meeting.
3. **Step 3: Staff Review and Action**

The Director shall review the rezoning application and prepare a staff report and recommendation in accordance with the approval criteria in Subsection 2.4.8D below.
4. **Step 4: Scheduling and Notice of Public Meetings/Hearings**
  - a. The rezoning application shall be scheduled for public hearings before the Planning and Zoning Commission and the City Council and shall be noticed pursuant to Table 2.4-A *Summary of Development Review Procedures* and Subsection 2.4.6.
  - b. Mailed notice shall be required if the Planning and Zoning Commission or City Council initiate an application to repeal and replace the Official Zone Map for all or substantially all of the city.
5. **Step 5: Review and Decision**
  - a. **Planning and Zoning Commission Review and Recommendation**
    - i. The Planning and Zoning Commission shall review the rezoning application in accordance with the approval criteria in Subsection 2.4.8D, below, and shall forward its recommendation or report to the City Council.
    - ii. After closing the public hearing, should a majority of voting Planning and Zoning Commissioners fail to recommend either approval or denial of a proposed amendment, or approval of a modified amendment, city staff is directed to place the matter for vote on the next available Planning and Zoning Commission agenda as an item for individual consideration. A second failure of a majority of voting Planning and Zoning Commissioners to recommend either approval or denial of a proposed amendment, or approval of a modified amendment, shall be deemed a recommendation to deny approval of any amendment to the City Council. Such failure is not subject to Subpart A, Section 2-29(g)(5)a., of the City Code of Ordinances, and shall not require a three-fourths vote of all members of the City Council qualified to vote as stated in paragraph 2.4.8C.5.b.ii.
  - b. **City Council Review and Decision**
    - i. The City Council may review and approve, approve with conditions, or deny the rezoning application based on the approval criteria in Subsection 2.4.8D below.

- ii. If the Planning and Zoning Commission recommends denial of the rezoning, the rezoning shall become effective only by a three-fourths vote of all members of the City Council.

c. **Protest Procedure**

- i. The rules governing ~~amendment over~~ protest of a Zoning Map Amendment are contained in TLGC, Chapter 211, as amended. The Director may prescribe forms for protest petitions.
- ii. Property owners within 200 feet of a proposed rezoning, as indicated on the most recently approved city tax roll, may file a written protest against the rezoning. If written protests are received by owners of 20 percent or more of the area within 200 feet of the proposed rezoning or of the area covered by the proposed zoning change, approval shall require three-fourths vote of the City Council for a rezoning to become effective unless the change meets the criteria relating to residential development in Section 211.0061(b)(3) of the TLGC, as amended. In such case, a supermajority vote shall not be required by the Planning and Zoning Commission.
- iii. The protest procedure process does not apply to citywide legislative rezonings or other zoning changes that meet the criteria of a "proposed comprehensive zoning change" as defined in Chapter 211 of the TLGC, as amended.

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. The City Council decision is a final action and may not be appealed.
- b. Following approval of a rezoning by City Council, the Director shall prepare a revision to the Official Zoning Map of City.

D. **Zoning Map Amendment Approval Criteria**

- 1. In reviewing a proposed rezoning, the Planning and Zoning Commission and City Council shall consider the general approval criteria in Subsection 2.4.5 and whether:
  - a. The proposed rezoning is consistent with the Comprehensive Plan;
  - b. The proposed rezoning is consistent with relevant Small Area Plan(s);
  - c. The proposed rezoning is consistent with the purpose statement of the proposed zoning district, as provided in **Error! Reference source not found. Error! Reference source not found.**;
  - d. There have been significant changes in the area to warrant a zoning change;
  - e. The intensity of development in the new zoning district is not expected to create significantly adverse impacts to surrounding properties or the neighborhood; and
  - f. Public facilities and services are available to adequately serve the subject property while maintaining adequate level of service to existing development; and/or;
  - g. There was an error in establishing the current zoning;
- 2. These approval criteria shall not apply to legislative rezonings by the City Council.

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### 2.7.3 Rezone to a Planned Development (PD) District

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**A. Purpose**

The zoning classification of any parcel(s) may be changed to a Planned Development (PD) pursuant to this section. The purpose of rezoning to a PD are to ensure compatibility between development, to achieve greater flexibility than allowed by the strict application of this DDC, and/or to encourage unique or innovative land use concepts, while providing greater benefit to the city and ensuring efficient provision of services and utilities.

**B. Applicability**

The PD procedure shall not be used when a specific use permit, minor modification, or rezoning to an existing base zoning district could achieve a similar result.

**C. Types of Planned Developments**

A PD District may be created as an Overlay PD or as a Standard PD:

**1. Overlay PD**

a. Overlay PD is a PD intended to address concerns of neighboring property owners and to ensure the proposed rezoning and subsequent development are compatible with surrounding neighborhoods or less intensive uses. An Overlay PD may be used to restrict or expand the uses permitted within a base zoning district or to impose additional use-specific standards than already listed within Subchapter 5 upon a proposed use, or to modify setbacks, landscaping, screening, or buffering requirements along the borders adjoining residential uses or less intensive land uses than what is proposed within the Overlay PD.

b. When, in the course of reviewing a request for a zoning map change to a base zoning district under Section 2.7.2, the Director, Planning and Zoning Commission, or City Council finds the need to impose conditions upon the requested rezoning to address compatibility concerns, the Overlay PD District may be utilized to do so.

**2. Standard PD**

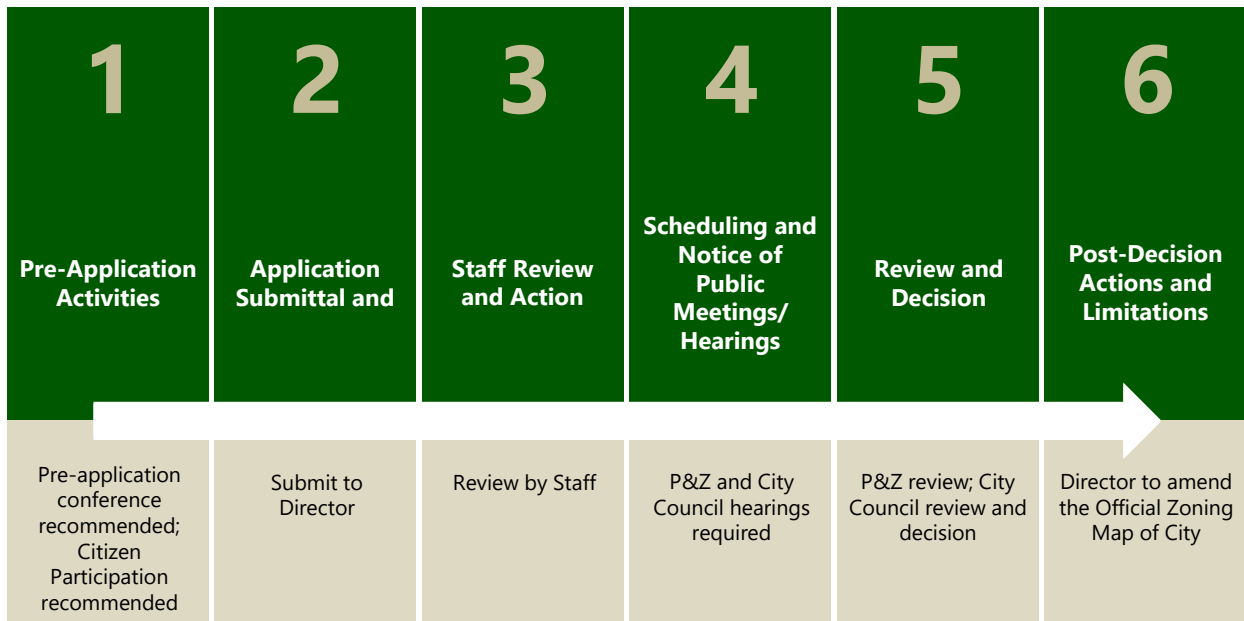
A Standard PD is intended to be used to achieve greater flexibility than is allowed by the strict application of this DDC. A Standard PD may be used to permit new or unique land uses or combinations of uses or to propose innovative or creative development standards.

A standard PD shall be built off of a base zoning district within this DDC.

**D. Rezoning to PD Procedure**

Figure 2.4-5 identifies the applicable steps from the common review procedures in Section 2.4 that apply to the review of rezoning to a PD application. Additions or modifications to the common review procedures are noted below.

**Figure 2.4-5: Summary of Rezoning to PD Procedure**



**1. Step 1: Pre-Application Activities**

**a. Pre-Application Conference**

A pre-application conference is recommended to be held in accordance with Subsection 2.4.3. In addition, the applicant shall include a concept/schematic plan for review by the Director to help determine whether or not a proposed PD is the appropriate procedure for the applicant and the city. The concept/schematic plan shall include at a minimum the following:

- i. Proposed uses;
- ii. Number and type of dwelling or commercial units (as applicable);
- iii. Floor area of all buildings;
- iv. Floor area of each use for mixed-use buildings (if applicable);
- v. Proposed parking capacity and configuration;
- vi. General site planning layout and phasing; and
- vii. Summary of proposed deviations from DDC standards and a description of compensating public benefits achieved through the PD process.

**b. Citizen Participation**

Citizen Participation is recommended in accordance with Subsection 2.4.3B: *Citizen Participation*.

**2. Step 2: Application Submittal and Processing**

**a. Generally**

- i. The PD application shall be submitted and accepted, and may be revised or withdrawn, in accordance with Subsection 2.4.4.
- ii. An Overlay PD application shall contain the list of conditions/restrictions proposed to ensure compatibility between the proposed development and

neighboring properties. An Overlay PD application shall also contain any other information or data determined by the Director to be pertinent to the proposed Overlay PD.

- iii. An application for rezoning to a Standard PD shall include submittal requirements as specified in the Development Handbook, which shall include the items specified in PD Requirements below.

**b. Standard PD Requirements**

The following items shall be incorporated as part of the authorizing ordinance for a Standard PD District.

**i. PD Regulations Document**

- a. Document Form. The PD Regulations Document shall be a written proposal explaining all aspects of the requested PD. This document establishes the development regulations for a planned development and specifically identifies where there are deviations from the DDC.
- b. Purpose and Intent. The Regulations Document shall contain a clear statement of both the purpose and intent of the PD District being established.
- c. Public Benefit. When an applicant is proposing deviations from the zoning provisions of this DDC to establish a PD District, the applicant's written proposal shall also describe how the PD District will generally provide public benefits greater than would be required if the project were not being developed as a PD District.
- d. Compliance with the DDC. Unless specifically modified by the PD Regulations Document, development within the PD shall comply with all standards in the DDC, at the time of development.
- e. Specification of Deviations. Where the applicant is proposing deviations from the zoning and development regulations of this DDC, the applicant shall specify both the existing regulations and the wording of each corresponding substitution, as proposed. The proposed PD District shall represent a quality development when weighed overall against the standards in the DDC. Deviations may be proposed from any section of this DDC except those specifically prohibited below.

**ii. PD Development Plan**

To facilitate understanding of the requested PD, a PD Development Plan shall be provided to show the intended development in a graphic manner. Unless otherwise determined by the Director, at a minimum the development plan shall show the following:

- a. Location and types of uses shown within defined areas or development units;
- b. Access and circulation, including proposed streets, alleys, and driveways;
- c. Preliminary lot arrangements;
- d. Size, type, and locations of buildings other than single-family dwellings;
- e. Density, height, and coverage of buildings;

- f. Landscaped areas, including screening and buffering areas;
- g. Parking areas and ratios applied for each use;
- h. Preliminary building elevations (may be excluded for single-family uses at the discretion of the Director);
- i. Proposed boundaries and sequencing of project phases; and
- j. Any other information or data determined by the Director to be pertinent to the development.

iii. **PD Phasing**

In instances where a Planned Development is intended to be developed in multiple phases, the Director may authorize the phased approach to allow the PD Development Plan to be submitted as each phase is developed. Modifications to the PD Development Plan or initial approval of subsequent phases must follow the PD amendment process.

iv. **Prohibited Deviations from the DDC**

Deviations from the following standards shall not be allowed in conjunction with a PD zoning district:

- a. **Error! Reference source not found. Error! Reference source not found..**
- b. Section **Error! Reference source not found., Error! Reference source not found.**
- c. Section **Error! Reference source not found.: Error! Reference source not found.**

An applicant may seek relief or alternative approvals to gas well, environmentally sensitive area, or tree preservation standards through processes outlined in those respective sections listed above. In instances where such relief or alternative to these standards would affect the design or layout reflected on a PD Development Plan, such relief or alternative approval shall be sought and achieved prior to or concurrently with the rezoning to PD District.

c. **Concurrent Reviews**

- i. A comprehensive plan amendment application submitted under Subsection 0 may be reviewed concurrently with a PD application.
- ii. The Director, Planning and Zoning Commission, or City Council may require review and approval of supporting analyses including, but not limited to, a Traffic Impact Analysis, or Drainage Analysis, concurrent with the review of the PD application.

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

The Director shall review the PD application and prepare a staff report and recommendation in accordance with the approval criteria in Subsection 2.7.3E below.

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

The PD application shall be scheduled for public hearings before the Planning and Zoning Commission and City Council, and noticed in accordance with Table 2.4-A Summary of Development Review Procedures and Subsection 2.4.6.

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

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

The Planning and Zoning Commission shall review the PD application in accordance with the approval criteria in Subsection 2.7.3E below, and shall forward its recommendation to the City Council.

b. **City Council Review and Decision**

- i. The City Council may review and approve, approve with conditions, or deny the PD application in accordance with the approval criteria in Subsection 2.7.3E below.
- ii. If the Planning and Zoning Commission recommends denial of the PD application, the rezoning shall become effective only by a three-fourths vote of all members of the City Council.
- iii. The City Council may also remand the PD application back to the Director or the Planning and Zoning Commission for further consideration.
- iv. If the City Council remands the PD application back to the Director or Planning and Zoning Commission, additional public hearings will be required before final adoption.

c. **Protest Procedure**

- i. The rules governing ~~amendment over~~ protest of a PD application are contained in TLGC, Chapter 211, ~~as amended~~. The Director may prescribe forms for protest petitions.
- ii. Property owners within 200 feet of a proposed ~~rezoning to PD application~~, as indicated on the most recently approved city tax roll, may file a written protest against the PD ~~rezoning~~. If written protests are received by owners of 20 percent or more of the area within 200 feet of the proposed rezoning ~~or of the area covered by the proposed PD zoning change~~, approval shall require three-fourths vote of the City Council for a rezoning to become effective ~~unless the change meets the criteria relating to residential development in Section 211.0061(b)(3) of the TLGC, as amended~~. In such case, a supermajority vote shall not be required by the Planning and Zoning Commission.

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

a. **Adoption of a Planned Development District**

At the time a PD zoning document is approved by the City Council, it becomes an integral part of this DDC for that PD District established by the city on the property. All future development within the adopted PD District shall thereafter be in conformity with the PD zoning document for that property.

b. **Future Development**

Upon adoption of the PD District, the applicant may proceed with the development of the property in accordance with the PD Regulations Document and the PD Development Plan by applying for preliminary and final plat(s) approval in accordance with the approved phasing.



c. **Administration and Enforcement**

- i. While ownership of a project may subsequently be transferred (in whole or in part), the PD District will continue to run with the land and be enforced for the total acreage of the PD District. It is the responsibility of the owner to notify all prospective purchasers of the existence of the PD District and the PD Development Plan.
- ii. In the event that the applicant has failed to comply with the conditions adopted by the City Council in conjunction with the approved PD Regulations Document and PD Development Plan, the city may proceed in accordance with Section **Error! Reference source not found.: Error! Reference source not found..**

d. **Amendments to a Planned Development**

i. **Generally**

- a. The applicant or its successors may request amendments to the PD Regulations Document and/or PD Development Plan.
- b. Amendments to the approved PD documents shall be delineated as major or minor amendments, according to the criteria set forth in this subsection.
- c. Amendments to the approved PD documents 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 subsections ii and iii below.

Any property that was in a PD prior to October 1, 2019 shall be designated as PD on the "Official Zoning Map of City" and shall be governed by the zoning regulations and development standards established by the PD ordinance, specifically including those regulations and standards incorporated (or excepted) from prior development codes or ordinances as they existed on the date of approval for each PD approval ordinance and amendment. Unless a vested rights petition approved pursuant to Subsection 2.5.6, all remaining zoning district regulations and design standards not addressed by the PD ordinance shall be governed by the development standards of this DDC, effective on October 1, 2019. Proposed changes to such properties shall follow the PD amendment procedures provided in this subsection.

ii. **Major Amendments**

- a. An amendment will be deemed major if it involves any one of the following:
  - 1. A change in the overall PD District boundary;
  - 2. 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 significant if it represents a 10 percent increase to the approximate gross area of the development unit as approved in the PD District;
  - 3. An increase of 10 percent or more of the approved number of projected dwelling units or gross leasable area (GLA) for an individual development unit;

4. Any change in land use or density that is likely to negatively impact or burden public facilities and utilities infrastructure as determined by the Director;
  5. Any change in land use or density that is likely to negatively impact or burden mobility adjacent to the PD District or to the overall major street system; or
  6. Any other proposed change to the PD Regulations Document and PD Development Plan, which substantively alters one or more components of the PD District, including, but not limited to, the following: arrangement or number of buildings, configuration of streets or lots, placement of vehicular circulation or parking areas, or the location or effectiveness of open space or landscaping buffering and screening areas.
- b. If the Director determines the amendment to be major, the amendment request shall be processed under the Rezoning Procedure described in Subsection 0C.

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.

**E. Rezoning to PD District Approval Criteria**

In reviewing a proposed rezoning to a PD District, the Planning and Zoning Commission and City Council shall consider the general approval criteria in Subsection 2.4.5 and whether and to what extent the proposed PD District:

1. Complies with the goals of the Comprehensive Plan;
2. Complies with the goals of relevant Area Plans;
3. Complies with this DDC, except where modifications are expressly authorized through the PD Regulations Document and PD Development Plan;
4. Provides a greater level of building design quality, community amenities, and connectivity than would be required if the project were not being developed in a PD District;
5. In the case of proposed residential development, that the development will promote compatible buildings and uses and that it will be compatible with the character of the surrounding area;
6. In the case of proposed commercial, industrial, institutional, recreational and other non-residential uses or mixed-uses, that such development will be appropriate in area, location, and overall planning for the purpose intended; and
7. The provisions for public facilities such as schools, fire protection, law enforcement, water, wastewater, streets, public services and parks are adequate to serve the anticipated population within the PD District.
8. The conditions and/or restrictions imposed by the PD are necessary and sufficient to address any significantly adverse impacts to surrounding properties or the neighborhood.

## 2.7.4 Zoning Text Amendment

### A. Purpose

This subsection describes the review and approval procedures for amending the text of this DDC to respond to changed conditions or changes in public policy, or to advance the general welfare of the city.

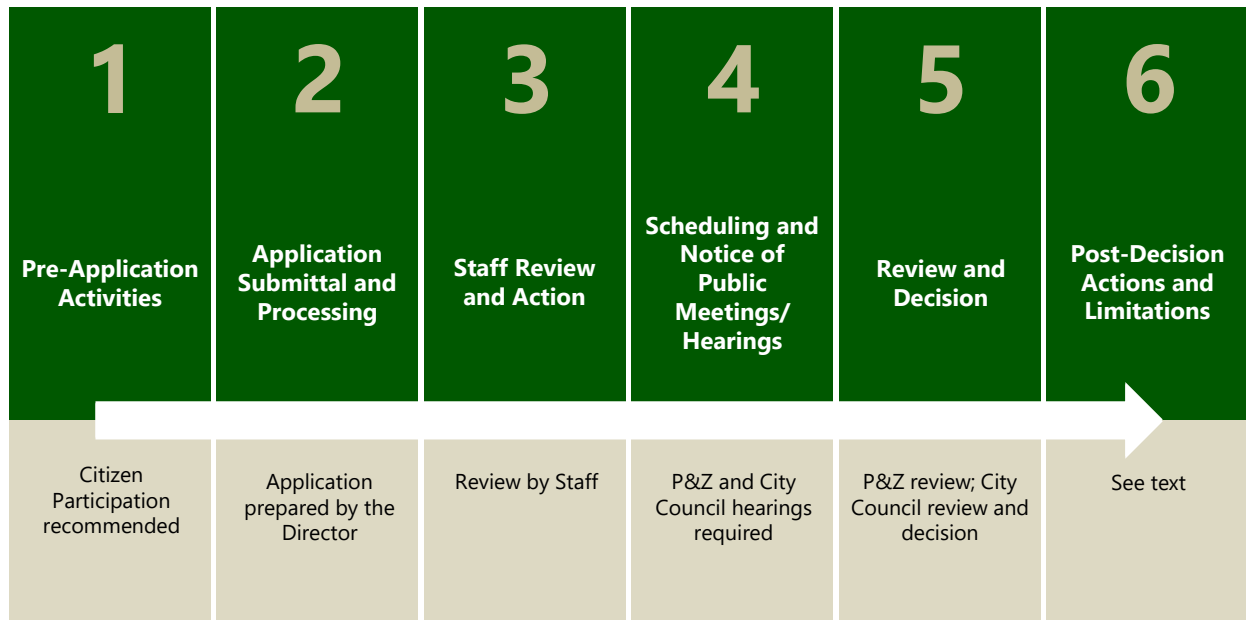
### B. Applicability

A zoning text amendment shall be initiated by the Director, the Planning and Zoning Commission, or the City Council.

### C. Zoning Text Amendment Procedure

Figure 2.4-6 identifies the applicable steps from the common review procedures in Section 2.4 that apply to the review of a zoning text amendment. Additions or modifications to the common review procedures are noted below.

**Figure 2.4-6: Summary of Zoning Text Amendment Procedure**



#### 1. Step 1: Pre-Application Activities

##### a. Pre-Application Conference

Not required.

##### b. Citizen Participation

Citizen Participation is recommended in accordance with Subsection 2.4.3B: *Citizen Participation*.

#### 2. Step 2: Application Submittal and Processing

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.

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

The Director shall review the zoning text amendment application and prepare a staff report and recommendation in accordance with the approval criteria in Subsection 2.4.8D below.

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

The zoning text amendment application shall be scheduled for public hearings before the Planning and Zoning Commission and City Council, and noticed in accordance with Table 2.4-A Summary of Development Review Procedures and Subsection 2.4.6.

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

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

The Planning and Zoning Commission shall review the zoning text amendment application in accordance with the approval criteria in Subsection 2.4.8D below, and shall forward its recommendation to the City Council.

b. **City Council Review and Decision**

- i. The City Council may review and approve, approve with conditions, or deny the zoning text application in accordance with the approval criteria in Subsection 2.4.8D below.
- ii. If the City Council remands the application back to the Director or Planning and Zoning Commission, additional public hearings may be required prior to final action.

c. **Protest Procedure**

- i. The rules governing protest of DDC Text Amendments are contained in TLGC, Chapter 211, as amended. The Director may prescribe forms for protest petitions.
- ii. If written protests are received by owners of 20 percent or more of the area within 200 feet of the proposed text amendment or of the area covered by the proposed text amendment, approval shall require three-fourths vote of the City Council for a rezoning to become effective unless the change meets the criteria relating to residential development in Section 211.0061(b)(3) of the TLGC, as amended. In such case, a supermajority vote shall not be required by the Planning and Zoning Commission.
- iii. The protest procedure process does not apply to DDC Text Amendments that meet the criteria of a "proposed comprehensive zoning change" as defined in Chapter 211 of the TLGC, as amended.

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. Approval of a zoning text amendment authorizes the approved revision to the text only. A zoning text amendment shall not authorize specific development activity.

- b. A zoning text amendment shall remain valid until the revised text of the DDC is subsequently amended in accordance with this Subsection 0.

**D. Approval Criteria for Code Text Amendments**

A DDC text amendment is a legislative decision by the City Council. Prior to recommending approval or approving a proposed DDC text amendment, the Planning & Zoning Commission and City Council shall consider whether and to what extent the proposed amendment:

1. Is consistent with the Comprehensive Plan, other adopted plans, and other city policies;
2. Does not conflict with other provisions of this DDC or other provisions in the Municipal Code of Ordinances;
3. Is necessary to address a demonstrated community need;
4. Is necessary to respond to substantial changes in conditions and/or policy; and
5. Is consistent with the general purpose and intent of this DDC.

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### **2.8.3 Appeal of Administrative Decision**

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**A. Purpose**

The purpose of this section is to establish a remedy whereby persons claiming to have been aggrieved by a decision of the Director or other administrative official in administering this DDC may appeal that decision.

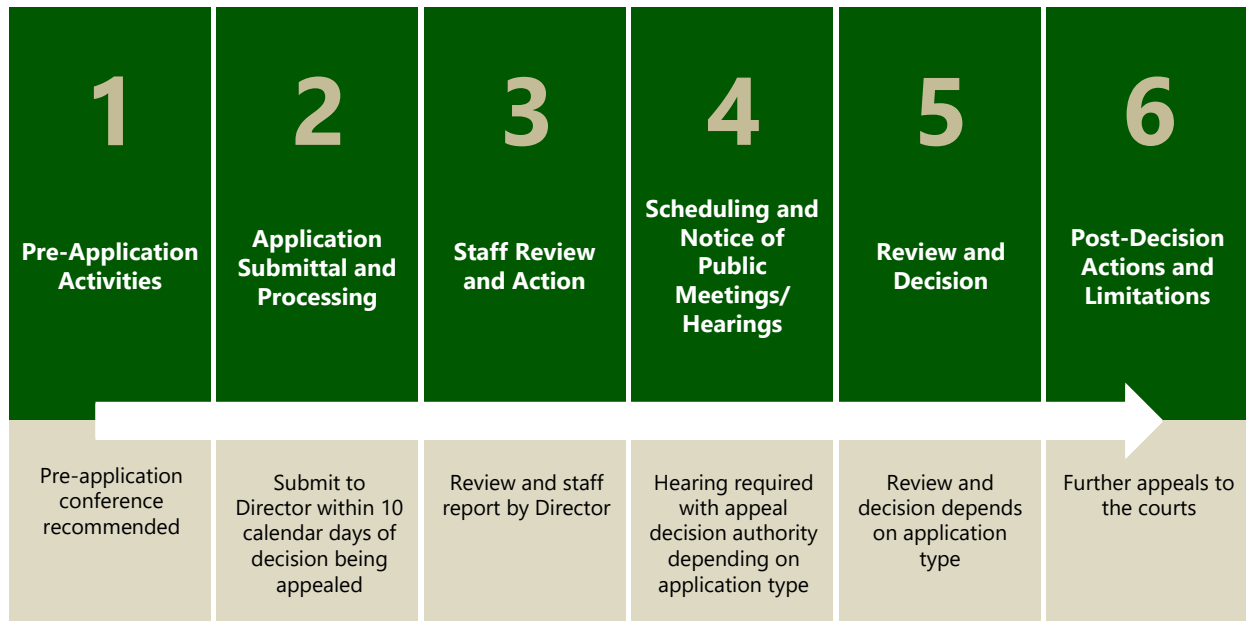
**B. Applicability**

Any person may appeal a decision of an administrative office or agency made in the administration or enforcement of this DDC. Appeals shall be made to the appropriate body as indicated in Table 2.4-A *Summary of Development Review Procedures*, and in accordance with state law.

**C. Administrative Appeal Procedure**

Figure 2.4-7 identifies the applicable steps from the common review procedures in Section 2.4 that apply to the review of administrative appeals. Additions or modifications to the common review procedures are noted below.

**Figure 2.4-7: Summary of Administrative Appeal Procedure**



**1. Step 1: Pre-Application Activities**

**a. Pre-Application Conference**

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

**b. Citizen Participation**

Not required.

**2. Step 2: Application Submittal and Processing**

An administrative appeal application shall be submitted and accepted, and may be revised or withdrawn, in accordance with Subsection 2.4.4, with the following modifications:

**a. Who May Appeal**

- i. Any of the following persons may appeal a decision that is not related to a specific application, address, or project:
  - 1. A person aggrieved by the decision; or
  - 2. Any administrative official, department, or board of the City of Denton.
- ii. Any of the following persons may appeal a decision that is related to a specific application, address, or project:
  - 1. The applicant who filed the application that is the subject of the decision;
  - 2. The owner or representative of owner of the property that is the subject of the decision; or
  - 3. An owner of real property within 200 feet of the property that is the subject of the decision who is aggrieved by the decision; or
  - 4. Any administrative official, department, or board of the City of Denton.

b. **Time Limit**

Appeals shall be made in writing and filed with the Director within 20 calendar days of the action or decision being appealed.

c. **Appeal Application Content**

The administrative appeal application shall include a written statement of the administrative decision being appealed, the specific section(s) in which the administrative decision was based on, the reason for the appeal, and any other information that supports the appeal.

d. **Stay of Proceedings**

An appeal stays all proceedings from further action unless the official from whom the appeal is taken determines and certifies in writing to the board that a stay would create adverse impacts to the health, safety, or welfare of the city or neighborhood. In that case, the proceedings may be stayed only by a restraining order granted by the board or a court of record on application, after notice to the official, if due cause is shown.

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

The Director shall review the appeal application and prepare a staff report in accordance with the general approval criteria applicable to all applications in Subsection 2.4.5, with the following modifications:

- a. Staff review shall only confirm that the application is complete and that the appeal is heard by the appropriate authority.
- b. The staff report shall not make a formal recommendation. The report shall include necessary facts to warrant an appeal, which shall be provided by the appellant/applicant.

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

An appeal shall be scheduled for public hearings before the Zoning Board of Adjustment, or City Council, and noticed in accordance with ~~Subsection 2.4.6~~ the requirements of Texas Local Government Code Section 211.010, as amended.

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

- a. The appropriate decision-making body may affirm, reverse, or amend a decision or interpretation made by another decision-making body in accordance with the approval criteria in Subsection 2.4.8D below.
- b. When the appropriate decision-making body is the Zoning Board of Adjustment, the decision on the appeal shall be made at the next meeting for which notice can be provided following the public hearing of the appeal, and not later than the 60th calendar day after the date the appeal was submitted.
- c. The appeal decision-making authority may reverse a previous decision in whole or in part, or may modify the order, requirement, decision, or determination appealed from.
- d. The appeal decision-making authority may attach conditions of approval on any appeal to ensure the health, safety, and welfare of the city.

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

Post-decision actions and limitations in Subsection 2.4.8 shall apply. Any further appeals from the appropriate appeal decision-making authority shall be made to the courts in accordance with state law.

D. **Appeals Approval Criteria**

In considering an appeal, the appropriate decision-making body shall consider the approval criteria applicable to all applications in Subsection 2.4.5, and shall consider the following:

1. The facts stated in the application, as presented by the appellant and/or the Director; and
2. The requirements and intent of the applicable standards from this DDC compared to the written decision that is being appealed.



## 2.8.4 Alternative Environmentally Sensitive Area (ESA) Plan

### A. Purpose

The alternative ESA plan provides the option to address the ESA regulations through a flexible discretionary process using the procedure outlined in Section 0: 2.7.2 *Zoning Map* Amendment.

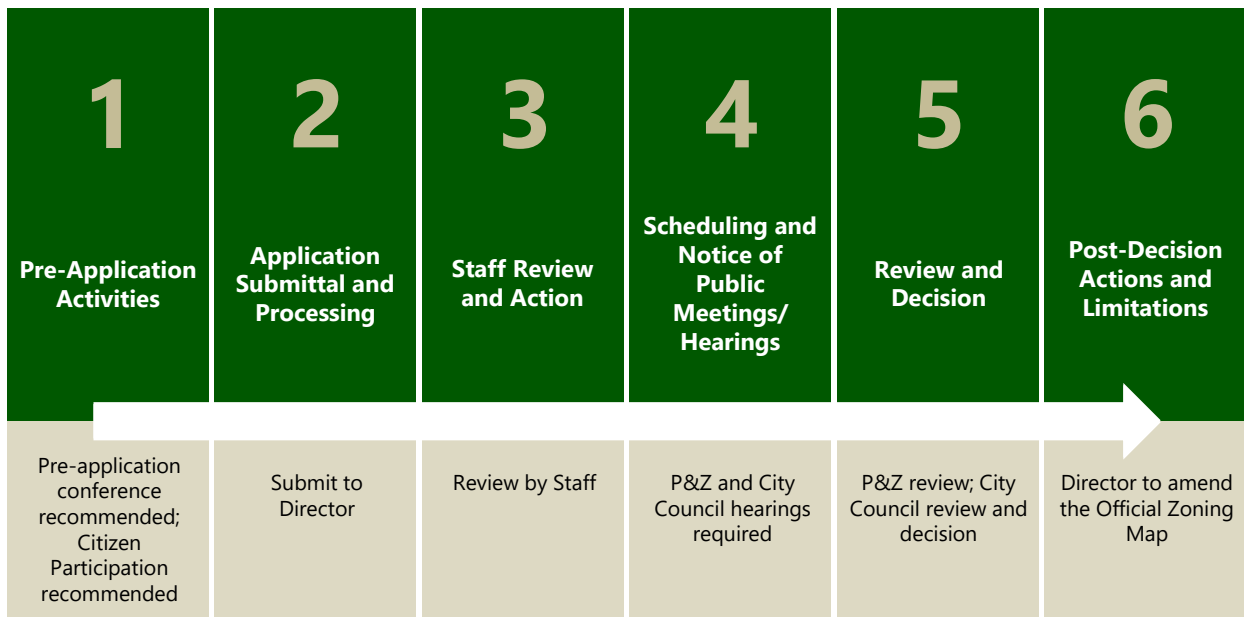
### B. Applicability

An alternative ESA plan is required when development deviates from regulations established in Section **Error! Reference source not found.: Error! Reference source not found.**, and encroaches or removes protected ESAs.

### C. Alternative ESA Plan Procedure

Figure 2.4-8 identifies the applicable steps from the common review procedures in Section 2.4 that apply to the review of alternative ESA plans. Additions or modifications to the common review procedures are noted below.

**Figure 2.4-8: Summary of Alternative ESA Plan Procedure**



#### 1. Step 1: Pre-Application Activities

##### a. Pre-Application Conference

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

##### b. Citizen Participation

Citizen Participation is recommended in accordance with Subsection 2.4.3B: *Citizen Participation*.

#### 2. Step 2: Application Submittal and Processing

##### a. Generally

i. The alternative ESA plan application shall be submitted and accepted, and may be revised or withdrawn, in accordance with Subsection 2.4.4.

- ii. The Director may require additional information deemed appropriate and necessary to process the application.
- b. **Step 3: Staff Review and Action**

The Director shall review the alternative ESA plan application and prepare a staff report and recommendation in accordance with the general approval criteria applicable to all applications in Subsection 2.4.5, and the approval criteria in Subsection 2.4.8D below.
- c. **Step 4: Scheduling and Notice of Public Meetings/Hearings**

The alternative ESA plan application shall be scheduled for public hearings before the Planning and Zoning Commission and the City Council and shall be noticed pursuant to Table 2.4-A Summary of Development Review Procedures, and Section 2.4.6.
- d. **Step 5: Review and Decision**
  - i. **Planning and Zoning Commission Review and Recommendation**

The Planning and Zoning Commission shall review the alternative ESA plan application in accordance with the approval criteria in Subsection 2.4.8D below, and shall forward its recommendation to the City Council.
  - ii. **City Council Review and Decision**
    - a. The City Council may review and approve, approve with conditions, or deny the alternative plan application in accordance with the approval criteria in Subsection 2.4.8D below.
    - b. If the Planning and Zoning Commission recommends denial of the alternative ESA plan, the alternative plan shall become effective only by a three-fourths vote of all members of the City Council.
  - iii. **Protest Procedure**
    - a. The rules governing ~~amendment over~~ protest of an Alternative ESA plan are the same as for a zoning amendment and are contained in TLGC, Chapter 211, ~~as amended~~. The Director may prescribe forms for protest petitions.
    - b. Property owners within 200 feet of a proposed ~~Alternative ESA Plan rezoning~~, as indicated on the most recently approved city tax roll, may file a written protest against the ~~Alternative ESA Plan rezoning~~. If written protests are received by owners of 20 percent or more of the area within 200 feet of the proposed rezoning or of the area covered by the proposed ~~Alternative ESA Plan~~, approval shall require three-fourths vote of the City Council for an alternative plan to become effective ~~unless the change meets the criteria relating to residential development in Section 211.0061(b)(3) of the TLGC, as amended~~. In such case, a supermajority vote shall not be required by the Planning and Zoning Commission.
- e. **Step 6: Post-Decision Actions and Limitations**
  - i. Post-decision actions and limitations in Section 2.4.8 shall apply. The City Council decision is a final action and may not be appealed.
  - ii. An approved Alternative ESA Plan shall expire after 24 months if progress has not been made toward completion of the project. Should an approved Alternative ESA Plan expire, a new Alternative ESA Plan must be applied for and approved

before any permit may be released allowing encroachment upon or removal of the ESA.

**D. Alternative ESA Plan Approval Criteria**

The City Council may approve the alternative ESA plan with conditions necessary to mitigate the impacts of the proposed development upon considering the factors and goals noted in this section.

1. Mitigation goals are obtained by creating, expanding, and/or improving ESAs.
2. Mitigation goals are obtained by preserving ESAs above the minimum requirements, exchanges between different types of ESAs, installing pollution prevention controls, and/or implementing best management practices or any other approaches that result in the improvement of the environment being impacted.
3. Areas offered as mitigation are linked to existing or planned open space or conserved areas to provide an overall open space system.
4. Development is arranged for maximizing access and utilization of the ESAs by citizens.
5. Areas offered as mitigation are placed either in a lot or lots that incorporate a permanent conservation easement, a preserved habitat, restrictive covenants, or such other legal mechanism to allow for the long term conservation of said areas. Such legal mechanisms shall limit any future land disturbing activity or construction within the ESAs, shall run with the land, and shall be binding upon all successors and assigns of the current owner.
6. The alternative ESA plan shall demonstrate that the property owner's alternative proposal results in a high-quality development meeting the intent of the standards in this DDC.

**E. Establish Revegetation**

1. Vegetation established as a part of the approved revegetation plan are to be planted or seeded and maintained by the current property owner/developer for a period of three (3) years following installation. Any plants that are removed, destroyed, or die within that three (3) year period are required to be replaced by the current property owner/developer to achieve a minimum 90% survivability of trees and shrubs and 90% land cover rate for grasses and herbaceous plants.
2. Following the installation and inspection of the revegetation, the property owner shall submit an annual report to the Environmental Services Director during the first three (3) years describing the cumulative mitigation work performed and the survivability of the plantings for staff review and inspection on the anniversary of the planting date. Within 30 calendar days of approval of the report by staff, the applicant shall replace any plants that were identified in the report as removed, destroyed, or dead.

## Sec. 2-29. City council rules of procedure.

(i) *Votes required.* Questions on which the voting requirement is varied by the Charter, State Statutes and these rules are listed below:

(1) *Charter and state statutory requirements:*

- a. *Charter amendment—Five (5) votes:* Ordinances submitting proposed Charter amendments must be adopted by a two-thirds ( $\frac{2}{3}$ ) vote of the council. (TEX. CONST. art. XI, § 3 and V.T.C.A. Local Government Code Ch. 9 (Vernon 2014.)) For a seven-member council, this means five (5) members must vote affirmatively.
- b. *Levying taxes—Five (5) votes:* Ordinances providing for the assessment and collection of certain taxes require the approval of two-thirds ( $\frac{2}{3}$ ) of the members of the council (V.T.C.A. Tax Code § 302.101 (Vernon 2014)).
- c. *Changing paving assessment plans—Five (5) votes:* Changes in plans for paving assessment require a two-thirds ( $\frac{2}{3}$ ) vote of the council (V.T.C.A. Transportation Code § 313.053(e) (Vernon 2014)).
- d. *Changes in zoning ordinance or zoning classifications:* In cases of a written protest of a change in a zoning regulation or zoning classification by the owners of twenty (20) percent or more either of the area of the lots included in such proposed change, or of the lots immediately adjoining the same and extending two hundred (200) feet therefrom, such amendment shall not become effective except by the favorable vote of three-fourths ( $\frac{3}{4}$ ) of all members of the city council **unless the change meets the criteria relating to residential development in Section 211.0061(b)(3) of the TLGC, as amended**; further, three-fourths ( $\frac{3}{4}$ ) of all the members of the city council is required to override the decision of the planning and zoning commission that a zoning change be denied **(V.T.C.A. Local Government Code § 211.066 (Vernon 2014)) and section 35-3.4.C.(4) Denton City Code (Development Code)**. ("All" members of the city council is construed to mean all who are qualified to vote on a matter, and any legal disqualification of a member could change the requisite number of votes required for passage. City of Alamo Heights v. Gerety et al., 264 S.W. 2d 778 (Ct. App. — San Antonio (1954)).
- e. *Amendment of tax abatement policy:* The guidelines and criteria adopted as the city's tax abatement policy may be amended or repealed by a vote of three-fourths ( $\frac{3}{4}$ ) of all members of the city council (V.T.C.A. Tax Code § 312.002(c) (Vernon 2014)).