



CITY OF FAIR OAKS RANCH

PLANNING AND ZONING COMMISSION MEETING

Thursday, July 13, 2023 at 6:30 PM

Public Safety Training Room, Police Station, 7286 Dietz Elkhorn, Fair Oaks Ranch

AGENDA

OPEN MEETING

1. Roll Call - Declaration of a Quorum
2. Pledge of Allegiance

CITIZENS and GUEST FORUM

To address the Commission, please sign the Attendance Roster located on the table in the foyer of the Public Safety Training Room. In accordance with the Open Meetings Act, the P&Z Commission may not discuss or take action on any item which has not been posted on the agenda. Speakers shall limit their comments to five (5) minutes each.

3. Citizens to be heard.

PUBLIC HEARING

4. The Planning & Zoning Commission of the City of Fair Oaks Ranch, Texas will conduct a public hearing to receive public testimony on proposed amendments to the following chapters in the Unified Development Code (UDC):

Chapter 1: General Provisions

Chapter 2: Review Authority and Procedures

Chapter 3: Applications and Permits

- a) P&Z Chairperson opens the public hearing
- b) Staff/consultant presentation of the proposed amendments to Chapters 1-3 of the UDC
- c) P&Z Commission receives citizen testimony for/against the proposed amendments
- d) P&Z Chairperson closes public comments
- e) P&Z Commission discusses the amendments, inclusive of questions of the staff/consultant
- f) Public Hearing is adjourned with no formal action

Grant Watanabe, P.E., Director of Public Works & Engineering Services
Lata Krishnarao, AICP, LEED ND, Consultant, Ardurra

CONSIDERATION / DISCUSSION ITEMS

5. Consideration and possible action recommending the approval of the proposed amendments to the Unified Development Code (UDC) Chapters 1-3 and authorizing advancement to the City Council.

Grant Watanabe, P.E., Director of Public Works & Engineering Services
Lata Krishnarao, AICP, LEED ND, Consultant, Ardurra

6. Review proposed amendments to the Unified Development Code (UDC) which includes the following:

Chapter 4: Zoning Districts and Use Regulations

Chapter 5: Subdivision Design Standards

Grant Watanabe, P.E., Director of Public Works & Engineering Services

Lata Krishnarao, AICP, LEED ND, Consultant, Ardurra

ADJOURNMENT

Request for P&Z commission topic needing information/research

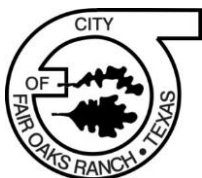
Signature of Agenda Approval: s/Carole Vanzant

Carole Vanzant, Assistant City Manager

I, Amanda Valdez, TRMC, Deputy City Secretary, certify that the above Notice of Meeting was posted on the outside bulletin board at the Fair Oaks Ranch City Hall, 7286 Dietz Elkhorn, Fair Oaks Ranch, Texas, and on the City's website www.fairoaksranchtx.org, both places being convenient and readily accessible to the general public at all times.

As per Texas Government Code 551.045, said Notice was posted by 6:30 PM, July 10, 2023 and remained so posted continuously for at least 72 hours before said meeting was convened.

The Fair Oaks Ranch Police Station is wheelchair accessible at the front main entrance of the building from the parking lot. Requests for special services must be received forty-eight (48) hours prior to the meeting time by calling the City Secretary's office at (210) 698-0900. Braille is not available.



PLANNING & ZONING COMMISSION PUBLIC HEARING
CITY OF FAIR OAKS RANCH, TEXAS
July 13, 2023

AGENDA TOPIC: The Planning & Zoning Commission of the City of Fair Oaks Ranch, Texas will conduct a public hearing to receive public testimony on proposed amendments to the following chapters in the Unified Development Code (UDC):

Chapter 1: General Provisions

Chapter 2: Review Authority and Procedures

Chapter 3: Applications and Permits

MEETING DATE: July 13, 2023

DEPARTMENT: Public Works and Engineering Services

PRESENTED BY: Grant Watanabe, P.E., Director of Public Works & Engineering Services
 Lata Krishnarao, AICP, LEED ND, Consultant, Ardurra

BACKGROUND:

During the past two years, the Planning and Zoning Commission (P&Z) worked with city staff and planning consultant Ardurra on creating amendments to the Unified Development Code (UDC). The process consisted of the following steps:

1. A series of five work sessions were held to discuss the diagnostic findings of the current UDC and to gather the P&Z Commission's input on the issues identified. Staff also provided input and recommendations. Additionally, the consultant's experience in utilizing the UDC to undertake review of planning applications assisted in identifying areas of improvement.
2. Implementation steps were identified that included text amendments, incorporation of additional guidelines, and topics for further research and discussion.
3. The P&Z Commission was provided with a complete redlined version and a clean version of the proposed text amendments, and the city consultant presented a broad review of the changes.
4. The P&Z Commission determined a chapter-by-chapter review would be beneficial to understand the amendments and a series of work sessions were held to complete this new review process.
5. After the completion of this review, a final redline version and clean version of the UDC was produced and presented to the P&Z Commission.
6. At the P&Z Commission's March 9, 2023 meeting, the Commissioners recommended approval of the amendments to the City Council.
7. Subsequently, as directed by the City Council at their meeting of April 20, 2023, the proposed amendments were broken down into topics by the P&Z Commission. The City Council approved the topics on May 18, 2023.
8. On June 6, 2023, the P&Z reviewed the first set of amendments with the Change Summary Report (as requested by the City Council) for Chapters 1-3.

PUBLIC HEARING:

The purpose of this public hearing is to receive public input regarding the changes pertaining to amendments in the following chapters:

1. Chapter 1: General Provisions
2. Chapter 2: Review Authority and Procedures
3. Chapter 3: Applications and Permits Council

The attachments include a Change Summary Report as well as a redlined version and clean version of the chapters listed above.

FUTURE STEPS:

The City Council will hold a public hearing at their regular August 17, 2023 meeting. At the conclusion of the public hearing, City Council will consider and take possible action on an amending ordinance.

LEGAL ANALYSIS:

Legal has attended all P&Z Commission meetings, provided necessary guidance, and reviewed the UDC amendments.

RECOMMENDATION/PROPOSED MOTION:

Conduct the Public Hearing only. Action on these proposed amendments will be addressed under the agenda section titled "CONSIDERATION / DISCUSSION ITEMS".

Rev. 7/6/23

Redlined text indicates changes proposed by legal to incorporate legislative changes.

Fair Oaks Ranch Proposed UDC Amendments - Summary of Changes

Topic # 1 - Administration: Conformance to TXLGC – timeline, processing, consistency, legal recommendations, clarifications, errors, incomplete and missing information.

	Sections of the Current UDC (2019)	Proposed Change This list reflects the changes made to the UDC adopted in 2019	Reason	Topic	Other Topics Affected
Chapter 1					
1	Section 1.4 (2)	Added the sentence - The City also extends to its ETJ its authority to regulate signage as adopted under LGC chapters 216, 245 and 43.	Legal input - revise to include affirmative statement of other regulations in the ETJ.	Administration	
2	Section 1.5 (2)	Removed ETJ reference.	Legal input - delete this reference and the non-conforming use language as it is in reference to zoning regulation which the City may not regulate in the ETJ.	Administration	
3	Section 1.8 (3)	1.8 (3) in the clean version. Added - "...as provided for in that section." Deleted "...as long as the situation that resulted in the nonconformity under the previous Zoning Ordinance still exists."	Legal input - minor revisions to ensure compliance with state law.	Administration	Zoning
4	Section 1.9	Removed the sentence - "The Planning and Zoning Commission will refer the Code Amendment Request to the City Council with recommendations for amendments to the Code." Replaced with - "The proposed amendments will be heard at a joint public hearing of the Planning and Zoning Commission and the City Council, after any individual notice requirements in Local Government Code § 211.006 and 21.007, as amended have been complied with."	Legal input - new case law impacts individual notice requirements. See City of Austin v. Acuna, No. 14-20-00356-CV, 2022 WL 805953 (Tex. App. Mar. 17, 2022) for reference	Administration	
5	Section 1.9	Added - "The proposed amendments will be heard at a joint public hearing of the Planning and Zoning Commission and the City Council, after any individual notice requirements in Local Government Code § 211.006 and 21.007, as amended have been complied with."	Legal input - new case law impacts individual notice requirements. See City of Austin v. Acuna, No. 14-20-00356-CV, 2022 WL 805953 (Tex. App. Mar. 17, 2022) for reference	Administration	
Chapter 2					
6	Section 2.3 (1)	Subsection b. Removed - "...provided that such rules or procedures are approved by the City Council prior to their implementation or enforcement, and provided further..."	P & Z input - discussed by P & Z that administrative rules and procedures do not need approval from City Council.	Administration	
7	Section 2.3 (3)	Subsection a. Removed - "The Commission will ... regulations." Moved - "The regulations ... and the Charter." as new Subsection a.	Updated to be in conformance with State of Texas and the City's Home Rule Charter Section	Administration	
8	Section 2.3 (3)	Subsection g. Replaced - "Until the Commission has been given final action authority by the City Council, appeals will be made to City Council" to "Appeals to Planning and Zoning Commission action, as applicable, will be made to City Council".	Legal input - revised to address current authority. May cause confusion with reference to a future event that may not be authorized.	Administration	
Chapter 3					
9	Section 3.2	Added - "...and references applicable fees established by City Council".	Legal input - Insert additional language to make it clear that City Council establishes fees & the manual will reference the established fees.	Administration	

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	Sections of the Current UDC (2019)	Proposed Change This list reflects the changes made to the UDC adopted in 2019	Reason	Topic	Other Topics Affected
10	Sections 3.2, 3.3, 3.4, 3.8	Concept Plan. Removed Concept Plan references from Sections 3.2 (2) a, Sec. 3.3 (1) b, 3.4 (5) f, Sec. 3.8, and Table 3.2.	Legal input - because of the legislative changes in H.B. 3699, a Concept Plan which is associated with platting is no longer authorized.	Administration	Subdivision Standards
11	Section 3.2 (2)	Subsection c. Final Plat Replaced the sentences - "Final Plat submittal will normally be consolidated with construction plan/Development Permit... in accordance with this Code." Added - " A Final Plat requires approval of Preliminary Plat, construction plans for streets and infrastructure, and other items from the Preliminary Plat in accordance with this Code. "	Modified to correct the plat types, and ensure consistency with procedures contained in the UDC and state law.	Administration	
12	Section 3.2 (2)	Subsection d. Removed subsections i-xi.	Conflicting language corrected to reflect the current procedure. Additional requirements moved to the section under Amending Plat.	Administration	
13	Section 3.2 (2)	Subsection g. Added - "...or land that was exempted from platting by TXLGC."	Modified for consistency with state law and cover all types of plats.	Administration	
14	Table 3.1	Reformatted and amended.	Amended to reflect all applications and procedures in the UDC and state law. Added clarifications, addressed discrepancies, added missing steps and missing application types. Moved Development Agreement to Policy related category.	Administration	Zoning, Subdivision Standards
15	Section 3.4 (1)	Subsection a. Added - "b.A Pre-application Conference is required for the following applications. i.Annexation ii.Concept Plan iii.Special Use Permit iv.Planned Unit Development v.Comprehensive Plan Amendment vi.Zoning Map Amendment (Rezoning) vii.Code Text Amendment viii.Conservation Development Alternative (CDA) ix.Policy Variance x.Judicial Variance xi.Development Plat xii.Building Permits (for larger projects that may need multiple approvals, or as recommended by staff) xiii.Group Living Operating License	Clarified that the pre-application conference is mandatory.	Administration	

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Topic # 1 - Administration: Conformance to TXLGC – timeline, processing, consistency, legal recommendations, clarifications, errors, incomplete and missing information.

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16	Section 3.4 (2)	Subsection c.iii. Removed - "... of fifty (50) percent of the total amount paid upon written request to the City. The application fee required for any policy application is not refundable." Added - "...upon written request to the City and upon' s City discretion."	Administrative decision based on the resources used to process the application.	Administration	
17	Section 3.4 (4)	Subsection a. Removed the reference "this ordinance" and corrected to "the UDC". Removed - "A survey exhibit and other appropriate exhibits as deemed necessary by the City Manager. Said exhibits will include but not be limited to Site Plans, maps, architectural elevations, and information about proposed use (in digital file format if available);" Added - "...exhibits.."..."Administrative Procedures Manual, and as deemed necessary by the City Manager (or designee) for processing of a specific application..." Removed - "... for processing of a specific Development Permit."	Legal input - minor edit for consistency with terminology. Listing specific information will limit the City's ability to request additional information from applicants to review applications for conformance.	Administration	
18	Section 3.4 (4)	Subsections d. and e. Changed 15th to 10th. Removed - "A determination that ...application was submitted." Added - ".A determination that the application ... for filing." Removed - "... mailed a copy..."	Conformance to state statute. Process improvement. Compliance to state code. Clarified notification requirement.	Administration	
19	Section 3.4 (4)	Updated subsection h.	Legal input - Revised for consistency with LGC chapter 245.	Administration	
20	Table 3.2	Reformatted . Updated expiration dates to 12 months. Removed some applications for which expiration dates are not applicable.	Based on P & Z input, changed all expiration dates to 12 months. Expiration dates are not applicable to Letter of Regulatory Compliance, Written Interpretation etc.	Administration	
21	Section 3.5 (1)	Removed - "...ninety (90) days ... period will prevail" Added - "...as per State law."	Ensured consistency with state law.	Administration	
22	Section 3.5 (2)	Added - "...shall follow the state law. " Removed - "...are guidelines, and ... requirements." Removed a - c.	Ensured consistency with state law.	Administration	

Rev. 7/6/23

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Fair Oaks Ranch Proposed UDC Amendments - Summary of Changes

Topic # 1 - Administration: Conformance to TXLGC – timeline, processing, consistency, legal recommendations, clarifications, errors, incomplete and missing information.

	Sections of the Current UDC (2019)	Proposed Change This list reflects the changes made to the UDC adopted in 2019	Reason	Topic	Other Topics Affected
23	Section 3.5 (3)	Replaced a. with "The standard review period of an application for a plat or subdivision plan may be extended one time for a period not to exceed thirty (30) days upon the submission of a written request for extension. The request for extension will be placed on the first available city council meeting agenda for approval. " Removed - b - e.	Ensured consistency with state law.	Administration	
24	Table 3.3	Reformatted. Clarified that public hearing requirement is applicable only to certain replats. Added CDA.	Ensured consistency with state law.	Administration	Zoning, Subdivision Standards
25	Table 3.4	Added mailing notice requirement to UDC Text Amendments	Legal input -a UDC text amendment may also require mailed notice depending on what is being changed. See court case City of Austin v. Acuna, No. 14-20-00356-CV, 2022 WL 805953 (Tex. App. Mar. 17, 2022).	Administration	
26	Section 3.7	Amended list of policy related applications to include CDA and Concept Plan.	Legal input - the city may still require concept plans in other sections of the UDC – just not as a prerequisite to platting.	Administration	Zoning
27	Section 3.7 (3)	Subsection b (c in the clean version) Removed "Any modification to an approved Site Plan that was filed as part of a Special Use Permit will cause the Special Use Permit to become void, regardless of its current status, including any approval previously given by the City Council" . Replaced with "No building, premise, or land used under a Special Use Permit (SUP) may be enlarged, modified, structurally altered, or otherwise significantly changed, unless an amendment to the approved SUP is granted for such enlargement, modifications, structural alteration, or change." Added - "1)The modified Site Plan permit will follow the regular review process for a regularly submitted Special Use Permit." Removed 1. and 2.	Legal input - to make voidable with opportunity to amend. As a general rule, provisions that automatically void land use are disfavored by the courts.	Administration	

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28	Section 3.7 (3)	Subsection c.(d in the clean version). Added - "The City Council, in considering final action, may impose conditions on the proposed use and attach such conditions to the Special Use Permit as deemed necessary to mitigate adverse effects of the proposed use and to carry out the spirit and intent of this section. Conditions and modifications may include but are not limited to limitation of building size or height, increased open space, limitations on impervious surfaces, enhanced loading and parking requirements, additional landscaping, curbing, sidewalk, vehicular access and parking improvements, placement or orientation of buildings and entryways, buffer yards, landscaping and screening, signage restrictions and design, maintenance of buildings and outdoor areas, duration of the permit and hours of operation. Where appeals are made to the City Council, the City Council 's action is considered final, subject only to judicial review."	Legal input -add language stating that City Council may add conditions to a SUP.	Administration	
29	Section 3.7 (5)	Subsection b.iii. Removed "Budget. A draft multi-year budget for the Association."	Legal input -remove the requirement of HOA budget information requirement as it is not a land use function.	Administration	
30	Section 3.7 (5)	Subsection f. Added - ".....covered by the proposed change or the area of lots or area of land " and "Computation of area covered by proposed change shall include the streets and alleys".	Legal input -revise to include the 20% of property owners being rezoned, since the city council can initiate rezoning. Also included about streets and alleys being included in the calculation for consistency with state law.	Administration	
31	Section 3.8 (2)	Subsection a. ii. Amending Plat. Removed - " ...such changing the preceding plat to create six (6) or fewer lots in the subdivision, when agreed to by all adjacent property owners." Added - "if the amending plat is signed by the applicants only and is solely for one or more of the following purposes:". Moved text from 3.2. Removed - "The amendment does not render any resulting lot substandard ... Future Land Use Map;	Legal input - remove the language to as it does not conform to LGC 212.016(9) and is a function of conforming with applicable regulations listed in item 10 below. If choice is to include, recommend generalized statement: The amendments does not render the resulting lot out of compliance with applicable municipal or state law regulations.	Administration	
32	Section 3.8 (4)	3.8 (3) in the clean version. Removed subsection d.	Legal input - plat waivers should be pulled out of this section and given its own section (probably 3.8(8)). This will prevent confusion about how plat waivers are processed and also avoid issues with denying a plat where a discretionary waiver was not granted.	Administration	
33	Section 3.8 (4)	3.8 (3) in the clean version. Added subsection f.	Legal input -ensured the technical review of all can occur before the 30-day shot clock begin.	Administration	

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Fair Oaks Ranch Proposed UDC Amendments - Summary of Changes

Topic # 1 - Administration: Conformance to TXLGC – timeline, processing, consistency, legal recommendations, clarifications, errors, incomplete and missing information.

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34	Section 3.8 (5)	3.8 (4) in the clean version. Subsection e. Removed - "...City Manager (or designee) has approved the construction plans." Replaced - "...the record filing fee" with " all associated fees".	Clarified the requirements. P & Z approved the process that will allow recordation of the final plat prior to completion of public improvements if the construction plans are approved and a fiscal surety is posted.	Administration	
35	Section 3.8 (5)	3.8 (4) in the clean version. Added subsection f.	Legal input -ensure the technical review of all can occur before the 30-day shot clock begin.	Administration	
36	Section 3.8 (6)	3.8 (5) in the clean version. Subsection f. Replaced "before the 15th day" with "at least 16 days".	Legal input -revise to avoid confusion with the statutory language "before the 15th day.	Administration	
37	Section 3.8 (6)	3.8 (5) in the clean version. Added subsection g.	Legal input -ensured the technical review of all can occur before the 30-day shot clock begin.	Administration	
38	Section 3.9 (2)	Replaced - "City Council" with "Zoning Board of Adjustments" . Added - "Applications must be made in a format consistent with requirements established by the City Manager (or designee). Applications must include all materials determined necessary by the City Manager (or designee)."	ZBOA makes decision regarding appeals related to UDC interpretations.	Administration	
39	Section 3.9 (5)	Added - "where specifically permitted by this code,...". Added - "...or deviations may be approved in certain circumstances,...". Added- "Applications must include all materials determined necessary by the City Manager (or designee)." Replaced - "City Council" with "Zoning Board of Adjustments" .	Legal input - the special exceptions allowance seemed very broad. Added clarifications. ZBOA makes decision regarding appeals related to UDC interpretations.	Administration	
40	Section 3.9 (7)	Changed "8" to "7" and "9" to "8". Removed - " iii. ETJ. Prior to issuance of a Stormwater Permit, the City Manager or City Council must approve the Site Plan for projects within the City's ETJ to ensure any required compliance with this Code, as required in Section 2.3."	Corrected the chapter number. Legal input - only regulations that can extend into the ETJ are subdivision, floodplain and possibly signs. How does this site plan tie in with stormwater? Might be a regulation that cannot be extended into the ETJ.	Administration	

Fair Oaks Ranch Proposed UDC Amendments - Summary of Changes

Topic # 1 - Administration: Conformance to TXLGC – timeline, processing, consistency, legal recommendations, clarifications, errors, incomplete and missing information.

	Sections of the Current UDC (2019)	Proposed Change This list reflects the changes made to the UDC adopted in 2019	Reason	Topic	Other Topics Affected
41	Section 3.9 (8)	<p>Added - "...Adjustment as per Section 2.3. The appeal must be filed not later than the 20th day after the date the decision is made. The Zoning Board of Adjustment shall decide the appeal at the next meeting for which notice can be provided following the hearing and not later than the 60th day after the date the appeal is filed, in compliance with LGC 211.010(d)). "</p> <p>Added - "...All activities remain stayed, unless ..." and removed "if".</p> <p>Removed - "...the development may proceed...".</p> <p>Added - "...in which case a restraining order granted by the board or a court of record on application and notice to the City is granted upon a showing of due cause." and removed "...proceed, unless a restraining order is issued by a competent court of record".</p>	<p>Legal input - recommend that the 60 days time limit for appeals of zoning decisions be added to ensure compliance with LGC 211.010(d)).</p> <p>Legal input - recommend tracking LGC 211.010(c) to allow option to the board to grant restraining order.</p>	Administration	
42	Section 3.9 (9)	<p>Added - "These waivers must be approved prior to approval of the plat."</p> <p>Added - "as per Section 3.9 of this Unified Development" and removed "... if the City Manager agrees to recommend the Special Exception."</p> <p>Added b.i.8).</p>	Legal input - recommend adding the additional criteria for finding a hardship as applied to a structure LGC 211.009(b-1) be included and include the specific criteria for a finding of an unnecessary hardship.	Administration	
43	Section 3.9 (11)	The county permit must be presented before installing new or replacement Septic Systems.	P& Z input.	Administration	
44	Section 3.9 (12)	<p>Removed - "For all other types of development, A Building Permit will expire if the building or work authorized by such permit is not commenced within 270 days from the date of such permit, or if the building or work authorized by such permit is suspended or abandoned at any time after the work is commenced for a period of 270 days. Before such work can be recommenced, a new permit will be first obtained to do so, and the fee for the new permit will be one-half (1/2) the amount required for a new permit for such work, provided no changes have been made or will be made in the original plans and specifications for such work, and that the suspension or abandonment has not exceeded one (1) year. If the suspension or abandonment has exceeded one (1) year, the permit fee will be the full fee for a new permit and will comply with all codes and ordinances applicable at that time."</p> <p>Changed " once" to "twice".</p>	<p>Expiration of all applications changed to 12 months.</p> <p>Allowed two extensions.</p>	Administration	
45	Section 3.9 (14)	Removed - "An applicant for relief may appeal the decision of the City Manager (or designee) to the City Council within ten (10) days of the written decision of the City Manager. The City Council will set a hearing on the appeal of the staff decision, give public notice thereof, as well as written notice to the parties of interest, and decide the same within thirty (30) days of the making of the appeal. Any party may appear at the hearing in person or by agent. The Applicant bears the burden of proof in establishing that relief is justified."	Ensured consistency with state law and previous variance section in the UDC.	Administration	

Fair Oaks Ranch Proposed UDC Amendments - Summary of Changes

Topic # 1 - Administration: Conformance to TXLGC – timeline, processing, consistency, legal recommendations, clarifications, errors, incomplete and missing information.

	Sections of the Current UDC (2019)	Proposed Change This list reflects the changes made to the UDC adopted in 2019	Reason	Topic	Other Topics Affected
46	Section 3.9 (15)	<p>Removed - "Protect residents from persons ...advantage of them".</p> <p>Replace - "It is unlawful for any person to construct, maintain or operate within the city limits, any group or community home, halfway house, or other group living facility unless such person first obtains a license. An application for an annual license to operate a group or community home, halfway house or other group living facility is required within the city limits, or for property located in the City's ETJ that is part of a development agreement. Approval of a Group Living Operating License authorizes the use of the property in accordance with the terms of the license and other applicable requirements of this Code for one year, after which the Group Living Operating License must be renewed annually." with</p> <p>"It is unlawful for any person to construct, maintain, or operate within the City, any group or community home, halfway house, or other group living facility unless such person first obtains a use permit. A request for reasonable accommodation to accomplish the goals and policies of the Fair Housing Act (42 U.S.C. 3601) may be authorized."</p> <p>Replaced - "That there are no outstanding permit requirements." with "Current and valid state licenses and a current and valid Certificate of Occupancy issued by the City of Fair Oaks Ranch."</p>	<p>Legal input - remove this language conflicts with legal requirements of Fair Housing Act. Inserted proposed language.</p> <p>Replaced license with permit. Add reference to the Fair Housing Act (42 U.S.C. 3601).</p>	Administration	

City of Fair Oaks Ranch Unified Development Code



Unified Development Code (UDC)

Revised – July 6, 2023

City of Fair Oaks Ranch Unified Development Code

Page numbering will be finalized after the content changes and page formatting are completed. Deletions and additions affect the numbering.

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City of Fair Oaks Ranch Unified Development Code

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CHAPTER 1 GENERAL PROVISIONS

Section 1.1 Purpose and Intent

(1) Purpose

The purpose of the Unified Development Code (UDC or Code) is to promote the public health, safety, general welfare, and quality of life of the present and future citizens of the City of Fair Oaks Ranch (City).

(2) Words

Words with a special meaning relative to the goals and purposes of this Code are defined in Chapter 1213, Definitions. ~~Words not listed in Chapter 13 will be defined using the Webster's Third New International Dictionary, unabridged. Terms not defined herein will be construed in accordance with their customary usage and meaning and interpreted to give this Code its most reasonable application.~~

Section 1.2 Consistencies with the Comprehensive Plan

The City's Comprehensive Plan, as adopted and as amended and periodically updated, is the policy guide for the development of this Code. These policies contained in the City's Comprehensive Plan act as a guideline and should not be construed as development regulations. The following General Land Use Policies from the Comprehensive Plan have been used in the development of this Code in order to ensure that land development within the jurisdictional area is in accordance with the Comprehensive Plan:

(1) Growth Management

All new development must:

- a. Be compatible with existing development and community character;
- b. Maintain the character, look and feel of the community; and
- c. Occur in a fiscally responsible manner for the City.

(2) Environmental Protection

Developers will cooperate with local governmental entities to ensure all development will:

- a. Preserve and protect waterways and flood plains;
- b. Preserve and protect surface and ground water resources and hydrologically active areas;
- c. Seek public acquisition of open space or develop conservation development options for areas of environmental concern;
- d. Preserve and protect air quality;
- e. Prioritize agricultural and ranch lands areas for open space preservation. The City will work with landowners who are interested in conservation easements;
- f. Promote and encourage water conservation practices; and
- g. Promote awareness and implementation of Best Management Practices (BMPs) for purposes of water quality and land conservation.

(3) Housing

Development will provide housing alternatives that will:

- a. Improve existing housing inventory;
- b. Encourage safe housing construction;
- c. Encourage a range of housing types and lot sizes;

- d. Encourage housing that is compatible with existing neighborhoods and land uses; and
- e. Promote conservation cluster development when and where appropriate.

(4) Economic Development

Developers will promote quality development that is compatible with neighboring areas and is consistent with community character and create sustainable value through form and function.

(5) Parks and Recreation

Development will make every effort to connect to existing and future parks/trails and will:

- a. Encourage maintenance and safety of parks and recreation resources; and
- b. Provide and preserve open space, trails and parkland in new neighborhoods.

(6) Circulation

Development will encourage streets and street network designs to be interconnected to provide ample, safe, and appropriately scaled access through and between neighborhoods, mixed-use areas and to commercial nodes.

(7) Design

Neighborhoods of various types will utilize:

- a. Compatibility standards for adjoining land uses (e.g., building facade, landscape and transition standards);
- b. Context sensitive streetscape design criteria to encourage safe and desirable pedestrian access and community attractiveness;
- c. Height restrictions for commercial and mixed-use development;
- d. Appropriate building form and design standards, for new developments within the community;
- e. Signage that does not detract from the visual integrity of the community; and
- f. Lighting, associated with signage, buildings or area wide development that does not pose a safety or environmental concern, and should be addressed in an aesthetically pleasing manner particularly as it relates to the impact on existing or new residential development and military base lighting regulations.

(8) Civic and Public Spaces

Civic buildings and civic space should be given prominent sites. School sites should be provided in coordination with the school districts, as new neighborhood developments are approved, so as to be within walking distance of a majority of the dwelling units in adjoining neighborhoods.

Section 1.3 Authority

Chapter 2, Review Authority and Procedures, sets forth the specific responsibilities and authority for each administrative official and review entity as it relates to the implementation of this Code. The Texas Local Government Code (LGC) §211 and 212, together with the general police powers of municipalities, and the City of Fair Oaks Ranch Home-Rule Charter, empower the City to adopt this Unified Development Code (Code).

Section 1.4 Jurisdiction

(1) Within City Limits

The City of Fair Oaks Ranch has the statutory authority to exercise a broad range of powers within its city limits. Many of those powers are specifically authorized by LGC §211 and 212. Pursuant to such authority, all chapters and sections of this Code will apply to all areas within the city limits of Fair Oaks Ranch. All structures, land uses, businesses, subdivisions, or property development constructed or commenced after the effective date of this Code and all enlargements of, additions to, changes in or relocations of existing structures, land uses, businesses, subdivisions, or property developments occurring after the effective date of this Code are therefore subject thereto.

(2) Within Extraterritorial Jurisdiction (ETJ)

The City of Fair Oaks Ranch may extend to its ETJ the regulation of subdivisions and property development adopted under LGC §212. The City also extends to its ETJ its authority to regulate signage as adopted under LGC chapters 216, 245 and 43.

Section 1.5 Applicability

(1) Future Development

This Code will apply to all matters pertaining to the use and development of land within the jurisdiction described in Section 1.4 above. The Code applies to all public buildings and private land(s), and use(s) thereon, over which the City has jurisdiction under the constitution(s) and law(s) of the State of Texas and of the United States.

(2) Existing Development

No building or structure will be erected, demolished, reconstructed, enlarged, or relocated in the City of Fair Oaks Ranch and ETJ except in compliance with the provisions of this Code; and then only after securing all required permits and licenses. Any building, structure, or use lawfully existing at the time of passage of this Code, although not in compliance therewith, may be maintained as provided in Chapter 4, Zoning Districts and Use Regulations, Section 4.14, Nonconforming Uses.

Section 1.6 Minimum Requirements

- a. The provisions of this Code will be interpreted and applied as the minimum requirements for the promotion of public health, safety and general welfare.
- b. Whenever the requirements of this Code are in conflict with the requirements of any other lawfully adopted rules, regulations, or ordinances, the requirement that is most restrictive or that imposes higher standards as determined by the City Manager or designee will apply.
- c. The issuance of any permit, certificate or approval in accordance with the standards and requirements of this Code will not relieve the recipient of such permit, certificate or approval from the responsibility of complying with all other applicable requirements of any other municipality, special district, state or federal agency having jurisdiction over the structures or land uses for which the permit, certificate or approval was issued.

Section 1.7 Effective Date

This Code will become effective and be in full force and effect immediately following its passage and approval by the City Council, as duly attested by the Mayor and City Secretary.

Section 1.8 ~~Severability~~ Developments in Progress

If any section or part of this Code is held by a court of competent jurisdiction to be unconstitutional or invalid, such judgment will not affect, impair or invalidate the remaining provisions of this Code but will be confined in its operation to the specific sections of this Code that are held unconstitutional or invalid. The invalidity of any section of this Code in any one or more instances will not affect or prejudice in any way the validity of this Code.

The purpose of this section is to provide guidance to those development projects that have received some form of municipal approval prior to the date of enactment of this Code. More detailed information regarding Vested Rights and Non-conforming uses can be found in Chapter 4, Zoning Districts and Use Regulations, of the UDC and Chapter 1, Section 1.10, Permits, Projects, and Vested Rights, of the City's Code of Ordinances.

~~(1)~~ Projects in Construction

- a. Building Permits. Nothing in this Code will require any change in plans, construction, size or designated use of any building, structure or part thereof that has been granted a building permit prior to the effective date of this Code, or any amendment to this Code, provided construction will begin consistent with the terms and conditions of the building permit and proceed to completion within one year.
- b. Approved Site Plans. Nothing in this Code will require a change in site plan approved prior to the effective date of this Code, provided a building permit is issued prior to expiration of the site plan, and construction begins consistent with the terms and conditions of the building permit and proceeds to completion in a timely manner.
- c. Violations Continue. Any violation of the previous zoning and sign ordinances or subdivision and site development regulations of the City will continue to be a violation under this Code and will be subject to penalties and enforcement under Chapter 12, Compliance and Enforcement, unless the use, development, construction or other activity is consistent with the express terms of this Code, in which case enforcement action will cease, except to the extent of collecting penalties for violations that occurred prior to the effective date of this Code.

~~(2)~~(1) Dormant Plats

Any minor plat, replat, amending plat, preliminary plat, or final plat approved pursuant to Subdivision Regulations in effect prior to the date of enactment of this Code that is dormant according to the provisions of LGC §245.005 will be deemed to have expired. The City Manager (or designee) will review all such cases and send written notice to an Applicant stating when an issued permit will expire as provided in ~~Chapter 1,~~ Section ~~1.10, 4.2~~ Permits, Projects, and Vested Rights, in the City's Code of Ordinances.

~~(3)~~(2) Legal Nonconformities Under Prior Ordinances

Any legal nonconformity under the previous Zoning Ordinance or City regulations will be a legal nonconformity under this Code as provided in Section 4.13, as provided for in that section. as long as the situation that resulted in the nonconformity under the previous Zoning Ordinance still exists.

Section 1.9 Updates or Code Amendments

The purpose of this section is to provide for updates to the Code in order to modify procedures and standards for workability and administrative efficiency, eliminate unnecessary development costs, and

update the procedures and standards to reflect changes in the law or the state of the art in land use planning and urban design.

Any person may provide a request for amendment to the Code to the City Manager (or designee) in the following manner, and as per the requirements and procedures adopted under LGC §212:

- a. The request for amendment will be labeled “Code Amendment Request” and will include a summary of the proposed changes, the reason for the proposed changes, and suggested text amendments.
- b. The City Manager (or designee) may conduct workshops to informally discuss the Code Amendment Requests with neighborhoods, developers, homebuilders, design professionals, and other stakeholders in the development process.
- c. The City Manager (or designee) will receive the amendment request and will refer the proposed amendments to the Planning and Zoning Commission.
- ~~c.d.~~ The Planning and Zoning Commission will refer the Code Amendment Request to the City Council with recommendations for amendments to the Code. The proposed amendments will be heard at a joint public hearing of the Planning and Zoning Commission and the City Council, after any individual notice requirements in Local Government Code § 211.006 and 21.007, as amended have been complied with.
- e. The Planning and Zoning Commission will consider the request after a public hearing and refer the Code Amendment Request to the City Council with recommendations for amendments to the Code.
- f. The City Council will consider the request after a public hearing and make the final decision.
- ~~d.g.~~ Code Amendment Requests will serve a legitimate purpose. The City Manager (or designee) will review each request and make a determination on whether the request serves a legitimate purpose of promoting public safety and welfare and is consistent with City’s Comprehensive Plan. The City Manager (or designee) will forward the requests as described above and notify individuals who submitted an Amendment Request of the status of their request. An individual whose request is denied by the City Manager (or designee) and who disagrees with the decision, can petition the City Council to consider his/her request within 60 days. The City Council will make a final determination as to whether the request should be forwarded to the Planning and Zoning Commission per the procedure described above.

Section 1.10 Violations

See Chapter 12, Compliance and Enforcement.

Section 1.11 Validity

The issuance or granting of a permit or approval of plans or plats, site or facility designs, prior granted variances, or specifications will not be construed to be a permit for, or an approval of, any violation of any provision of this Code or any other City ordinance. No permit purporting to give authority to violate or cancel the provisions of this Code will be valid, except insofar as the work or use that it authorizes is lawful and conforms to the requirements of this Code or a variance or modification granted pursuant to this Code.

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CHAPTER 2 REVIEW AUTHORITY AND PROCEDURES

Section 2.1 General

(1) Purpose

The purpose of this Chapter is to establish the responsibilities and structure for administering and enforcing this Unified Development Code (Code), including the reviewing authority and minimum review procedures that will be followed by each reviewing authority. Chapter 3, Application and Permits, provides supplemental information to the review procedures described in Chapter 2.

(2) Conformity with Development Regulations

All City of Fair Oaks Ranch (City) officials and employees with the responsibility or authority to issue a permit, certificate or license are prohibited from issuing a permit or license for any use, building, or purpose that conflicts with any provision of this Code. Any permit, certificate or license issued in conflict with the provisions of this Code is null and void.

Section 2.2 Responsibility of Property Owner and/or Applicant

- a. It is the responsibility of an Applicant to provide accurate and complete information and plans to comply with the requirements of this Code and all applicable laws and regulations. The City of Fair Oaks Ranch is not responsible for the accuracy of information or plans provided to the City for its review or approval.
- b. The City or its representatives may inspect any development activity to enforce the provisions of this Code. By submitting an application to the City, the applicant consents to entry upon the site by the City or its representatives during regular business hours for the purpose of making reasonable inspection to verify information provided by the Applicant and to verify that work is being performed in accordance with the approved plans and permits and the requirements of this Unified Development Code.
- c. ~~The use of the following terms in this Code refers to the person, entity, or agent thereof who may apply for an approval or a permit or another decision of the City under this Code. All such terms will be considered interchangeable. The terms include the following: Owner, Owner's Owner, Landowner, Property Owner, Applicant, Developer and Subdivider. Unless otherwise expressly provided by this Unified Development Code, an application or permit, other than a petition for a text amendment or a zoning amendment, may be initiated only by the owner of an interest in the land subject to the application, or the owner's designated agent. If the applicant is a designated agent, the application shall include a written statement from the property owner authorizing the agent to file the application on the owner's behalf. The responsible official may establish the type of documents needed to determine ownership or agency.~~

Section 2.3 Administrative Officials and Review Entities

(1) City Manager

The administrative official for the purposes of this Chapter will be the City Manager ~~or designees and his assistants, deputies, and department heads insofar~~ as they may be charged by the City Manager and the provisions of this chapter with duties and responsibilities referenced in this Chapter and Chapter 3, Applications and Permits. The City Manager or his/her designee will ordinarily administer and enforce the provisions of this Code. The City Manager (or designee) will

serve as staff to the Planning and Zoning Commission (Commission) and the City Council except where otherwise provided by this Chapter.

a. Powers and Duties. The City Manager (or designee) has the following powers and duties:

i. Administrative Decision. The City Manager (or designee) is responsible for taking administrative action on the ~~following~~ procedures described in this Code and according to the specific criteria for each procedure as described in the Code.

~~1. Certificate of Zoning Compliance~~

~~2. General Development Plan Compliance~~

~~3. Subdivision Plat Compliance~~

~~4. Master or Common Sign Plan~~

~~5. Temporary Use Permit~~

~~6. Administrative Plat Review~~

~~7. Minor Plat or Amending Plat. (If the City Manager (or designee) does not approve such a plat, the plat must automatically be forwarded to the Commission under the Subdivision Plat Review procedure.)~~

~~8. Site Development Permit~~

ii. Review and Report. The City Manager (or designee) will review and make either a report or recommendation to the appropriate Board or Commission including the Planning and Zoning Commission, and City Council, as required pursuant to the Code, on the following procedures:

1) General Development Plan

2) Preliminary Plat Review

3) Final Plat Review

4) Special Use Permit

5) Planned Unit Development

6) Comprehensive Plan Amendment

7) Zoning Map Amendment (Rezoning)

8) Unified Development Code Text Amendment

9) Annexation

10) Concept Plan

11) Conservation Development Alternative

12) Other applications as required by this Code

iii. Additional Duties. The City Manager (or designee) will have the following additional duties, to:

1) Comply with any other duty or responsibility clearly assigned to the City Manager (or designee) elsewhere in this Code;

2) Enforce all provisions of this Code;

3) Meet with potential Applicants in pre-application conferences as described in this Code;

4) Act and serve as staff for each review body designated by this Code; and

5) Render advice and guidance, upon reasonable request of any Property Owner, or its agent, or occupant, on development or new construction or the restoration, alteration or maintenance of any historic resource or other building within the City.

- b. Compliance with Rules and Procedures. The City Manager (or designee) will comply with any specific procedures described in this Code and may develop administrative rules or additional procedures to clarify implementation of this Code, ~~provided that such rules or procedures are approved by the City Council prior to their implementation or enforcement, and provided further~~ provided that additional procedures do not violate any other provisions of this Code.

i. Administrative Procedures Manual. The City Manager (or designee) will develop an Administrative Procedures Manual for application requirements for all procedures described within or developed pursuant to this Code. Such requirements must be:

- 1) Sufficient to permit the Manager to effectively review the application and for the final approving authority to render an informed decision;
- 2) Consistent with state law.

The Manager may waive application requirements ~~when appropriate, but and~~ may ~~not~~ require additional submission requirements to complete a thorough review and ensure compliance with all applicable codes and requirements, after an application has been determined to be complete, when appropriate.

~~i.ii.~~ Interpretation of the Code. Whenever there appears to be an uncertainty, vagueness, or conflict in the terms of the Code, the Manager, in consultation with the staff, city engineer, or city attorney, as may be appropriate, will make every effort to interpret the Code in such a way that it fulfills the goals of the Comprehensive Plan and the UDC. The interpretation given by the Manager will be final unless the Applicant makes an appeal to the City Council or the Zoning Board of Adjustments, as applicable, to review and overturn his/her decision. In such a case the burden will be on the Applicant to prove that the Manager's interpretation is unreasonable and in clear conflict with the governing law and the goals of the Comprehensive Plan.

(2) City Engineer

a. Designation

The City Manager will designate a City Engineer to function as described in this Code. The City Engineer is an advisor to the City Manager. As such, ~~the City Engineer's powers are delegated by the City Manager~~ the City Manager will delegate the City Engineer's powers, and in the case of conflict, the City Manager's decision will prevail. This does not allow the City Manager to make decisions that require the certification of a registered professional engineer, only that the authority delegated to the City Engineer stems from the City Manager and can be revoked in the case of conflict. The City Engineer must be a registered professional engineer, licensed by the State of Texas and competent in the design and review of land development and public works. The City Manager may also designate another employee to fulfill the City Engineer's duties under this code. In such a case, all references to City Engineer in this code apply to the designee.

b. Powers and Duties

- i. Administrative Decision. The City Engineer is responsible for taking final action on the following procedure described in this Code, subject to the specific criteria for the procedure as described in the Code:
 - 1) Approval of Master Drainage Plans
 - 2) Approval of Street and Drainage Plans

- 3) Approval of Water Distribution Plans
- 4) Approval of Wastewater Plans
- 5) Approval of Electric, Telephone and Telecommunications Plans
- 6) Approval of Water Quality Controls
- 6)7) Approval of Traffic and Thoroughfare Plans
- ii. Review and Report. The City Engineer will review and make either a report or recommendation to the City Manager, Planning and Zoning Commission or City Council on the following procedures, subject to the terms and conditions set forth for such procedures in this Code:
 - 1) General Development Plans and Concept Plans
 - 2) Preliminary Plan and Final Plat Review Plat Reviews
 - 2) Administrative Plat Review
 - 3) Site Plan Reviews
 - 4) Development related applications
 - 3)5) Land use decisions
- c. Compliance with Rules and Procedures
 - i. The City Engineer will comply with any specific procedures or technical criteria described in this Code.
 - ii. The City Engineer may develop and implement additional procedures or technical criteria to clarify implementation of this Code, provided that such procedures or criteria are approved by the City Manager prior to their implementation and enforcement and provided further that the additional procedures do not violate any other provisions of this Code.

(3) Planning and Zoning Commission

~~The regulations and restrictions of the Planning and Zoning Commission (Commission) for the City will be pursuant to the provisions of applicable statutory requirements of the State of Texas and the City's Home Rule Charter Section 7.14. The Commission's procedures and actions shall conform to this Code and the Charter.~~

- ~~a.—Responsibilities. The regulations and restrictions of the Planning and Zoning Commission (Commission) for the City will be pursuant to the provisions of applicable statutory requirements of the State of Texas and the City's Home Rule Charter Section 7.14. The Commission's procedures and actions shall conform to this Code and the Charter. The Commission will hold a minimum of one public hearing on any proposed Development Agreement entered into with a Property Owner pursuant to the authority granted to municipalities by Texas Local Government Code Chapter (LGC) 212.172, as amended, and make recommendations to City Council on the following:~~
- ~~b.—Adoption of the City's comprehensive plan; and~~
- ~~c.—Adoption of subdivision and other land use and development regulations.~~
- ~~d.~~ a. Powers and Duties. The Commission has the powers and duties of a Commission in accordance with LGC §211.007 and §371.042, provided, however, that it serves only in an advisory capacity to City Council. The Commission's authority extends to and includes review and recommendation of the following:
 - i. General Development Plans and Concept Plans
 - ii. Final Plats (including Amending, Development, and Replats)
 - iii. Preliminary Plans Plats

- iv. Site Development Permits
- v. Development Agreements
- vi. Special Use Permits
- vii. Historic Building Designations
- viii. Heritage Plans
- ix. Planned Unit Developments
- x. Conservation Development Alternatives (CDA)
- xi. Comprehensive Plan or Future Land Use Map Amendments
- xii. Zoning Map Amendments (Rezoning)
- xiii. Unified Development Code (Code) Text Amendments
- xiv. Any other specific procedure or items that require Commission action as specified in this Code or as required by state or federal law.

e.b. Membership and By-Laws. The Commission will be formed and conduct all activities in accordance with this Code, any other applicable City codes, the City Home Rule Charter, the ordinance creating the Commission, and any adopted By-Laws.

f.c. Commission Review Process. The Commission review process will be required for any permit or application that requires review and recommendations from the Commission, as described in this Code. The process will include the following:

- i. Initiation. The Property Owner of the affected property or its authorized agent may initiate a Commission process upon application.
- ii. Application. An Application must be made in a format consistent with requirements determined by the City Manager (or designee). Applications must include all materials determined necessary by the City Manager (or designee). The City Manager, in advance of any application, will make information regarding the format requirements and submittal materials required for the application available. Requirements include:
 - 1) All subdivisions~~applications~~ must have signatures or authorization of all ~~Owners--~~ owners of land within the boundary of the tract of ~~platted~~ land included in the application;
 - 2) All applications ~~plats or Replats~~ must be submitted in a form acceptable to the City Manager (or designee); and
 - 3) All applications must include an application fee as required by Chapter 3, Applications and Permits, in accordance with the Administrative Procedures Manual.

~~Additional fees may not be required on subsequent submittals of revised plats. Electronic submissions must be compatible with the City's geographic information system (ArcView, USGS NAD 83, mean sea level, and Texas State Plane, South Central, U.S. Feet).~~

~~g.~~ f. Commission Final Action. The Commission will serve as an Advisory Body to the City Council and will have no authority for final action.

d.

~~h.~~ g. Criteria for Recommendation. ~~A preliminary plan or final plat, site development permit,~~

~~i.e. special use permit, zoning map amendment, or~~ An application or variance will not be recommended for review and approval until:

- i. The application is complete and the information contained within the application is sufficient and correct so as to allow adequate review and a decision on a recommendation by the appropriate review authority.

- ii. No plat will be recommended without a determination that the plat conforms to the following:
 - 1) The requirements of this Code and any applicable state law.
 - 2) The City's Comprehensive Plan and any other adopted plans as they relate to:
 - I. The City's current and future land use, streets, sidewalks, alleys, parks, playgrounds, and public utility facilities; and
 - II. The extension of the City or the extension, improvement, or widening of its roads, taking into account access to and extension of sewer and water mains and the instrumentalities of public utilities.
 - III. Any subdivision design and improvement standards adopted by the City pursuant to LGC §212.002 or §212.044, governing plats and subdivision of land within the City's jurisdiction to promote the health, safety, morals, or general welfare of the City and the safe, orderly, and healthful development of the City.
- iii. The tract of land subject to the application is adequately served by public improvements and infrastructure, or will be adequately served upon completion of required improvements.

~~j.f. h. Appeals. Until the Commission has been given final action authority by the City Council, appeals will be made to City Council. Appeals to Planning and Zoning Commission action, as applicable, will be made to City Council.~~

(4) Zoning Board of Adjustment

The regulations and restrictions of the Zoning Board of Adjustments (Board) for the City will be pursuant to the provisions of applicable statutory requirements of the State of Texas. The Board's procedures and actions shall conform to this Code.

- a. Powers and Duties.
 - i. The Zoning Board of Adjustment shall hear and decide appeals when error is alleged in any order, requirement, decision or determination made by an administrative official of the City in the enforcement of any zoning related decisions. The Zoning Board of Adjustment may reverse or affirm, in whole or in part, or modify the administrative official's order, requirement, decision, or determination from which an appeal is taken and make the correct order, requirement, decision, or determination, and for that purpose the Board has the same authority as the administrative official.
 - ii. The Zoning Board of Adjustment may authorize, in specific cases, a variance from zoning regulations, unless specified otherwise, if the variance is not contrary to the public interest and, due to special conditions, a literal enforcement of the regulation would result in unnecessary hardship, and so that the spirit of the regulation ordinance adopted hereunder is observed and substantial justice is done. A variance shall not be granted to relieve a self-created or personal hardship, nor shall it be based solely on economic gain or loss, nor shall it permit any person a privilege in developing a parcel of land not permitted by the City's zoning regulations. In order to make a finding of hardship and grant a variance from the zoning regulations, the Board must meet the findings laid out in Chapter 3.9 (9) of this Code.
- b. Appointment and Removal.
 - i. The Zoning Board of Adjustment is established in accordance with Chapter 211 of the Texas Local Government Code (LGC). The Board members are appointed by the City Council.

- ii. The Board shall consist of five (5) members who shall be appointed by majority vote of the City Council.
 - iii. A member may only be removed for cause.
 - iv. A vacancy on the Board shall be filled for the unexpired term.
 - v. City Council, by majority vote, shall appoint two individuals as alternate board members to serve in the absence of one or more regular members when requested to do so by the mayor or city manager. An alternate member serves for the same period as a regular member and is subject to removal in the same manner as a regular member. A vacancy among the alternate members is filled in the same manner as a vacancy among the regular members.
- c. Zoning Board of Adjustment Review Process and Vote.
- i. Each case before the Zoning Board of Adjustment must be heard by at least four (4) of the five (5) members.
 - ii. The concurring vote of four (4) of the five (5) members of the Board is necessary to:
 - 1) reverse an order, requirement, decision or determination of an administrative official; or
 - 2) authorize a variation from the terms of a zoning regulation.

(5) City Council

The regulations and restrictions of the City Council (Council) for the City will be pursuant to the provisions of applicable statutory requirements of the State of Texas.

- a. Powers and Duties. The Council has the following powers and duties:
- i. Appointments. The Council is responsible for appointing and removing any members of the Planning and Zoning Commission or any other boards or commissions that may be formed related to the Code. Appointments will be made on the recommendation of the Mayor and a vote of approval by the City Council.
 - ii. Final Action. The City Council has responsibility for hearing and taking final action on the following procedures described in this Code.
 - 1) General Development Plan
 - 2) Preliminary ~~Plan~~ and Conceptual Plans
 - 3) Legislative Variance Request
 - ~~4)~~ Final Plat (including Preliminary, Development, and Replats)
 - ~~4)5)~~ Development Agreement
 - ~~5)6)~~ Special Use Permit
 - ~~6)7)~~ Dedication of land and community facilities
 - ~~7)8)~~ Historic District Designation
 - ~~8)9)~~ Heritage Plans
 - ~~9)10)~~ Planned Unit Development
 - ~~10)11)~~ Comprehensive Plan Amendment
 - ~~11)12)~~ Zoning Map Amendment (Rezoning)
 - ~~12)13)~~ Unified Development Code Text Amendment
 - ~~13)14)~~ Annexation
 - ~~14)15)~~ Any other specific procedure or legislative action that requires City Council action as specified in this Code, or required by state or federal law.

- b. City Council Review Process. Procedures for City Council review and action will be developed and adopted by the Council when appropriate.
- c. City Council Final Action. The City Council will serve as the final action authority for all development- related applications listed above, and as indicated throughout this Code.

(6) Counties

The City will endeavor to create interlocal agreements with Bexar, Comal and Kendall Counties to govern subdivision review authority in the City's Extraterritorial Jurisdiction (ETJ). Where no interlocal agreement exists State law should be followed. Where an interlocal agreement stipulates City control of the review process, it will proceed as follows:

- a. Review and Recommendation. The City will review and comment on Text Amendments to this Code as they relate to the specific counties technical issues, e.g., on-site sewage facilities (OSSFs) and the drilling of water wells.
- b. Final Action. The City recognizes that the respective County has responsibility for hearing and taking final action on the following procedures described in this Code:
 - i. OSSFs. Onsite Wastewater Permit Application Approval, and
 - ii. Procedures. Procedures to be utilized by the City of Fair Oaks Ranch for Bexar, Comal and Kendall Counties are described in the respective City-County Development Agreement.

Section 2.4 Summary of Review Authority

Table 3.1 summarizes the decision-making authority of each review body for the City of Fair Oaks Ranch (outlined above in this Chapter and further described in Chapter 3, Applications and Permits). A review authority with decision-making authority for a procedure is considered the Final Action Authority for that procedure.

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CHAPTER 3 APPLICATIONS AND PERMITS

Section 3.1 Purpose and Intent

The purpose of this Chapter is to establish application procedures, internal review procedures, public notice and hearing procedures, and review criteria for the processing of applications and actions in accordance with the Unified Development Code (Code) that affect the development and use of property subject to the jurisdiction of the City of Fair Oaks Ranch (City).

Section 3.2 Types of Applications and Permits

Application and permit types can be categorized as (a) Policy Related Applications and Permits, (b) Subdivision-Related Applications and Permits, or (c) Development-Related Applications and Permits. Review authorities for applicable development applications and permits are described in Table 3.1, below. The Administrative Procedures Manual (developed by the City Manager) establishes timelines for review ~~and applicable fees~~ and references applicable fees established by City Council. Certain procedures apply inside city limits that do not apply in the ETJ. Table 3.1 also provides guidelines for the procedures that apply in the city limits or ETJ.

(1) Policy Related Applications and Permits

Approval of applications for development is based ~~on (among other bases for consideration described in this Code) upon~~ the proposed development's conformance with existing policies (including the Comprehensive Plan, Master Plans for Utilities and Drainage, Transportation and Thoroughfare Map, Zoning Map, design and development standards contained in this Code, other city codes, and other appropriate agreements. If changes to policies are to be considered, they must be approved by the City Council before any subdivision or development not in accordance with existing policies may proceed. Changes requiring City Council approval include Comprehensive Plan Amendments, Code Text Amendments, Special Use Permits, Zoning Map Amendments, i.e., Rezoning, Planned Unit Developments (PUDs), Low Impact Development (LIDs)/Conservation Development Alternative (CDAs), Annexation Petitions, and Development Agreements.

(2) Subdivision and Property Development Related Applications and Permits

Subdivision-related procedures are necessary to establish how individual lots or projects may be developed. ~~These procedures are used to establish what is commonly referred to as a "legal lot" on which development may occur.~~ Subdivision and property development related activities and projects must be in compliance with this Code. ~~Procedures include Administrative Plats (Amending and Minor Plat), Concept Plans, Plans, Final Plats, Replats and Construction Plans.~~

~~a. Concept Plan. A map or plat designed to illustrate the general design features and street layout of a proposed subdivision development and platted in sections. A Concept Plan will be valid for two (2) years and will expire if no Preliminary Plat has been approved within the two (2) year time period. Subsequent approvals will automatically extend the approval of the Concept Plan for two (2) years following the last approval. Expiration of any subsequent Development Permit will result in expiration of the Concept Plan.~~

~~b.a.~~ Preliminary Plat. A map or drawing of a proposed subdivision plan that, upon approval, establishes the approved layout. This approval includes the location and width of proposed streets, lots, blocks, floodplains, easements (utility, drainage, franchise utility, etc.), amenities, and other features required to ensure compliance with the requirements of this Code. A Preliminary Plat

approval is required prior to Final Plat approval, except under certain conditions described herein in Section 3.8(4).

b. Final Plat. A subdivision map or drawing intended for recordation in the plat records of the county in which the subdivision is located. ~~Final Plat submittal will normally be consolidated with construction plan/Development Permit submittal. There are three types of Final Plats: Minor Plat, Replat, and Final Plat. A Final Plat requires a Preliminary Plat and concurrent construction plans for streets and infrastructure in accordance with this Code. The Preliminary Plat must be approved prior to the Final Plat approval. A Final Plat requires approval of Preliminary Plat, construction plans for streets and infrastructure, and other items from the Preliminary Plat in accordance with this Code.~~

~~c.~~

c. Amending Plat. ~~A plat that involves minor changes to a recorded plat .~~ An amending plat will be filed in accordance with the procedures and requirements set forth in the Local Government Code (LGC) §212.045. ~~The City Manager or designee may approve and issue an amending plat, which may be recorded and control over the preceding plat without vacation of that plat and without notice and hearing.~~

~~The Planning and~~

~~Zoning Commission (Commission) may recommend and the City Council may approve and issue an amending plat, which may be recorded and control over the preceding plat without vacation of that plat and without notice and hearing, if the amending plat is signed and acknowledged by the owners of the property being replatted and is solely to do one or more of the following:~~

- ~~i. Correct an error in a course or distance shown on the preceding plat;~~
- ~~ii. Add a course or distance that was omitted on the preceding plat;~~
- ~~iii. Correct an error in a real property description shown on the preceding plat;~~
- ~~iv. Indicate monuments set after the death, disability, or retirement from practice of the engineer or surveyor responsible for setting monuments;~~
- ~~v. Show the location or character of a monument which has been changed in location or character or that is shown incorrectly as to location or character on the preceding plat;~~
- ~~vi. Correct any other type of scrivener or clerical error or omission previously approved by the municipal authority responsible for approving plats, including lot numbers, acreage, street names, and identification of adjacent recorded plats;~~
- ~~vii. Correct an error in courses and distances of lot lines between two (2) adjacent lots if:~~
 - ~~1. Both lot owners join in the application for amending the plat;~~
 - ~~2. Neither lot is abolished;~~
 - ~~3. The amendment does not attempt to remove recorded covenants or restrictions; and~~
 - ~~4. The amendment does not have a materially adverse effect on the property rights of the other owners in the subdivision;~~
- ~~viii. Relocate a lot line to eliminate an inadvertent encroachment of a building or other improvement on a lot line or easement;~~
- ~~ix. Relocate one or more lot lines between one or more adjacent lots if:~~
 - ~~1. The owners of all those lots join in the application for amending the plat;~~
 - ~~2. The amendment does not attempt to remove recorded covenants or restrictions; and~~
 - ~~3. The amendment does not increase the number of lots;~~

~~4. The amendment does not render any resulting lot substandard for a required well, onsite sewage facility, or below minimum lot size requirements in existing deed restrictions on in the City's Future Land Use Map; or~~

~~x. Make necessary changes to the preceding plat to create six or fewer lots in the subdivision or a part of the subdivision covered by the preceding plat if:~~

~~1. The changes do not affect applicable zoning and other regulations of the municipality, including water and on-site sewage facility regulations;~~

~~2. The changes do not attempt to amend or remove any covenants or restrictions; and~~

~~3. The area covered by the changes is located in an area that the Commission or City Council has approved, after a public hearing, as a residential improvement area; or~~

~~xi. Replat one or more lots fronting on an existing street if:~~

~~1. The owners of all those lots join in the application for amending the plat;~~

~~2. The amendment does not attempt to remove recorded covenants or restrictions;~~

~~3. The amendment does not increase the number of lots; and~~

~~4. The amendment does not create or require the creation of a new street or make necessary the extension of municipal facilities, or require a variance for water well lot sizing and setbacks or on-site sewage facility regulations.~~

- d. Re-plat. A new plat that changes the restrictions of a previously adopted Final Plat or results in a change in lot sizing that would affect water well or on-site sewage facility regulations, or that would affect compatibility with the City's zoning code or Future Land Use Map.
- e. Minor Plat. A subdivision involving four (4) or fewer lots fronting on an existing street and not requiring the extension of municipal facilities;
- f. Development Plat. Required for any person proposing the development of previously unsubdivided or unplatted land that is not being divided into separate parcels, or land that was exempted from platting by TXLGC; and
- g. Construction Plans. The maps, drawings, and specifications indicating the proposed location and design of improvements to be installed in a subdivision/Site Plan.

(3) Site Development Related Applications and Permits

Development in the City must occur in compliance with all regulations of this Code, and development in the extraterritorial jurisdiction must occur in compliance with certain elements of this Code (See Section 1.4 and Table 3.1 for applicability of requirements to the ETJ). Any necessary modification to those standards must occur before a development project may be permitted that deviates from existing plans, standards or requirements. In addition, land must be appropriately subdivided and platted before any development project may occur. Development- related applications and permits include Letters of Regulatory Compliance (Zoning Verification Letter and Legal Lot Verification Letter), Written Interpretation of this Code, Master or Common Sign Plans, Temporary Use Permits, Special Exceptions, Site Plan Reviews and Site Development Permits, Stormwater Permits, Certificate of Design Compliances, Appeal of Administrative Decisions, Variances, Sign Permits and On-Site Wastewater (OSSF) Permits. Before any new well may be drilled or completed it must be registered with the appropriate underground water district and receive specific authorization before drilling is commenced.

Table 3.1: Summary of Review Authority

Permit or Application	Within City Limits	Within ETJ	Administrative Review	Planning & Zoning Commission	Zoning Board of Adjustment	City Council	Appropriate County
POLICY RELATED APPLICATION PERMITS							
Comprehensive Plan Amendment	+	+	O	O		X	
Code Text Amendment	+	+	O	O		X	
Special Use Permit	+		O	O		X	
Zoning Map Amendment (Zoning or Rezoning)	+		O	O		X	
Planned Unit Development (PUD)	+		O	O		X	
Annexation		+	O			X	
SITE-DEVELOPMENT RELATED APPLICATIONS AND PERMITS							
Zoning Verification	+		X				
Legal Lot Verification	+	+	X				
Written Interpretation	+	+	X				
Certificate of Design Compliance	+		X				
Stormwater Permit	+	+	X				
Appeal of Administrative Decision (Zoning)	+	+			X		
Appeal of Administrative Decision (All others)	+	+				X	
Special Exception	+	+	O		X		
Policy Variance (Development standards, ex. Lane-widths, Landscaping Requirements)	+	+	O	O		X	
Judicial Variance (Zoning-related, ex. Setbacks, Building Frontage)	+	+	O		X		
Site Development Permit	+	+	X				
Master / Common Sign Plan	+	+	X				
Sign Permit	+	+	O			X	
Temporary Use Permit	+	+	X				
On-Site Wastewater (OSSF) Permit	+	+					X
SUBDIVISION AND PROPERTY DEVELOPMENT RELATED APPLICATIONS AND PERMITS							
Minor Plat	+	+	X				
Amending Plat	+	+	X				
Replat	+	+	O	O		X	

Permit or Application	Within City Limits	Within ETJ	Administrative Review	Planning & Zoning Commission	Zoning Board of Adjustment	City Council	Appropriate County
Development Plat	+	+	O	O		X	
Conceptual Plan	+	+	O	O		X	
Preliminary Plat	+	+	O	O		X	
Final Plat	+	+	O	O		X	
Construction Plan	+	+	X				
Policy Variance (Development standards, ex. Lane-widths, Landscaping Requirements)	+	+	O	O		X	
Judicial Variance (Zoning-related, ex. Setbacks, Building Frontage)	+	+	O		X		
Development Agreement	+	+	O	O		X	
+: Applicable X: Final Action O: Review/Recommendation *: Limited Review Authority/Applicability							

Table 3.1: Summary of Review Authority

Permit or Application	Within City Limits	Within ETJ		Pre-application Conference	Administrative Review	Planning and Zoning Commission	Zoning Board of Adjustment	City Council	Appropriate County
POLICY RELATED APPLICATION PERMITS									
Comprehensive Plan Amendment	+	+		O	O	O		X	
UDC Text Amendment	+			O	O	O		X	
Special Use Permit	+			O	O	O		X	
Zoning Map Amendment (Zoning or Rezoning)	+			O	O	O		X	
Planned Unit Development	+			O	O	O		X	
Conservation Development Alternative (CDA)	+			O	O	O		X	
Annexation		+		O	O			X	
Concept Plan (if required)	+			O	O	O		X	
Development Agreement	+	+		O	O	O		X	
PROPERTY DEVELOPMENT RELATED APPLICATIONS AND PERMITS									
Zoning Verification Letter	+				X				
Letter of Regulatory Compliance	+	+			X				
Appeal of Administrative Decision (Zoning)	+	+					X		
Appeal of Administrative Decision (All others)	+	+						X	
Special Exception	+	+			O		X		
Policy Variance (Standards that are not required in the UDC and are city wide policies.)	+	+		O	O	O		X	
Judicial Variance (zoning-related development standards of this Code required by the UDC, ex. Setbacks, Building Frontage, Landscaping, Parking, etc. that are not related to or required for platting or subdivision approvals)	+			O	O		X		
Plat waivers/Subdivision Variance (Waivers of the standards required for plat approval and are contained in the Subdivision regulations during the plat process)	+	+			O	O		X	
Floodplain Development Permit	+	+			X				
Master/Common Sign Plan	+	+			X				
Sign Permit	+	+			X				
Relief from Signage (Variance)	+	+			O		X		
Master Signage Plan	+	+			X				
Appeal of Denial of Sign Permit	+	+			O		O		
Temporary Use Permit	+	+			X				
On-site Wastewater (OSSF) Permit	+	+							X
Building Permit	+			O	X				
Certificate of Occupancy	+				X				
Group Living Operating License	+			O	X				
SUBDIVISION RELATED APPLICATIONS									
Minor Plat	+	+		O	X				
Amending Plat	+	+			X				
Replat	+	+		O	O	O		X	
Development Plat	+	+		O	O	O		X	
Preliminary Plat	+	+			O	O		X	
Final Plat	+	+			O	O		X	
Construction Plan	+	+			X				
+ - Applicable; X - Final Action; O - Review/Recommendation									

Section 3.3 Related Applications and Permits

Related applications and permits will be submitted, reviewed, and approved / denied based on the procedures listed below. Some of these procedures may be followed concurrently, while some procedures require pre-approval of other procedures. ~~The Administrative Procedures Manual should clarify the timing of these procedures. Refer to the Administrative Procedures Manual for clarification on the timing of these procedures.~~

(1) Development Requiring Multiple Approvals

The following restrictions apply to development applications requiring multiple approvals:

a. Policy Related Applications:

- Policy related applications for permits required for a particular project ~~may occur in any order~~ **but** will be sequenced so that when final actions occur, each approval provides any requisite requirement for a subsequent related approval.

a.b. Subdivision Applications:

- ~~i. Subdivision applications may generally be considered concurrently.~~

~~ii.i. The Comprehensive Plan and Zoning Compliance Review should occur before any Subdivision Application.~~

~~iii. When required, the Concept Plan must be approved before the Preliminary Plat may be submitted.~~

~~ii. No application for Final Plat review will be considered complete and accepted for submittal until final action on the Preliminary Plat has occurred and a written approval of associated construction plans and plans for dedication of land and community facilities has been given by the City Manager or designee.~~

~~v. Approval of the Final Plat will not be granted until written approval of associated construction plans and plans for dedication of land and community facilities has been given by the City Manager~~

b.c. Development Applications:

- i. No Development or permit application may be considered if there is pending subdivision activity for the same tract of land, except for administrative determinations.
- ii. Appeals of administrative decisions may only occur after a final decision by the City Manager.
- iii. Consideration of development or permit applications will be sequenced so that when an approval occurs, it will provide any requisite requirement for a subsequent related approval.

(2) Simultaneous Submission of Related Applications

~~Submittal of different applications related to the same development may be made simultaneously, although the review and processing of applications must remain in sequence as described in Table 3.1 above and elsewhere in this Code.~~

- a. ~~Applicants may file multiple applications for non-concurrent actions / approvals. It should be understood, however, that Applications will be accepted,~~ reviewed and processed in the sequence required pursuant to this Code and in the Administrative Procedures Manual. After each application receives final action, the next consecutive application in the Code process will be reviewed for completeness pursuant to the appropriate process.
- b. Any Acceptance of any application submitted simultaneously with other applications is subject to approval of all other related applications that are prerequisite(s) to consideration of another

application in the development process. Denial or disapproval of any concurrently submitted application will prevent acceptance and consideration of any related applications unless and until the denied or disapproved application is resolved or approved. Any application that is subject to a prerequisite will not be accepted for processing until all prerequisites are met.

- c. An applicant may withdraw any individual application from a group of simultaneously submitted applications. ~~If an application that is considered a pre-requisite to another application is withdrawn, then all consecutive applications may be considered withdrawn.~~

Section 3.4 Common Review Elements

(1) Pre-application Conference

A Pre-application Conference is a meeting between a potential applicant under this Code and the City Manager (or designee). Prior to submission of an application, a Pre-application Conference between the applicant and the City Manager and the appropriate City staff is recommended ~~but not or required~~, as noted below. The Conference is an opportunity for the applicant to describe the development that will be submitted and for the City Manager (or designee) to explain the development process (i.e., which application is appropriate, which review body is responsible for final action, what the potential timelines for review may be, and what criteria will be used to determine whether the application may be approved). Completion of a Pre-application Conference does not imply or indicate subsequent City approval of the permit or application. The Pre-application Conference will proceed as follows:

- a. A Pre-application Conference is recommended for the following applications. ~~(Note that one Pre-application Conference may suffice in many cases for a project involving multiple submittals of development applications.)~~
 - i. Sign Plan
 - ii. Site Plan
 - ~~iii. Variance~~
 - ~~iii. Concept Plan~~
 - iv. Preliminary Plat
 - v. Final Plat
 - vi. Development Plat
 - ~~vii. Site Development Permit~~
 - ~~vii. Special Use Permit~~
 - ~~viii. x. Planned Unit Development~~
 - ~~ix. xi. Comprehensive Plan Amendment~~
 - ~~x. xii. Zoning Map Amendment (Rezoning)~~
 - ~~xi. xiii. Code Text Amendment~~
- b. A Pre-application Conference is required for the following applications.
 - i. Annexation
 - ii. Concept Plan
 - iii. Special Use Permit
 - iv. Planned Unit Development
 - v. Comprehensive Plan Amendment
 - vi. Zoning Map Amendment (Rezoning)
 - vii. Code Text Amendment

viii. Conservation Development Alternative (CDA)

ix. Policy Variance

x. Judicial Variance

xi. Development Plat

xii. Building Permits (for larger projects that may need multiple approvals, or as recommended by staff)

xiii. Group Living Operating License

- c. Pre-application Conferences may be combined when an applicant will be making simultaneous applications for the same project. Completion of a Pre-application Conference or Combined Pre-application Conference does not imply or indicate City approval of any application. A Pre-application Conference is highly recommended for all other types of development, especially those that require phasing, multiple types of plats, and extension of public infrastructure.

(2) Application Forms and Fees

The following regulations will apply to all applications:

- ~~a.~~ Forms. Applications required under this Code will be submitted on forms, with any requested information and attachments, and in such numbers as required by the City and / or as indicated in the Administrative Procedures Manual. The City Manager (or designee) will have the authority to request any additional pertinent information required to ensure compliance with this Code.
- ~~b.~~ The City Manager (or designee) must make any submission requirements and applicable fee requirements available to the applicant as a part of the Administrative Procedures Manual.
- ~~c.a.~~
- ~~— The City Council may, from time to time, adopt by resolution specific forms and submission requirements. Such resolution will be incorporated as an Appendix to this Code.~~
- ~~d.b.~~ Submission Requirements. Development applications (which include, among other types, those listed in Section 3.4(1)~~b~~ above) will be prepared and submitted ~~initially in paper and electronic format and finally in digital~~ in formats acceptable to the City Manager (or designee).
- ~~e.c.~~ Fees:
- i. Development and permit application fees will be established from time to time by ordinance of the City Council.
 - ii. All required fees will be made payable to “The City of Fair Oaks Ranch,” by local check, money order, cashier’s check, or credit card.
 - iii. An applicant who has paid the appropriate fee pursuant to submission of an application, but who chooses to withdraw such application prior to the formal written notification of completeness or incompleteness, will be entitled to a refund ~~of fifty (50) percent of the total amount paid upon written request to the City. The application fee required for any policy application is not refundable.~~ upon written request to the City and upon City’s discretion.

(3) Application Deadline

All applications will be completed and submitted to the City Manager (or designee) in accordance with the Administrative Procedures Manual. An application will not be considered as officially submitted or filed until it is determined to be complete as specified below.

(4) Determination of Application Completeness

Every application for a Development Permit will be subject to a determination of completeness by the City Manager (or designee).

- a. Documents. No application will be deemed complete and accepted for processing unless it is accompanied by all documents required by and prepared in accordance with the requirements of ~~this ordinance~~ the UDC. For a determination of completeness to be issued, an application must include the following:
 - i. Payment of the appropriate fee;
 - ii. ~~An accurate metes and bounds description of the subject property (or other suitable legal description);~~
 - ii. ~~iii. A survey exhibit and other appropriate exhibits as deemed necessary by the City Manager. Said exhibits will include but not be limited to Site Plans, maps, architectural elevations, and information about proposed use (in digital file format if available); and~~
 - iii. All documents, forms, exhibits, or other materials required by this ordinance, Administrative Procedures Manual, and as deemed necessary by the City Manager (or designee) for processing of a specific application Development Permit.
- b. Additional Requirements. The City Manager (or designee) may from time to time identify additional requirements for a complete application that are not contained within but are consistent with the application contents and standards set forth in this Code.
- c. Compliance. A determination of completeness will not constitute a determination of compliance with the substantive requirements of this Code.
- d. ~~Written Determination. Not later than the fifteenth (15th)~~ tenth (10th) business day after the date an application is submitted, the City Manager (or designee) will make a written determination whether the application constitutes a complete application. This will include a determination that all information and documents required by this Code for the type of permit being submitted or other requirements have been submitted. ~~A determination that the application is incomplete will be mailed to the applicant within such time period by United States Certified Mail at the address listed on the application. The determination will specify the documents or other information needed to complete the application and will state that the application will expire if the documents or other information is not submitted within 45 days after the date the application was submitted. A determination that the application is incomplete will be notified to the applicant within such time period. The determination will specify the documents or other information needed to complete the application. Incomplete applications will not constitute an official acceptance of the application for filing.~~
- ~~d.e.~~ An application filed on or after the effective date of this ordinance will be deemed complete on the 11th business day after the application has been received, if the applicant has not otherwise been notified that the application is incomplete. For purposes of this Section, the applicant will be deemed to have been notified if the City has mailed a copy notified the applicant of the determination as provided in subsection d.
- ~~e.~~ The processing of an application by any City employee prior to the time the application is determined to be complete will not be binding on the City as the official acceptance of the application for filing. The incompleteness of an application will be grounds for denial of the application regardless of whether a determination of incompleteness was mailed to the applicant.

~~f. A Development Permit application will be deemed to expire on the 45th day after the application is submitted to the City Manager (or designee) for processing if the applicant fails to provide documents or other information necessary to meet the requirements of this Code or other requirements as specified in the determination provided to the applicant. Upon expiration, the application will be returned to the applicant together with any accompanying documents. An application that expires in this manner will be entitled to a refund of fifty (50) percent of the total amount paid upon written request to the City. Thereafter, a new application must be submitted.~~

~~g.f.~~

~~h. gg. No vested rights accrue solely from the filing of an application that has expired pursuant to this section, or from the filing of a complete application that is subsequently denied. Vested rights do not accrue until the filing of an original permit application or plan that gives the City fair notice of the project and the nature of the permit sought.~~

~~g.~~

(5) Expiration of Inactive Permits and Approvals

Approvals and permits issued pursuant to this Code will expire in the time period indicated in Table 3.2 unless the proposed development, project or use for which the approval was given is pursued as described below. Expiration of a project will be measured from the date the project was approved.

~~a. Notification of the expiration of regulations will be provided to the applicant as part of the notification of approval of the development-related permit.~~

~~b.a.~~ A Letter of Regulatory Compliance or Written Interpretation stays in effect indefinitely where no related development is proposed. Upon submission of a proposed development application related to the Letter of Regulatory Compliance or Written Interpretation, the Letter of Regulatory Compliance or Written Interpretation will expire according to Table 3.2 unless the proposed development is not pursued.

~~c.b.~~ A development for which an approval or permit has been issued pursuant to this Code will be considered to be in process as set forth below:

- i. A complete Building Permit application has been submitted or, if none is required, a Certificate of Occupancy has been issued.
- ii. In case of projects where more than one building or phase is to be built, the applicant may submit a series of Building Permit applications. The first application must be submitted within twelve (12) months from the date Site Plan approval is granted. Each subsequent application must be submitted within twelve (12) months from the date of issuance of a Certificate of Occupancy for the previous building or phase.

A lapse of a period equal to or greater than the period set forth in Table 3.2 will cause the related approvals or permits to expire and be of no further force and effect.

~~c.~~

~~d.~~ The City Manager (or designee) or the body with the final approval authority may extend the expiration date of any permit or approval one time for a period not to exceed one (1) year in length. Such extension may be granted upon written request of the applicant, at any time prior to or within the twelve (12) months preceding the expiration date, but the extension period may not begin later than the original expiration date.

d.

e. ~~Reinstatement of a lapsed approval will require the applicant to pursue the same submittal~~

f.e. ~~and to obtain approval as an original application.~~

g. ~~g. Any Minor Plat, Replat, Amending Plat, Preliminary Plat, Concept Plan, Final Plat (approved pursuant to previous Subdivision Regulations) or Detailed Development Plat (approved pursuant to previous Subdivision Regulations) that is dormant in accordance with the provisions of LGC §245.005 expired on November 19, 2004. Any Plat (approved pursuant to previous Subdivision Regulations) that is dormant in accordance with the provisions of LGC §245.005 will be deemed to have expired on November 19, 2002 (date of adoption of the subdivision ordinance).~~

f.

g. Extension may be approved for permits or approvals listed below in Table 3.2 for a period not to exceed one (1) year by the authority responsible for final approval.

Table 3.2: Expiration of Inactive Permits or Approvals

Comprehensive Plan Amendment	No Expiration
UDC Text Amendment	No Expiration
Special Use Permit	No Expiration
Zoning Map Amendment (Rezoning)	No Expiration
Planned Unit Development	No Expiration
Annexation	No Expiration
Letter of Regulatory Compliance	24 months
Written Interpretation	24 months
Certificate of Design Compliance	24 months
Storm Water Permit	24 months
Appeal of Administrative Decision	24 months
Administrative Exception	24 months
Variance	No Expiration
Administrative Plat	No Expiration
Concept Plan	24 months
Preliminary Plat	12 months
Final Plat or Development Plat	No Expiration on a Recorded Final Subdivision Plat; 12 months for a plat approved by City Council that has not posted surety, begun construction of public infrastructure, or failed to provide required recording information
Construction Plan	24 months
Development Agreement	As specified in Agreement
Site Plan Development Permit	24 months
Master Sign Plan	24 months
Sign Permit	24 months
Temporary Use Permit	As specified in Agreement
Sign Special Exception or Appeal to an Administrative Decision	No Expiration

Table 3.2: Expiration of Inactive Permits or Approvals

Comprehensive Plan Amendment	No Expiration
UDC Text Amendment	No Expiration
Special Use Permit	No Expiration
Zoning Map Amendment (Rezoning)	No Expiration
Conservation Development Alternative or Planned Unit Development	12 months if a plat or a permit has not been approved
Annexation	No Expiration
Variance	No Expiration
Certificate of Design Compliance	12 months
Storm Water Permit	12 months
Administrative Plat	12 months for a plat that has not been recorded
Preliminary Plat	12 months if construction drawings have not been approved.
Final Plat or Development Plat	No Expiration on a Recorded Final Subdivision Plat; 12 months for a plat approved by City Council that has not posted surety, begun construction of public infrastructure, or failed to provide required recording information. 24 months for an approved plat that has posted surety and begun construction of public infrastructure
Construction Plans	12 months
Development Agreement	As specified in the Agreement
Site Plan Permit Approval	12 months, if a permit has not been issued
Master Sign Plan	12 months, if a permit has not been issued
Sign Permit	12 months, if a permit has not been issued
Temporary Use Permit	As specified in Agreement or in other relevant sections of the UDC
Appeal to an Administrative Decision	No Expiration
Building Permit	12 months

(6) Written Decision after Final Action

- a. Within ten (10) days after the authority authorized to make the final determination under the requirements of this Code makes a final decision, a copy of the ~~written~~ decision will be sent to the applicant. A copy of the notice will be filed at the Office of the City Manager, where it will be available for public inspection during regular office hours.
- b. The decision will also state the final action authority's findings, conclusions, and supporting reasons or facts whenever this Code requires such findings as a prerequisite to the final action.

(7) Limitation on Reapplication

If any Development Permit application or other application for approval, any petition for a plan amendment or any petition for an amendment to this Code is disapproved by the final action authority, another application or petition for the same permit, approval, or amendment for the same property or any portion thereof may not be filed within a period of ninety (90) days or within a period of twelve (12)

months for zoning change applications from the date of final disapproval, except by vote of the City Council. Such reapplication must demonstrate:

- a. There is a substantial change in circumstances relevant to the issues and / or facts considered during the original review of the application that might reasonably affect the decision-making body's review of the relevant standards to the development described in the application; or
- b. New or additional information is available that was not available at the time of the original application that might reasonably affect the decision-making body's review of the relevant standards to the proposed development; or
- c. A new application is proposed to be submitted that is materially different (e.g., proposes new uses, or a substantial decrease in proposed densities and intensities) from the prior application; or
- d. The final decision on the application was based on a material mistake of fact.

Section 3.5 Standard Review Period

(1) Establishment of Review Period

The City Manager is required to establish a standard time period for review and final action on all applications. This information will be published in the Administrative Procedures Manual. This review period will be used to determine the number of days for all time limits within this Code. If the City Manager fails to establish review periods for each procedure, the default review period will be ~~ninety (90) days unless State law imposes a shorter period, in which event the shorter period will prevail, as per state law.~~

(2) Restrictions on Review Period Serving as Time Limit.

All review time requirements ~~shall follow the state law. are guidelines, and do not require final action within a specified period of time. The following rules describe administration of time requirements.~~

~~a. If a final action has not been taken on an application by the appropriate City staff, board, or commission, at the end of the time requirement for that application, there will be no penalty assessed to the applicant or final review authority. In these cases, consideration of the application continues, however the application becomes eligible for final action upon written request of the applicant.~~

~~b. Ongoing consideration of an application beyond the standard review period allows a review body or the final action authority to work in good faith with the applicant to make changes, modifications, and corrections in order to continue consideration of an application that might otherwise be disapproved without the changes, modifications, or corrections. If the applicant elects to proceed without making any changes, modifications, or corrections to the application, the applicant may request action as provided in (c) below.~~

~~c. Once consideration of an application has continued past the standard review period and is eligible for final action upon request of the applicant, the applicant may request in writing a final action decision from the final action authority. An administrative final action authority must respond with written notification of final action within ten (10) days.~~

(3) Exception to Standard Review Period

The standard review period of an application for a plat or subdivision plan may be extended one time for a period not to exceed thirty (30) days upon the submission of a written request for extension. The request for extension will be placed on the first available city council meeting agenda for approval.

- ~~a. The standard review period for any application may be extended one time for a period not to exceed thirty (30) days if a review body or final action authority requests additional studies or information concerning the application. Such an extension may not be granted after an applicant has requested final action. For purposes of a Preliminary Plat or Development Plat, when a 30-day extension has been issued, the application is deemed to have been denied but still subject to review by the City of the applicable review authority.~~
- ~~b. Standard review periods may be extended by the City Manager (or designee) as described below when, in the opinion of the City Manager (or designee), conditions beyond the City's control exist that prevent the City Manager (or designee), other administrative officials, or any final action authority from effectively reviewing and considering all applications in a timely manner. Typical conditions may include an excessive number of applications received by the City during a certain period of time, inadequate staff time due to temporary limitations of personnel resources or lack of availability of a required professional staff member such as the City Engineer.~~
 - ~~a. i. The City Manager (or designee) may initially declare that such conditions exist without approval of the City Council, and must provide timely notice to all affected applicants.~~
 - ~~b. ii. During these periods, all applications being considered are subject to the extended review period. No submittal of an application may be refused during the extended review period.~~
 - ~~c. iii. The City Manager (or designee) will report the action requiring the extended review period to the City Council at the next regular City Council meeting. In order to have the review period officially changed, the City Council must adopt a resolution establishing the extended review period at that meeting. The period must have a time limit, not to exceed ninety (90) days. If such a resolution is not adopted by the City Council, then the authority of the City Manager (or designee) to set aside standard review periods for this exception is no longer valid.~~
 - ~~d. iv. Review and processing of applications will continue during this extended review period, pursuant to the implementation of the extended review period.~~
 - ~~e. v. If the conditions causing the delay are not resolved, the process may be repeated. An applicant may request final action, as specified in Section 3.5(2)(c) above if the City has not taken action on the application one hundred and twenty (120) days after the date the standard review period would have expired.~~
- ~~— The delay of standard review period may not be implemented as a moratorium.~~

Section 3.6 Public Hearing and Notice

(1) Required Public Hearing

Table 3.3 identifies the types of procedures requiring a public hearing. The decision-making body may modify the application at the public hearing and refer such modifications to the recommending body.

Table 3.3 Summary of Required Public Hearing

Type of Application	Planning and Zoning Commission	Zoning Board of Adjustment	City Council
Comprehensive Plan Amendment	X		X
UDC Amendment			X
Special Use Permit	X		X
Zoning Map Amendment (Zoning or Rezoning)	X		X
Planned Unit Development	X		X
Annexation			X
Appeal of Administrative Decision (Zoning)		X	
Appeal of Administrative Decision (All others)			X
Policy Variance	X		X
Judicial Variance		X	
Development Agreement	X		X
Appeal of Denial of Sign Permit		X	
Replat	X		X

Table 3.3 Summary of Required Public Hearing

Type of Application	Planning & Zoning Commission	Zoning Board of Adjustment	City Council
Comprehensive Plan Amendment	X		X
UDC Text Amendment	X		X
Special Use Permit	X		X
Zoning Map Amendment (Zoning or Rezoning)	X		X
Planned Unit Development/ Conservation Development Alternative	X		X
Annexation			X
Appeal of Administrative Decision (Zoning)		X	
Appeal of Administrative Decision (All others)			X
Policy Variance	X		X
Judicial Variance		X	
Development Agreement			X
Appeal of Denial of Sign Permit		X	
Replat (if required)	X		X

X - Public Hearing Required

Development Agreements containing any of the above provisions must meet the public hearing requirements of such.

(2) Summary of Notice Required

Notice will be required for review of an application as shown in Table 3.4.

Table 3.4: Summary of Notice Requirements

Procedure	Published	Mailed	Posted
Comprehensive Plan Amendment	X		
UDC Text Amendment	X		
Special Use Permit	X	X	X
Zoning Map Amendment (Zoning or Rezoning)	X	X	X
Planned Unit Development	X	X	X
Annexation	X		X
Certificate of Design Compliance			X
Appeal of Administrative Decision	X		
Policy Variance	X	X	X
Judicial Variance	X	X	X
Development Agreement	X	X	X
Appeal of Denial of Sign Permit			X
Replat	X	X	

Table 3.4: Summary of Notice Requirements

Procedure	Published	Mailed	Sign Posted on Site
Comprehensive Plan Amendment	x		
UDC Text Amendment ¹	x		
Special Use Permit	x	x	x
Zoning Map Amendment (Zoning or Rezoning)	x	x	x
Planned Unit Development /Conservation Development Alternative	x	x	x
Annexation	x		x
Certificate of Design Compliance			x
Appeal of Administrative Decision	x		
Policy Variance	x	x	x
Judicial Variance	x	x	x
Development Agreement	x	x	
Appeal of Denial of Sign Permit	x		
Replat (if required)	x	x	

x- Notice Required

1. Refer to Zoning Map Amendment if applicable

(3) Published Notice

~~Before the 15th day~~ At least 16 days before the date of the hearing before the governing body, the City Manager (or designee) will cause to be published public notice in an official newspaper or a newspaper of general circulation in the municipality. The notice will contain notice of the time and place of the hearing and a description of the item to be considered or reviewed. If notification of a public hearing before the Planning and Zoning Commission is required to be published, publication of the hearing before the Planning and Zoning Commission and the City Council may be done concurrently.

(4) Mailed Notice

~~Before the 10th~~ At least 11 days before the hearing date, written notice of each public hearing on a proposed change in zoning classification will be sent to each owner, as indicated by the most recently approved municipal tax roll, of real property within 200 feet of the property on which the change in classification is proposed. The notice may be served by its deposit in the municipality, properly addressed with postage paid, in the United States mail.

(5) Posted Notice

The ~~City~~ applicant will be responsible for posting notice along rights-of-way frontage of the subject property in a format approved by the City Manager (or designee) not less than fifteen (15) days prior to the scheduled public hearing.

(6) Conduct of Public Hearings

All public hearings will follow the procedures set forth by the City and as required by the TXLGC.

~~All public hearings will follow the procedures set forth by the City. Modifications of the application during a public hearing may be made if assurances can be given by the applicant that there will be follow through on the modifications agreed to. The City Council or other review authority holding the public hearing may approve or recommend action on the application subject to the suggested changes being made and incorporated into the new application.~~

~~a. All findings and conclusions necessary to the permit or decision (crucial findings) will be based upon reliable evidence. Competent evidence (evidence that people of ordinary prudence would rely on in conducting their own affairs) will be preferred whenever reasonably available, except where the matter at issue is not seriously disputed.~~

Section 3.7 Policy Related Applications and Permits

This section provides specific approval criteria for the following policy-related applications:

- Comprehensive Plan Amendments
- Unified Development Code Text Amendments
- Special Use Permits
- Zoning Map Amendments, Rezoning, Planned Unit Developments (PUD)
- Conservation Development Alternative
- Concept Plan
- Annexation Petition
- Development Agreement

(1) Comprehensive Plan Amendment

- a. Applicability. The Comprehensive Plan reflects the City's long-term plan for growth and development. The City Council may, from time to time, on its own motion or on petition, amend, supplement, change, modify, or repeal the regulations, restrictions and boundaries herein established, or contained in the Comprehensive Plan.
- b. Review Process. The following sections set forth the specific requirements for amendment of the Comprehensive Plan:
 - i. Initiation. Initiation of a City Council Review of a Comprehensive Plan Amendment may be made upon recommendation of the:
 - 1) City Council;
 - 2) Planning and Zoning Commission; or
 - 3) City Manager (or designee).
 - 4) Request of other affected property owners or developers. If initiated by other affected property owners or developers, a Pre-Application Conference will be required.
 - ii. Staff Review. Once a procedure has been initiated, after receiving a complete application if initiated by a property owners or developers, the City Manager (or designee) will review the application, considering any applicable criteria for approval and prepare a report to the Planning and Zoning Commission and City Council. The City Manager (or designee) may:
 - 1) Establish procedures for administrative review necessary to ensure compliance with this Code and state statutes;
 - 2) Assign staff to review the application and make a report to the City Manager; and
 - 3) Include in his / her report a recommendation for final action.
 - iii. Planning and Zoning Commission Review. The Commission will hold a public hearing, in accordance with its rules and state law, and make a recommendation to the City Council.
 - iv. City Council Final Action. The City Council will hold a public hearing, in accordance with its rules and state law, and may take final action on the proposed amendment.
- c. Criteria for Approval—Generally. In determining whether to approve, approve with modifications, or disapprove a proposed amendment, the City Council will consider the following matters regarding the proposed amendment:
 - i. Whether the proposed amendment promotes the health, safety, or general welfare of the City and the safe, orderly, and healthful development of the City.
 - ii. Whether the proposed amendment is consistent with the Future Land Use element of the most recent version of Comprehensive Plan.
 - iii. Whether the proposed amendment is consistent with other goals and objectives of the Comprehensive Plan.
 - iv. Unified Development Code Compliance. No requirement of the procedure for Comprehensive Plan or Code amendments may govern if in conflict with specific provisions of this Code or Comprehensive Plan. ~~Any potential conflicts of proposed amendments with the UDC or Comprehensive Plan will be considered and dealt with prior to the review and adoption of any amendment. Unified Development Code Compliance and Consideration of Conflicts.~~ Any potential conflict between the proposed amendment(s) and the UDC or other parts of the Comprehensive Plan should be dealt with prior to (or as part of) the adoption of any amendment.

- v. Other criteria deemed relevant and important by the City Council in relationship to the proposed amendment in taking final action on the proposed amendment.
- d. Responsibility for Final Action. Recommendations regarding Comprehensive Plan amendments will be made by the Planning and Zoning Commission. The Planning and Zoning Commission will forward their recommendation to the City Council. The City Council is responsible for final action on Comprehensive Plan Amendments.

(2) Unified Development Code Text Amendment

- a. Applicability. Amendments to this Code may be made from time to time in order to establish and maintain sound, stable, and desirable development within the jurisdiction of the City, or to correct errors in the text, or to address changing conditions in a particular area or in the City. All text amendments will be in accordance with the Comprehensive Plan. If the Comprehensive Plan is amended, the Code should also be amended if deemed necessary or advisable by the Planning and Zoning Commission.
- b. Review Process. The following sections set forth the specific requirements for amendment of this Code; Section 1.9 of this Code. Updates or Amendments, describes the amendment and update process.
 - i. Initiation. Initiation of a City Council Review of a Code Amendment may be made upon recommendation of the:
 - 1) City Council;
 - 2) Planning and Zoning Commission; or
 - 3) City Manager;
 - 4) Request of other affected property owners or developers.
 - ii. Staff Review. Once a procedure has been initiated, after receiving a complete application if initiated by a property owners or developers, the City Manager will review the application, considering any applicable criteria for approval and prepare a report to the Planning and Zoning Commission and City Council. The City Manager may:
 - 1) Establish procedures for administrative review necessary to ensure compliance with this Code and state statutes;
 - 2) Assign staff to review the application and make a report to the City Manager; and
 - 3) Include in his / her report a recommendation for final action.
 - iii. Planning and Zoning Commission Review. The Planning and Zoning Commission will hold a public hearing, in accordance with its rules and state law, and make a recommendation to the City Council.
 - iv. City Council Final Action. The City Council will hold a public hearing, in accordance with its rules and state law, and may take final action on the proposed amendment.
- c. Criteria for Approval—Generally. In determining whether to approve, approve with modifications, or disapprove a proposed amendment, the City Council will consider the following matters regarding the proposed amendment:
 - i. Whether the proposed amendment promotes the health, safety, or general welfare of the City and the safe, orderly, and healthful development of the City.
 - ii. Whether the proposed amendment is consistent with the Future Land Use element of the most recent version of the Comprehensive Plan.

- iii. Whether the proposed amendment is consistent with other goals and objectives of the Comprehensive Plan.
- iv. Unified Development Code Compliance. No requirement of the procedure for Comprehensive Plan or Code amendments may govern if in conflict with specific provisions of this Code or Comprehensive Plan. Any potential conflicts of proposed amendments with the UDC or Comprehensive Plan will be considered and dealt with prior to the review and adoption of any amendment.
- d. Responsibility for Final Action. The Planning and Zoning Commission will make recommendations regarding the Code Text Amendments. The Planning and Zoning Commission will forward its recommendation to the City Council. The City Council is responsible for final action.

(3) Special Use Permit

- a. Applicability. Special Use Permits allow for discretionary City Council approval of uses with unique or widely varying operating characteristics or unusual site development features, subject to the terms and conditions set forth in this Code. These uses may locate in districts as indicated under special conditions described in a Special Use Permit recommended by the Planning and Zoning Commission and approved by the City Council. No such use will commence without prior approval of a Special Use Permit.
- b. Review Process. The following sections set forth the specific requirements for approval of Special Use Permits.
 - i. Initiation. Initiation of a Special Use Permit request may be made by:
 - 1) An affected property owner or his / her authorized agent through the zoning application process; or
 - 2) Recommendation of the Planning and Zoning Commission; or
 - 3) City Council.
 - ii. Pre-Application Conference. Prior to submitting an application for approval, the Applicant may be required to participate in a Pre-Application Conference with the City Manager (or designee), City Engineer and designated City Staff, as noted in section 3.4 (1) and is optional for other applications. The Pre-Application Conference may include, but is not limited to, the City Manager and City Staff offering initial comments on the merits of the application, suggestions for refinement, and other information and advice to aid the applicant.
 - iii. Application:
 - 1) Application on behalf of a property owner must be made in a format consistent with requirements established by the City Manager (or designee). Applications must include all materials determined necessary by the City Manager (or designee). Information regarding the format requirements and materials required for the application will be made available by the city staff in advance of any application.
 - 2) The City Manager (or designee) is responsible for ensuring that a complete application is prepared for changes initiated by the City Council or Planning and Zoning Commission such that all material necessary for the City Council to render an informed decision is provided.
 - iv. Completeness Determination:
 - 1) Upon submission of an application for any type of zoning change, the City Manager (or designee) will determine whether the application is complete, as described in Section 3.4.

- 2) Applications prepared by the City Manager (or designee) on behalf of the City Council or Planning and Zoning Commission will be considered complete.
- v. Staff Review. Once a procedure has been initiated, after receiving a complete application, the City Manager (or designee) will review the application, considering any applicable criteria for approval and prepare a report to the Planning and Zoning Commission and City Council. The City Manager (or designee) may:
- 1) Establish procedures for administrative review necessary to ensure compliance with this Code and state statutes;
 - 2) Assign staff to review the application and make a report to the City Manager; and
 - 3) Include in his / her report a recommendation for final action.
- vi. Planning and Zoning Commission Review. The Planning and Zoning Commission will hold a public hearing, in accordance with its rules and state law, and make a recommendation to the City Council.
- vii. City Council Final Action. The City Council will hold a public hearing, in accordance with its rules and state law, and may take final action on the proposed request.
- a-c. Approval Criteria:
- i. A binding Site Plan for the Special Use Permit must be approved by the City Council in order to approve issuance of a Special Use Permit. The Site Plan must be reviewed by the City Manager (or designee) for compliance with this Code.
 - ii. In addition to the criteria for zoning changes found in this Section, the City Council may approve an application for a Special Use Permit where it reasonably determines that there will be no significant negative impact upon residents of surrounding property or upon the general public. The City Council will review the Special Use Permit application based on the potential use's impact on the health, safety and welfare of the surrounding neighborhood; its impact on public infrastructure such as roads, parking facilities and water and sewer systems; and its impact on public services such as police and fire protection and solid waste collection, and the ability of existing infrastructure and services to adequately provide services. From time to time, the City Council may, at its sole discretion, promulgate a list of concerns or minimum public safety and design elements that should be addressed by an applicant for certain Special Use Permit land uses. When such a list of discussion guidelines is promulgated, it is to be considered only an outline of prospective issues that have come to the City's attention regarding these land uses, organized and recorded for the convenience of potential applicants, and is not in any way intended to be a comprehensive list of issues the City may consider in approving or denying the application, since each case subject to a Special Use Permit will be judged upon its unique circumstances and siting, decided at the discretion of the City based on the criteria described earlier in this paragraph. The City Manager (or designee) will maintain such lists, and they will be available to prospective applicants upon request.
 - ~~iii. No building, premise, or land used under a Special Use Permit (SUP) may be enlarged, modified, structurally altered, or otherwise significantly changed, unless an amendment to the approved SUP is granted for such enlargement, modifications, structural alteration, or change. Any modification to an approved Site Plan that was filed as part of a Special Use Permit will cause the Special Use Permit to become void, regardless of its current status, including any approval previously given by the City Council.~~

iii.

iv. Special Use Permits must be resubmitted to the City Manager (or designee) and the City Council for consideration using the modified Site Plan. The modified Special Use Permit and modified Site Plan will follow the regular review process for a regularly submitted Special Use Permit.

~~1. The City Manager may determine that the modification to the Site Plan does not change the basis for Special Use Permit approval and issue a temporary approval to the modified Special Use Permit. In this case, the City Manager will report this action in writing to the City Council and place the modified Special Use Permit directly on the City Council agenda for action at the Council's next meeting.~~

~~2. If the City Manager determines that the modifications to the Site Plan changes the basis for the initial Special Use Permit approval, the modified permit will follow the regular review process for a regularly submitted Special Use Permit.~~

- d. Responsibility for Final Action. The City Council is responsible for final action on applications for Special Use Permits. The City Council, in considering final action, may impose conditions on the proposed use and attach such conditions to the Special Use Permit as deemed necessary to mitigate adverse effects of the proposed use and to carry out the spirit and intent of this section. Conditions and modifications may include but are not limited to limitation of building size or height, increased open space, limitations on impervious surfaces, enhanced loading and parking requirements, additional landscaping, curbing, sidewalk, vehicular access and parking improvements, placement or orientation of buildings and entryways, buffer yards, landscaping and screening, signage restrictions and design, maintenance of buildings and outdoor areas, duration of the permit and hours of operation.
- Where appeals are made to the City Council, the City Council 's action is considered final, subject only to judicial review.

(4) Zoning Map Amendment – Rezoning

- a. Applicability. For the purpose of establishing and maintaining sound, stable, and desirable development within the corporate limits of the City, the Official Zoning Map may be amended based upon changed or changing conditions in a particular area or in the City generally, or to rezone an area, or to extend the boundary of an existing Zoning District. If the Zoning Map is amended, the Comprehensive Plan and Code should also be amended if the Commission finds it necessary or advisable.
- b. Review Process:
 - i. Initiation. Initiation of a Zoning Change may be initiated by:
 - 1) An affected property owner or his / her authorized agent through the zoning application process; or
 - 2) City Staff and City Manager;
 - 2)3) Recommendation of the Planning and Zoning Commission; or
 - 3)4) City Council.

- ii. Pre-Application Conference. Prior to submitting an application for approval, the Applicant ~~may request~~must participate in a Pre-Application Conference with the City Manager (or designee), City Engineer and designated City Staff. The Pre-Application Conference may include, but is not limited to, the City Manager and City Staff offering initial comments on the merits of the application, suggestions for refinement, and other information and advice to aid the applicant.
- iii. Application:
 - 1) Application on behalf of a property owner must be made in a format consistent with requirements established by the City Manager (or designee). Applications must include all materials determined necessary by the City Manager (or designee). Information regarding the format requirements and materials required for the application will be made available by the ~~Manager~~ City staff in advance of any application.
 - 2) The City Manager (or designee) is responsible for ensuring that a complete application is prepared for changes initiated by the City Council or Planning and Zoning Commission such that all material necessary for the City Council to render an informed decision is provided.
- iv. Completeness Determination:
 - 1) Upon submission of an application for any type of zoning change, the City Manager (or designee) will determine whether the application is complete, as described in Section 3.4.
 - 2) Applications prepared by the City Manager on behalf of the City Council or Planning and Zoning Commission will be considered complete.
- v. Staff Review. Once a procedure has been initiated and the application deemed complete, the City Manager (or designee) will review the application, considering any applicable criteria for approval and prepare a report to the Planning and Zoning Commission and the City Council. The City Manager (or designee) may:
 - 1) Establish procedures for administrative review necessary to ensure compliance with this Code and state law;
 - 2) Assign staff to review the application and make a preliminary report ~~to the City Manager~~ ; and
 - 3) Include a recommendation for final action in his / her report to the Planning and Zoning Commission and City Council.
- vi. Planning and Zoning Commission Review. The Planning and Zoning Commission will hold a public hearing, in accordance with its rules and state law, and make a recommendation to the City Council.
- vii. City Council Final Action. The City Council will hold a public hearing, in accordance with its rules and state law, and take final action on the application.
 - 1) The rezoning, planned unit development, planned low density development, or initial zoning of annexed territory will become effective by a simple majority vote of the City Council.
 - 2) If a proposed rezoning of a tract of land has been protested in writing by the owners of property covered by proposed change, or owners of at least 20 percent of the area within 200 feet of the tract ~~(who are also resident inside the City Limits)~~, the rezoning may not become effective except by three-fourths vote of the City Council. Computation of area covered by proposed change shall include the streets and alleys.

- 3) At least three-fourths vote of the City Council is required to overrule a recommendation by the Planning and Zoning Commission that a regulation or boundary be denied.
- c. Criteria for Approval—Generally:
 - i. The application is complete, and the information contained within the application is sufficient and correct enough to allow adequate review and final action.
 - ii. Zoning changes may be approved when the following standards are met:
 - 1) The zoning change is consistent with the Comprehensive Plan;
 - 2) The zoning change promotes the health, safety, or general welfare of the City and the safe, orderly, and healthful development of the City;
 - 3) The zoning change is compatible with and conforms with uses of nearby property and the character of the neighborhood;
 - 4) The property affected by the zoning change is suitable for uses permitted by the proposed amendment to the zoning map;
 - 5) Infrastructure, including roadway adequacy, sewer, water and storm water facilities, is or is committed to be available that is generally suitable and adequate for the proposed use; and
 - iii. ~~6. Zoning Variance requests will not be considered~~ Zoning variances are considered and granted by the Zoning Board of Adjustments. Zoning changes must be made by Zoning Map Amendment. All amendments must be in accordance with the Comprehensive Plan, which may be amended according to the procedure in this Section. Newly annexed areas will be zoned during the annexation process.
- d. Responsibility for Final Action. The Planning and Zoning Commission will review conditions and proposed decisions regarding rezoning. The Planning and Zoning Commission will forward its recommendation to the City Council, which is responsible for final action on Zoning Map Amendments.

(5) Zoning Map Amendment – Planned Unit Development

- a. Applicability. A Planned Unit Development (PUD) is a zoning overlay district that may be used to permit new or innovative concepts in land utilization, master-planned communities, mixed use development that other Zoning Districts do not accommodate, and to provide site-specific compatibility standards. While greater flexibility is given to allow special conditions or restrictions that would not otherwise allow the development to occur, procedures are established to insure against misuse of increased flexibility. PUDs are appropriate in areas where the Comprehensive Plan reflects the specific uses proposed in the PUD or where the Comprehensive Plan reflects mixed use as a land use category. However, any PUD applicant must demonstrate that the lot sizing, street frontages, and general design characteristics of the PUD are in keeping with the spirit of the Fair Oaks Ranch Comprehensive Plan, and complimentary to the existing character of Fair Oaks Ranch.
- b. Submission Requirements.
 - i. Pre-Application Conference. Prior to submitting a PUD Plan for approval, the Applicant must request a Pre-Application Conference with the City Manager (or designee), City Engineer and designated City Staff. The Pre-Application Conference will include, but is not limited to, the following:

- 1) The City Manager and City Staff offering initial comments on the merits of the PUD Concept Plan, suggestions for refinement, and other information and advice to aid the Subdivider in the preparation of a Formal PUD Plan.
 - 2) If the PUD subdivision is located wholly or partly within the city limits, approval of the Final PUD Plan must be preceded or accompanied by approval of PUD zoning for the entire area of the subdivision inside the city limits, as provided in Chapter 4, Zoning Districts and Use Regulations. Preliminary and Final Plats which conform to the Final PUD Plan may then be submitted for approval as individual subareas within the overall PUD when they are ready for development. Any variation in land uses from those approved in the Final PUD Plan will require approval of an amended overall PUD plan, under the same procedures as required for the Final PUD Plan.
- ii. Concept Plan. At the Pre-Application Conference the Applicant will submit ~~6 copies~~ a Concept Plan for the proposed development. The PUD Concept Plan need not be engineered, but it must contain at least the following information in sufficient detail to permit understanding of the proposal:
- 1) A map of the site, drawn to scale and showing north arrow, the boundaries of the proposed development, adjacent subdivisions, and the streets in the vicinity of the site.
 - 2) A map showing general topographic considerations affecting the site, floodplains and watercourses, recharge zones, geologic features and protected areas on the site and in the vicinity, and any other significant environmental features that may affect the site.
 - 3) The general layout proposed for the PUD, delineating the areas that are 1) proposed for residential development, 2) the forms and densities proposed in each such area, 3) the areas proposed for non-residential development and the general nature of the uses proposed in each such area, and 4) the areas proposed as open space or parks and the general character proposed for each such area.
 - 4) The total acreage of the site, the number of acres to be developed in each type of residential and non-residential development which is proposed, and the number of acres proposed to be dedicated as community open space.
 - 5) The total number of residential dwelling units of each type proposed, and the approximate gross square footage of each type of non-residential development proposed.
 - 6) All proposed amenities and enhancements with details.
- iii. Requirements for Preliminary PUD ~~Plan~~ Submittal. In addition to the above requirements, the ~~Preliminary Plan of a~~ PUD ~~subdivision submittal~~ must contain or be accompanied by the following:
- 1) A written report explaining the project, with a list of proposed variations and deviations from the requirements of this code, if any;
 - ~~1)~~ Parking. Clear delineation of the areas which are to be reserved for off-street parking and loading, and the ratios of parking spaces to square feet of floor area for each lot to be developed in a non-residential use, and a clear delineation of the areas which are to be reserved for residential off-street parking and the number of parking spaces to be provided for each dwelling unit;
 - 2)

Fencing and Screening. The location, type and height of all proposed fences, screening walls, and other screening devices intended to buffer one land use from another or to buffer the PUD subdivision from adjacent properties;

3)

~~2)~~ Community Open Space Areas. The location and character of all improvements to be made in community open space areas, including a general landscape plan for each area and proposed amenities;-

4)

~~3)~~ Building design and aesthetic standards

5) ;

~~4)6)~~ FORHA or HOA (Association). A draft of the legal Instrument establishing the Association ;- and

~~7)~~ Budget. A draft multi-year budget for the Association.

iv. Form and Content of Final PUD Plan. The Final PUD Plan will include 1) 24" by 36" copies of the Final PUD Plan, 2) 8 1/2" x 11" black and white copy, and 3) a digital file of the Final PUD Plan in a format specified by the City Manager (or designee). The Final PUD Plan will be drawn to a scale of 1-inch to 100 feet. Where more than one sheet is required, an index sheet of maximum size 18 inches by 24 inches will be filed showing the entire subdivision, and all scales must be uniform. The Final PUD Plan for the proposed development must be drawn by a Professional Engineer and must include the following:

- 1) Date, scale, north arrow, name of Subdivider, title of the plan/ development and name of the person preparing the PUD Plan;
- 2) The location of the city limit lines and the outer border of the City's ETJ (if either traverses the subdivision or is contiguous to a subdivision boundary) and any other relevant jurisdictional lines;
- 3) The location, ROW width, name and description of all existing or recorded streets and alleys within or adjacent to the subdivision, as determined from existing records, and the location of all intersections adjacent to the subdivision.
- 4) The ROW and description of all proposed streets and alleys within the subdivision;
- 5) The location, ROW, and type or purpose of all existing easements within and adjacent to the subdivision;
- 6) The centerline of existing watercourses, creeks and drainage structures within and adjacent to the subdivision, and the limits of the 100-year flood plains if applicable;
- 7) 2' topographic lines;
- 8) The centerline of proposed watercourses, creeks and drainage structures, and the general nature and extent of any other water features that are proposed to be developed;
- 9) The area and acreage in each distinct type of proposed land use;
- 10) The areas and acreages which are to be dedicated as open space and parks, including an indication whether the dedication is to be as a public park, or a private park owned and managed by an Association;
- 11) The location, type and height of the fences, walls or other screening devices which are proposed to buffer the PUD from adjacent developments and, within the PUD, to buffer one land use from another; and

- 12) The information, which is presented graphically in the PUD plan must be accompanied by the following information in narrative or tabular form:
 - I. The total number of dwelling units in each distinct type proposed;
 - II. The total acreage in each distinct type of residential development; and the resulting densities in dwelling units per acre;
 - III. The total acreage and gross square feet proposed in each distinct type of non-residential development;
 - IV. Descriptions of the number, size and character of any active recreational facilities and community meeting spaces which are to be included in the dedicated open space and parks; and
 - V. Calculations showing the minimum total area of open space and parks that is required by this Code, and the actual areas that are proposed to be dedicated as open space and parks. A narrative justification must accompany any request for a reduction in the open space requirement.
- v. Additional Requirements. In addition to the requirements for a Final Plat which apply to a conventional subdivision, the Final PUD Plan subdivision must contain or be accompanied by approved and executed copies of the following:
 - 1) Legal Instrument Establishing the Association. A legal instrument establishing the Association, approved by the City Attorney;
 - 2) Budget. A multi-year budget for the community association, approved by the City;
 - 3) Financial Guarantee. A bond or other financial guarantee of the full funding of the Association's reserve fund for repairs and maintenance of the open space areas and facilities; and
 - 4) Maintenance Agreement. A Maintenance Agreement between the Association and the City for repair and maintenance of the common areas and facilities which are to be dedicated as open space.
- c. Approval Criteria (PUD). The zoning change criteria in this Section, as it related to the PUD, will be considered by the Planning & Zoning Commission and, upon receipt of the Commission's recommendation to the City Council, the Council will consider the following specific objectives and criteria in making a determination on the development ordinance and Concept Plan associated with the PUD. Rezoning and development under the PUD district will be permitted only if the development ordinance and Concept Plan meet the following criteria:
 - i. Comprehensive Plan. The PUD must be compatible with the goals and policies of the Comprehensive Plan;
 - ii. Natural Features. Insofar as practicable, the landscape will be preserved in its natural state by minimizing tree and soil removal. The natural features of the landscape will be integrated into the subdivision design as amenities enhancing the developed environment.
 - iii. Environmentally Sensitive Features. Insofar as practicable, environmentally sensitive features will be preserved in their natural state. The environmentally sensitive features will be integrated into the subdivision design as amenities enhancing the developed environment.
 - iv. Buildings. Proposed buildings will be sited in harmony with the terrain and with other buildings in the vicinity that have a visual relationship to the proposed development.
 - v. Utility Infrastructure. Assurance of adequate utility infrastructure in conformance with the Utility Master Plan and Drainage Master Plan.

- vi. Pathways, Driveways and Streets. Pedestrian paths, bicycle paths, driveways, parking areas and interior streets in the subdivision will be located and designed to take best advantage of the topography and natural features of the landscape, to separate vehicular, bicycle and pedestrian traffic as much as practical, and to contribute to rather than detract from the design of proposed land uses and neighboring properties.
- vii. Facilities. Provision of cultural and recreational facilities for all residents.
- viii. Open Spaces and Parks. Open spaces will link residential areas with each other and with related nonresidential destinations and provide amenities that enhance the residential environment. Where possible, these open spaces will link directly to parks, other open spaces, schools and other community institutions adjacent to the subdivision.
- ix. Sequential / Staged Development. A Final PUD Plan may be divided into stages for sequential development over time. In such a case, the Final PUD Plan will include the entire area of the tract, which is to be developed as a PUD, and it will indicate the sequence and approximate schedule for development of all the various subareas within the tract. Development will be staged in a manner that can be accommodated by the timely provision of public utilities, facilities and services.
- x. Minimum Requirements:
 - 1) No Minimum Lot Size. There is no minimum lot size for a residential lot in a PUD, provided that for each residential unit there is a net minimum of 4,000 square feet of site area. There is no minimum width and no minimum street frontage for a residential lot in a PUD.
 - 2) ~~Set-Backs~~Setbacks. There are no minimum front, side or rear yard setback requirements in a PUD, except as follows:
 - I. Along the perimeter of a PUD, all lots must meet the same minimum setback requirements as would be required in a subdivision which is not a PUD, unless the City Council approves a lesser setback in the PUD Plan.
 - II. On any lot which has driveway access to a street, all buildings and other structures must be set back at least ten feet from the lot line adjacent to the street.
 - III. On any corner lot, no wall, fence or other structure may be erected above a height of three feet, and no hedge, shrub, tree or other vegetation may be maintained above a height of three feet, within the triangular area formed by the intersecting street edge lines and a straight line connecting such street edge lines at points 25 feet from the point of intersection measured along such street line.
 - 3) Drainage easements and utility easements will be provided as required by other provisions of this Code.
- xi. Minimum Open Space Requirements. Each PUD will provide for a minimum amount of community open space as follows:
 - 1) For a residential PUD, the minimum requirement is 20 percent of the gross site area of the subdivision.
 - 2) For a non-residential PUD, the minimum requirement is ten percent of the gross site area of the subdivision.
 - 3) For a PUD that includes both residential and non-residential development, the total requirement is calculated according to the relative proportions of the gross site area of the subdivision that are proposed to be developed in residential and non- residential uses.

- 4) Up to 25 percent of the minimum community open space requirement may be met by including 1/2 of the area of any public park, unimproved floodplain or other beneficial open space area which is contiguous and accessible to the subdivision and which, in the judgment of the planning and City Manager (or designee) and the City Council, has a reasonable expectation of perpetuity. The City Manager and the City Council may also approve a decrease of up to 25 percent of the minimum community open space requirement when the PUD plan includes unique design features or amenities which achieve an especially attractive and desirable development, including, but not limited to, terraces, sculpture, water features, preservation and enhancement of unusual natural features or cultural resources, or other unusual amenities which the City Manager and City Council find will benefit the community as a whole in addition to the occupants of the subdivision. However, in no case may the total reduction in the minimum community open space requirement exceed 40 percent.
- 5) The community open space required by this section may either be dedicated to the City as public park land or be dedicated as common area for use by the residents / occupants of the PUD, to be owned and managed by the Association which is directly responsible to and controlled by the property s in the subdivision.
- 6) In the case of community open space which is proposed to be dedicated as parkland, the City Manager (or designee) will inspect the area in the field and make a recommendation to the City Council at the time the Council considers the PUD plan as to the desirability of accepting the proposed dedication and the City's likely ability to fund the future operation and maintenance of the proposed facilities. The area to be so dedicated will be indicated on the Preliminary Plat as "Park Land Dedicated to (the name of management entity such as FORHA)." The total acreage of the park will be noted on the Final Plat, and the dedication of the park will also be noted in the narrative portion of the Final Plat where the Owner dedicates easements, ROW and other improvements to the City. All improvements to the required open space which are shown in the Final PUD Plan must be constructed by the Subdivider at the same time as the streets, drainage system and other components of the subdivision infrastructure are being constructed. Additionally:
 - I. Improvements to an open space that is internal to or otherwise distinctly associated with an individual subarea of a PUD, which is to be developed in stages, must be constructed at the same time as the other components of subdivision infrastructure shown on the Final Plat for that stage of the subdivision development.
 - II. No building permits will be issued, and no utility connections will be made for any building or structure on any lot outside the community open space until these improvements have been inspected and approved by the City Manager (or designee).
- d. Effect of Council Approval. City Council approval of a PUD also constitutes final approval of the binding PUD development ordinance and PUD Concept Plan that were attached to the PUD application, as modified by the City Council.
 - i. Development Ordinance. The PUD development ordinance, as modified and approved by the City Council, becomes, in effect, a modification to the regulations and standards of this Code that apply only to the area of land described by the PUD development ordinance. All future or ongoing development approvals or permits within the area of the PUD will comply with the PUD development ordinance in addition to this Code.

- ii. The PUD Concept Plan. As modified and approved by the City Council, the PUD Concept Plan becomes, in effect, an amendment to the City's Comprehensive Plan and Zoning Map that applies only to the area of land described by the PUD. All future or ongoing development approvals or permits, including any plat-related approval, will comply with the PUD Concept Plan in addition to the City's Comprehensive Plan.
- iii. Minimum Requirements. Unless otherwise indicated in the approved PUD development ordinance or PUD Concept Plan, the minimum requirements for each development will be those stated in this Code for subdivisions and the requirements of the most restrictive standard Zoning District in which designated uses are permitted.
- e. Responsibility for Final Action. The Planning and Zoning Commission will review decisions regarding a PUD. The Commission will forward its recommendation to the City Council, which is responsible for final action on a PUD.
- f. Approval When Protested. If the Final PUD Plan is protested in writing by the owners of 20 percent or more either of the number of lots or of the area of land covered by the proposed change or the area of lots or area of land immediately adjoining the proposed PUD subdivision and within 200 feet from the proposed subdivision boundary, then the Final PUD plan may not be approved except by a vote of at least 3/4 of all members of the City Council. Computation of area covered by proposed change shall include the streets and alleys.
- g. Substantial Amendments to the Final PUD Plan. Alterations to the approved Final PUD Plan are classified as either substantial or nonsubstantial amendments. Substantial amendments must be approved by City Council following the same procedures as required for approval of the Final PUD Plan, including payment of the appropriate Filing Fees. A substantial amendment is any change that would:
 - i. Add a land use not previously approved as part of the PUD plan;
 - ii. Alter the land use in an area within 200 feet of a boundary of the PUD subdivision, Increase the overall density of the PUD by ten percent or more. However, in no case may the overall density of a PUD located inside the city limits exceed that permitted by the PUD zoning district;
 - iii. Reduce the total area to be dedicated as community open space, or which would alter the location of that area by ten percent or more; or
 - iv. In the judgment of the City Manager (or designee), would significantly alter the general character or overall design of the PUD.
- h. Nonsubstantial Amendments. All other amendments not deemed substantial shall be considered nonsubstantial amendments. Within 30 days from the official date of submission of the application for a Nonsubstantial Amendment, the City Manager must 1) approve it 2) approve it with conditions, which means the nonsubstantial amendment is approved once such conditions are fulfilled, and until the conditions are satisfied, it is considered denied, or 3) defer the Nonsubstantial Amendment to the City Council.
- i. Action by City Council, If Required. If the City Manager (or designee) defers the Nonsubstantial Amendment application, the City Council must consider the application at a regular meeting no later than 30 calendar days after the date on which the City Manager (or designee) deferred the application to the City Council. The City Council, upon simple majority vote, must 1) approve Nonsubstantial Amendment, 2) approve it with conditions, which means the ~~N~~nonsubstantial

Amendment is approved once such conditions are fulfilled, and until the conditions are satisfied, it is considered denied, or 3) deny the Nonsubstantial Aamendment.

- j. Certified by City Manager (or designee). No application for approval of a Nonsubstantial Amendment will be considered completed and filed until all the items required by state law and this Code have been received and the application is certified by the City Manager (or designee).

(6) Conservation Development Alternative

Refer to Section 8.3.

(7) Concept Plan

- a. Purpose. The purpose of the Concept Plan is to provide for review of certain developments for compliance with the Comprehensive Plan, this Code, any additional adopted plans (e.g., Wastewater, Drainage or Water Plan), the compatibility of land uses, and the coordination of improvements within and among individual parcels of land or phases of development, prior to City approval of a Preliminary Plat.
- b. Applicability:
 - i. A Concept Plan is required for any development that meets the following criteria:
 - 1) If the property is undeveloped, is under one ownership, and is greater than 50 acres; or
 - 2) Is to be platted and developed in phases; or
 - 3) Will require off-site road, drainage, or utility connections or improvements that will have a substantial impact or effect on other properties or developments; or
 - 4) Is proposed for approval as a Planned Unit Development
 - ii. The City Manager (or designee) will determine during the Pre-Application Conference for any plat application whether a Concept Plan is required in accordance with the purpose stated in this Code. The City Manager (or designee)'s decision to require a Concept Plan may be considered by the Planning and Zoning Commission upon written request of the applicant
 - iii. When a development is located on a portion of a large tract under one ownership, is developed in phases, or is located on land that was not legally subdivided, the developer may be required to submit a Concept Plan for review and recommendation to City Council by the Planning and Zoning Commission.
- c. Approval Criteria. Concept Plans will be reviewed by the Commission using the applicable criteria for approval of subdivisions and plats in this Code, and forwarded to City Council for its review and final action.
- d. Responsibility for Final Action. The Planning and Zoning Commission will make recommendations regarding a Concept Plan. The Commission will forward its recommendation to the City Council, which is responsible for final action on Concept Plans.

Phases and Revisions. All current and future phases of development referenced in a Concept Plan will be designed and constructed in conformance with the Concept Plan. Any changes to project layout, land use, infrastructure design or construction, or other changes that would require a revision of subsequent plats or permits from what was originally proposed will require a revision of the Concept Plan prior to proceeding to apply for approval of subsequent development phases on the same property. All revisions to a Concept Plan will be subject to review and recommendation by the Commission and final approval by the City Council or designee.

Section 3.8 Subdivision and Property Development Related Applications

This section applies to the following subdivision-related applications:

- Administrative Plats
- ~~Concept Plan~~
- Preliminary Plat
- Final Plat
- Replat
- Development Plat
- Construction Plans

(1) General Requirements for Approval of Plats

- a. Prior to the subdivision, re-subdivision, or development of any land within the City, or its extraterritorial jurisdiction, all plans, plats, and construction plans for infrastructure improvements must first be approved in accordance with regulations specified in subsections 3.8(1) (b) – (f) except for:
 - i. Construction of ~~additions or~~ alterations to an existing building where no drainage, street, utility extension or improvement, additional parking or street access change is required to meet the standards of this Code are necessary to support such building ~~addition or~~ alterations and no increase in the footprint of the building is proposed.
 - ii. Divisions of land created by order of a court of competent jurisdiction.
 - iii. A change in ownership of a property through inheritance or the probate of an estate.
 - iv. Cemeteries complying with all state and local laws and regulations.
 - v. Those plats exempted in LGC §212.004.
- b. Except as exempted in Section 3.8(1)a, above, no land may be subdivided or platted through the use of any legal description other than with reference to a plat approved by the City Council or the City Manager (or designee) in accordance with these regulations.
- c. No land described in this section may be subdivided or developed until the property owner has obtained approval of the applicable Plat, or Development Plat from the City Council or the City Manager as required by these regulations.
- ~~c. Except for agricultural leases, no land described in this section will be platted or sold, leased, transferred or developed until the property owner has obtained approval of the applicable Concept Plan, Preliminary Plat, Final Plat or Development Plat from the City Council or the City Manager as required by these regulations.~~
- ~~d. No Building Permit for a structure or Certificate of Occupancy may be issued for any parcel or tract of land until such property has received Final Plat or Development Plat approval and is in conformity with the provisions of this Code, the plat has been recorded, public improvements have been accepted by the City (if applicable), and no private improvements will take place or be commenced except in conformity with these regulations in this Code.~~
- ~~e.d.~~ No person will transfer, lease, sell or receive any part of a parcel before an Administrative Plat or Final Plat of such parcel and the remaining parcel have been approved by the City Council in accordance with the provisions of these regulations in this Code and filed of record with the appropriate County Clerk.

- ~~f.e.~~ The platting or subdivision of any lot or any parcel of land, by the use of Global Positioning System (GPS) using the Texas State Plane Coordinate System (SPCS) as a substitute for metes and bounds for the purpose of sale, transfer, lease or development is prohibited. The SPCS may be used as supporting documentation only and the datum source must be referenced.
- ~~f.~~ The Commission and the City Council will act on a plat within ~~30 days after the date a complete application for the plat is filed~~ the timeframe specified in the state statutes. ~~The City Council will act on the plat within 30 days after the date the Plat is acted on by the Commission.~~ A plat is considered approved unless it is disapproved within that period.
- ~~g.~~ Ceonditional approval aAnd denial. If the City Council conditionally approves or denies the plat, a written statement must be provided to the applicant clearly articulating each specific condition for the conditional approval or reason for denial. Each condition or reason specified in the written statement may not be arbitrary and must include a citation to the regulation, ordinance, or law that is the basis for the conditional approval or denial.
- ~~g.~~ Applicant Response tTo Conditional Approval or Denial. After the conditional approval or denial of a plat, the applicant may submit a written response that satisfies each condition for the conditional approval or remedies each reason for denial provided. The City Manager is authorized to approve revisions required for conditional approval of the plat. The City Council shall determine whether to approve or deny the applicant's previously denied plat or conditionally approved, if forwarded to the City Council by the City Manager. Action shall be taken by the City Manager or City Council no later than the fifteenth (15th) calendar day after the date the response was submitted.
- ~~h.~~

(22) Administrative Plat Review

- a. Applicability. Minor Plats ~~or~~ Amending Plats, and Development Plats may be approved by the City Manager (or designee) following an evaluation for plan compliance and technical compliance with this Code.
- i. Minor Plat. A Minor Plat is any plat involving four (4) or fewer lots fronting on an existing street and not requiring the creation of any new street or the extension of municipal facilities.
 - ii. Amending Plat. A plat that complies with LGC §212.016, as amended, which is generally submitted to correct errors and omissions, or make minor changes ~~such changing the preceding plat to create six (6) or fewer lots in the subdivision, when agreed to by all adjacent property owners.~~ if the amending plat is signed by the applicants only and is solely for one or more of the following purposes:
 - 1) Correct an error in a course or distance shown on the preceding plat;
 - 2) Add a course or distance that was omitted on the preceding plat;
 - 3) Correct an error in a real property description shown on the preceding plat;
 - 4) Indicate monuments set after the death, disability, or retirement from practice of the engineer or surveyor responsible for setting monuments;
 - 5) Show the location or character of a monument which has been changed in location or character or that is shown incorrectly as to location or character on the preceding plat;

- 6) Correct any other type of scrivener or clerical error or omission previously approved by the municipal authority responsible for approving plats, including lot numbers, acreage, street names, and identification of adjacent recorded plats;
- 7) Correct an error in courses and distances of lot lines between two (2) adjacent lots if:
- 8) Both lot owners join in the application for amending the plat;
- 9) Neither lot is abolished;
- 10) The amendment does not attempt to remove recorded covenants or restrictions; and
- 11) The amendment does not have a materially adverse effect on the property rights of the other owners in the subdivision;
- 12) Relocate a lot line to eliminate an inadvertent encroachment of a building or other improvement on a lot line or easement;
- 13) Relocate one or more lot lines between one or more adjacent lots if:
 - The owners of all those lots join in the application for amending the plat;
 - The amendment does not attempt to remove recorded covenants or restrictions; and
 - ~~The amendment does not increase the number of lots;;~~
 - ~~The amendment does not render any resulting lot substandard for a required well, on-site sewage facility, or below minimum lot size requirements in existing deed restrictions on in the City's Future Land Use Map; or~~
 -
- 14) Make necessary changes to the preceding plat to create six or fewer lots in the subdivision or a part of the subdivision covered by the preceding plat if:
 - The changes do not affect applicable zoning and other regulations of the municipality, including water and on-site sewage facility regulations;
 - The changes do not attempt to amend or remove any covenants or restrictions; and
 - The area covered by the changes is located in an area that the Commission or City Council has approved, after a public hearing, as a residential improvement area;;
 - or
- 15) Replat one or more lots fronting on an existing street if:
 - The owners of all those lots join in the application for amending the plat;
 - The amendment does not attempt to remove recorded covenants or restrictions;
 - The amendment does not increase the number of lots; and
 - The amendment does not create or require the creation of a new street or make necessary the extension of municipal facilities, or require a variance for water well lot sizing and setbacks or on-site sewage facility regulations.

iii. Development Plat:

- 1) Development Plats are required for previously unsubdivided or unplatted land that is not being divided into separate parcels, as described in LGC §212.045.
- 2) Any person who proposes the development of a tract of land within the City limits or the extraterritorial jurisdiction of the City must have a Development Plat of the tract prepared in accordance with this Section.
- 3) No development will begin, nor any building permit, utility connection permit, or similar permit be issued until a development plat has been reviewed and approved.

- 4) When an applicant is required to file a Preliminary Plat or Final Subdivision Plat by other requirements of this Section, a Development Plat is not required.
- ~~iv. Waivers. Any plat that requires a waiver from Subdivision, Site Development, or Design Standards, any utility dedication, dedication of land must be reviewed as a Preliminary Plat by the Planning and Zoning Commission and finally approved by the City Council.~~
- ~~iv.~~ v. City Manager Endorsement. It will be unlawful to offer and cause to be filed any plan, plat, or replat of land within the City limits or ETJ of City of record with the appropriate County Clerk unless the plan, plat or replat bears the endorsement and approval of the City Manager (or designee).
- ~~b.~~ Approval Criteria (Administrative Plat). All subdivisions and plats of land will be reviewed using the criteria in this Code. Infrastructure construction plans must be filed and be consistent with Chapter 8 Environmental Protection, if needed. Subdivisions, plats and construction plans must be reviewed and approved before any final action may be taken by the City Manager (or designee) or the developer.
- ~~c.b. Responsibility for Final Action. The City Manager (or designee) is responsible for final action on Administrative Plat Reviews. If the City Manager (or designee) determines the Administrative Plat does not meet the approval criteria, the applicant may request that the application shall be forwarded to the Planning and Zoning Commission for its review and for its recommendation to City Council, which will take final action.~~
- ~~d.c.~~ Action Following Plat Approval. After approval of an Administrative Plat, the Developer will notify the City Engineer within ten (10) days which of the following construction procedure(s) the Developer proposes to follow:
- i. The Developer may file a Construction Plan, and upon approval of the Construction Plan by the City Manager (or designee), proceed with construction of streets, alleys, sidewalks, and utilities that the Developer is required to install. The City will inspect the work as it progresses, and upon completion and final acceptance by the City, and upon written request of the Developer, the approved ~~Final Plat plat may plat may~~ be approved and filed of record with the appropriate County Clerk; or
 - ii. The Developer may elect to post fiscal surety and assurance of construction, if required, as provided in Chapter 9 Infrastructure and Public Improvements, in which case the surety of assurance will be filed with the City, together with a request that the plat be filed for record. In this case, the plat will be filed with the appropriate County Clerk. ~~The Developer will pay the record filing fee.~~ The City will inspect the construction work as it progresses and will make the final inspection to assure compliance with City requirements; and upon completion of construction, the Developer will deliver to the City a two (2) year guarantee of workmanship and materials as provided in Chapter 9 Infrastructure and Public Improvements.
 - iii. The City Engineer shall issue letter accepting documents, providing the requisite authority for the Subdivider to proceed with the construction of streets and utilities.
- ~~e.d.~~ Recordation. After the City Manager (or designee) has approved the plat, the City Engineer has approved the Construction Plan and the Subdivider has either posted fiscal surety and assurance of construction (see Chapter 12 Compliance and Enforcement) or completed required provision of infrastructure and public improvements, the ~~Final Plat plat will plat will~~ be recorded in the Office

of the appropriate County Clerk. The Developer will pay the record filing fee as provided for in the City of Fair Oaks Ranch Fee Schedule Ordinance.

~~(3) Concept Plan~~

- ~~a. Purpose. The purpose of the Concept Plan is to provide for review of certain developments for compliance with the Comprehensive Plan, this Code, any additional adopted plans (e.g., Wastewater, Drainage or Water Plan), the compatibility of land uses, and the coordination of improvements within and among individual parcels of land or phases of development, prior to City approval of a Preliminary Plat.~~
- ~~b. Applicability:~~
 - ~~i. A Concept Plan is required for any development that meets any of the following criteria:~~
 - ~~1) If the property is undeveloped, is under one ownership, and is greater than 50 acres; or~~
 - ~~2) Is to be platted and developed in phases; or~~
 - ~~3) Will require off-site road, drainage, or utility connections or improvements that will have a substantial impact or effect on other properties or developments; or~~
 - ~~4) Is proposed for approval as a Planned Unit Development~~
 - ~~ii. The City Manager (or designee) will determine during the Pre-Application Conference for any plat application whether a Concept Plan is required in accordance with the purpose stated in this Code. The City Manager (or designee)'s decision to require a Concept Plan may be considered by the Planning and Zoning Commission upon written request of the applicant.~~
 - ~~iii. When a development is located on a portion of a large tract under one ownership, is developed in phases, or is located on land that was not legally subdivided, the developer may be required to submit a Concept Plan for review and recommendation to City Council by the Planning and Zoning Commission.~~
- ~~c. Approval Criteria. Concept Plans will be reviewed by the Commission using the applicable criteria for approval of subdivisions and plats in this Code, (Section 3.2) and forwarded to City Council for its review and final action.~~
- ~~d. Responsibility for Final Action. The Planning and Zoning Commission will make recommendations regarding a Concept Plan. The Commission will forward its recommendation to the City Council, which is responsible for final action on the Concept Plans.~~
- ~~Phases and Revisions. All current and future phases of development referenced in a Concept the Concept Plan will be designed and constructed in conformance with the Concept Plan. Any changes to project layout, land use, infrastructure design or construction, or other changes that would require a revision of subsequent plats or permits from what was originally proposed will require a revision of the Concept Plan prior to proceeding to apply for approval of subsequent development phases on the same property. All revisions to a Concept the Concept Plan will be subject to review and recommendation by the Commission and final approval by the City Council.~~
- ~~Certification of exhibits:~~
 - ~~Applicability. Prior to filing an application for a Concept Plan approval the applicant shall secure letters of certification as required by this UDC.~~
 - ~~Application requirements. Any request for a letter of certification shall be accompanied by an application and supporting documents prepared in accordance with this UDC.~~
 - ~~Processing of application and decision.~~

- ~~Submittal. A request for a letter of certification shall be submitted to the City Manager or designee or designee. The City Manager or designee or designee shall review the application for completeness. The City Manager or designee may request a review and recommendation from any other City department or consultant.~~
 - ~~Decision by the City Manager.~~
 - ~~After the City Manager or designee has determined whether the request for letters of certification and required technical data is complete, each certifying department shall issue comments, approve or deny a letter of certification within forty-five (45) calendar days. When a certifying department determines that the proposed plan, plat or any of the required accompanying data does not conform with the requirements of this ordinance or other applicable regulations, ordinances or laws, the applicant may at his/her option revise any nonconforming aspects. If any data is revised and resubmitted, the certifying department shall have up to thirty (30) calendar days from the latest date of submission to issue comments, approve or deny a letter of certification.~~
 - ~~If a letter of certification is not issued or denied within the time periods prescribed in subsection above, the same shall be deemed issued and the applicant may submit an application for plan or plat, without submitting the letter of certification.~~
 - ~~Scope of issuance. A letter of certification does not authorize the development or subdivision of land. Upon receipt of all required letters of certification, the applicant may submit an application for plan or plat approval. Letters of certification shall remain valid for one (1) year from the date of issuance by the certifying department. After that time period, new or updated letters of certification shall be required to file a application.~~
 - ~~Amendments. A letter of certification may be amended prior to filing an application for approval if the proposed amendment:~~
 - ~~Does not increase the number of lots subject to the application.~~
 - ~~Does not increase by more than five percent (5%) the lineal footage of roadways or the areas within the paved surface of the street right-of-way.~~
 - ~~Does not reduce the amount of open space within the proposed subdivision.~~
 - ~~Does not alter or change the approved stormwater plan.~~
 - ~~Letter of certification authorization. A letter of certification is not recorded. A letter of certification shall be maintained by the applicant and presented with the application for plan or plat approval.~~
- i. —

(4) (3) Preliminary Plat Review

a. Applicability:

- i. Other than for an Administrative Plat Review identified in Section 3.8(2) Preliminary Plat approval will be required before any land is subdivided.
- ii. Preliminary Plats are required for land being divided into separate parcels, plats with five or more lots, and any plats that require ~~a dedication of land~~ public improvements that will be dedicated to the City.

- iii. It will be unlawful to offer and cause to be recorded any Preliminary Plat of land within the City limits or extraterritorial jurisdiction of City with the appropriate County Clerk by any party other than the City Manager or another duly authorized representative of the City.
- ~~iii-iv. Preliminary Plat is not required for plats where Replat is applicable.~~
- b. Preliminary Plat Application Requirements:
 - i. Engineering Information. Submission requirements for the Preliminary Plat will be established by the City Manager (or designee) and will include basic engineering information, in accordance with the Engineering Design Standards Manual, Appendix D of this Code necessary for the Planning and Zoning Commission to render an informed recommendation and for the City Council to render an informed decision (Detailed engineering information will be required for the Final Plat).
 - ii. Signature Block. A plat submitted for consideration as a Preliminary Plat is not required to have an area or signature block for any endorsement and approval by the City Council, as is required to file the Final Plat with the appropriate County Clerk.
 - ~~iii. Approved Concept Plan. No Preliminary Plat for a project requiring a Concept Plan may be submitted without a copy of the approved Concept Plan.~~
- c. Approval Criteria. Subdivisions and plats of land will be reviewed using the criteria specified or referenced in this Code (Section 3.2).
- ~~d. Waivers. The Commission may recommend to City Council the approval, approval with conditions, or disapproval of waivers of the standards required for plat approval, by using the criteria for consideration of Variances in Section 3.9. The request for waivers will be approved prior to approval of the Preliminary Plat.~~
- ~~e-d.~~ Responsibility for Final Action. The Commission will make recommendations regarding Preliminary Plat approval and forward its recommendation to the City Council for final action.
- e. Action Following Preliminary Plat Approval. After approval of a Preliminary Plat, the Subdivider will prepare and submit a Final Plat.
- f. Certification of exhibits: Refer to Section 3.8 (3) f.

(5) (4) Final Plat Approval

- a. Applicability:
 - i. Preliminary Plat and Construction Plan for all public improvement. Final Plats are technically complete versions of an already approved Preliminary Plat. No Final Plat may be considered or approved unless the Preliminary Plat and detailed engineering and Construction Plan for all public improvements for the same land has been approved.
 - ii. Review. Final Plat review is required to ensure that a final recorded plat conforms to the Preliminary Plat as approved by the City Council and to the Construction Plan as approved by the City Manager or designee. The Final Plat must incorporate all changes from the Preliminary Plat that were considered and approved by the City Council and from the approved Construction Plan for all public improvements.
- b. Final Plat Application Requirements:
 - ~~i. Engineering Information. Submission requirements for the Final Plat will be developed by the City Manager, and will include detailed engineering information necessary for the Planning and Zoning Commission to render an informed recommendation and for the City Council to render an informed decision.~~

- i. Submission Requirements. Applications must be made in a format consistent with requirements established by the City Manager (or designee). Applications must include all materials determined necessary by the City Manager (or designee).
 - ii. Support Documentation. When filed, the Final Plat must also provide all support documentation required by the appropriate County Clerk's office for recordation.
 - iii. Signature Block. A plat submitted for consideration as a Final Plat must have an area or signature block for any endorsement and approval by the City Council, as required to file the Final Plat with the appropriate County Clerk.
 - iv. Fiscal Security. ~~Estimates for posting fiscal surety for landscaping requirements, maintenance, erosion and sedimentation control, roads, and utilities are also required for Final Plat review.~~ If public improvements are not completed and accepted prior to submittal of a Final Plat for consideration, estimates for posting fiscal surety for landscaping requirements, maintenance, erosion and sedimentation control, roads, and utilities are also required for Final Plat review.
- c. Approval Criteria:
 - i. Review. Subdivisions and plats of land will be reviewed using the criteria in this Code (Section 3.2) and any technical criteria referenced by this Code.
 - ii. Preliminary Plat. A Final Plat must be determined to be consistent with a previously approved Preliminary Plat.
 - iii. Construction Plan. The City Manager (or designee) must approve a construction plan for compliance with this Code and any required or agreed upon improvements, prior to approval of Final Plats.
- d. Responsibility for Final Action. The Commission will make recommendations regarding Final Plat approval and forward those recommendations to the City Council for final action.
- ~~e. Recordation. If the City Council has approved the Final Plat, the City Manager (or designee) has~~
e. approved the construction plans and the Subdivider has either posted fiscal surety and assurance of construction, or completed the required infrastructure and public improvements, the Final Plat becomes the instrument to be recorded in the Office of the appropriate County Clerk when all requirements have been met. The Subdivider will pay all associated fees ~~the record filing fee~~ and the City will file the Final Plat with the appropriate County Clerk within 60 days.
- f. Certification of exhibits: Refer to Section 3.8 (3) f.

(6)(5) Replat

- a. Applicability:
 - i. Replat. A replat is any plat that complies with LGC §212.014, §212.0145, and §212.015, as amended, which is generally submitted to replat a subdivision or part of a subdivision without vacation of the original plat.
 - ii. Portions. Replatting a portion of a recorded lot is not permitted.
 - iii. Development. A replat does not itself constitute approval for development of the property.
- b. Replat Application Requirements. Submission requirements for a replat will be similar to those required for Final Plats. Applications must be made in a format consistent with requirements established by the City Manager (or designee). Applications must include all materials determined necessary by the City Manager (or designee).

c. Approval Criteria:

- i. Review. Replats will be reviewed using the criteria in this Code (Section 3.2) and any technical criteria referenced by this Code.

ii. Construction Plan. The City Manager (or designee) must approve a construction plan for compliance with this Code and any required or agreed upon improvements, prior to approval of replat (if applicable).

~~ii.~~

- d. Responsibility for Final Action. The Commission will make recommendations regarding the ~~Final Plat- Replat~~ approval and forward those recommendations to the City Council for final action.

~~e.~~ Recordation. If the City Council has approved the replat, ~~the City Manager (or designee) has e. approved the construction plans~~ and the Subdivider has either posted fiscal surety and assurance of construction, or completed the required infrastructure and public improvements, the Replat becomes the instrument to be recorded in the Office of the appropriate County Clerk when all requirements have been met. The Subdivider will pay- all associated fees ~~the record filing fee~~ and the City will file the Replat with the appropriate County Clerk within 60 days.

~~f.~~

~~g.f.~~ Additional Requirements for Certain Replats.

- i. Public Notice. In addition to a public hearing, public notice is required for a replat of a preceding plat if:
 - 1) During the preceding five (5) years, any of the area to be replatted was limited by an interim or permanent zoning classification to residential use for not more than two (2) residential units per lot; or
 - 2) Any lot in the preceding plat was limited by deed restrictions to residential use for not more than two (2) residential units per lot.
- ii. Notice Requirements. Notice of the required hearing will be given ~~before the 15th day at least 16 days~~ before the date of hearing by:
 - 1) Publication in an official newspaper or a newspaper of general circulation in the area in which the municipality is located; and
 - 2) By written notice, with a copy of Subsection (iii) below attached, forwarded by the municipal authority responsible for approving plats to the owners of lots that are in the original subdivision and that are within 200 feet of the lots to be replatted, as indicated on the most recently approved municipal tax roll or in the case of a subdivision within the extraterritorial jurisdiction, the most recently approved county tax roll of the property upon which the replat is requested. The written notice may be delivered by depositing the notice, properly addressed with postage prepaid, in a post office or postal depository within the boundaries of the municipality.
- iii. Variances. If the proposed replat requires a Variance and is protested in accordance with this subsection, the proposed replat must receive, in order to be approved, the affirmative vote of at least three-fourths of the members present of the Planning and Zoning Commission or City Council, or both. For a legal protest, written instruments signed by the owners of at least 20 percent of the area of the lots or land immediately adjoining the area covered by the proposed replat and extending 200 feet from that area, but within the original subdivision, must be filed with the Commission or City Council, or both, prior to the close of the public hearing.

- iv. In computing the percentage of land area under Subsection (iii), the streets and alleys will be included.

v. Compliance with Subsections (iii) and (iv) is not required for approval of a replat of part of a preceding plat if the area to be replatted was designated or reserved for other than single or duplex family residential use by notation on the last legally recorded plat or in the legally recorded restrictions applicable to the plat.

g. Certification of exhibits: Refer to Section 3.8 (3) f.

(6) Construction Plans (City Engineer Approval)

- a. Applicability. Construction plans must be submitted to the City Engineer prior to a Final Plat submittal for all existing or proposed streets, sidewalks, drainage and utility improvements, water quality controls, park improvements, and any other infrastructure or public improvements that are required or proposed to be constructed, reconstructed, improved, or modified to serve the development. Where the Final Plat is for property being developed in phases, the required construction plans must include the improvements specified in the ~~Concept Plan~~ or Preliminary Plat to serve the phase being platted. The construction plans are intended to provide for the detailed engineering drawings for all improvements required to serve the development. The construction plans must be kept as a permanent record of the City. The City Engineer, as referenced in this Code is acting as agent for the City Manager, and will have the powers specified in this Code only to the extent that the Engineer is expressly delegated those powers by the City Manager.
- b. Applications.— Applications must be made in a format consistent with requirements established by the City Manager (or designee). Applications must include all materials determined necessary by the City Manager (or designee).
- ~~b.c.~~ Responsibility of Subdivider's Engineer. The registered professional engineer representing the Subdivider is responsible for the accuracy, completeness and conformance of all plans to City standards and must certify (with seal) the construction plans as to accuracy and design and conformance with all applicable City requirements. The City assumes no project design or engineering responsibility. The Subdivider's professional engineer certifying the plans is responsible for the accuracy and completeness of the documents and the soundness of the designs as submitted for review and actual construction.
- ~~c.d.~~ Approval Criteria. The purpose of the City Engineer's review is to ensure conformance to City policies and standards (Section 3.2); however, the City Engineer's review is limited to facts as presented on submitted plans. The City Engineer will approve any Construction Plan that is submitted and sufficiently shows compliance with any City approved or adopted design or construction criteria manuals, or in the absence of City approved or adopted design requirements, standard engineering practices. The City Engineer may not approve a Construction Plan that does not adequately represent construction of the approved infrastructure and public improvements included in the approved ~~administrative or preliminary~~ plat, or that he / she knows does not comply with this Code or other applicable law.
- ~~d.e.~~ Corrections to Actual Conditions. ~~—~~The City reserves the right to require corrections to actual conditions in the field that are found to be contrary to or omitted from submitted plans.
- f. Responsibility for Final Action. The City Engineer is responsible for final action on Construction Plans.

(7) Waivers:

The Commission may recommend to City Council the approval, approval with conditions, or disapproval of waivers of the standards required for plat approval, by using the criteria for consideration of Variances in Section 3.9. The request for waivers will be approved prior to approval of Plats.

Section 3.9 Site Development Related Applications

This section applies to general issues related to development within the City of Fair Oaks Ranch and within the City's extraterritorial jurisdiction (ETJ).

- Letter of Regulatory Compliance
- Written Interpretation of the Unified Development Code Master or Common Sign Plan
- Temporary Use Permit
- Special Exception
- Site Plan Review, Site Development Permit, Stormwater Permit and Floodplain Development Permit
- Certificate of Design Compliance
- Appeal of an Administrative Decision
- Variance
- Sign Permit
- On-Site Sewage Facility Permit (OSSF)

(1) Letter of Regulatory Compliance (City Manager Approval)

- a. Applicability. The Subdivider may obtain a Letter of Regulatory Compliance from the City Manager (or designee) prior to commencing work on any development and may be required to do so by the City as part of an application for another procedure. The Letter of Regulatory Compliance certifies that specific uses of land and any new development is in compliance with the requirements of these development regulations. Applications must be made in a format consistent with requirements established by the City Manager (or designee). Applications must include all materials determined necessary by the City Manager (or designee).
- b. Types of Letters of Regulatory Compliance:
 - i. Zoning Verification Letter. A Zoning Verification Letter is a letter that indicates to a property owner that a specified use, clearly identified in the application, is permitted within the Zoning District. A Zoning Verification Letter does not vest the property owner with permission to proceed with a development; does not specify requirements that must be met for future development; and does not include a determination that a tract of land may be developed. The City Manager (or designee) may include additional information about the uses and standards required for a development to proceed, however, and such additional information does not constitute permission to proceed with development.
 - ii. Legal Lot Verification Letter. A Legal Lot Verification Letter is a letter in accordance with LGC §212.0115 that indicates whether or not a lot has been properly platted.
 - iii. Responsibility for Final Action. The City Manager (or designee) is responsible for final action.

(2) Written Interpretation of the Unified Development Code (City Manager Approval)

- a. Applicability. The City Manager (or designee) will have the authority to make all written interpretations of this Code. Whenever there appears to be an uncertainty, vagueness, or conflict in the terms of the Code, the Manager, in consultation with City Staff, City Engineer, or the City Attorney, as may be appropriate, will make every effort to interpret the Code in such a way that it fulfills the goals of the Comprehensive Plan and this Code. The interpretation given by the City Manager (or designee) will be final unless an appeal is made by the applicant to the City Council Zoning Board of Adjustments to overturn his decision. In such a case the burden will be on the applicant to prove that the City Manager (or designee)'s interpretation is unreasonable and in clear conflict with the governing law and the goals of the Comprehensive Plan.
- b. Specific Application Requirements for Written Interpretation. Submission requirements for written interpretations will be developed by the City Manager (or designee). Applications must be made in a format consistent with requirements established by the City Manager (or designee). Applications must include all materials determined necessary by the City Manager (or designee).
- c. Approval Criteria (Written Interpretation). In addition to the general criteria for consideration of administrative procedures in Section 2.3 of this Code, the City Manager (or designee) will determine, based on analysis of the requested interpretation, and considering this Code, the correct interpretation for whatever question is raised.

(3) Master or Common Sign Plan (City Manager Approval)

- a. Applicability. A master sign plan will be required for all multiple-tenant buildings, PUDs, and all multi-building or multi-occupant commercial developments before any signs for such development may be erected on the property. All owners, tenants, subtenants and purchasers of individual units within the development will comply with the approved master sign plan.
- b. Criteria for Approval. In addition to the general administrative review criteria in Section 2.3, in order to approve the Master Sign Plan the City Manager (or designee) must determine Plan provides that signs of a similar type and function within the development will have a consistent size, lettering style, color scheme and material construction, and meet the size and height limitations, location requirements, and other applicable requirements of this Code. Applications must be made in a format consistent with requirements established by the City Manager (or designee). Applications must include all materials determined necessary by the City Manager (or designee).
- b-c. Responsibility for Final Action. The City Manager (or designee) is responsible for final action.

(4) Temporary Use Permit (City Manager Approval)

- a. Applicability. Temporary uses, as per Section 4.12, are required to obtain a Temporary Use Permit from the City Manager (or designee). The permit specifies the use, the period of time for which it is approved, and any special conditions attached to the approval. Applications must be made in a format consistent with requirements established by the City Manager (or designee). Applications must include all materials determined necessary by the City Manager (or designee).
- a-b. Approval Criteria. In addition to the general criteria for consideration of administrative procedures, the City Manager (or designee) will consider whether the application complies with the following standards:

- i. Land Use Compatibility. The temporary use must be compatible with the purpose and intent of this Code and the Zoning District in where it will be located. The temporary use will not impair the normal, safe, and effective operation of a permanent use on the same site. The temporary use will not endanger or be materially detrimental to the public health, safety or welfare, or injurious to property or improvements in the immediate vicinity of the temporary use, given the nature of the activity, its location on the site, and its relationship to parking and access points.
- ii. Compliance with Other Regulations. A Building Permit or temporary Certificate of Occupancy may be required before any structure to be used in conjunction with the temporary use is constructed or modified. All structures and the site as a whole will meet all applicable Building Code, Zoning District, and Fire Code standards and will be promptly removed upon the cessation of the use or event. Upon cessation of the event or use, the site will be returned to its previous condition (including the removal of all trash, debris, signage, attention attracting devices or other evidence of the special event or use).
- iii. Duration. The duration of the temporary use will be consistent with the intent of the use and compatible with the surrounding land uses. The duration will be established by the City Manager (or designee) at the time of approval of the Temporary Use Permit.
- iv. Traffic Circulation. The temporary use will not cause undue traffic congestion or safety concerns, as determined by the City Engineer, given anticipated attendance and the design of adjacent streets, intersections and traffic controls.
- v. Off-Street Parking. Adequate off-street parking will be provided for the temporary use, and it will not create a parking shortage for any of the other existing uses on or near the site.
- vi. Appearance and Nuisances. The temporary use will not cause any temporary or permanent nuisance. The temporary use will be compatible in intensity, appearance and operation with surrounding land uses in the area, and it will not impair the usefulness, enjoyment or value of adjacent property due to the generation of excessive noise, dust, smoke, glare, spillover lighting, or other forms of environmental or visual pollution.
- vii. Other Conditions. The City Manager (or designee) will consider any other conditions that may arise as a result of the temporary use.
- viii. Public Conveniences and Litter Control. Adequate on-site rest room facilities and on-site solid waste containers may also be required. The applicant will provide a written guarantee that all litter generated by the event or use will be removed within a reasonable and appropriate timeframe at no expense to the City. The guarantee will be in a form and substance approved by the City Manager (or designee), which may include the requirement of a fiscal posting.
- ix. Signs and Attention-Attracting Devices. The City Manager (or designee) will review all signage in conjunction with the issuance of the permit. The City Manager (or designee) may approve the temporary use of attention attracting devices that generally conform to the requirements of this Code. The City Manager (or designee) may establish any additional conditions deemed necessary to ensure land use compatibility and to minimize potential adverse impacts on nearby uses, including, but not limited to, time and frequency of operation, temporary arrangements for parking and traffic circulation, requirements for screening/buffering, and guarantees for site restoration and cleanup following the temporary use.

~~b-c.~~ Responsibility for Final Action. The City Manager (or designee) is responsible for final action.

(5) Special Exception

- a. Applicability:
 - i. Application. The City Manager (or designee) may request that the Zoning Board of Adjustment consider a Special Exception, specifically permitted by this code, if an application for one is received.
 - ii. Circumstances. In order to provide a method by which human error (e.g., miscalculations) may be corrected, or deviations may be approved in certain circumstances, Special Exceptions may be permitted. Special Exceptions are specified deviations from otherwise applicable development standards where development is proposed that would be:
 - 1) Compatible with surrounding land uses.
 - 2) Harmonious with the public interest.
 - 3) Consistent with the purposes of this Code.
 - iii. The Board will have the authority to authorize an adjustment of up to ten (10) percent of any numerical standard.
 - iv. Special Exceptions require compliance with all other elements of this Code not specifically excused or permitted by the Special Exception.
- b. Application Requirements for Special Exceptions. Applications for Special Exceptions must be made in a format consistent with requirements established by the City Manager (or designee). Applications must include all materials determined necessary by the City Manager (or designee).
- c. Approval Criteria. To approve an application for a Special Exception, the ~~City Council~~ Zoning Board of Adjustments must determine that granting the Special Exception will:
 - i. Serve an obvious and necessary purpose.
 - ii. Ensure an equal or better level of land use compatibility than the otherwise applicable standards.
 - iii. Not materially or adversely affect adjacent land uses or the physical character of uses in the immediate vicinity of the proposed development because of inadequate buffering, screening, setbacks or other land use considerations.
 - iv. Not adversely affect adjoining property values in any material way.
 - v. Generally consistent with the purposes and intent of this Code.
- d. Responsibility for Final Action. The Zoning Board of Adjustment is responsible for final action.

(6) Site Plan Review, Site Development Permit, ~~Stormwater Permit~~ and Floodplain Development Permit (City Manager or Designee Approval)

- a. Applicability. Prior to any excavation, clearing, or other land alteration for the purpose of development within the City limits an applicant must submit a Site Plan for approval and issuance of a site Development Permit under this section—~~—~~. A development within the ETJ must submit a Site Plan for approval of drainage and water quality provisions. No such excavation or development will be lawful or permitted to proceed without issuance of a site Development Permit. All improvements reflected on approved Site Plans must be constructed at the time of development. All terms and conditions of site Development Permit approval must be met at the time of development.

- b. Criteria for Approval. A Site Plan will be approved, and a site Development Permit issued if the development is in compliance with the general criteria for approval of administrative review procedures, the requirements of Chapters 6 Site Development Standards and ~~7-DesignBuilding Form~~ Standards, of this Code and compliance with the following:
 - i. The Concept Plan and development agreement or ordinance governing the parcel of land to which the Site Plan is related.
 - ii. Any additional Site Plan approval criteria required under Chapter 7 Design Standards of this code, or any additional approval criteria for overlay districts, or any Site Plan approval criteria adopted as part of a neighborhood or special area plan.

Prior to final approval of any Site Plan within the city limits, the City Engineer must certify to the City Manager (or designee) that the Site Plan meets all requirements for a Stormwater Permit. Approval of the Site Plan constitutes approval of the Site Development Permit and Stormwater Permit.

- c. Responsibility for Final Action. Chapter 2 Review Authority and Procedures specifies the entity responsible for issuance of a Site Development Permit. The City Manager (or designee) is responsible for final action on Site Development Permits as required by this code.

(7) Stormwater Permit (City Engineer Approval)

- a. Applicability. A Stormwater Permit is required prior to any land disturbance within the city limits or the City's extraterritorial jurisdiction (ETJ) to ensure conformance to the stormwater management provisions and other applicable requirements of this Code. Issuance of a Site Development Permit or a Final Plat for a single-family residential subdivision within the city limits constitutes approval of a Stormwater Permit for that specific development.
- b. Criteria for Approval:
 - i. Professional Engineer. The applicant must ensure that the application for a Stormwater Permit was prepared or reviewed and approved in writing by a licensed professional engineer prior to submission to the City.
 - ii. Stormwater and Pollution Management Requirements. A Stormwater Permit will be issued after the City Engineer has determined that the development meets the stormwater and pollution management requirements of Chapters 8, Environmental Protection and 9, Infrastructure and Public Improvements of this Code.
 - ~~iii. ETJ. Prior to issuance of a Stormwater Permit, the City Manager (or designee) or City Council must approve the Site Plan for projects within the City's ETJ to ensure any required compliance with this Code, as required in Section 2.3.~~
 - ~~iv.~~iii. Applicable Related Permits. A Stormwater Permit approved by the City is conditioned upon approval of all applicable related permits required from the Texas Environmental Quality Commission (TCEQ), the U.S. Environmental Protection Agency (EPA) or any other state or federal agency being issued by that agency. Permits issued by entities such as the EPA, which may issue permits closer in time to construction, will be made available to the City within seven (7) days after having received such permit(s).
- c. Responsibility for Final Action. The City Engineer is responsible for final action.

(8) Appeal of an Administrative Decision

Procedures, including initiation of appeals of administrative decisions, are explained in Chapter 2 Review Authority and Procedures. Appeals of zoning related decisions and similar regulations will be heard by the Zoning Board of Adjustment as per Section 2.3.

The appeal must be filed not later than the 20th day after the date the decision is made. The Zoning Board of Adjustment shall decide the appeal at the next meeting for which notice can be provided following the hearing and not later than the 60th day after the date the appeal is filed, in compliance with LGC 211.010(d)).

All other administrative appeals will be heard by the City Council.

- a. Effect of Appeal. All development activities permitted by the action being appealed, or any subsequent approval, must stop upon appeal, and remain inactive until the appeal is resolved. All activities remain stayed, unless if the City Manager (or designee) certifies in writing that such a cessation of activity would cause imminent peril to life and property, the development may proceed, in which case a restraining order granted by the board or a court of record on application and notice to the City is granted upon a showing of due cause. unless a restraining order is issued by a competent court of record.
- b. Approval Criteria. The appropriate governing body will consider whether official action was appropriate considering the facts of the case and the requirements contained in this Code. The City Council will make its decision based on this Code and the information presented by the applicant and the City Manager (or designee).
 - i. Basis for Appeal. An applicant may only appeal the specific reasons given for the administrative disapproval or denial. An applicant may not appeal the disapproval or denial without effectively establishing that the specific basis for the administrative disapproval or denial was incorrect.
 - ii. Burden of Proof in Appeals. When an appeal is made to the City Council, the City Manager's (or designee's) action is presumed to be valid. The applicant will present sufficient evidence and have the burden to justify a reversal of the action being appealed. The City Manager (or designee) may present evidence and argument to the contrary. When an appeal is made to the Zoning Board of Adjustment, a decision to reverse a determination by the City Manager (or designee) or other administrative official, or to otherwise rule in favor of an applicant on a variance on the terms of the zoning ordinance, shall require a vote of 75 percent of the members of the Board, as per Local Government Code, 211.009 (c).
 - iii. Crucial Findings. All findings and conclusions necessary to the permit or appeal decision will be based upon reliable evidence. Competent evidence will be preferred whenever reasonably available, but in no case may crucial findings be based solely upon incompetent evidence unless competent evidence is not reasonably available, the evidence in question appears to be particularly reliable, and the matter at issue is not seriously disputed.
 - iv. Responsibility for Final Action. Where appeals are to City Council, the Council is responsible for final action. Where appeals are made to the Zoning Board of Adjustment, the Board's action is considered final, subject only to judicial review.

(9) Variance

- a. Applicability:

- i. Judicial Variance. The Zoning Board of Adjustment will have the authority to hear and grant requests for a Variance or exception to the zoning-related development standards of this Code.
- ii. Policy Variance. The City Council will have the authority to hear and grant requests for a Variance from all other development standards upon the recommendation of the Planning and Zoning Commission.
- ~~iii.~~ —Waivers of plat approval standards. Waivers of the standards required for plat approval are not considered Variances and must be requested from the Planning and Zoning Commission and then the City Council during the plat review process. These waivers must be approved prior to approval of the plat.
- ~~iii.~~ —
- iv. Minimum or Maximum Measurement. Any Variance request up to ten (10) percent of any minimum or maximum measurement required by this Code may be treated as a Special Exception as per Section 3.9 of this Unified Development Code if the City Manager agrees to recommend the Special Exception.
- v. Precedent. A Variance to the development standards of this Code will be considered an exception to the regulations contained herein. Granting of a Variance in one case does not set a precedent for a subsequent case. Each Variance request will be judged on its own merit based on subparagraph (b) below.
- b. Criteria for Review:
 - i. Required Findings. A Variance from the requirements of this code may be granted by the governing body under certain circumstances. To grant a Variance, the body must find that the literal enforcement of this code would result in unnecessary hardship, and also find that the spirit of the ordinance will be served, and substantial justice done, by granting the Variance or exception. In making the required findings, the authorizing body will take into account the nature of the proposed use of the land involved, the existing use of land in the vicinity, the number of persons who will reside or work in the proposed development, the possibility that a nuisance may be created, and the probable effect of such Variance upon traffic conditions and upon public health, convenience, and welfare of the vicinity. No Variance will be granted unless the authorizing body finds that all of the following apply:
 - ~~1)~~ —There are extraordinary or special conditions affecting the land involved such that strict application of the provisions of this Code will deprive the applicant of a reasonable use of its land. For example, a Variance might be justified because of topographic, or other special conditions unique to the property and development involved, while it would not be justified due to inconvenience or financial disadvantage;
 - ~~1)~~ —
 - ~~2)~~ —The Variance is necessary for the preservation of a substantial property right of the applicant;
 - ~~2)~~ —
 - ~~3)~~ —Granting of the Variance will not be detrimental to the public health, safety, or welfare, or injurious to other property in the area, or to the City in administering this Code;
 - ~~3)~~ —

- ~~4)~~ Conditions that create the need for the Variance do not generally apply to other property in the vicinity;
- ~~4)~~
- ~~5)~~ Conditions that create the need for the Variance are not the result of the applicant's own actions;
- ~~5)~~
- ~~6)~~ Granting of the Variance would not substantially conflict with the Comprehensive Plan and the purposes of this Code; and
- ~~6)~~
- ~~7)~~ Because of the conditions that create the need for the Variance, the application of this Code to the particular piece of property would effectively prohibit or unreasonably restrict the utilization of the property.
- ~~7)~~
- 8) Finding of undue hardship as applied to a structure. In considering a judicial variance as applied to a structure, the Zoning Board of Adjustment may consider the following as grounds to determine whether an unnecessary hardship would result from compliance with the UDC:
 - I. The financial cost of compliance is greater than 50 percent of the appraised value of the structure as shown on the most recent appraisal roll certified to the assessor for the municipality under V.T.C.A., Tax Code, § 26.01;
 - II. Compliance would result in a loss to the lot on which the structure is located of at least 25 percent of the area on which development may physically occur;
 - III. Compliance would result in the structure not being in compliance with a requirement of a municipal ordinance, building code, or other requirement;
 - IV. Compliance would result in the unreasonable encroachment on an adjacent property or easement; or
 - V. The city considers the structure to be a nonconforming structure.

Insufficient Findings. The fact that property may be utilized more profitably should a Variance be granted may not be considered, standing alone, as grounds for a Variance. Additionally, the following types of possible findings do not constitute sufficient grounds for granting a Variance:

Property cannot be used for its highest and best use;

There is a financial or economic hardship. There is a self-created hardship by the property owner his / her agent; or

The development objectives of the property owner are or will be frustrated.

- c. Limitations. The governing body may not grant a Variance when the effect of the Variance would allow any of the following:
 - i. The establishment of a use not otherwise permitted in the applicable Zoning District;
 - ii. Increase the density of a use above that permitted by the applicable district;

- iii. A nonconforming use of land to be physically extended;
 - iv. Change the Zoning District boundaries shown on the Official Zoning Map; or
 - v. Conflicts with any State or Federal regulations.
- ~~d.~~ Limitation on Variances for Signs. No Variance for a sign may increase the overall permitted area of a sign. Sign-related Variances may only be granted, in accordance with this section, for height or other location restrictions.
- ~~e.d.~~ Variances from Water Quality, Floodplain, or Stormwater Management Regulations~~---~~.
- ~~f.e.~~ Following recommendation for the City Manager (or designee) the City Council will make a final decision on any Variance request from water quality, floodplain, or stormwater management regulations.
- ~~g.f.~~ Responsibility for Final Action:
- vi. Policy Variance. Policy Variance requests will be reviewed by the Planning and Zoning Commission and its recommendations forwarded to the City Council for final action on the Variance request.
 - vii. Judicial Variance. Judicial Variance requests will be reviewed by the Zoning Board of Adjustment which is responsible for final action on the request.

(10) Sign Permit

Applicability. No sign may hereafter be erected, moved, added to, or structurally altered within the City or the ETJ without a permit issued by the City Manager (or designee) in conformity with the provisions of this Section and Section 10.4 of this Code. No Building Permit issued under the provisions of this Code for signs will be considered valid unless signed by the City Manager (or designee).

- a. Criteria for Approval. In addition to the general criteria for approval of administrative procedures, the City Manager (or designee) will base the final action on the following criteria:
 - i. Building Code. Whether the intended sign conforms in all respects with all applicable regulations and standards of this Code and any applicable construction or safety standards of the City's Building Code.
 - ii. Master Sign Plan. If the subject property has a Master Sign Plan, development agreement or ordinance governing it, whether the plans, specifications and intended use of such building or structures or part thereof, including the proposed sign, conform in all respects to the development agreement or ordinance.
- b. Responsibility for Final Action. The City Manager (or designee) is responsible for final action~~---~~. Appeals of City Manager (or designee) actions regarding sign-related Building Permits will be considered and decided by the Zoning Board of Adjustment.

(11) On-Site Sewage Facility Permit (City Manager or County Approval)

Applicability. On-site Wastewater (OSSF) Permits will be required from the appropriate County for any development that applies for a Development Permit and wishes to use a septic tank or similar type of OSSF. The approved county permit must be presented before installing new or replacement Septic Systems.

- a. Approval Criteria. Bexar, Comal and Kendall Counties each have established ~~its-their~~ own criteria for review and approval for OSSF Permit applications. The Applicant must contact the County Environmental Health Department in the County in which the property is located for further information.

- b. Responsibility for Final Action. County in which the property is located is responsible for final action.

(12) Building Permits

- a. Applicability. An application for a Building Permit is required within the city limits, or for property located in the City's ETJ that is part of a development agreement, prior to placement or construction of a building or structure. The Address Plat needs to be submitted to city staff -prior to permits being issued. Approval of an application for a Building Permit authorizes the property owner to construct, alter or place a structure on the lot, tract or parcel. Approval of an application for a Building Permit also authorizes the property owner, upon completion of a structure intended for human occupancy, to make application for a Certificate of Occupancy (CO).
- b. Review Process and Application. An application for a Building Permit will be prepared in accordance with the requirements established by the City Manager (or designee). Applications must include all materials determined necessary by the City Manager (or designee). The City will make information regarding the format requirements and materials required for the application available.
- c. Approval Criteria. The Building Official will determine whether to approve a Building Permit based on the following criteria:
 - i. Application. The application generally conforms to all prior approved development applications for the property and any Variance petition authorizing variation from the standards otherwise applicable to the permit;
 - ii. Building Site. The location of the structure on the property is in accordance with all prior approved development applications;
 - iii. ~~Conforms~~ Conformance. The proposed plan for construction or alteration conforms to the Building Code and other applicable ~~construction~~ codes adopted by the City;
 - iv. Fees. All applicable fees, including impact fees, have been paid;
 - v. Final Plat. The Final Plat of the property has been recorded in the County plat records; and
 - vi. Infrastructure. All public infrastructure required has been installed and accepted by the City or appropriate surety has been posted guaranteeing the construction of the required public infrastructure.
- d. Expiration and Extension:
 - i. Expiration. A Building Permit for all development will expire if the building or work authorized by such permit is not commenced and completed within 365 days from the date of issue of such permit, or if the building or work authorized by such permit is suspended or abandoned at any time after the work is commenced for a period of 365 days. ~~For all other types of development, A Building Permit will expire if the building or work authorized by such permit is not commenced within 270 days from the date of such permit, or if the building or work authorized by such permit is suspended or abandoned at any time after the work is commenced for a period of 270 days. Before such work can be recommenced, a new permit will be first obtained to do so, and the fee for the new permit will be one-half (1/2) the amount required for a new permit for such work, provided no changes have been made or will be made in the original plans and specifications for such work, and that the suspension or abandonment has not exceeded one (1) year. If the~~

~~suspension or abandonment has exceeded one (1) year, the permit fee will be the full fee for a new permit and will comply with all codes and ordinances applicable at that time.~~

- ii. Extension—Any permittee holding an unexpired permit may apply for an extension of the time within which work may commence or complete under that permit when the permittee is unable to commence work within the time required by this section for good and satisfactory reasons. The building official may extend the time for action by the permittee for a period not exceeding 180 days on written request by the permittee showing that circumstances beyond the control of the permittee have prevented action from being taken. No permit will be extended more than ~~once~~ twice.
- e. Responsibility for Final Action. The City Manager (or designee) is responsible for final action on Building Permits as required by this Code.

(13) Certificates of Occupancy (CO)

- a. Applicability. Approval of a Certificate of Occupancy (CO) authorizes habitation or other occupancy of the structure in accordance with the terms of the certificate. An application for a CO is required within the city limits, or for property located in the City's ETJ that is part of a development agreement, after the construction, alteration or placement of a structure on a lot, tract or parcel and prior to habitation or any use of the structure. A CO is not to be confused with a "Certificate of Completion" for structures that require a permit but are not suitable for living, ~~i.e.,~~ fences, pergolas, decks etc. A CO ~~also is~~ also required prior to a change in the use of any structure. A CO is required for the following:
 - i. Occupancy. Occupancy and use of a building hereafter erected or structurally altered by more than 50 percent;
 - ii. Change in Use of Building. Change in use of an existing building to a use of a different classification.
 - iii. Change in Use of Land. Change in the use of land to a use of a different classification.
 - iv. Non-conforming Use. Any change in the use of a non-conforming use.
- b. Review Process and Application. In most cases a CO will be issued following a successful final inspection but in the case of a change of use an application for a CO will be prepared in accordance with the requirements established by the City Manager (or designee). Applications must include all materials determined necessary by the City Manager (or designee). The City will make information regarding the format requirements and materials required for the application available.
- c. Criteria for Approval. The Building Official will apply the following criteria in deciding the application for a Certificate of Occupancy:
 - ~~i.~~ Building Site. The location of the structure on the property is in accordance with the approved application for the Building Permit;
 - ~~ii.~~ Change of Use. Where a change of use in an existing structure is proposed, the use conforms to the use regulations governing the property;
 - ~~iii.~~ The Structure. The structure, following inspection by the building official, was built in conformity with the Building Code, Fire Code and other applicable building regulations;
 - ~~iii.~~

~~iv.~~ Infrastructure.— All required infrastructure including, but not limited to, water, wastewater, streets, drainage, electric, and gas infrastructure has been installed, completed and is operational to the subject property; and that;

~~iv.~~

~~v.~~ There are no outstanding permit requirements, including delinquent taxes;

~~v.~~ The building site and structure are in compliance with all applicable city codes.

d. Revocation of Certificate.— The Building Official may institute proceedings to revoke a CO whenever the official determines that the certificate has been issued in error, or on the basis of incorrect information supplied, or that the use, dimensions, or other features of the structure authorized for occupancy, or any portion thereof, is in violation of any provision of this Code, of the Building Code or other construction codes.

e. Responsibility for Final Action. The City Manager (or designee) is responsible for final action on Certificates of Occupancy as required by this Code.

(14) —Relief from Signage Regulations

a. Applicability. The owner of property seeking to erect, move, add to, or alter a sign within the city limit or the ETJ may seek relief from the regulations found in Chapter 10 of this Code by requesting a signage Variance from the Zoning Board of Adjustment.

~~b.~~ Review Process and Application. The owner of the affected property or its authorized agent may seek a signage Variance by applying to the City Manager (or designee) on such forms and with such supporting documents as may be required by the City. An applicant for relief may appeal the decision of the City Manager (or designee) to the City Council within ten (10) days of the written decision of the City Manager. The City Council will set a hearing on the appeal of the staff decision, give public notice thereof, as well as written notice to the parties of interest, and decide the same within thirty (30) days of the making of the appeal. Any party may appear at the hearing in person or by agent. The Applicant bears the burden of proof in

~~c.~~ b. establishing that relief is justified.

~~d.~~ c. Approval Criteria: Criteria used in the review will be whether the:

i. Applicable regulation does not allow for reasonable use of the property;

ii. Hardship for which the relief is sought is owing to a special condition inherent in the property itself, such as restricted area, shape, topography or physical features;

iii. Special condition is unique to the particular property at issues, and is not generally characteristic of other parcels of land in the area;

iv. Relief sought does not alter the character of, or impair the use of, adjacent properties ~~Relief sought alters the character of, or impair the use of, adjacent properties;~~

~~v.~~ Relief sought is not to alleviate a self-created hardship; and Relief is sought to alleviate a self-created hardship; and

~~v.~~

~~e.~~ Relief sought is not primarily for financial reasons. Relief is sought primarily for financial reasons.

~~vi.~~

~~f.~~ Responsibility for Final Action. The ruling of the Zoning Board of Adjustment is final. ~~unless the applicant timely appeals the ruling to the City Council for review and final action.~~

~~g.~~ d.

(15) — Group Living Operating License.

- a. Purpose. ~~The purpose of the Group Living Operating License is to:~~
 - i. ~~Protect residents from persons who may take advantage of them;~~
 - ii. ~~Maintain adequate health & safety standards for protection of the residents;~~
 - iii. ~~Insure~~Ensure that adequate fire, police and emergency response vehicles or patrols are available; and to
 - iv. ~~iii.~~ To identify and facilitate appropriate responses for residents who may require special assistance during an emergency.
- b. Applicability. ~~It is unlawful for any person to construct, maintain or operate within the city limits, any group or community home, halfway house, or other group living facility unless such person first obtains a license. An application for an annual license to operate a group or community home, halfway house or other group living facility is required within the city limits, or for property located in the City's ETJ that is part of a development agreement. Approval of a Group Living Operating License authorizes the use of the property in accordance with the terms of the license and other applicable requirements of this Code for one year, after which the Group Living Operating License must be renewed annually. It is unlawful for any person to construct, maintain, or operate within the City, any group or community home, halfway house, or other group living facility unless such person first obtains a use permit. A request for reasonable accommodation to accomplish the goals and policies of the Fair Housing Act (42 U.S.C. 3601) may be authorized.~~
- c. ~~Review Process and Application.~~ An application for a Group Living Operating License will be prepared in accordance with the requirements established by the City Manager (or designee).
- d. ~~c.~~ Applications must include all materials determined necessary by the City Manager (or designee). The City will make information regarding the format requirements and materials required for the application available. The City will investigate the application and inspect the proposed plans and specifications. For a new group or community home, halfway house or other group living facility, the Group Living Operating License will not be issued until a Certificate of Occupancy has been approved. ~~For a renewal of a Group Living Operating License, an inspection of the property will be conducted to verify compliance with all applicable requirements of the Unified Development Code.~~
- e. ~~d.~~ Criteria for Approval. The City Manager (or designee) will apply the following criteria in deciding the application for a Group Living Operating License:
 - i. Improvements. Improvements on the property are in accordance with the requirements of this Code;
 - ii. Operations. Operations of the property comply with the requirements of this Code;
 - iii. Other Codes. Structures and site comply with the Building Code, Fire Code, Property Maintenance Code and other applicable regulations (including the Americans with Disabilities Act).
 - ~~—Permit Requirements. That there are no outstanding permit requirements. Current and valid state licenses and a current and valid Certificate of Occupancy issued by the City of Fair Oaks Ranch.~~
 - iv. ~~h.e.~~ Revocation of Certificate. The City Manager (or designee) may institute proceedings to revoke a Group Living Operating License whenever the official determines that the license has been issued in error; or on the basis of incorrect information supplied; or that the use, dimensions,

or other features of the structure or property authorized for occupancy, or any portion thereof, is in violation of any provision of this Code, of the Building Code or other construction codes; or that the property is in violation of the this Code applicable to group or community homes, halfway houses or other group living facility. Before any such license is revoked, the City must give 10-days' notice to the holder of such license to correct violations. If the license is revoked, the license may be reissued to the licensee if the reasons for such revocation have been duly corrected, or a license may be issued to another qualified applicant.

~~j.f.~~ Responsibility for Final Action. The City Manager (or designee) is responsible for final action on Group Living Operating Licenses as required by this code.

~~j.f.~~

City of Fair Oaks Ranch Unified Development Code



Unified Development Code (UDC)

Revised – July 6, 2023

City of Fair Oaks Ranch Unified Development Code

Page numbering will be finalized after the content changes and page formatting are completed. Deletions and additions affect the numbering.

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CHAPTER 1 GENERAL PROVISIONS

Section 1.1 Purpose and Intent

(1) Purpose

The purpose of the Unified Development Code (UDC or Code) is to promote the public health, safety, general welfare, and quality of life of the present and future citizens of the City of Fair Oaks Ranch (City).

(2) Words

Words with a special meaning relative to the goals and purposes of this Code are defined in Chapter 12, Definitions. Terms not defined herein will be construed in accordance with their customary usage and meaning and interpreted to give this Code its most reasonable application.

Section 1.2 Consistencies with the Comprehensive Plan

The City's Comprehensive Plan, as adopted and as amended and periodically updated, is the policy guide for the development of this Code. These policies contained in the City's Comprehensive Plan act as a guideline and should not be construed as development regulations. The following General Land Use Policies from the Comprehensive Plan have been used in the development of this Code in order to ensure that land development within the jurisdictional area is in accordance with the Comprehensive Plan:

(1) Growth Management

All new development must:

- a. Be compatible with existing development and community character;
- b. Maintain the character, look and feel of the community; and
- c. Occur in a fiscally responsible manner for the City.

(2) Environmental Protection

Developers will cooperate with local governmental entities to ensure all development will:

- a. Preserve and protect waterways and flood plains;
- b. Preserve and protect surface and ground water resources and hydrologically active areas;
- c. Seek public acquisition of open space or develop conservation development options for areas of environmental concern;
- d. Preserve and protect air quality;
- e. Prioritize agricultural and ranch lands areas for open space preservation. The City will work with landowners who are interested in conservation easements;
- f. Promote and encourage water conservation practices; and
- g. Promote awareness and implementation of Best Management Practices (BMPs) for purposes of water quality and land conservation.

(3) Housing

Development will provide housing alternatives that will:

- a. Improve existing housing inventory;
- b. Encourage safe housing construction;
- c. Encourage a range of housing types and lot sizes;
- d. Encourage housing that is compatible with existing neighborhoods and land uses; and

- e. Promote conservation cluster development when and where appropriate.

(4) Economic Development

Developers will promote quality development that is compatible with neighboring areas and is consistent with community character and create sustainable value through form and function.

(5) Parks and Recreation

Development will make every effort to connect to existing and future parks/trails and will:

- a. Encourage maintenance and safety of parks and recreation resources; and
- b. Provide and preserve open space, trails and parkland in new neighborhoods.

(6) Circulation

Development will encourage streets and street network designs to be interconnected to provide ample, safe, and appropriately scaled access through and between neighborhoods, mixed-use areas and to commercial nodes.

(7) Design

Neighborhoods of various types will utilize:

- a. Compatibility standards for adjoining land uses (e.g., building facade, landscape and transition standards);
- b. Context sensitive streetscape design criteria to encourage safe and desirable pedestrian access and community attractiveness;
- c. Height restrictions for commercial and mixed-use development;
- d. Appropriate building form and design standards, for new developments within the community;
- e. Signage that does not detract from the visual integrity of the community; and
- f. Lighting, associated with signage, buildings or area wide development that does not pose a safety or environmental concern, and should be addressed in an aesthetically pleasing manner particularly as it relates to the impact on existing or new residential development and military base lighting regulations.

(8) Civic and Public Spaces

Civic buildings and civic space should be given prominent sites. School sites should be provided in coordination with the school districts, as new neighborhood developments are approved, so as to be within walking distance of a majority of the dwelling units in adjoining neighborhoods.

Section 1.3 Authority

Chapter 2, Review Authority and Procedures, sets forth the specific responsibilities and authority for each administrative official and review entity as it relates to the implementation of this Code. The Texas Local Government Code (LGC) §211 and 212, together with the general police powers of municipalities, and the City of Fair Oaks Ranch Home-Rule Charter, empower the City to adopt this Unified Development Code (Code).

Section 1.4 Jurisdiction

(1) Within City Limits

The City of Fair Oaks Ranch has the statutory authority to exercise a broad range of powers within its city limits. Many of those powers are specifically authorized by LGC §211 and 212. Pursuant to such authority, all chapters and sections of this Code will apply to all areas within the city limits of Fair Oaks Ranch. All structures, land uses, businesses, subdivisions, or property development constructed or commenced after the effective date of this Code and all enlargements of, additions to, changes in or relocations of existing structures, land uses, businesses, subdivisions, or property developments occurring after the effective date of this Code are therefore subject thereto.

(2) Within Extraterritorial Jurisdiction (ETJ)

The City of Fair Oaks Ranch may extend to its ETJ the regulation of subdivisions and property development adopted under LGC §212. The City also extends to its ETJ its authority to regulate signage as adopted under LGC chapters 216, 245 and 43.

Section 1.5 Applicability

(1) Future Development

This Code will apply to all matters pertaining to the use and development of land within the jurisdiction described in Section 1.4 above. The Code applies to all public buildings and private land(s), and use(s) thereon, over which the City has jurisdiction under the constitution(s) and law(s) of the State of Texas and of the United States.

(2) Existing Development

No building or structure will be erected, demolished, reconstructed, enlarged, or relocated in the City of Fair Oaks Ranch ~~and ETJ~~ except in compliance with the provisions of this Code; and then only after securing all required permits and licenses. Any building, structure, or use lawfully existing at the time of passage of this Code, although not in compliance therewith, may be maintained as provided in Chapter 4, Zoning Districts and Use Regulations, Section 4.14, Nonconforming Uses.

Section 1.6 Minimum Requirements

- a. The provisions of this Code will be interpreted and applied as the minimum requirements for the promotion of public health, safety and general welfare.
- b. Whenever the requirements of this Code are in conflict with the requirements of any other lawfully adopted rules, regulations, or ordinances, the requirement that is most restrictive or that imposes higher standards as determined by the City Manager or designee will apply.
- c. The issuance of any permit, certificate or approval in accordance with the standards and requirements of this Code will not relieve the recipient of such permit, certificate or approval from the responsibility of complying with all other applicable requirements of any other municipality, special district, state or federal agency having jurisdiction over the structures or land uses for which the permit, certificate or approval was issued.

Section 1.7 Effective Date

This Code will become effective and be in full force and effect immediately following its passage and approval by the City Council, as duly attested by the Mayor and City Secretary.

Section 1.8 Developments in Progress

If any section or part of this Code is held by a court of competent jurisdiction to be unconstitutional or invalid, such judgment will not affect, impair or invalidate the remaining provisions of this Code but will be confined in its operation to the specific sections of this Code that are held unconstitutional or invalid. The invalidity of any section of this Code in any one or more instances will not affect or prejudice in any way the validity of this Code.

The purpose of this section is to provide guidance to those development projects that have received some form of municipal approval prior to the date of enactment of this Code. More detailed information regarding Vested Rights and Non-conforming uses can be found in Chapter 4, Zoning Districts and Use Regulations, of the UDC and Chapter 1, Section 1.10, Permits, Projects, and Vested Rights, of the City's Code of Ordinances.

- a. Building Permits. Nothing in this Code will require any change in plans, construction, size or designated use of any building, structure or part thereof that has been granted a building permit prior to the effective date of this Code, or any amendment to this Code, provided construction will begin consistent with the terms and conditions of the building permit and proceed to completion within one year.
- b. Approved Site Plans. Nothing in this Code will require a change in site plan approved prior to the effective date of this Code, provided a building permit is issued prior to expiration of the site plan, and construction begins consistent with the terms and conditions of the building permit and proceeds to completion in a timely manner.
- c. Violations Continue. Any violation of the previous zoning and sign ordinances or subdivision and site development regulations of the City will continue to be a violation under this Code and will be subject to penalties and enforcement under Chapter 12, Compliance and Enforcement, unless the use, development, construction or other activity is consistent with the express terms of this Code, in which case enforcement action will cease, except to the extent of collecting penalties for violations that occurred prior to the effective date of this Code.

(1) Dormant Plats

Any minor plat, replat, amending plat, preliminary plat, or final plat approved pursuant to Subdivision Regulations in effect prior to the date of enactment of this Code that is dormant according to the provisions of LGC §245.005 will be deemed to have expired. The City Manager (or designee) will review all such cases and send written notice to an Applicant stating when an issued permit will expire as provided in Section 4.2 Permits, Projects, and Vested Rights, in the City's Code of Ordinances.

(2) Legal Nonconformities Under Prior Ordinances

Any legal nonconformity under the previous Zoning Ordinance or City regulations will be a legal nonconformity under this Code as provided in Section 4.13, as provided for in that section.

Section 1.9 Updates or Code Amendments

The purpose of this section is to provide for updates to the Code in order to modify procedures and standards for workability and administrative efficiency, eliminate unnecessary development costs, and update the procedures and standards to reflect changes in the law or the state of the art in land use planning and urban design.

Any person may provide a request for amendment to the Code to the City Manager (or designee) in the following manner, and as per the requirements and procedures adopted under LGC §212:

- a. The request for amendment will be labeled “Code Amendment Request” and will include a summary of the proposed changes, the reason for the proposed changes, and suggested text amendments.
- b. The City Manager (or designee) may conduct workshops to informally discuss the Code Amendment Requests with neighborhoods, developers, homebuilders, design professionals, and other stakeholders in the development process.
- c. The City Manager (or designee) will receive the amendment request and will refer the proposed amendments to the Planning and Zoning Commission.
- d. The proposed amendments will be heard at a joint public hearing of the Planning and Zoning Commission and the City Council, after any individual notice requirements in Local Government Code § 211.006 and 21.007, as amended have been complied with.
- e. The Planning and Zoning Commission will consider the request after a public hearing and refer the Code Amendment Request to the City Council with recommendations for amendments to the Code.
- f. The City Council will consider the request after a public hearing and make the final decision.
- g. Code Amendment Requests will serve a legitimate purpose. The City Manager (or designee) will review each request and make a determination on whether the request serves a legitimate purpose of promoting public safety and welfare and is consistent with City’s Comprehensive Plan. The City Manager (or designee) will forward the requests as described above and notify individuals who submitted an Amendment Request of the status of their request. An individual whose request is denied by the City Manager (or designee) and who disagrees with the decision, can petition the City Council to consider his/her request within 60 days. The City Council will make a final determination as to whether the request should be forwarded to the Planning and Zoning Commission per the procedure described above.

Section 1.10 Violations

See Chapter 12, Compliance and Enforcement.

Section 1.11 Validity

The issuance or granting of a permit or approval of plans or plats, site or facility designs, prior granted variances, or specifications will not be construed to be a permit for, or an approval of, any violation of any provision of this Code or any other City ordinance. No permit purporting to give authority to violate or cancel the provisions of this Code will be valid, except insofar as the work or use that it authorizes is lawful and conforms to the requirements of this Code or a variance or modification granted pursuant to this Code.

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CHAPTER 2 REVIEW AUTHORITY AND PROCEDURES

Section 2.1 General

(1) Purpose

The purpose of this Chapter is to establish the responsibilities and structure for administering and enforcing this Unified Development Code (Code), including the reviewing authority and minimum review procedures that will be followed by each reviewing authority. Chapter 3, Application and Permits, provides supplemental information to the review procedures described in Chapter 2.

(2) Conformity with Development Regulations

All City of Fair Oaks Ranch (City) officials and employees with the responsibility or authority to issue a permit, certificate or license are prohibited from issuing a permit or license for any use, building, or purpose that conflicts with any provision of this Code. Any permit, certificate or license issued in conflict with the provisions of this Code is null and void.

Section 2.2 Responsibility of Property Owner and/or Applicant

- a. It is the responsibility of an Applicant to provide accurate and complete information and plans to comply with the requirements of this Code and all applicable laws and regulations. The City of Fair Oaks Ranch is not responsible for the accuracy of information or plans provided to the City for its review or approval.
- b. The City or its representatives may inspect any development activity to enforce the provisions of this Code. By submitting an application to the City, the applicant consents to entry upon the site by the City or its representatives during regular business hours for the purpose of making reasonable inspection to verify information provided by the Applicant and to verify that work is being performed in accordance with the approved plans and permits and the requirements of this Unified Development Code.
- c. Unless otherwise expressly provided by this Unified Development Code, an application or permit, other than a petition for a text amendment or a zoning amendment, may be initiated only by the owner of an interest in the land subject to the application, or the owner's designated agent. If the applicant is a designated agent, the application shall include a written statement from the property owner authorizing the agent to file the application on the owner's behalf. The responsible official may establish the type of documents needed to determine ownership or agency.

Section 2.3 Administrative Officials and Review Entities

(1) City Manager

The administrative official for the purposes of this Chapter will be the City Manager or designees as they may be charged by the City Manager and the provisions of this chapter with duties and responsibilities referenced in this Chapter and Chapter 3, Applications and Permits. The City Manager or his/her designee will ordinarily administer and enforce the provisions of this Code. The City Manager (or designee) will serve as staff to the Planning and Zoning Commission (Commission) and the City Council except where otherwise provided by this Chapter.

- a. Powers and Duties. The City Manager (or designee) has the following powers and duties:

- i. Administrative Decision. The City Manager (or designee) is responsible for taking administrative action on the procedures described in this Code and according to the specific criteria for each procedure as described in the Code.
- ii. Review and Report. The City Manager (or designee) will review and make either a report or recommendation to the appropriate Board or Commission including the Planning and Zoning Commission, and City Council, as required pursuant to the Code, on the following procedures:
 - 1) General Development Plan
 - 2) Preliminary Plat Review
 - 3) Final Plat Review
 - 4) Special Use Permit
 - 5) Planned Unit Development
 - 6) Comprehensive Plan Amendment
 - 7) Zoning Map Amendment (Rezoning)
 - 8) Unified Development Code Text Amendment
 - 9) Annexation
 - 10) Concept Plan
 - 11) Conservation Development Alternative
 - 12) Other applications as required by this Code
- iii. Additional Duties. The City Manager (or designee) will have the following additional duties, to:
 - 1) Comply with any other duty or responsibility clearly assigned to the City Manager (or designee) elsewhere in this Code;
 - 2) Enforce all provisions of this Code;
 - 3) Meet with potential Applicants in pre-application conferences as described in this Code;
 - 4) Act and serve as staff for each review body designated by this Code; and
 - 5) Render advice and guidance, upon reasonable request of any Property Owner, or its agent, or occupant, on development or new construction or the restoration, alteration or maintenance of any historic resource or other building within the City.
- b. Compliance with Rules and Procedures. The City Manager (or designee) will comply with any specific procedures described in this Code and may develop administrative rules or additional procedures to clarify implementation of this Code, provided that additional procedures do not violate any other provisions of this Code.
 - i. Administrative Procedures Manual. The City Manager (or designee) will develop an Administrative Procedures Manual for application requirements for all procedures described within or developed pursuant to this Code. Such requirements must be:
 - 1) Sufficient to permit the Manager to effectively review the application and for the final approving authority to render an informed decision;
 - 2) Consistent with state law.

The Manager may waive application requirements, and may require additional submission requirements to complete a thorough review and ensure compliance with all applicable

codes and requirements, after an application has been determined to be complete, when appropriate.

- ii. Interpretation of the Code. Whenever there appears to be an uncertainty, vagueness, or conflict in the terms of the Code, the Manager, in consultation with the staff, city engineer, or city attorney, as may be appropriate, will make every effort to interpret the Code in such a way that it fulfills the goals of the Comprehensive Plan and the UDC. The interpretation given by the Manager will be final unless the Applicant makes an appeal to the City Council or the Zoning Board of Adjustments, as applicable, to review and overturn his/her decision. In such a case the burden will be on the Applicant to prove that the Manager's interpretation is unreasonable and in clear conflict with the governing law and the goals of the Comprehensive Plan.

(2) City Engineer

a. Designation

The City Manager will designate a City Engineer to function as described in this Code. The City Engineer is an advisor to the City Manager. As such, the City Manager will delegate the City Engineer's powers, and in the case of conflict, the City Manager's decision will prevail. This does not allow the City Manager to make decisions that require the certification of a registered professional engineer, only that the authority delegated to the City Engineer stems from the City Manager and can be revoked in the case of conflict. The City Engineer must be a registered professional engineer, licensed by the State of Texas and competent in the design and review of land development and public works. The City Manager may also designate another employee to fulfill the City Engineer's duties under this code. In such a case, all references to City Engineer in this code apply to the designee.

b. Powers and Duties

- i. Administrative Decision. The City Engineer is responsible for taking final action on the following procedure described in this Code, subject to the specific criteria for the procedure as described in the Code:
 - 1) Approval of Master Drainage Plans
 - 2) Approval of Street and Drainage Plans
 - 3) Approval of Water Distribution Plans
 - 4) Approval of Wastewater Plans
 - 5) Approval of Electric, Telephone and Telecommunications Plans
 - 6) Approval of Water Quality Controls
 - 7) Approval of Traffic and Thoroughfare Plans
- ii. Review and Report. The City Engineer will review and make either a report or recommendation to the City Manager, Planning and Zoning Commission or City Council on the following procedures, subject to the terms and conditions set forth for such procedures in this Code:
 - 1) General Development Plans and Concept Plans
 - 2) Plat Reviews
 - 3) Site Plan Reviews
 - 4) Development related applications
 - 5) Land use decisions

- c. Compliance with Rules and Procedures
 - i. The City Engineer will comply with any specific procedures or technical criteria described in this Code.
 - ii. The City Engineer may develop and implement additional procedures or technical criteria to clarify implementation of this Code, provided that such procedures or criteria are approved by the City Manager prior to their implementation and enforcement and provided further that the additional procedures do not violate any other provisions of this Code.

(3) Planning and Zoning Commission

- a. Responsibilities. The regulations and restrictions of the Planning and Zoning Commission (Commission) for the City will be pursuant to the provisions of applicable statutory requirements of the State of Texas and the City's Home Rule Charter Section 7.14. The Commission's procedures and actions shall conform to this Code and the Charter. Powers and Duties. The Commission has the powers and duties of a Commission in accordance with LGC §211.007 and §371.042, provided, however, that it serves only in an advisory capacity to City Council. The Commission's authority extends to and includes review and recommendation of the following:
 - i. General Development Plans and Concept Plans
 - ii. Final Plats (including Amending, Development, and Replats)
 - iii. Preliminary Plats
 - iv. Site Development Permits
 - v. Development Agreements
 - vi. Special Use Permits
 - vii. Historic Building Designations
 - viii. Heritage Plans
 - ix. Planned Unit Developments
 - x. Conservation Development Alternatives (CDA)
 - xi. Comprehensive Plan or Future Land Use Map Amendments
 - xii. Zoning Map Amendments (Rezoning)
 - xiii. Unified Development Code (Code) Text Amendments
 - xiv. Any other specific procedure or items that require Commission action as specified in this Code or as required by state or federal law.
- b. Membership and By-Laws. The Commission will be formed and conduct all activities in accordance with this Code, any other applicable City codes, the City Home Rule Charter, the ordinance creating the Commission, and any adopted By-Laws.
- c. Commission Review Process. The Commission review process will be required for any permit or application that requires review and recommendations from the Commission, as described in this Code. The process will include the following:
 - i. Initiation. The Property Owner of the affected property or its authorized agent may initiate a Commission process upon application.
 - ii. Application. An Application must be made in a format consistent with requirements determined by the City Manager (or designee). Applications must include all materials determined necessary by the City Manager (or designee). The City Manager, in advance of any application, will make information regarding the format requirements and submittal materials required for the application available. Requirements include:

- 1) All applications must have signatures or authorization of all -owners of land within the boundary of the tract of land included in the application;
 - 2) All applications must be submitted in a form acceptable to the City Manager (or designee); and
 - 3) All applications must include an application fee as required by Chapter 3, Applications and Permits, in accordance with the Administrative Procedures Manual.
- d. Commission Final Action. The Commission will serve as an Advisory Body to the City Council and will have no authority for final action.
- e. Criteria for Recommendation. An application or variance will not be recommended for review and approval until:
- i. The application is complete and the information contained within the application is sufficient and correct so as to allow adequate review and a decision on a recommendation by the appropriate review authority.
 - ii. No plat will be recommended without a determination that the plat conforms to the following:
 - 1) The requirements of this Code and any applicable state law.
 - 2) The City's Comprehensive Plan and any other adopted plans as they relate to:
 - I. The City's current and future land use, streets, sidewalks, alleys, parks, playgrounds, and public utility facilities; and
 - II. The extension of the City or the extension, improvement, or widening of its roads, taking into account access to and extension of sewer and water mains and the instrumentalities of public utilities.
 - III. Any subdivision design and improvement standards adopted by the City pursuant to LGC §212.002 or §212.044, governing plats and subdivision of land within the City's jurisdiction to promote the health, safety, morals, or general welfare of the City and the safe, orderly, and healthful development of the City.
 - iii. The tract of land subject to the application is adequately served by public improvements and infrastructure, or will be adequately served upon completion of required improvements.
- f. Appeals. Appeals to Planning and Zoning Commission action, as applicable, will be made to City Council.

(4) Zoning Board of Adjustment

The regulations and restrictions of the Zoning Board of Adjustments (Board) for the City will be pursuant to the provisions of applicable statutory requirements of the State of Texas. The Board's procedures and actions shall conform to this Code.

- a. Powers and Duties.
 - i. The Zoning Board of Adjustment shall hear and decide appeals when error is alleged in any order, requirement, decision or determination made by an administrative official of the City in the enforcement of any zoning related decisions. The Zoning Board of Adjustment may reverse or affirm, in whole or in part, or modify the administrative official's order, requirement, decision, or determination from which an appeal is taken and make the correct order, requirement, decision, or determination, and for that purpose the Board has the same authority as the administrative official.

- ii. The Zoning Board of Adjustment may authorize, in specific cases, a variance from zoning regulations, unless specified otherwise, if the variance is not contrary to the public interest and, due to special conditions, a literal enforcement of the regulation would result in unnecessary hardship, and so that the spirit of the regulation ordinance adopted hereunder is observed and substantial justice is done. A variance shall not be granted to relieve a self-created or personal hardship, nor shall it be based solely on economic gain or loss, nor shall it permit any person a privilege in developing a parcel of land not permitted by the City's zoning regulations. In order to make a finding of hardship and grant a variance from the zoning regulations, the Board must meet the findings laid out in Chapter 3.9 (9) of this Code.
- b. Appointment and Removal.
 - i. The Zoning Board of Adjustment is established in accordance with Chapter 211 of the Texas Local Government Code (LGC). The Board members are appointed by the City Council.
 - ii. The Board shall consist of five (5) members who shall be appointed by majority vote of the City Council.
 - iii. A member may only be removed for cause.
 - iv. A vacancy on the Board shall be filled for the unexpired term.
 - v. City Council, by majority vote, shall appoint two individuals as alternate board members to serve in the absence of one or more regular members when requested to do so by the mayor or city manager. An alternate member serves for the same period as a regular member and is subject to removal in the same manner as a regular member. A vacancy among the alternate members is filled in the same manner as a vacancy among the regular members.
- c. Zoning Board of Adjustment Review Process and Vote.
 - i. Each case before the Zoning Board of Adjustment must be heard by at least four (4) of the five (5) members.
 - ii. The concurring vote of four (4) of the five (5) members of the Board is necessary to:
 - 1) reverse an order, requirement, decision or determination of an administrative official; or
 - 2) authorize a variation from the terms of a zoning regulation.

(5) City Council

The regulations and restrictions of the City Council (Council) for the City will be pursuant to the provisions of applicable statutory requirements of the State of Texas.

- a. Powers and Duties. The Council has the following powers and duties:
 - i. Appointments. The Council is responsible for appointing and removing any members of the Planning and Zoning Commission or any other boards or commissions that may be formed related to the Code. Appointments will be made on the recommendation of the Mayor and a vote of approval by the City Council.
 - ii. Final Action. The City Council has responsibility for hearing and taking final action on the following procedures described in this Code.
 - 1) General Development Plan
 - 2) Preliminary and Conceptual Plans
 - 3) Legislative Variance Request
 - 4) Final Plat (including Preliminary, Development, and Replats)

- 5) Development Agreement
 - 6) Special Use Permit
 - 7) Dedication of land and community facilities
 - 8) Historic District Designation
 - 9) Heritage Plans
 - 10) Planned Unit Development
 - 11) Comprehensive Plan Amendment
 - 12) Zoning Map Amendment (Rezoning)
 - 13) Unified Development Code Text Amendment
 - 14) Annexation
 - 15) Any other specific procedure or legislative action that requires City Council action as specified in this Code, or required by state or federal law.
- b. City Council Review Process. Procedures for City Council review and action will be developed and adopted by the Council when appropriate.
 - c. City Council Final Action. The City Council will serve as the final action authority for all development- related applications listed above, and as indicated throughout this Code.

(6) Counties

The City will endeavor to create interlocal agreements with Bexar, Comal and Kendall Counties to govern subdivision review authority in the City's Extraterritorial Jurisdiction (ETJ). Where no interlocal agreement exists State law should be followed. Where an interlocal agreement stipulates City control of the review process, it will proceed as follows:

- a. Review and Recommendation. The City will review and comment on Text Amendments to this Code as they relate to the specific counties technical issues, e.g., on-site sewage facilities (OSSFs) and the drilling of water wells.
- b. Final Action. The City recognizes that the respective County has responsibility for hearing and taking final action on the following procedures described in this Code:
 - i. OSSFs. Onsite Wastewater Permit Application Approval, and
 - ii. Procedures. Procedures to be utilized by the City of Fair Oaks Ranch for Bexar, Comal and Kendall Counties are described in the respective City-County Development Agreement.

Section 2.4 Summary of Review Authority

Table 3.1 summarizes the decision-making authority of each review body for the City of Fair Oaks Ranch (outlined above in this Chapter and further described in Chapter 3, Applications and Permits). A review authority with decision-making authority for a procedure is considered the Final Action Authority for that procedure.

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CHAPTER 3 APPLICATIONS AND PERMITS

Section 3.1 Purpose and Intent

The purpose of this Chapter is to establish application procedures, internal review procedures, public notice and hearing procedures, and review criteria for the processing of applications and actions in accordance with the Unified Development Code (Code) that affect the development and use of property subject to the jurisdiction of the City of Fair Oaks Ranch (City).

Section 3.2 Types of Applications and Permits

Application and permit types can be categorized as (a) Policy Related Applications and Permits, (b) Subdivision-Related Applications and Permits, or (c) Development-Related Applications and Permits. Review authorities for applicable development applications and permits are described in Table 3.1, below. The Administrative Procedures Manual (developed by the City Manager) establishes timelines for review and references applicable fees established by City Council. Certain procedures apply inside city limits that do not apply in the ETJ. Table 3.1 also provides guidelines for the procedures that apply in the city limits or ETJ.

(1) Policy Related Applications and Permits

Approval of applications for development is based on the proposed development's conformance with existing policies (including the Comprehensive Plan, Master Plans for Utilities and Drainage, Transportation and Thoroughfare Map, Zoning Map, design and development standards contained in this Code, other city codes, and other appropriate agreements. If changes to policies are to be considered, they must be approved by the City Council before any subdivision or development not in accordance with existing policies may proceed. Changes requiring City Council approval include Comprehensive Plan Amendments, Code Text Amendments, Special Use Permits, Zoning Map Amendments, i.e., Rezoning, Planned Unit Developments (PUDs), Low Impact Development (LIDs)/Conservation Development Alternative (CDAs), Annexation Petitions, and Development Agreements.

(2) Subdivision and Property Development Related Applications and Permits

Subdivision-related procedures are necessary to establish how individual lots or projects may be developed. Subdivision and property development related activities and projects must be in compliance with this Code.

- a. Preliminary Plat. A map or drawing of a proposed subdivision plan that, upon approval, establishes the approved layout. This approval includes the location and width of proposed streets, lots, blocks, floodplains, easements (utility, drainage, franchise utility, etc.), amenities, and other features required to ensure compliance with the requirements of this Code. A Preliminary Plat approval is required prior to Final Plat approval, except under certain conditions described herein in Section 3.8(4).
- b. Final Plat. A subdivision map or drawing intended for recordation in the plat records of the county in which the subdivision is located. A Final Plat requires approval of Preliminary Plat, construction plans for streets and infrastructure, and other items from the Preliminary Plat in accordance with this Code.
- c. Amending Plat. A plat that involves minor changes to a recorded plat. An amending plat will be filed in accordance with the procedures and requirements set forth in the Local Government Code (LGC) §212.045. The City Manager or designee may approve and issue an amending plat, which

may be recorded and control over the preceding plat without vacation of that plat and without notice and hearing.

- d. Re-plat. A new plat that changes the restrictions of a previously adopted Final Plat or results in a change in lot sizing that would affect water well or on-site sewage facility regulations, or that would affect compatibility with the City's zoning code or Future Land Use Map.
- e. Minor Plat. A subdivision involving four (4) or fewer lots fronting on an existing street and not requiring the extension of municipal facilities;
- f. Development Plat. Required for any person proposing the development of previously unsubdivided or unplatted land that is not being divided into separate parcels, or land that was exempted from platting by TXLGC; and
- g. Construction Plans. The maps, drawings, and specifications indicating the proposed location and design of improvements to be installed in a subdivision/Site Plan.

(3) Site Development Related Applications and Permits

Development in the City must occur in compliance with all regulations of this Code, and development in the extraterritorial jurisdiction must occur in compliance with certain elements of this Code (See Section 1.4 and Table 3.1 for applicability of requirements to the ETJ). Any necessary modification to those standards must occur before a development project may be permitted that deviates from existing plans, standards or requirements. In addition, land must be appropriately subdivided and platted before any development project may occur. Development- related applications and permits include Letters of Regulatory Compliance (Zoning Verification Letter and Legal Lot Verification Letter), Written Interpretation of this Code, Master or Common Sign Plans, Temporary Use Permits, Special Exceptions, Site Plan Reviews and Site Development Permits, Stormwater Permits, Certificate of Design Compliances, Appeal of Administrative Decisions, Variances, Sign Permits and On-Site Wastewater (OSSF) Permits. Before any new well may be drilled or completed it must be registered with the appropriate underground water district and receive specific authorization before drilling is commenced.

Table 3.1: Summary of Review Authority

Permit or Application	Within City Limits	Within ETJ		Pre-application Conference	Administrative Review	Planning and Zoning Commission	Zoning Board of Adjustment	City Council	Appropriate County
POLICY RELATED APPLICATION PERMITS									
Comprehensive Plan Amendment	+	+		O	O	O		X	
UDC Text Amendment	+			O	O	O		X	
Special Use Permit	+			O	O	O		X	
Zoning Map Amendment (Zoning or Rezoning)	+			O	O	O		X	
Planned Unit Development	+			O	O	O		X	
Conservation Development Alternative (CDA)	+			O	O	O		X	
Annexation		+		O	O			X	
Concept Plan (if required)	+			O	O	O		X	
Development Agreement	+	+		O	O	O		X	
PROPERTY DEVELOPMENT RELATED APPLICATIONS AND PERMITS									
Zoning Verification Letter	+				X				
Letter of Regulatory Compliance	+	+			X				
Appeal of Administrative Decision (Zoning)	+	+					X		
Appeal of Administrative Decision (All others)	+	+						X	
Special Exception	+	+			O		X		
Policy Variance (Standards that are not required in the UDC and are city wide policies.)	+	+		O	O	O		X	
Judicial Variance (zoning-related development standards of this Code required by the UDC, ex. Setbacks, Building Frontage, Landscaping, Parking, etc. that are not related to or required for platting or subdivision approvals)	+			O	O		X		
Plat waivers/Subdivision Variance (Waivers of the standards required for plat approval and are contained in the Subdivision regulations during the plat process)	+	+			O	O		X	
Floodplain Development Permit	+	+			X				
Master/Common Sign Plan	+	+			X				
Sign Permit	+	+			X				
Relief from Signage (Variance)	+	+			O		X		
Master Signage Plan	+	+			X				
Appeal of Denial of Sign Permit	+	+			O		O		
Temporary Use Permit	+	+			X				
On-site Wastewater (OSSF) Permit	+	+							X
Building Permit	+			O	X				
Certificate of Occupancy	+				X				
Group Living Operating License	+			O	X				
SUBDIVISION RELATED APPLICATIONS									
Minor Plat	+	+		O	X				
Amending Plat	+	+			X				
Replat	+	+		O	O	O		X	
Development Plat	+	+		O	O	O		X	
Preliminary Plat	+	+			O	O		X	
Final Plat	+	+			O	O		X	
Construction Plan	+	+			X				
+ - Applicable; X - Final Action; O - Review/Recommendation									

Section 3.3 Related Applications and Permits

Related applications and permits will be submitted, reviewed, and approved / denied based on the procedures listed below. Some of these procedures may be followed concurrently, while some procedures require pre-approval of other procedures. Refer to the Administrative Procedures Manual for clarification on the timing of these procedures.

(1) Development Requiring Multiple Approvals

The following restrictions apply to development applications requiring multiple approvals:

- a. Policy Related Applications:
Policy related applications for permits required for a particular project will be sequenced so that when final actions occur, each approval provides any requisite requirement for a subsequent related approval.
- b. Subdivision Applications:
 - i. The Comprehensive Plan and Zoning Compliance Review should occur before any Subdivision Application.
 - ii. No application for Final Plat review will be considered complete and accepted for submittal until final action on the Preliminary Plat has occurred and a written approval of associated construction plans and plans for dedication of land and community facilities has been given by the City Manager or designee.
- c. Development Applications:
 - i. No Development or permit application may be considered if there is pending subdivision activity for the same tract of land, except for administrative determinations.
 - ii. Appeals of administrative decisions may only occur after a final decision by the City Manager.
 - iii. Consideration of development or permit applications will be sequenced so that when an approval occurs, it will provide any requisite requirement for a subsequent related approval.

(2) Simultaneous Submission of Related Applications

- a. Applications will be accepted, reviewed and processed in the sequence required pursuant to this Code and in the Administrative Procedures Manual. After each application receives final action, the next consecutive application in the Code process will be reviewed for completeness pursuant to the appropriate process.
- b. Acceptance of any application submitted simultaneously with other applications is subject to approval of all other related applications that are prerequisite(s) to consideration of another application in the development process. Denial or disapproval of any concurrently submitted application will prevent acceptance and consideration of any related applications unless and until the denied or disapproved application is resolved or approved. Any application that is subject to a prerequisite will not be accepted for processing until all prerequisites are met.
- c. An applicant may withdraw any individual application from a group of simultaneously submitted applications. If an application that is considered a pre-requisite to another application is withdrawn, then all consecutive applications may be considered withdrawn.

Section 3.4 Common Review Elements

(1) Pre-application Conference

A Pre-application Conference is a meeting between a potential applicant under this Code and the City Manager (or designee). Prior to submission of an application, a Pre-application Conference between the applicant and the City Manager and the appropriate City staff is recommended or required, as noted below. The Conference is an opportunity for the applicant to describe the development that will be submitted and for the City Manager (or designee) to explain the development process (i.e., which application is appropriate, which review body is responsible for final action, what the potential timelines for review may be, and what criteria will be used to determine whether the application may be approved). Completion of a Pre-application Conference does not imply or indicate subsequent City approval of the permit or application. The Pre-application Conference will proceed as follows:

- a. A Pre-application Conference is recommended for the following applications.
 - i. Sign Plan
 - ii. Site Plan
 - iii. Variance
 - iv. Preliminary Plat
 - v. Final Plat
 - vi. Development Plat
 - vii. Site Development Permit
- b. A Pre-application Conference is required for the following applications.
 - i. Annexation
 - ii. Concept Plan
 - iii. Special Use Permit
 - iv. Planned Unit Development
 - v. Comprehensive Plan Amendment
 - vi. Zoning Map Amendment (Rezoning)
 - vii. Code Text Amendment
 - viii. Conservation Development Alternative (CDA)
 - ix. Policy Variance
 - x. Judicial Variance
 - xi. Development Plat
 - xii. Building Permits (for larger projects that may need multiple approvals, or as recommended by staff)
 - xiii. Group Living Operating License
- c. Pre-application Conferences may be combined when an applicant will be making simultaneous applications for the same project. Completion of a Pre-application Conference or Combined Pre-application Conference does not imply or indicate City approval of any application. A Pre-application Conference is highly recommended for all other types of development, especially those that require phasing, multiple types of plats, and extension of public infrastructure.

(2) Application Forms and Fees

The following regulations will apply to all applications:

- a. Forms. Applications required under this Code will be submitted on forms, with any requested information and attachments, and in such numbers as required by the City and / or as indicated in the Administrative Procedures Manual. The City Manager (or designee) will have the authority to request any additional pertinent information required to ensure compliance with this Code. The City Manager (or designee) must make any submission requirements and applicable fee requirements available to the applicant as a part of the Administrative Procedures Manual.
- b. Submission Requirements. Development applications (which include, among other types, those listed in Section 3.4(1) above) will be prepared and submitted in formats acceptable to the City Manager (or designee).
- c. Fees:
 - i. Development and permit application fees will be established from time to time by ordinance of the City Council.
 - ii. All required fees will be made payable to "The City of Fair Oaks Ranch," by local check, money order, cashier's check, or credit card.
 - iii. An applicant who has paid the appropriate fee pursuant to submission of an application, but who chooses to withdraw such application prior to the formal written notification of completeness or incompleteness, will be entitled to a refund upon written request to the City and upon City's discretion.

(3) Application Deadline

All applications will be completed and submitted to the City Manager (or designee) in accordance with the Administrative Procedures Manual. An application will not be considered as officially submitted or filed until it is determined to be complete as specified below.

(4) Determination of Application Completeness

Every application for a Development Permit will be subject to a determination of completeness by the City Manager (or designee).

- a. Documents. No application will be deemed complete and accepted for processing unless it is accompanied by all documents required by and prepared in accordance with the requirements of the UDC. For a determination of completeness to be issued, an application must include the following:
 - i. Payment of the appropriate fee;
 - ii. An accurate metes and bounds description of the subject property (or other suitable legal description);
 - iii. All documents, forms, exhibits, or other materials required by this ordinance, Administrative Procedures Manual, and as deemed necessary by the City Manager (or designee) for processing of a specific application
- b. Additional Requirements. The City Manager (or designee) may from time to time identify additional requirements for a complete application that are not contained within but are consistent with the application contents and standards set forth in this Code.
- c. Compliance. A determination of completeness will not constitute a determination of compliance with the substantive requirements of this Code.

- d. Written Determination. Not later than the tenth (10th) business day after the date an application is submitted, the City Manager (or designee) will make a written determination whether the application constitutes a complete application. This will include a determination that all information and documents required by this Code for the type of permit being submitted or other requirements have been submitted. A determination that the application is incomplete will be notified to the applicant within such time period. The determination will specify the documents or other information needed to complete the application. Incomplete applications will not constitute an official acceptance of the application for filing.
- e. An application filed on or after the effective date of this ordinance will be deemed complete on the 11th business day after the application has been received, if the applicant has not otherwise been notified that the application is incomplete. For purposes of this Section, the applicant will be deemed to have been notified if the City has notified the applicant of the determination as provided in subsection d.
- f. The processing of an application by any City employee prior to the time the application is determined to be complete will not be binding on the City as the official acceptance of the application for filing. The incompleteness of an application will be grounds for denial of the application regardless of whether a determination of incompleteness was mailed to the applicant.
- g. Vested rights do not accrue until the filing of an original permit application or plan that gives the City fair notice of the project and the nature of the permit sought.

(5) Expiration of Inactive Permits and Approvals

Approvals and permits issued pursuant to this Code will expire in the time period indicated in Table 3.2 unless the proposed development, project or use for which the approval was given is pursued as described below. Expiration of a project will be measured from the date the project was approved.

- a. A Letter of Regulatory Compliance or Written Interpretation stays in effect indefinitely where no related development is proposed. Upon submission of a proposed development application related to the Letter of Regulatory Compliance or Written Interpretation, the Letter of Regulatory Compliance or Written Interpretation will expire according to Table 3.2 unless the proposed development is not pursued.
- b. A development for which an approval or permit has been issued pursuant to this Code will be considered to be in process as set forth below:
 - i. A complete Building Permit application has been submitted or, if none is required, a Certificate of Occupancy has been issued.
 - ii. In case of projects where more than one building or phase is to be built, the applicant may submit a series of Building Permit applications. The first application must be submitted within twelve (12) months from the date Site Plan approval is granted. Each subsequent application must be submitted within twelve (12) months from the date of issuance of a Certificate of Occupancy for the previous building or phase.
- c. A lapse of a period equal to or greater than the period set forth in Table 3.2 will cause the related approvals or permits to expire and be of no further force and effect.
- d. The City Manager (or designee) or the body with the final approval authority may extend the expiration date of any permit or approval one time for a period not to exceed one (1) year in length. Such extension may be granted upon written request of the applicant, at any time prior

to or within the twelve (12) months preceding the expiration date, but the extension period may not begin later than the original expiration date.

- e. Reinstatement of a lapsed approval will require the applicant to pursue the same submittal and to obtain approval as an original application.
- f. Any Plat (approved pursuant to previous Subdivision Regulations) that is dormant in accordance with the provisions of LGC §245.005 will be deemed to have expired on November 19, 2002 (date of adoption of the subdivision ordinance).
- g. Extension may be approved for permits or approvals listed below in Table 3.2 for a period not to exceed one (1) year by the authority responsible for final approval.

Table 3.2: Expiration of Inactive Permits or Approvals

Comprehensive Plan Amendment	No Expiration
UDC Text Amendment	No Expiration
Special Use Permit	No Expiration
Zoning Map Amendment (Rezoning)	No Expiration
Conservation Development Alternative or Planned Unit Development	12 months if a plat or a permit has not been approved
Annexation	No Expiration
Variance	No Expiration
Certificate of Design Compliance	12 months
Storm Water Permit	12 months
Administrative Plat	12 months for a plat that has not been recorded
Preliminary Plat	12 months if construction drawings have not been approved.
Final Plat or Development Plat	No Expiration on a Recorded Final Subdivision Plat; 12 months for a plat approved by City Council that has not posted surety, begun construction of public infrastructure, or failed to provide required recording information. 24 months for an approved plat that has posted surety and begun construction of public infrastructure
Construction Plans	12 months
Development Agreement	As specified in the Agreement
Site Plan Permit Approval	12 months, if a permit has not been issued
Master Sign Plan	12 months, if a permit has not been issued
Sign Permit	12 months, if a permit has not been issued
Temporary Use Permit	As specified in Agreement or in other relevant sections of the UDC
Appeal to an Administrative Decision	No Expiration
Building Permit	12 months

(6) Written Decision after Final Action

- a. Within ten (10) days after the authority authorized to make the final determination under the requirements of this Code makes a final decision, a copy of the decision will be sent to the applicant. A copy of the notice will be filed at the Office of the City Manager, where it will be available for public inspection during regular office hours.
- b. The decision will also state the final action authority's findings, conclusions, and supporting reasons or facts whenever this Code requires such findings as a prerequisite to the final action.

(7) Limitation on Reapplication

If any Development Permit application or other application for approval, any petition for a plan amendment or any petition for an amendment to this Code is disapproved by the final action authority, another application or petition for the same permit, approval, or amendment for the same property or any portion thereof may not be filed within a period of ninety (90) days or within a period of twelve (12) months for zoning change applications from the date of final disapproval, except by vote of the City Council. Such reapplication must demonstrate:

- a. There is a substantial change in circumstances relevant to the issues and / or facts considered during the original review of the application that might reasonably affect the decision-making body's review of the relevant standards to the development described in the application; or
- b. New or additional information is available that was not available at the time of the original application that might reasonably affect the decision-making body's review of the relevant standards to the proposed development; or
- c. A new application is proposed to be submitted that is materially different (e.g., proposes new uses, or a substantial decrease in proposed densities and intensities) from the prior application; or
- d. The final decision on the application was based on a material mistake of fact.

Section 3.5 Standard Review Period

(1) Establishment of Review Period

The City Manager is required to establish a standard time period for review and final action on all applications. This information will be published in the Administrative Procedures Manual. This review period will be used to determine the number of days for all time limits within this Code. If the City Manager fails to establish review periods for each procedure, the default review period will be as per state law.

(2) Restrictions on Review Period Serving as Time Limit

All review time requirements shall follow the state law.

(3) Exception to Standard Review Period

The standard review period of an application for a plat or subdivision plan may be extended one time for a period not to exceed thirty (30) days upon the submission of a written request for extension. The request for extension will be placed on the first available city council meeting agenda for approval.

Section 3.6 Public Hearing and Notice

(1) Required Public Hearing

Table 3.3 identifies the types of procedures requiring a public hearing. The decision-making body may modify the application at the public hearing and refer such modifications to the recommending body.

Table 3.3 Summary of Required Public Hearing

Type of Application	Planning & Zoning Commission	Zoning Board of Adjustment	City Council
Comprehensive Plan Amendment	X		X
UDC Text Amendment	X		X
Special Use Permit	X		X
Zoning Map Amendment (Zoning or Rezoning)	X		X
Planned Unit Development/ Conservation Development Alternative	X		X
Annexation			X
Appeal of Administrative Decision (Zoning)		X	
Appeal of Administrative Decision (All others)			X
Policy Variance	X		X
Judicial Variance		X	
Development Agreement			X
Appeal of Denial of Sign Permit		X	
Replat (if required)	X		X

X - Public Hearing Required

Development Agreements containing any of the above provisions must meet the public hearing requirements of such.

(2) Summary of Notice Required

Notice will be required for review of an application as shown in Table 3.4.

Table 3.4: Summary of Notice Requirements

Procedure	Published	Mailed	Sign Posted on Site
Comprehensive Plan Amendment	X		
UDC Text Amendment ¹	X		
Special Use Permit	X	X	X
Zoning Map Amendment (Zoning or Rezoning)	X	X	X
Planned Unit Development /Conservation Development Alternative	X	X	X
Annexation	X		X
Certificate of Design Compliance			X
Appeal of Administrative Decision	X		
Policy Variance	X	X	X
Judicial Variance	X	X	X
Development Agreement	X	X	
Appeal of Denial of Sign Permit	X		
Replat (if required)	X	X	

x- Notice Required

1. Refer to Zoning Map Amendment if applicable

(3) Published Notice

At least 16 days before the date of the hearing before the governing body, the City Manager (or designee) will cause to be published public notice in an official newspaper or a newspaper of general circulation in the municipality. The notice will contain notice of the time and place of the hearing and a description of the item to be considered or reviewed. If notification of a public hearing before the Planning and Zoning Commission is required to be published, publication of the hearing before the Planning and Zoning Commission and the City Council may be done concurrently.

(4) Mailed Notice

At least 11 days before the hearing date, written notice of each public hearing on a proposed change in zoning classification will be sent to each owner, as indicated by the most recently approved municipal tax roll, of real property within 200 feet of the property on which the change in classification is proposed. The notice may be served by its deposit in the municipality, properly addressed with postage paid, in the United States mail.

(5) Posted Notice

The applicant will be responsible for posting notice along rights-of-way frontage of the subject property in a format approved by the City Manager (or designee) not less than fifteen (15) days prior to the scheduled public hearing.

(6) Conduct of Public Hearings

All public hearings will follow the procedures set forth by the City and as required by the TXLGC.

Section 3.7 Policy Related Applications and Permits

This section provides specific approval criteria for the following policy-related applications:

- Comprehensive Plan Amendments
- Unified Development Code Text Amendments
- Special Use Permits
- Zoning Map Amendments- Rezoning, Planned Unit Developments (PUD)
- Conservation Development Alternative Concept Plan
- Annexation Petition
- Development Agreement

(1) Comprehensive Plan Amendment

- a. **Applicability.** The Comprehensive Plan reflects the City's long-term plan for growth and development. The City Council may, from time to time, on its own motion or on petition, amend, supplement, change, modify, or repeal the regulations, restrictions and boundaries herein established, or contained in the Comprehensive Plan.
- b. **Review Process.** The following sections set forth the specific requirements for amendment of the Comprehensive Plan:
 - i. **Initiation.** Initiation of a City Council Review of a Comprehensive Plan Amendment may be made upon recommendation of the:
 - 1) City Council;
 - 2) Planning and Zoning Commission; or
 - 3) City Manager (or designee).
 - 4) Request of other affected property owners or developers. If initiated by other affected property owners or developers, a Pre-Application Conference will be required.
 - ii. **Staff Review.** Once a procedure has been initiated, after receiving a complete application if initiated by a property owners or developers, the City Manager (or designee) will review the application, considering any applicable criteria for approval and prepare a report to the Planning and Zoning Commission and City Council. The City Manager (or designee) may:
 - 1) Establish procedures for administrative review necessary to ensure compliance with this Code and state statutes;

- 2) Assign staff to review the application and make a report to the City Manager; and
- 3) Include in his / her report a recommendation for final action.
- iii. Planning and Zoning Commission Review. The Commission will hold a public hearing, in accordance with its rules and state law, and make a recommendation to the City Council.
- iv. City Council Final Action. The City Council will hold a public hearing, in accordance with its rules and state law, and may take final action on the proposed amendment.
- c. Criteria for Approval—Generally. In determining whether to approve, approve with modifications, or disapprove a proposed amendment, the City Council will consider the following matters regarding the proposed amendment:
 - i. Whether the proposed amendment promotes the health, safety, or general welfare of the City and the safe, orderly, and healthful development of the City.
 - ii. Whether the proposed amendment is consistent with the Future Land Use element of the most recent version of Comprehensive Plan.
 - iii. Whether the proposed amendment is consistent with other goals and objectives of the Comprehensive Plan.
 - iv. Unified Development Code Compliance. No requirement of the procedure for Comprehensive Plan or Code amendments may govern if in conflict with specific provisions of this Code or Comprehensive Plan. Any potential conflict between the proposed amendment(s) and the UDC or other parts of the Comprehensive Plan should be dealt with prior to (or as part of) the adoption of any amendment.
 - v. Other criteria deemed relevant and important by the City Council in relationship to the proposed amendment in taking final action on the proposed amendment.
- d. Responsibility for Final Action. Recommendations regarding Comprehensive Plan amendments will be made by the Planning and Zoning Commission. The Planning and Zoning Commission will forward their recommendation to the City Council. The City Council is responsible for final action on Comprehensive Plan Amendments.

(2) Unified Development Code Text Amendment

- a. Applicability. Amendments to this Code may be made from time to time in order to establish and maintain sound, stable, and desirable development within the jurisdiction of the City, or to correct errors in the text, or to address changing conditions in a particular area or in the City. All text amendments will be in accordance with the Comprehensive Plan. If the Comprehensive Plan is amended, the Code should also be amended if deemed necessary or advisable by the Planning and Zoning Commission.
- b. Review Process. The following sections set forth the specific requirements for amendment of this Code; Section 1.9 of this Code. Updates or Amendments, describes the amendment and update process.
 - i. Initiation. Initiation of a City Council Review of a Code Amendment may be made upon recommendation of the:
 - 1) City Council;
 - 2) Planning and Zoning Commission; or
 - 3) City Manager;
 - 4) Request of other affected property owners or developers.

- ii. **Staff Review.** Once a procedure has been initiated, after receiving a complete application if initiated by a property owners or developers, the City Manager will review the application, considering any applicable criteria for approval and prepare a report to the Planning and Zoning Commission and City Council. The City Manager may:
 - 1) Establish procedures for administrative review necessary to ensure compliance with this Code and state statutes;
 - 2) Assign staff to review the application and make a report to the City Manager; and
 - 3) Include in his / her report a recommendation for final action.
- iii. **Planning and Zoning Commission Review.** The Planning and Zoning Commission will hold a public hearing, in accordance with its rules and state law, and make a recommendation to the City Council.
- iv. **City Council Final Action.** The City Council will hold a public hearing, in accordance with its rules and state law, and may take final action on the proposed amendment.
- c. **Criteria for Approval—Generally.** In determining whether to approve, approve with modifications, or disapprove a proposed amendment, the City Council will consider the following matters regarding the proposed amendment:
 - i. Whether the proposed amendment promotes the health, safety, or general welfare of the City and the safe, orderly, and healthful development of the City.
 - ii. Whether the proposed amendment is consistent with the Future Land Use element of the most recent version of the Comprehensive Plan.
 - iii. Whether the proposed amendment is consistent with other goals and objectives of the Comprehensive Plan.
 - iv. **Unified Development Code Compliance.** No requirement of the procedure for Comprehensive Plan or Code amendments may govern if in conflict with specific provisions of this Code or Comprehensive Plan. Any potential conflicts of proposed amendments with the UDC or Comprehensive Plan will be considered and dealt with prior to the review and adoption of any amendment.
- d. **Responsibility for Final Action.** The Planning and Zoning Commission will make recommendations regarding the Code Text Amendments. The Planning and Zoning Commission will forward its recommendation to the City Council. The City Council is responsible for final action.

(3) Special Use Permit

- a. **Applicability.** Special Use Permits allow for discretionary City Council approval of uses with unique or widely varying operating characteristics or unusual site development features, subject to the terms and conditions set forth in this Code. These uses may locate in districts as indicated under special conditions described in a Special Use Permit recommended by the Planning and Zoning Commission and approved by the City Council. No such use will commence without prior approval of a Special Use Permit.
- b. **Review Process.** The following sections set forth the specific requirements for approval of Special Use Permits.
 - i. **Initiation.** Initiation of a Special Use Permit request may be made by:
 - 1) An affected property owner or his / her authorized agent through the zoning application process; or
 - 2) Recommendation of the Planning and Zoning Commission; or

- 3) City Council.
- ii. Pre-Application Conference. Prior to submitting an application for approval, the Applicant may be required to participate in a Pre-Application Conference with the City Manager (or designee), City Engineer and designated City Staff, as noted in section 3.4 (1) and is optional for other applications. The Pre-Application Conference may include, but is not limited to, the City Manager and City Staff offering initial comments on the merits of the application, suggestions for refinement, and other information and advice to aid the applicant.
- iii. Application:
 - 1) Application on behalf of a property owner must be made in a format consistent with requirements established by the City Manager (or designee). Applications must include all materials determined necessary by the City Manager (or designee). Information regarding the format requirements and materials required for the application will be made available by the city staff in advance of any application.
 - 2) The City Manager (or designee) is responsible for ensuring that a complete application is prepared for changes initiated by the City Council or Planning and Zoning Commission such that all material necessary for the City Council to render an informed decision is provided.
- iv. Completeness Determination:
 - 1) Upon submission of an application for any type of zoning change, the City Manager (or designee) will determine whether the application is complete, as described in Section 3.4.
 - 2) Applications prepared by the City Manager (or designee) on behalf of the City Council or Planning and Zoning Commission will be considered complete.
- v. Staff Review. Once a procedure has been initiated, after receiving a complete application, the City Manager (or designee) will review the application, considering any applicable criteria for approval and prepare a report to the Planning and Zoning Commission and City Council. The City Manager (or designee) may:
 - 1) Establish procedures for administrative review necessary to ensure compliance with this Code and state statutes;
 - 2) Assign staff to review the application and make a report to the City Manager; and
 - 3) Include in his / her report a recommendation for final action.
- vi. Planning and Zoning Commission Review. The Planning and Zoning Commission will hold a public hearing, in accordance with its rules and state law, and make a recommendation to the City Council.
- vii. City Council Final Action. The City Council will hold a public hearing, in accordance with its rules and state law, and may take final action on the proposed request.
- c. Approval Criteria:
 - i. A binding Site Plan for the Special Use Permit must be approved by the City Council in order to approve issuance of a Special Use Permit. The Site Plan must be reviewed by the City Manager (or designee) for compliance with this Code.
 - ii. In addition to the criteria for zoning changes found in this Section, the City Council may approve an application for a Special Use Permit where it reasonably determines that there will be no significant negative impact upon residents of surrounding property or upon the general public. The City Council will review the Special Use Permit application based on the potential use's impact on the health, safety and welfare of the surrounding neighborhood; its

- impact on public infrastructure such as roads, parking facilities and water and sewer systems; and its impact on public services such as police and fire protection and solid waste collection, and the ability of existing infrastructure and services to adequately provide services. From time to time, the City Council may, at its sole discretion, promulgate a list of concerns or minimum public safety and design elements that should be addressed by an applicant for certain Special Use Permit land uses. When such a list of discussion guidelines is promulgated, it is to be considered only an outline of prospective issues that have come to the City's attention regarding these land uses, organized and recorded for the convenience of potential applicants, and is not in any way intended to be a comprehensive list of issues the City may consider in approving or denying the application, since each case subject to a Special Use Permit will be judged upon its unique circumstances and siting, decided at the discretion of the City based on the criteria described earlier in this paragraph. The City Manager (or designee) will maintain such lists, and they will be available to prospective applicants upon request.
- iii. No building, premise, or land used under a Special Use Permit (SUP) may be enlarged, modified, structurally altered, or otherwise significantly changed, unless an amendment to the approved SUP is granted for such enlargement, modifications, structural alteration, or change.
 - iv. Special Use Permits must be resubmitted to the City Manager (or designee) and the City Council for consideration using the modified Site Plan. The modified Special Use Permit and modified Site Plan will follow the regular review process for a regularly submitted Special Use Permit.
- d. Responsibility for Final Action. The City Council is responsible for final action on applications for Special Use Permits. The City Council, in considering final action, may impose conditions on the proposed use and attach such conditions to the Special Use Permit as deemed necessary to mitigate adverse effects of the proposed use and to carry out the spirit and intent of this section. Conditions and modifications may include but are not limited to limitation of building size or height, increased open space, limitations on impervious surfaces, enhanced loading and parking requirements, additional landscaping, curbing, sidewalk, vehicular access and parking improvements, placement or orientation of buildings and entryways, buffer yards, landscaping and screening, signage restrictions and design, maintenance of buildings and outdoor areas, duration of the permit and hours of operation.
- Where appeals are made to the City Council, the City Council 's action is considered final, subject only to judicial review.

(4) Zoning Map Amendment – Rezoning

- a. Applicability. For the purpose of establishing and maintaining sound, stable, and desirable development within the corporate limits of the City, the Official Zoning Map may be amended based upon changed or changing conditions in a particular area or in the City generally, or to rezone an area, or to extend the boundary of an existing Zoning District. If the Zoning Map is amended, the Comprehensive Plan and Code should also be amended if the Commission finds it necessary or advisable.
- b. Review Process:
 - i. Initiation. Initiation of a Zoning Change may be initiated by:

- 1) An affected property owner or his / her authorized agent through the zoning application process; or
 - 2) City Staff and City Manager;
 - 3) Recommendation of the Planning and Zoning Commission; or
 - 4) City Council.
- ii. Pre-Application Conference. Prior to submitting an application for approval, the Applicant must participate in a Pre-Application Conference with the City Manager (or designee), City Engineer and designated City Staff. The Pre-Application Conference may include, but is not limited to, the City Manager and City Staff offering initial comments on the merits of the application, suggestions for refinement, and other information and advice to aid the applicant.
- iii. Application:
- 1) Application on behalf of a property owner must be made in a format consistent with requirements established by the City Manager (or designee). Applications must include all materials determined necessary by the City Manager (or designee). Information regarding the format requirements and materials required for the application will be made available by the City staff in advance of any application.
 - 2) The City Manager (or designee) is responsible for ensuring that a complete application is prepared for changes initiated by the City Council or Planning and Zoning Commission such that all material necessary for the City Council to render an informed decision is provided.
- iv. Completeness Determination:
- 1) Upon submission of an application for any type of zoning change, the City Manager (or designee) will determine whether the application is complete, as described in Section 3.4.
 - 2) Applications prepared by the City Manager on behalf of the City Council or Planning and Zoning Commission will be considered complete.
- v. Staff Review. Once a procedure has been initiated and the application deemed complete, the City Manager (or designee) will review the application, considering any applicable criteria for approval and prepare a report to the Planning and Zoning Commission and the City Council. The City Manager (or designee) may:
- 1) Establish procedures for administrative review necessary to ensure compliance with this Code and state law;
 - 2) Assign staff to review the application and make a preliminary report; and
 - 3) Include a recommendation for final action in his / her report to the Planning and Zoning Commission and City Council.
- vi. Planning and Zoning Commission Review. The Planning and Zoning Commission will hold a public hearing, in accordance with its rules and state law, and make a recommendation to the City Council.
- vii. City Council Final Action. The City Council will hold a public hearing, in accordance with its rules and state law, and take final action on the application.
- 1) The rezoning, planned unit development, planned low density development, or initial zoning of annexed territory will become effective by a simple majority vote of the City Council.

- 2) If a proposed rezoning of a tract of land has been protested in writing by the owners of property covered by proposed change, or owners of at least 20 percent of the area within 200 feet of the tract, the rezoning may not become effective except by three-fourths vote of the City Council. Computation of area covered by proposed change shall include the streets and alleys.
 - 3) At least three-fourths vote of the City Council is required to overrule a recommendation by the Planning and Zoning Commission that a regulation or boundary be denied.
- c. Criteria for Approval—Generally:
- i. The application is complete, and the information contained within the application is sufficient and correct enough to allow adequate review and final action.
 - ii. Zoning changes may be approved when the following standards are met:
 - 1) The zoning change is consistent with the Comprehensive Plan;
 - 2) The zoning change promotes the health, safety, or general welfare of the City and the safe, orderly, and healthful development of the City;
 - 3) The zoning change is compatible with and conforms with uses of nearby property and the character of the neighborhood;
 - 4) The property affected by the zoning change is suitable for uses permitted by the proposed amendment to the zoning map;
 - 5) Infrastructure, including roadway adequacy, sewer, water and storm water facilities, is or is committed to be available that is generally suitable and adequate for the proposed use; and
 - iii. Zoning variances are considered and granted by the Zoning Board of Adjustments. Zoning changes must be made by Zoning Map Amendment. All amendments must be in accordance with the Comprehensive Plan, which may be amended according to the procedure in this Section. Newly annexed areas will be zoned during the annexation process.
- d. Responsibility for Final Action. The Planning and Zoning Commission will review conditions and proposed decisions regarding rezoning. The Planning and Zoning Commission will forward its recommendation to the City Council, which is responsible for final action on Zoning Map Amendments.

(5) Zoning Map Amendment – Planned Unit Development

- a. Applicability. A Planned Unit Development (PUD) is a zoning overlay district that may be used to permit new or innovative concepts in land utilization, master-planned communities, mixed use development that other Zoning Districts do not accommodate, and to provide site-specific compatibility standards. While greater flexibility is given to allow special conditions or restrictions that would not otherwise allow the development to occur, procedures are established to insure against misuse of increased flexibility. PUDs are appropriate in areas where the Comprehensive Plan reflects the specific uses proposed in the PUD or where the Comprehensive Plan reflects mixed use as a land use category. However, any PUD applicant must demonstrate that the lot sizing, street frontages, and general design characteristics of the PUD are in keeping with the spirit of the Fair Oaks Ranch Comprehensive Plan, and complimentary to the existing character of Fair Oaks Ranch.
- b. Submission Requirements.

- i. Pre-Application Conference. Prior to submitting a PUD Plan for approval, the Applicant must request a Pre-Application Conference with the City Manager (or designee), City Engineer and designated City Staff. The Pre-Application Conference will include, but is not limited to, the following:
 - 1) The City Manager and City Staff offering initial comments on the merits of the PUD Concept Plan, suggestions for refinement, and other information and advice to aid the Subdivider in the preparation of a Formal PUD Plan.
 - 2) If the PUD subdivision is located wholly or partly within the city limits, approval of the Final PUD Plan must be preceded or accompanied by approval of PUD zoning for the entire area of the subdivision inside the city limits, as provided in Chapter 4, Zoning Districts and Use Regulations. Preliminary and Final Plats which conform to the Final PUD Plan may then be submitted for approval as individual subareas within the overall PUD when they are ready for development. Any variation in land uses from those approved in the Final PUD Plan will require approval of an amended overall PUD plan, under the same procedures as required for the Final PUD Plan.
- ii. Concept Plan. At the Pre-Application Conference the Applicant will submit a Concept Plan for the proposed development. The PUD Concept Plan need not be engineered, but it must contain at least the following information in sufficient detail to permit understanding of the proposal:
 - 1) A map of the site, drawn to scale and showing north arrow, the boundaries of the proposed development, adjacent subdivisions, and the streets in the vicinity of the site.
 - 2) A map showing general topographic considerations affecting the site, floodplains and watercourses, recharge zones, geologic features and protected areas on the site and in the vicinity, and any other significant environmental features that may affect the site.
 - 3) The general layout proposed for the PUD, delineating the areas that are 1) proposed for residential development, 2) the forms and densities proposed in each such area, 3) the areas proposed for non-residential development and the general nature of the uses proposed in each such area, and 4) the areas proposed as open space or parks and the general character proposed for each such area.
 - 4) The total acreage of the site, the number of acres to be developed in each type of residential and non-residential development which is proposed, and the number of acres proposed to be dedicated as community open space.
 - 5) The total number of residential dwelling units of each type proposed, and the approximate gross square footage of each type of non-residential development proposed.
 - 6) All proposed amenities and enhancements with details.
- iii. Requirements for Preliminary PUD Submittal. In addition to the above requirements, the PUD submittal must contain or be accompanied by the following:
 - 1) A written report explaining the project, with a list of proposed variations and deviations from the requirements of this code, if any;
 - 2) Parking. Clear delineation of the areas which are to be reserved for off-street parking and loading, and the ratios of parking spaces to square feet of floor area for each lot to be developed in a non-residential use, and a clear delineation of the areas which are to

- be reserved for residential off-street parking and the number of parking spaces to be provided for each dwelling unit;
- 3) Fencing and Screening. The location, type and height of all proposed fences, screening walls, and other screening devices intended to buffer one land use from another or to buffer the PUD subdivision from adjacent properties;
 - 4) Community Open Space Areas. The location and character of all improvements to be made in community open space areas, including a general landscape plan for each area and proposed amenities;
 - 5) Building design and aesthetic standards;
 - 6) FORHA or HOA (Association). A draft of the legal Instrument establishing the Association.
- iv. Form and Content of Final PUD Plan. The Final PUD Plan will include 1) 24" by 36" copies of the Final PUD Plan, 2) 8 1/2" x 11" black and white copy, and 3) a digital file of the Final PUD Plan in a format specified by the City Manager (or designee). The Final PUD Plan will be drawn to a scale of 1-inch to 100 feet. Where more than one sheet is required, an index sheet of maximum size 18 inches by 24 inches will be filed showing the entire subdivision, and all scales must be uniform. The Final PUD Plan for the proposed development must be drawn by a Professional Engineer and must include the following:
- 1) Date, scale, north arrow, name of Subdivider, title of the plan/ development and name of the person preparing the PUD Plan;
 - 2) The location of the city limit lines and the outer border of the City's ETJ (if either traverses the subdivision or is contiguous to a subdivision boundary) and any other relevant jurisdictional lines;
 - 3) The location, ROW width, name and description of all existing or recorded streets and alleys within or adjacent to the subdivision, as determined from existing records, and the location of all intersections adjacent to the subdivision.
 - 4) The ROW and description of all proposed streets and alleys within the subdivision;
 - 5) The location, ROW, and type or purpose of all existing easements within and adjacent to the subdivision;
 - 6) The centerline of existing watercourses, creeks and drainage structures within and adjacent to the subdivision, and the limits of the 100-year flood plains if applicable;
 - 7) 2' topographic lines;
 - 8) The centerline of proposed watercourses, creeks and drainage structures, and the general nature and extent of any other water features that are proposed to be developed;
 - 9) The area and acreage in each distinct type of proposed land use;
 - 10) The areas and acreages which are to be dedicated as open space and parks, including an indication whether the dedication is to be as a public park, or a private park owned and managed by an Association;
 - 11) The location, type and height of the fences, walls or other screening devices which are proposed to buffer the PUD from adjacent developments and, within the PUD, to buffer one land use from another; and
 - 12) The information, which is presented graphically in the PUD plan must be accompanied by the following information in narrative or tabular form:

- I. The total number of dwelling units in each distinct type proposed;
 - II. The total acreage in each distinct type of residential development; and the resulting densities in dwelling units per acre;
 - III. The total acreage and gross square feet proposed in each distinct type of non-residential development;
 - IV. Descriptions of the number, size and character of any active recreational facilities and community meeting spaces which are to be included in the dedicated open space and parks; and
 - V. Calculations showing the minimum total area of open space and parks that is required by this Code, and the actual areas that are proposed to be dedicated as open space and parks. A narrative justification must accompany any request for a reduction in the open space requirement.
- v. Additional Requirements. In addition to the requirements for a Final Plat which apply to a conventional subdivision, the Final PUD Plan subdivision must contain or be accompanied by approved and executed copies of the following:
- 1) Legal Instrument Establishing the Association. A legal instrument establishing the Association, approved by the City Attorney;
 - 2) Budget. A multi-year budget for the community association, approved by the City;
 - 3) Financial Guarantee. A bond or other financial guarantee of the full funding of the Association's reserve fund for repairs and maintenance of the open space areas and facilities; and
 - 4) Maintenance Agreement. A Maintenance Agreement between the Association and the City for repair and maintenance of the common areas and facilities which are to be dedicated as open space.
- c. Approval Criteria (PUD). The zoning change criteria in this Section, as it related to the PUD, will be considered by the Planning & Zoning Commission and, upon receipt of the Commission's recommendation to the City Council, the Council will consider the following specific objectives and criteria in making a determination on the development ordinance and Concept Plan associated with the PUD. Rezoning and development under the PUD district will be permitted only if the development ordinance and Concept Plan meet the following criteria:
- i. Comprehensive Plan. The PUD must be compatible with the goals and policies of the Comprehensive Plan;
 - ii. Natural Features. Insofar as practicable, the landscape will be preserved in its natural state by minimizing tree and soil removal. The natural features of the landscape will be integrated into the subdivision design as amenities enhancing the developed environment.
 - iii. Environmentally Sensitive Features. Insofar as practicable, environmentally sensitive features will be preserved in their natural state. The environmentally sensitive features will be integrated into the subdivision design as amenities enhancing the developed environment.
 - iv. Buildings. Proposed buildings will be sited in harmony with the terrain and with other buildings in the vicinity that have a visual relationship to the proposed development.
 - v. Utility Infrastructure. Assurance of adequate utility infrastructure in conformance with the Utility Master Plan and Drainage Master Plan.
 - vi. Pathways, Driveways and Streets. Pedestrian paths, bicycle paths, driveways, parking areas and interior streets in the subdivision will be located and designed to take best advantage of

- the topography and natural features of the landscape, to separate vehicular, bicycle and pedestrian traffic as much as practical, and to contribute to rather than detract from the design of proposed land uses and neighboring properties.
- vii. Facilities. Provision of cultural and recreational facilities for all residents.
 - viii. Opens Spaces and Parks. Open spaces will link residential areas with each other and with related nonresidential destinations and provide amenities that enhance the residential environment. Where possible, these open spaces will link directly to parks, other open spaces, schools and other community institutions adjacent to the subdivision.
 - ix. Sequential / Staged Development. A Final PUD Plan may be divided into stages for sequential development over time. In such a case, the Final PUD Plan will include the entire area of the tract, which is to be developed as a PUD, and it will indicate the sequence and approximate schedule for development of all the various subareas within the tract. Development will be staged in a manner that can be accommodated by the timely provision of public utilities, facilities and services.
 - x. Minimum Requirements:
 - 1) No Minimum Lot Size. There is no minimum lot size for a residential lot in a PUD, provided that for each residential unit there is a net minimum of 4,000 square feet of site area. There is no minimum width and no minimum street frontage for a residential lot in a PUD.
 - 2) Setbacks. There are no minimum front, side or rear yard setback requirements in a PUD, except as follows:
 - I. Along the perimeter of a PUD, all lots must meet the same minimum setback requirements as would be required in a subdivision which is not a PUD, unless the City Council approves a lesser setback in the PUD Plan.
 - II. On any lot which has driveway access to a street, all buildings and other structures must be set back at least ten feet from the lot line adjacent to the street.
 - III. On any corner lot, no wall, fence or other structure may be erected above a height of three feet, and no hedge, shrub, tree or other vegetation may be maintained above a height of three feet, within the triangular area formed by the intersecting street edge lines and a straight line connecting such street edge lines at points 25 feet from the point of intersection measured along such street line.
 - 3) Drainage easements and utility easements will be provided as required by other provisions of this Code.
 - xi. Minimum Open Space Requirements. Each PUD will provide for a minimum amount of community open space as follows:
 - 1) For a residential PUD, the minimum requirement is 20 percent of the gross site area of the subdivision.
 - 2) For a non-residential PUD, the minimum requirement is ten percent of the gross site area of the subdivision.
 - 3) For a PUD that includes both residential and non-residential development, the total requirement is calculated according to the relative proportions of the gross site area of the subdivision that are proposed to be developed in residential and non-residential uses.
 - 4) Up to 25 percent of the minimum community open space requirement may be met by including 1/2 of the area of any public park, unimproved floodplain or other beneficial open space area which is contiguous and accessible to the subdivision and which, in the

judgment of the planning and City Manager (or designee) and the City Council, has a reasonable expectation of perpetuity. The City Manager and the City Council may also approve a decrease of up to 25 percent of the minimum community open space requirement when the PUD plan includes unique design features or amenities which achieve an especially attractive and desirable development, including, but not limited to, terraces, sculpture, water features, preservation and enhancement of unusual natural features or cultural resources, or other unusual amenities which the City Manager and City Council find will benefit the community as a whole in addition to the occupants of the subdivision. However, in no case may the total reduction in the minimum community open space requirement exceed 40 percent.

- 5) The community open space required by this section may either be dedicated to the City as public park land or be dedicated as common area for use by the residents / occupants of the PUD, to be owned and managed by the Association which is directly responsible to and controlled by the property s in the subdivision.
 - 6) In the case of community open space which is proposed to be dedicated as parkland, the City Manager (or designee) will inspect the area in the field and make a recommendation to the City Council at the time the Council considers the PUD plan as to the desirability of accepting the proposed dedication and the City's likely ability to fund the future operation and maintenance of the proposed facilities. The area to be so dedicated will be indicated on the Preliminary Plat as "Park Land Dedicated to (the name of management entity such as FORHA)." The total acreage of the park will be noted on the Final Plat, and the dedication of the park will also be noted in the narrative portion of the Final Plat where the Owner dedicates easements, ROW and other improvements to the City. All improvements to the required open space which are shown in the Final PUD Plan must be constructed by the Subdivider at the same time as the streets, drainage system and other components of the subdivision infrastructure are being constructed. Additionally:
 - I. Improvements to an open space that is internal to or otherwise distinctly associated with an individual subarea of a PUD, which is to be developed in stages, must be constructed at the same time as the other components of subdivision infrastructure shown on the Final Plat for that stage of the subdivision development.
 - II. No building permits will be issued, and no utility connections will be made for any building or structure on any lot outside the community open space until these improvements have been inspected and approved by the City Manager (or designee).
- d. Effect of Council Approval. City Council approval of a PUD also constitutes final approval of the binding PUD development ordinance and PUD Concept Plan that were attached to the PUD application, as modified by the City Council.
- i. Development Ordinance. The PUD development ordinance, as modified and approved by the City Council, becomes, in effect, a modification to the regulations and standards of this Code that apply only to the area of land described by the PUD development ordinance. All future or ongoing development approvals or permits within the area of the PUD will comply with the PUD development ordinance in addition to this Code.
 - ii. The PUD Concept Plan. As modified and approved by the City Council, the PUD Concept Plan becomes, in effect, an amendment to the City's Comprehensive Plan and Zoning Map that applies only to the area of land described by the PUD. All future or ongoing development

approvals or permits, including any plat-related approval, will comply with the PUD Concept Plan in addition to the City's Comprehensive Plan.

- iii. Minimum Requirements. Unless otherwise indicated in the approved PUD development ordinance or PUD Concept Plan, the minimum requirements for each development will be those stated in this Code for subdivisions and the requirements of the most restrictive standard Zoning District in which designated uses are permitted.
- e. Responsibility for Final Action. The Planning and Zoning Commission will review decisions regarding a PUD. The Commission will forward its recommendation to the City Council, which is responsible for final action on a PUD.
- f. Approval When Protested. If the Final PUD Plan is protested in writing by the owners of 20 percent or more either of the number of lots or of the area of land covered by the proposed change or the area of lots or area of land immediately adjoining the proposed PUD subdivision and within 200 feet from the proposed subdivision boundary, then the Final PUD plan may not be approved except by a vote of at least 3/4 of all members of the City Council. Computation of area covered by proposed change shall include the streets and alleys.
- g. Substantial Amendments to the Final PUD Plan. Alterations to the approved Final PUD Plan are classified as either substantial or nonsubstantial amendments. Substantial amendments must be approved by City Council following the same procedures as required for approval of the Final PUD Plan, including payment of the appropriate Filing Fees. A substantial amendment is any change that would:
 - i. Add a land use not previously approved as part of the PUD plan;
 - ii. Alter the land use in an area within 200 feet of a boundary of the PUD subdivision, Increase the overall density of the PUD by ten percent or more. However, in no case may the overall density of a PUD located inside the city limits exceed that permitted by the PUD zoning district;
 - iii. Reduce the total area to be dedicated as community open space, or which would alter the location of that area by ten percent or more; or
 - iv. In the judgment of the City Manager (or designee), would significantly alter the general character or overall design of the PUD.
- h. Nonsubstantial Amendments. All other amendments not deemed substantial shall be considered nonsubstantial amendments. Within 30 days from the official date of submission of the application for a Nonsubstantial Amendment, the City Manager must 1) approve it 2) approve it with conditions, which means the nonsubstantial amendment is approved once such conditions are fulfilled, and until the conditions are satisfied, it is considered denied, or 3) defer the Nonsubstantial Amendment to the City Council.
- i. Action by City Council, If Required. If the City Manager (or designee) defers the Nonsubstantial Amendment application, the City Council must consider the application at a regular meeting no later than 30 calendar days after the date on which the City Manager (or designee) deferred the application to the City Council. The City Council, upon simple majority vote, must 1) approve Nonsubstantial Amendment, 2) approve it with conditions, which means the Nonsubstantial Amendment is approved once such conditions are fulfilled, and until the conditions are satisfied, it is considered denied, or 3) deny the Nonsubstantial Amendment.

- j. Certified by City Manager (or designee). No application for approval of a Nonsubstantial Amendment will be considered completed and filed until all the items required by state law and this Code have been received and the application is certified by the City Manager (or designee).

(6) Conservation Development Alternative

Refer to Section 8.3.

(7) Concept Plan

- a. Purpose. The purpose of the Concept Plan is to provide for review of certain developments for compliance with the Comprehensive Plan, this Code, any additional adopted plans (e.g., Wastewater, Drainage or Water Plan), the compatibility of land uses, and the coordination of improvements within and among individual parcels of land or phases of development, **prior to City approval of a Preliminary Plat.**
- b. Applicability:
 - i. A Concept Plan is required for any development that meets the following criteria:
 - 1) If the property is undeveloped, is under one ownership, and is greater than 50 acres; or
 - 2) Is to be platted and developed in phases; or
 - 3) Will require off-site road, drainage, or utility connections or improvements that will have a substantial impact or effect on other properties or developments; or
 - 4) Is proposed for approval as a Planned Unit Development
 - ii. The City Manager (or designee) will determine during the Pre-Application Conference for any plat application whether a Concept Plan is required in accordance with the purpose stated in this Code. The City Manager (or designee)'s decision to require a Concept Plan may be considered by the Planning and Zoning Commission upon written request of the applicant
 - iii. When a development is located on a portion of a large tract under one ownership, is developed in phases, or is located on land that was not legally subdivided, the developer may be required to submit a Concept Plan for review and recommendation to City Council by the Planning and Zoning Commission.
- c. Approval Criteria. Concept Plans will be reviewed by the Commission using the applicable criteria for approval of subdivisions and plats in this Code, and forwarded to City Council for its review and final action.
- d. Responsibility for Final Action. The Planning and Zoning Commission will make recommendations regarding a Concept Plan. The Commission will forward its recommendation to the City Council, which is responsible for final action on Concept Plans.

Phases and Revisions. All current and future phases of development referenced in a Concept Plan will be designed and constructed in conformance with the Concept Plan. Any changes to project layout, land use, infrastructure design or construction, or other changes that would require a revision of subsequent plats or permits from what was originally proposed will require a revision of the Concept Plan prior to proceeding to apply for approval of subsequent development phases on the same property. All revisions to a Concept Plan will be subject to review and recommendation by the Commission and final approval by the City Council or designee.

Section 3.8 Subdivision and Property Development Related Applications

This section applies to the following subdivision-related applications:

- Administrative Plats
- Preliminary Plat
- Final Plat
- Replat
- Development Plat
- Construction Plans

(1) General Requirements for Approval of Plats

- a. Prior to the subdivision, re-subdivision, or development of any land within the City, or its extraterritorial jurisdiction, all plans, plats, and construction plans for infrastructure improvements must first be approved in accordance with regulations specified in subsections 3.8(1) (b) – (f) except for:
 - i. Construction of alterations to an existing building where no drainage, street, utility extension or improvement, additional parking or street access change is required to meet the standards of this Code are necessary to support such building alterations and no increase in the footprint of the building is proposed.
 - ii. Divisions of land created by order of a court of competent jurisdiction.
 - iii. A change in ownership of a property through inheritance or the probate of an estate.
 - iv. Cemeteries complying with all state and local laws and regulations.
 - v. Those plats exempted in LGC §212.004.
- b. Except as exempted in Section 3.8(1)a, above, no land may be subdivided or platted through the use of any legal description other than with reference to a plat approved by the City Council or the City Manager (or designee) in accordance with these regulations.
- c. No land described in this section may be subdivided or developed until the property owner has obtained approval of the applicable Plat, or Development Plat from the City Council or the City Manager as required by these regulations.
- d. No person will transfer, lease, sell or receive any part of a parcel before an Administrative Plat or Final Plat of such parcel and the remaining parcel have been approved by the City Council in accordance with the provisions of these regulations in this Code and filed of record with the appropriate County Clerk.
- e. The platting or subdivision of any lot or any parcel of land, by the use of Global Positioning System (GPS) using the Texas State Plane Coordinate System (SPCS) as a substitute for metes and bounds for the purpose of sale, transfer, lease or development is prohibited. The SPCS may be used as supporting documentation only and the datum source must be referenced.
- f. The Commission and the City Council will act on a plat within the timeframe specified in the state statutes. A plat is considered approved unless it is disapproved within that period.
- g. Conditional approval and denial. If the City Council conditionally approves or denies the plat, a written statement must be provided to the applicant clearly articulating each specific condition for the conditional approval or reason for denial. Each condition or reason specified in the written statement may not be arbitrary and must include a citation to the regulation, ordinance, or law that is the basis for the conditional approval or denial.
- h. Applicant Response to Conditional Approval or Denial. After the conditional approval or denial of a plat, the applicant may submit a written response that satisfies each condition for the conditional approval or remedies each reason for denial provided. The City Manager is

authorized to approve revisions required for conditional approval of the plat. The City Council shall determine whether to approve or deny the applicant's previously denied plat or conditionally approved, if forwarded to the City Council by the City Manager. Action shall be taken by the City Manager or City Council no later than the fifteenth (15th) calendar day after the date the response was submitted.

(2) Administrative Plat Review

- a. Applicability. Minor Plats, Amending Plats, and Development Plats may be approved by the City Manager (or designee) following an evaluation for plan compliance and technical compliance with this Code.
 - i. Minor Plat. A Minor Plat is any plat involving four (4) or fewer lots fronting on an existing street and not requiring the creation of any new street or the extension of municipal facilities.
 - ii. Amending Plat. A plat that complies with LGC §212.016, as amended, which is generally submitted to correct errors and omissions, or make minor changes if the amending plat is signed by the applicants only and is solely for one or more of the following purposes:
 - 1) Correct an error in a course or distance shown on the preceding plat;
 - 2) Add a course or distance that was omitted on the preceding plat;
 - 3) Correct an error in a real property description shown on the preceding plat;
 - 4) Indicate monuments set after the death, disability, or retirement from practice of the engineer or surveyor responsible for setting monuments;
 - 5) Show the location or character of a monument which has been changed in location or character or that is shown incorrectly as to location or character on the preceding plat;
 - 6) Correct any other type of scrivener or clerical error or omission previously approved by the municipal authority responsible for approving plats, including lot numbers, acreage, street names, and identification of adjacent recorded plats;
 - 7) Correct an error in courses and distances of lot lines between two (2) adjacent lots if:
 - 8) Both lot owners join in the application for amending the plat;
 - 9) Neither lot is abolished;
 - 10) The amendment does not attempt to remove recorded covenants or restrictions; and
 - 11) The amendment does not have a materially adverse effect on the property rights of the other owners in the subdivision;
 - 12) Relocate a lot line to eliminate an inadvertent encroachment of a building or other improvement on a lot line or easement;
 - 13) Relocate one or more lot lines between one or more adjacent lots if:
 - The owners of all those lots join in the application for amending the plat;
 - The amendment does not attempt to remove recorded covenants or restrictions; and
 - The amendment does not increase the number of lots;
 - 14) Make necessary changes to the preceding plat to create six or fewer lots in the subdivision or a part of the subdivision covered by the preceding plat if:
 - The changes do not affect applicable zoning and other regulations of the municipality, including water and on-site sewage facility regulations;

- The changes do not attempt to amend or remove any covenants or restrictions; and
 - The area covered by the changes is located in an area that the Commission or City Council has approved, after a public hearing, as a residential improvement area;
- 15) Replat one or more lots fronting on an existing street if:
- The owners of all those lots join in the application for amending the plat;
 - The amendment does not attempt to remove recorded covenants or restrictions;
 - The amendment does not increase the number of lots; and
 - The amendment does not create or require the creation of a new street or make necessary the extension of municipal facilities, or require a variance for water well lot sizing and setbacks or on-site sewage facility regulations.
- iii. Development Plat:
- 1) Development Plats are required for previously unsubdivided or unplatted land that is not being divided into separate parcels, as described in LGC §212.045.
 - 2) Any person who proposes the development of a tract of land within the City limits or the extraterritorial jurisdiction of the City must have a Development Plat of the tract prepared in accordance with this Section.
 - 3) No development will begin, nor any building permit, utility connection permit, or similar permit be issued until a development plat has been reviewed and approved.
 - 4) When an applicant is required to file a Preliminary Plat or Final Subdivision Plat by other requirements of this Section, a Development Plat is not required.
- iv. City Manager Endorsement. It will be unlawful to offer and cause to be filed any plan, plat, or replat of land within the City limits or ETJ of City of record with the appropriate County Clerk unless the plan, plat or replat bears the endorsement and approval of the City Manager (or designee).
- b. Approval Criteria (Administrative Plat). All subdivisions and plats of land will be reviewed using the criteria in this Code. Infrastructure construction plans must be filed and be consistent with Chapter 8 Environmental Protection, if needed. Subdivisions, plats and construction plans must be reviewed and approved before any final action may be taken by the City Manager (or designee) or the developer.
- c. Action Following Plat Approval. After approval of an Administrative Plat, the Developer will notify the City Engineer within ten (10) days which of the following construction procedure(s) the Developer proposes to follow:
- i. The Developer may file a Construction Plan, and upon approval of the Construction Plan by the City Manager (or designee), proceed with construction of streets, alleys, sidewalks, and utilities that the Developer is required to install. The City will inspect the work as it progresses, and upon completion and final acceptance by the City, and upon written request of the Developer, the approved plat may be filed of record with the appropriate County Clerk; or
 - ii. The Developer may elect to post fiscal surety and assurance of construction, if required, as provided in Chapter 9 Infrastructure and Public Improvements, in which case the surety of assurance will be filed with the City, together with a request that the plat be filed for record. In this case, the plat will be filed with the appropriate County Clerk. The City will inspect the construction work as it progresses and will make the final inspection to assure

compliance with City requirements; and upon completion of construction, the Developer will deliver to the City a two (2) year guarantee of workmanship and materials as provided in Chapter 9 Infrastructure and Public Improvements.

- iii. The City Engineer shall issue letter accepting documents, providing the requisite authority for the Subdivider to proceed with the construction of streets and utilities.
- d. Recordation. After the City Manager (or designee) has approved the plat, the City Engineer has approved the Construction Plan and the Subdivider has either posted fiscal surety and assurance of construction (see Chapter 12 Compliance and Enforcement) or completed required provision of infrastructure and public improvements, the plat will be recorded in the Office of the appropriate County Clerk. The Developer will pay the record filing fee as provided for in the City of Fair Oaks Ranch Fee Schedule Ordinance.

(3) Preliminary Plat Review

- a. Applicability:
 - i. Other than for an Administrative Plat Review identified in Section 3.8(2) Preliminary Plat approval will be required before any land is subdivided.
 - ii. Preliminary Plats are required for land being divided into separate parcels, plats with five or more lots, and any plats that require public improvements that will be dedicated to the City.
 - iii. It will be unlawful to offer and cause to be recorded any Preliminary Plat of land within the City limits or extraterritorial jurisdiction of City with the appropriate County Clerk by any party other than the City Manager or another duly authorized representative of the City.
 - iv. Preliminary Plat is not required for plats where Replat is applicable.
- b. Preliminary Plat Application Requirements:
 - i. Engineering Information. Submission requirements for the Preliminary Plat will be established by the City Manager (or designee) and will include basic engineering information, in accordance with the Engineering Design Standards Manual, Appendix D of this Code necessary for the Planning and Zoning Commission to render an informed recommendation and for the City Council to render an informed decision (Detailed engineering information will be required for the Final Plat).
 - ii. Signature Block. A plat submitted for consideration as a Preliminary Plat is not required to have an area or signature block for any endorsement and approval by the City Council, as is required to file the Final Plat with the appropriate County Clerk.
- c. Approval Criteria. Subdivisions and plats of land will be reviewed using the criteria specified or referenced in this Code (Section 3.2).
- d. Responsibility for Final Action. The Commission will make recommendations regarding Preliminary Plat approval and forward its recommendation to the City Council for final action.
- e. Action Following Preliminary Plat Approval. After approval of a Preliminary Plat, the Subdivider will prepare and submit a Final Plat.
- f. Certification of exhibits: Refer to Section 3.8 (3) f.

(4) Final Plat Approval

- a. Applicability:
 - i. Preliminary Plat and Construction Plan for all public improvement. Final Plats are technically complete versions of an already approved Preliminary Plat. No Final Plat may be considered

- or approved unless the Preliminary Plat and detailed engineering and Construction Plan for all public improvements for the same land has been approved.
- ii. Review. Final Plat review is required to ensure that a final recorded plat conforms to the Preliminary Plat as approved by the City Council and to the Construction Plan as approved by the City Manager or designee. The Final Plat must incorporate all changes from the Preliminary Plat that were considered and approved by the City Council and from the approved Construction Plan for all public improvements.
- b. Final Plat Application Requirements:
- i. Submission Requirements. Applications must be made in a format consistent with requirements established by the City Manager (or designee). Applications must include all materials determined necessary by the City Manager (or designee).
 - ii. Support Documentation. When filed, the Final Plat must also provide all support documentation required by the appropriate County Clerk's office for recordation.
 - iii. Signature Block. A plat submitted for consideration as a Final Plat must have an area or signature block for any endorsement and approval by the City Council, as required to file the Final Plat with the appropriate County Clerk.
 - iv. Fiscal Security. If public improvements are not completed and accepted prior to submittal of a Final Plat for consideration, estimates for posting fiscal surety for landscaping requirements, maintenance, erosion and sedimentation control, roads, and utilities are also required for Final Plat review.
- c. Approval Criteria:
- i. Review. Subdivisions and plats of land will be reviewed using the criteria in this Code (Section 3.2) and any technical criteria referenced by this Code.
 - ii. Preliminary Plat. A Final Plat must be determined to be consistent with a previously approved Preliminary Plat.
 - iii. Construction Plan. The City Manager (or designee) must approve a construction plan for compliance with this Code and any required or agreed upon improvements, prior to approval of Final Plats.
- d. Responsibility for Final Action. The Commission will make recommendations regarding Final Plat approval and forward those recommendations to the City Council for final action.
- e. Recordation. If the City Council has approved the Final Plat, and the Subdivider has either posted fiscal surety and assurance of construction, or completed the required infrastructure and public improvements, the Final Plat becomes the instrument to be recorded in the Office of the appropriate County Clerk when all requirements have been met. The Subdivider will pay all associated fees and the City will file the Final Plat with the appropriate County Clerk within 60 days.
- f. Certification of exhibits: Refer to Section 3.8 (3) f.

(5) Replat

- a. Applicability:
- i. Replat. A replat is any plat that complies with LGC §212.014, §212.0145, and §212.015, as amended, which is generally submitted to replat a subdivision or part of a subdivision without vacation of the original plat.
 - ii. Portions. Replatting a portion of a recorded lot is not permitted.

- iii. Development. A replat does not itself constitute approval for development of the property.
- b. Replat Application Requirements. Submission requirements for a replat will be similar to those required for Final Plats. Applications must be made in a format consistent with requirements established by the City Manager (or designee). Applications must include all materials determined necessary by the City Manager (or designee).
- c. Approval Criteria:
 - i. Review. Replats will be reviewed using the criteria in this Code (Section 3.2) and any technical criteria referenced by this Code.
 - ii. Construction Plan. The City Manager (or designee) must approve a construction plan for compliance with this Code and any required or agreed upon improvements, prior to approval of replat (if applicable).
- d. Responsibility for Final Action. The Commission will make recommendations regarding the Replat approval and forward those recommendations to the City Council for final action.
- e. Recordation. If the City Council has approved the replat, and the Subdivider has either posted fiscal surety and assurance of construction, or completed the required infrastructure and public improvements, the Replat becomes the instrument to be recorded in the Office of the appropriate County Clerk when all requirements have been met. The Subdivider will pay all associated fees fee and the City will file the Replat with the appropriate County Clerk within 60 days.
- f. Additional Requirements for Certain Replats.
 - i. Public Notice. In addition to a public hearing, public notice is required for a replat of a preceding plat if:
 - 1) During the preceding five (5) years, any of the area to be replatted was limited by an interim or permanent zoning classification to residential use for not more than two (2) residential units per lot; or
 - 2) Any lot in the preceding plat was limited by deed restrictions to residential use for not more than two (2) residential units per lot.
 - ii. Notice Requirements. Notice of the required hearing will be given at least 16 days before the date of hearing by:
 - 1) Publication in an official newspaper or a newspaper of general circulation in the area in which the municipality is located; and
 - 2) By written notice, with a copy of Subsection (iii) below attached, forwarded by the municipal authority responsible for approving plats to the owners of lots that are in the original subdivision and that are within 200 feet of the lots to be replatted, as indicated on the most recently approved municipal tax roll or in the case of a subdivision within the extraterritorial jurisdiction, the most recently approved county tax roll of the property upon which the replat is requested. The written notice may be delivered by depositing the notice, properly addressed with postage prepaid, in a post office or postal depository within the boundaries of the municipality.
 - iii. Variances. If the proposed replat requires a Variance and is protested in accordance with this subsection, the proposed replat must receive, in order to be approved, the affirmative vote of at least three-fourths of the members present of the Planning and Zoning Commission or City Council, or both. For a legal protest, written instruments signed by the owners of at least 20 percent of the area of the lots or land immediately adjoining the area covered by the

proposed replat and extending 200 feet from that area, but within the original subdivision, must be filed with the Commission or City Council, or both, prior to the close of the public hearing.

- iv. In computing the percentage of land area under Subsection (iii), the streets and alleys will be included.
- v. Compliance with Subsections (iii) and (iv) is not required for approval of a replat of part of a preceding plat if the area to be replatted was designated or reserved for other than single or duplex family residential use by notation on the last legally recorded plat or in the legally recorded restrictions applicable to the plat.
- g. Certification of exhibits: Refer to Section 3.8 (3) f.

(6) Construction Plans (City Engineer Approval)

- a. Applicability. Construction plans must be submitted to the City Engineer prior to a Final Plat submittal for all existing or proposed streets, sidewalks, drainage and utility improvements, water quality controls, park improvements, and any other infrastructure or public improvements that are required or proposed to be constructed, reconstructed, improved, or modified to serve the development. Where the Final Plat is for property being developed in phases, the required construction plans must include the improvements specified in the or Preliminary Plat to serve the phase being platted. The construction plans are intended to provide for the detailed engineering drawings for all improvements required to serve the development. The construction plans must be kept as a permanent record of the City. The City Engineer, as referenced in this Code is acting as agent for the City Manager, and will have the powers specified in this Code only to the extent that the Engineer is expressly delegated those powers by the City Manager.
- b. Applications. Applications must be made in a format consistent with requirements established by the City Manager (or designee). Applications must include all materials determined necessary by the City Manager (or designee).
- c. Responsibility of Subdivider's Engineer. The registered professional engineer representing the Subdivider is responsible for the accuracy, completeness and conformance of all plans to City standards and must certify (with seal) the construction plans as to accuracy and design and conformance with all applicable City requirements. The City assumes no project design or engineering responsibility. The Subdivider's professional engineer certifying the plans is responsible for the accuracy and completeness of the documents and the soundness of the designs as submitted for review and actual construction.
- d. Approval Criteria. The purpose of the City Engineer's review is to ensure conformance to City policies and standards (Section 3.2); however, the City Engineer's review is limited to facts as presented on submitted plans. The City Engineer will approve any Construction Plan that is submitted and sufficiently shows compliance with any City approved or adopted design or construction criteria manuals, or in the absence of City approved or adopted design requirements, standard engineering practices. The City Engineer may not approve a Construction Plan that does not adequately represent construction of the approved infrastructure and public improvements included in the approved plat, or that he / she knows does not comply with this Code or other applicable law.
- e. Corrections to Actual Conditions. The City reserves the right to require corrections to actual conditions in the field that are found to be contrary to or omitted from submitted plans.

- f. Responsibility for Final Action. The City Engineer is responsible for final action on Construction Plans.

(7) Waivers

The Commission may recommend to City Council the approval, approval with conditions, or disapproval of waivers of the standards required for plat approval, by using the criteria for consideration of Variances in Section 3.9. The request for waivers will be approved prior to approval of Plats.

Section 3.9 Site Development Related Applications

This section applies to general issues related to development within the City of Fair Oaks Ranch and within the City's extraterritorial jurisdiction (ETJ).

- Letter of Regulatory Compliance
- Written Interpretation of the Unified Development Code Master or Common Sign Plan
- Temporary Use Permit
- Special Exception
- Site Plan Review, Site Development Permit, Stormwater Permit and Floodplain Development Permit
- Certificate of Design Compliance
- Appeal of an Administrative Decision
- Variance
- Sign Permit
- On-Site Sewage Facility Permit (OSSF)

(1) Letter of Regulatory Compliance (City Manager Approval)

- a. Applicability. The Subdivider may obtain a Letter of Regulatory Compliance from the City Manager (or designee) prior to commencing work on any development and may be required to do so by the City as part of an application for another procedure. The Letter of Regulatory Compliance certifies that specific uses of land and any new development is in compliance with the requirements of these development regulations. Applications must be made in a format consistent with requirements established by the City Manager (or designee). Applications must include all materials determined necessary by the City Manager (or designee).
- b. Types of Letters of Regulatory Compliance:
 - i. Zoning Verification Letter. A Zoning Verification Letter is a letter that indicates to a property owner that a specified use, clearly identified in the application, is permitted within the Zoning District. A Zoning Verification Letter does not vest the property owner with permission to proceed with a development; does not specify requirements that must be met for future development; and does not include a determination that a tract of land may be developed. The City Manager (or designee) may include additional information about the uses and standards required for a development to proceed, however, and such additional information does not constitute permission to proceed with development.
 - ii. Legal Lot Verification Letter. A Legal Lot Verification Letter is a letter in accordance with LGC §212.0115 that indicates whether or not a lot has been properly platted.
 - iii. Responsibility for Final Action. The City Manager (or designee) is responsible for final action.

(2) Written Interpretation of the Unified Development Code (City Manager Approval)

- a. Applicability. The City Manager (or designee) will have the authority to make all written interpretations of this Code. Whenever there appears to be an uncertainty, vagueness, or conflict in the terms of the Code, the Manager, in consultation with City Staff, City Engineer, or the City Attorney, as may be appropriate, will make every effort to interpret the Code in such a way that it fulfills the goals of the Comprehensive Plan and this Code. The interpretation given by the City Manager (or designee) will be final unless an appeal is made by the applicant to the Zoning Board of Adjustments to overturn his decision. In such a case the burden will be on the applicant to prove that the City Manager(or designee)'s interpretation is unreasonable and in clear conflict with the governing law and the goals of the Comprehensive Plan.
- b. Specific Application Requirements for Written Interpretation. Submission requirements for written interpretations will be developed by the City Manager (or designee). Applications must be made in a format consistent with requirements established by the City Manager (or designee). Applications must include all materials determined necessary by the City Manager (or designee).
- c. Approval Criteria (Written Interpretation). In addition to the general criteria for consideration of administrative procedures in Section 2.3 of this Code, the City Manager (or designee) will determine, based on analysis of the requested interpretation, and considering this Code, the correct interpretation for whatever question is raised.

(3) Master or Common Sign Plan (City Manager Approval)

- a. Applicability. A master sign plan will be required for all multiple-tenant buildings, PUDs, and all multi-building or multi-occupant commercial developments before any signs for such development may be erected on the property. All owners, tenants, subtenants and purchasers of individual units within the development will comply with the approved master sign plan.
- b. Criteria for Approval. In addition to the general administrative review criteria in Section 2.3, in order to approve the Master Sign Plan the City Manager (or designee) must determine Plan provides that signs of a similar type and function within the development will have a consistent size, lettering style, color scheme and material construction, and meet the size and height limitations, location requirements, and other applicable requirements of this Code. Applications must be made in a format consistent with requirements established by the City Manager (or designee). Applications must include all materials determined necessary by the City Manager (or designee).
- c. Responsibility for Final Action. The City Manager (or designee) is responsible for final action.

(4) Temporary Use Permit (City Manager Approval)

- a. Applicability. Temporary uses, as per Section 4.12, are required to obtain a Temporary Use Permit from the City Manager (or designee). The permit specifies the use, the period of time for which it is approved, and any special conditions attached to the approval. Applications must be made in a format consistent with requirements established by the City Manager (or designee). Applications must include all materials determined necessary by the City Manager (or designee).
- b. Approval Criteria. In addition to the general criteria for consideration of administrative procedures, the City Manager (or designee) will consider whether the application complies with the following standards:

- i. Land Use Compatibility. The temporary use must be compatible with the purpose and intent of this Code and the Zoning District in where it will be located. The temporary use will not impair the normal, safe, and effective operation of a permanent use on the same site. The temporary use will not endanger or be materially detrimental to the public health, safety or welfare, or injurious to property or improvements in the immediate vicinity of the temporary use, given the nature of the activity, its location on the site, and its relationship to parking and access points.
- ii. Compliance with Other Regulations. A Building Permit or temporary Certificate of Occupancy may be required before any structure to be used in conjunction with the temporary use is constructed or modified. All structures and the site as a whole will meet all applicable Building Code, Zoning District, and Fire Code standards and will be promptly removed upon the cessation of the use or event. Upon cessation of the event or use, the site will be returned to its previous condition (including the removal of all trash, debris, signage, attention attracting devices or other evidence of the special event or use).
- iii. Duration. The duration of the temporary use will be consistent with the intent of the use and compatible with the surrounding land uses. The duration will be established by the City Manager (or designee) at the time of approval of the Temporary Use Permit.
- iv. Traffic Circulation. The temporary use will not cause undue traffic congestion or safety concerns, as determined by the City Engineer, given anticipated attendance and the design of adjacent streets, intersections and traffic controls.
- v. Off-Street Parking. Adequate off-street parking will be provided for the temporary use, and it will not create a parking shortage for any of the other existing uses on or near the site.
- vi. Appearance and Nuisances. The temporary use will not cause any temporary or permanent nuisance. The temporary use will be compatible in intensity, appearance and operation with surrounding land uses in the area, and it will not impair the usefulness, enjoyment or value of adjacent property due to the generation of excessive noise, dust, smoke, glare, spillover lighting, or other forms of environmental or visual pollution.
- vii. Other Conditions. The City Manager (or designee) will consider any other conditions that may arise as a result of the temporary use.
- viii. Public Conveniences and Litter Control. Adequate on-site rest room facilities and on-site solid waste containers may also be required. The applicant will provide a written guarantee that all litter generated by the event or use will be removed within a reasonable and appropriate timeframe at no expense to the City. The guarantee will be in a form and substance approved by the City Manager (or designee), which may include the requirement of a fiscal posting.
- ix. Signs and Attention-Attracting Devices. The City Manager (or designee) will review all signage in conjunction with the issuance of the permit. The City Manager (or designee) may approve the temporary use of attention attracting devices that generally conform to the requirements of this Code. The City Manager (or designee) may establish any additional conditions deemed necessary to ensure land use compatibility and to minimize potential adverse impacts on nearby uses, including, but not limited to, time and frequency of operation, temporary arrangements for parking and traffic circulation, requirements for screening/buffering, and guarantees for site restoration and cleanup following the temporary use.

- c. Responsibility for Final Action. The City Manager (or designee) is responsible for final action.

(5) Special Exception

- a. Applicability:
 - i. Application. The City Manager (or designee) may request that the Zoning Board of Adjustment consider a Special Exception, specifically permitted by this code, if an application for one is received.
 - ii. Circumstances. In order to provide a method by which human error (e.g., miscalculations) may be corrected, or deviations may be approved in certain circumstances, Special Exceptions may be permitted. Special Exceptions are specified deviations from otherwise applicable development standards where development is proposed that would be:
 - 1) Compatible with surrounding land uses.
 - 2) Harmonious with the public interest.
 - 3) Consistent with the purposes of this Code.
 - iii. The Board will have the authority to authorize an adjustment of up to ten (10) percent of any numerical standard.
 - iv. Special Exceptions require compliance with all other elements of this Code not specifically excused or permitted by the Special Exception.
- b. Application Requirements for Special Exceptions. Applications for Special Exceptions must be made in a format consistent with requirements established by the City Manager (or designee). Applications must include all materials determined necessary by the City Manager (or designee).
- c. Approval Criteria. To approve an application for a Special Exception, the Zoning Board of Adjustments must determine that granting the Special Exception will:
 - i. Serve an obvious and necessary purpose.
 - ii. Ensure an equal or better level of land use compatibility than the otherwise applicable standards.
 - iii. Not materially or adversely affect adjacent land uses or the physical character of uses in the immediate vicinity of the proposed development because of inadequate buffering, screening, setbacks or other land use considerations.
 - iv. Not adversely affect adjoining property values in any material way.
 - v. Generally consistent with the purposes and intent of this Code.
- d. Responsibility for Final Action. The Zoning Board of Adjustment is responsible for final action.

(6) Site Plan Review, Site Development Permit, and Floodplain Development Permit (City Manager or Designee Approval)

- a. Applicability. Prior to any excavation, clearing, or other land alteration for the purpose of development within the City limits an applicant must submit a Site Plan for approval and issuance of a site Development Permit under this section. A development within the ETJ must submit a Site Plan for approval of drainage and water quality provisions. No such excavation or development will be lawful or permitted to proceed without issuance of a site Development Permit. All improvements reflected on approved Site Plans must be constructed at the time of development. All terms and conditions of site Development Permit approval must be met at the time of development.

- b. Criteria for Approval. A Site Plan will be approved, and a site Development Permit issued if the development is in compliance with the general criteria for approval of administrative review procedures, the requirements of Chapters 6 Site Development Standards and Building Form Standards, of this Code and compliance with the following:
 - i. The Concept Plan and development agreement or ordinance governing the parcel of land to which the Site Plan is related.
 - ii. Any additional Site Plan approval criteria required under Chapter 7 Design Standards of this code, or any additional approval criteria for overlay districts, or any Site Plan approval criteria adopted as part of a neighborhood or special area plan.

Prior to final approval of any Site Plan within the city limits, the City Engineer must certify to the City Manager (or designee) that the Site Plan meets all requirements for a Stormwater Permit. Approval of the Site Plan constitutes approval of the Site Development Permit and Stormwater Permit.

- c. Responsibility for Final Action. Chapter 2 Review Authority and Procedures specifies the entity responsible for issuance of a Site Development Permit. The City Manager (or designee) is responsible for final action on Site Development Permits as required by this code.

(7) Stormwater Permit (City Engineer Approval)

- a. Applicability. A Stormwater Permit is required prior to any land disturbance within the city limits or the City's extraterritorial jurisdiction (ETJ) to ensure conformance to the stormwater management provisions and other applicable requirements of this Code. Issuance of a Site Development Permit or a Final Plat for a single-family residential subdivision within the city limits constitutes approval of a Stormwater Permit for that specific development.
- b. Criteria for Approval:
 - i. Professional Engineer. The applicant must ensure that the application for a Stormwater Permit was prepared or reviewed and approved in writing by a licensed professional engineer prior to submission to the City.
 - ii. Stormwater and Pollution Management Requirements. A Stormwater Permit will be issued after the City Engineer has determined that the development meets the stormwater and pollution management requirements of Chapters 8, Environmental Protection and 9, Infrastructure and Public Improvements of this Code.
 - iii. Applicable Related Permits. A Stormwater Permit approved by the City is conditioned upon approval of all applicable related permits required from the Texas Environmental Quality Commission (TCEQ), the U.S. Environmental Protection Agency (EPA) or any other state or federal agency being issued by that agency. Permits issued by entities such as the EPA, which may issue permits closer in time to construction, will be made available to the City within seven (7) days after having received such permit(s).
- c. Responsibility for Final Action. The City Engineer is responsible for final action.

(8) Appeal of an Administrative Decision

Procedures, including initiation of appeals of administrative decisions, are explained in Chapter 2 Review Authority and Procedures. Appeals of zoning related decisions and similar regulations will be heard by the Zoning Board of Adjustment as per Section 2.3. The appeal must be filed not later than the 20th day after the date the decision is made. The Zoning Board of Adjustment shall decide the

appeal at the next meeting for which notice can be provided following the hearing and not later than the 60th day after the date the appeal is filed, in compliance with LGC 211.010(d)). All other administrative appeals will be heard by the City Council.

- a. **Effect of Appeal.** All development activities permitted by the action being appealed, or any subsequent approval, must stop upon appeal, and remain inactive until the appeal is resolved. All activities remain stayed, unless the City Manager (or designee) certifies in writing that such a cessation of activity would cause imminent peril to life and property, in which case a restraining order granted by the board or a court of record on application and notice to the City is granted upon a showing of due cause.
- b. **Approval Criteria.** The appropriate governing body will consider whether official action was appropriate considering the facts of the case and the requirements contained in this Code. The City Council will make its decision based on this Code and the information presented by the applicant and the City Manager (or designee).
 - i. **Basis for Appeal.** An applicant may only appeal the specific reasons given for the administrative disapproval or denial. An applicant may not appeal the disapproval or denial without effectively establishing that the specific basis for the administrative disapproval or denial was incorrect.
 - ii. **Burden of Proof in Appeals.** When an appeal is made to the City Council, the City Manager's (or designee's) action is presumed to be valid. The applicant will present sufficient evidence and have the burden to justify a reversal of the action being appealed. The City Manager (or designee) may present evidence and argument to the contrary. When an appeal is made to the Zoning Board of Adjustment, a decision to reverse a determination by the City Manager (or designee) or other administrative official, or to otherwise rule in favor of an applicant on a variance on the terms of the zoning ordinance, shall require a vote of 75 percent of the members of the Board, as per Local Government Code, 211.009 (c).
 - iii. **Crucial Findings.** All findings and conclusions necessary to the permit or appeal decision will be based upon reliable evidence. Competent evidence will be preferred whenever reasonably available, but in no case may crucial findings be based solely upon incompetent evidence unless competent evidence is not reasonably available, the evidence in question appears to be particularly reliable, and the matter at issue is not seriously disputed.
 - iv. **Responsibility for Final Action.** Where appeals are to City Council, the Council is responsible for final action. Where appeals are made to the Zoning Board of Adjustment, the Board's action is considered final, subject only to judicial review.

(9) Variance

- a. **Applicability:**
 - i. **Judicial Variance.** The Zoning Board of Adjustment will have the authority to hear and grant requests for a Variance or exception to the zoning-related development standards of this Code.
 - ii. **Policy Variance.** The City Council will have the authority to hear and grant requests for a Variance from all other development standards upon the recommendation of the Planning and Zoning Commission.
 - iii. **Waivers of plat approval standards.** Waivers of the standards required for plat approval are not considered Variances and must be requested from the Planning and Zoning Commission

and then the City Council during the plat review process. These waivers must be approved prior to approval of the plat.

- iv. Minimum or Maximum Measurement. Any Variance request up to ten (10) percent of any minimum or maximum measurement required by this Code may be treated as a Special Exception as per Section 3.9 of this Unified Development Code
 - v. Precedent. A Variance to the development standards of this Code will be considered an exception to the regulations contained herein. Granting of a Variance in one case does not set a precedent for a subsequent case. Each Variance request will be judged on its own merit based on subparagraph (b) below.
- b. Criteria for Review:
- i. Required Findings. A Variance from the requirements of this code may be granted by the governing body under certain circumstances. To grant a Variance, the body must find that the literal enforcement of this code would result in unnecessary hardship, and also find that the spirit of the ordinance will be served, and substantial justice done, by granting the Variance or exception. In making the required findings, the authorizing body will take into account the nature of the proposed use of the land involved, the existing use of land in the vicinity, the number of persons who will reside or work in the proposed development, the possibility that a nuisance may be created, and the probable effect of such Variance upon traffic conditions and upon public health, convenience, and welfare of the vicinity. No Variance will be granted unless the authorizing body finds that all of the following apply:
 - 1) There are extraordinary or special conditions affecting the land involved such that strict application of the provisions of this Code will deprive the applicant of a reasonable use of its land. For example, a Variance might be justified because of topographic, or other special conditions unique to the property and development involved, while it would not be justified due to inconvenience or financial disadvantage;
 - 2) The Variance is necessary for the preservation of a substantial property right of the applicant;
 - 3) Granting of the Variance will not be detrimental to the public health, safety, or welfare, or injurious to other property in the area, or to the City in administering this Code;
 - 4) Conditions that create the need for the Variance do not generally apply to other property in the vicinity;
 - 5) Conditions that create the need for the Variance are not the result of the applicant's own actions;
 - 6) Granting of the Variance would not substantially conflict with the Comprehensive Plan and the purposes of this Code; and
 - 7) Because of the conditions that create the need for the Variance, the application of this Code to the particular piece of property would effectively prohibit or unreasonably restrict the utilization of the property.
 - 8) Finding of undue hardship as applied to a structure. In considering a judicial variance as applied to a structure, the Zoning Board of Adjustment may consider the following as grounds to determine whether an unnecessary hardship would result from compliance with the UDC:

- I. The financial cost of compliance is greater than 50 percent of the appraised value of the structure as shown on the most recent appraisal roll certified to the assessor for the municipality under V.T.C.A., Tax Code, § 26.01;
- II. Compliance would result in a loss to the lot on which the structure is located of at least 25 percent of the area on which development may physically occur;
- III. Compliance would result in the structure not being in compliance with a requirement of a municipal ordinance, building code, or other requirement;
- IV. Compliance would result in the unreasonable encroachment on an adjacent property or easement; or
- V. The city considers the structure to be a nonconforming structure.

Insufficient Findings. The fact that property may be utilized more profitably should a Variance be granted may not be considered, standing alone, as grounds for a Variance. Additionally, the following types of possible findings do not constitute sufficient grounds for granting a Variance:

Property cannot be used for its highest and best use;

There is a financial or economic hardship. There is a self-created hardship by the property owner his / her agent; or

The development objectives of the property owner are or will be frustrated.

- c. Limitations. The governing body may not grant a Variance when the effect of the Variance would allow any of the following:
 - i. The establishment of a use not otherwise permitted in the applicable Zoning District;
 - ii. Increase the density of a use above that permitted by the applicable district;
 - iii. A nonconforming use of land to be physically extended;
 - iv. Change the Zoning District boundaries shown on the Official Zoning Map; or
 - v. Conflicts with any State or Federal regulations.
- d. Limitation on Variances for Signs. No Variance for a sign may increase the overall permitted area of a sign. Sign-related Variances may only be granted, in accordance with this section, for height or other location restrictions. Variances from Water Quality, Floodplain, or Stormwater Management Regulations.
- e. Following recommendation for the City Manager (or designee) the City Council will make a final decision on any Variance request from water quality, floodplain, or stormwater management regulations.
- f. Responsibility for Final Action:
 - vi. Policy Variance. Policy Variance requests will be reviewed by the Planning and Zoning Commission and its recommendations forwarded to the City Council for final action on the Variance request.
 - vii. Judicial Variance. Judicial Variance requests will be reviewed by the Zoning Board of Adjustment which is responsible for final action on the request.

(10) Sign Permit

Applicability. No sign may hereafter be erected, moved, added to, or structurally altered within the City or the ETJ without a permit issued by the City Manager (or designee) in conformity with the provisions of

this Section and Section 10.4 of this Code. No Building Permit issued under the provisions of this Code for signs will be considered valid unless signed by the City Manager (or designee).

- a. Criteria for Approval. In addition to the general criteria for approval of administrative procedures, the City Manager (or designee) will base the final action on the following criteria:
 - i. Building Code. Whether the intended sign conforms in all respects with all applicable regulations and standards of this Code and any applicable construction or safety standards of the City's Building Code.
 - ii. Master Sign Plan. If the subject property has a Master Sign Plan, development agreement or ordinance governing it, whether the plans, specifications and intended use of such building or structures or part thereof, including the proposed sign, conform in all respects to the development agreement or ordinance.
- b. Responsibility for Final Action. The City Manager (or designee) is responsible for final action. Appeals of City Manager (or designee) actions regarding sign-related Building Permits will be considered and decided by the Zoning Board of Adjustment.

(11) On-Site Sewage Facility Permit (City Manager or County Approval)

Applicability. On-site Wastewater (OSSF) Permits will be required from the appropriate County for any development that applies for a Development Permit and wishes to use a septic tank or similar type of OSSF. The approved county permit must be presented before installing new or replacement Septic Systems.

- a. Approval Criteria. Bexar, Comal and Kendall Counties each have established their own criteria for review and approval for OSSF Permit applications. The Applicant must contact the County Environmental Health Department in the County in which the property is located for further information.
- b. Responsibility for Final Action. County in which the property is located is responsible for final action.

(12) Building Permits

- a. Applicability. An application for a Building Permit is required within the city limits, or for property located in the City's ETJ that is part of a development agreement, prior to placement or construction of a building or structure. The Address Plat needs to be submitted to city staff prior to permits being issued. Approval of an application for a Building Permit authorizes the property owner to construct, alter or place a structure on the lot, tract or parcel. Approval of an application for a Building Permit also authorizes the property owner, upon completion of a structure intended for human occupancy, to make application for a Certificate of Occupancy (CO).
- b. Review Process and Application. An application for a Building Permit will be prepared in accordance with the requirements established by the City Manager (or designee). Applications must include all materials determined necessary by the City Manager (or designee). The City will make information regarding the format requirements and materials required for the application available.
- c. Approval Criteria. The Building Official will determine whether to approve a Building Permit based on the following criteria:

- i. Application. The application generally conforms to all prior approved development applications for the property and any Variance petition authorizing variation from the standards otherwise applicable to the permit;
 - ii. Building Site. The location of the structure on the property is in accordance with all prior approved development applications;
 - iii. Conformance. The proposed plan for construction or alteration conforms to the Building Code and other applicable codes adopted by the City;
 - iv. Fees. All applicable fees, including impact fees, have been paid;
 - v. Final Plat. The Final Plat of the property has been recorded in the County plat records; and
 - vi. Infrastructure. All public infrastructure required has been installed and accepted by the City or appropriate surety has been posted guaranteeing the construction of the required public infrastructure.
- d. Expiration and Extension:
- i. Expiration. A Building Permit for all development will expire if the building or work authorized by such permit is not commenced and completed within 365 days from the date of issue of such permit, or if the building or work authorized by such permit is suspended or abandoned at any time after the work is commenced for a period of 365 days.
 - ii. Extension. Any permittee holding an unexpired permit may apply for an extension of the time within which work may commence or complete under that permit when the permittee is unable to commence work within the time required by this section for good and satisfactory reasons. The building official may extend the time for action by the permittee for a period not exceeding 180 days on written request by the permittee showing that circumstances beyond the control of the permittee have prevented action from being taken. No permit will be extended more than twice.
- e. Responsibility for Final Action. The City Manager (or designee) is responsible for final action on Building Permits as required by this Code.

(13) Certificates of Occupancy (CO)

- a. Applicability. Approval of a Certificate of Occupancy (CO) authorizes habitation or other occupancy of the structure in accordance with the terms of the certificate. An application for a CO is required within the city limits, or for property located in the City's ETJ that is part of a development agreement, after the construction, alteration or placement of a structure on a lot, tract or parcel and prior to habitation or any use of the structure. A CO is not to be confused with a "Certificate of Completion" for structures that require a permit but are not suitable for living, i.e., fences, pergolas, decks etc. A CO is also required prior to a change in the use of any structure. A CO is required for the following:
 - i. Occupancy. Occupancy and use of a building hereafter erected or structurally altered by more than 50 percent;
 - ii. Change in Use of Building. Change in use of an existing building to a use of a different classification.
 - iii. Change in Use of Land. Change in the use of land to a use of a different classification.
 - iv. Non-conforming Use. Any change in the use of a non-conforming use.

- b. Review Process and Application. In most cases a CO will be issued following a successful final inspection but in the case of a change of use an application for a CO will be prepared in accordance with the requirements established by the City Manager (or designee). Applications must include all materials determined necessary by the City Manager (or designee). The City will make information regarding the format requirements and materials required for the application available.
- c. Criteria for Approval. The Building Official will apply the following criteria in deciding the application for a Certificate of Occupancy:
 - i. Building Site. The location of the structure on the property is in accordance with the approved application for the Building Permit;
 - ii. Change of Use. Where a change of use in an existing structure is proposed, the use conforms to the use regulations governing the property;
 - iii. The Structure. The structure, following inspection by the building official, was built in conformity with the Building Code, Fire Code and other applicable building regulations;
 - iv. Infrastructure. All required infrastructure including, but not limited to, water, wastewater, streets, drainage, electric, and gas infrastructure has been installed, completed and is operational to the subject property; and that;
 - v. There are no outstanding permit requirements, including delinquent taxes;
 - vi. The building site and structure are in compliance with all applicable city codes.
- d. Revocation of Certificate. The Building Official may institute proceedings to revoke a CO whenever the official determines that the certificate has been issued in error, or on the basis of incorrect information supplied, or that the use, dimensions, or other features of the structure authorized for occupancy, or any portion thereof, is in violation of any provision of this Code, of the Building Code or other construction codes.
- e. Responsibility for Final Action. The City Manager (or designee) is responsible for final action on Certificates of Occupancy as required by this Code.

(14) Relief from Signage Regulations

- a. Applicability. The owner of property seeking to erect, move, add to, or alter a sign within the city limit or the ETJ may seek relief from the regulations found in Chapter 10 of this Code by requesting a signage Variance from the Zoning Board of Adjustment.
- b. Review Process and Application. The owner of the affected property or its authorized agent may seek a signage Variance by applying to the City Manager (or designee) on such forms and with such supporting documents as may be required by the City.
- c. Approval Criteria: Criteria used in the review will be whether the:
 - i. Applicable regulation does not allow for reasonable use of the property;
 - ii. Hardship for which the relief is sought is owing to a special condition inherent in the property itself, such as restricted area, shape, topography or physical features;
 - iii. Special condition is unique to the particular property at issues, and is not generally characteristic of other parcels of land in the area;
 - iv. Relief sought does not alter the character of, or impair the use of, adjacent properties;
 - v. Relief sought is not to alleviate a self-created hardship; and
 - vi. Relief sought is not primarily for financial reasons.
- d. Responsibility for Final Action. The ruling of the Zoning Board of Adjustment is final.

(15) Group Living Operating License

- a. Purpose. The purpose of the Group Living Operating License is to:
 - i. Maintain adequate health & safety standards for protection of the residents;
 - ii. Ensure that adequate fire, police and emergency response vehicles or patrols are available; and to
 - iii. To identify and facilitate appropriate responses for residents who may require special assistance during an emergency.
- b. Applicability. It is unlawful for any person to construct, maintain, or operate within the City, any group or community home, halfway house, or other group living facility unless such person first obtains a use permit. A request for reasonable accommodation to accomplish the goals and policies of the Fair Housing Act (42 U.S.C. 3601) may be authorized.
- c. Review Process and Application. An application for a Group Living Operating License will be prepared in accordance with the requirements established by the City Manager (or designee). Applications must include all materials determined necessary by the City Manager (or designee). The City will make information regarding the format requirements and materials required for the application available. The City will investigate the application and inspect the proposed plans and specifications. For a new group or community home, halfway house or other group living facility, the Group Living Operating License will not be issued until a Certificate of Occupancy has been approved.
- d. Criteria for Approval. The City Manager (or designee) will apply the following criteria in deciding the application for a Group Living Operating License:
 - i. Improvements. Improvements on the property are in accordance with the requirements of this Code;
 - ii. Operations. Operations of the property comply with the requirements of this Code;
 - iii. Other Codes. Structures and site comply with the Building Code, Fire Code, Property Maintenance Code and other applicable regulations (including the Americans with Disabilities Act).
 - iv. Permit Requirements. Current and valid state licenses and a current and valid Certificate of Occupancy issued by the City of Fair Oaks Ranch.
- e. Revocation of Certificate. The City Manager (or designee) may institute proceedings to revoke a Group Living Operating License whenever the official determines that the license has been issued in error; or on the basis of incorrect information supplied; or that the use, dimensions, or other features of the structure or property authorized for occupancy, or any portion thereof, is in violation of any provision of this Code, of the Building Code or other construction codes; or that the property is in violation of the this Code applicable to group or community homes, halfway houses or other group living facility. Before any such license is revoked, the City must give 10-days' notice to the holder of such license to correct violations. If the license is revoked, the license may be reissued to the licensee if the reasons for such revocation have been duly corrected, or a license may be issued to another qualified applicant.
- f. Responsibility for Final Action. The City Manager (or designee) is responsible for final action on Group Living Operating Licenses as required by this code.



PLANNING & ZONING COMMISSION CONSIDERATION ITEM
CITY OF FAIR OAKS RANCH, TEXAS
July 13, 2023

AGENDA TOPIC: Consideration and possible action recommending the approval of the proposed amendments to the Unified Development Code (UDC) Chapters 1-3 and authorizing advancement to the City Council

MEETING DATE: July 13, 2023

DEPARTMENT: Public Works and Engineering Services

PRESENTED BY: Grant Watanabe, P.E., Director of Public Works & Engineering Services
 Lata Krishnarao, AICP, LEED ND, Consultant, Ardurra

INTRODUCTION/BACKGROUND:

During the past two years the Planning and Zoning Commission (P&Z) worked with city staff and planning consultant Ardurra on creating amendments to the Unified Development Code (UDC). The process consisted of the following steps:

1. A series of five work sessions were held to discuss the diagnostic findings of the current UDC and to gather the P&Z Commission's input on the issues identified. Staff also provided input and recommendations. Additionally, the consultant's experience in utilizing the UDC to undertake review of planning applications assisted in identifying areas of improvement.
2. Implementation steps were identified that included text amendments, incorporation of additional guidelines, and topics for further research and discussion.
3. The P & Z Commission was provided with a complete redlined version and a clean version of the proposed text amendments, and the city consultant presented a broad review of the changes.
4. The P & Z Commission determined a chapter-by-chapter review would be beneficial to understand the amendments and a series of work sessions were held to complete this review.
5. After the completion of this review, a final redline version and clean version of the UDC was produced and presented to the P&Z Commission.
6. At the P&Z Commission's March 9, 2023 meeting, the Commissioners recommended approval of the amendments to the City Council.
7. Subsequently, as directed by the City Council at their meeting of April 20, 2023, the proposed amendments were broken down into topics by the P&Z Commission. The City Council approved the topics on May 18, 2023.
8. On June 6, 2023, the P & Z Commission reviewed this first set of amendments with the Change Summary Report (as requested by the City Council) for Chapters 1-3.
9. The P&Z Commission held a Public Hearing before the consideration item at tonight's meeting, to receive public testimony.

All documents relative to this consideration item were presented with the Public Hearing portion of the meeting.

FUTURE STEPS:

The City Council will hold a Public Hearing at their regular August 17, 2023 meeting. At the conclusion of the public hearing, City Council will consider and take possible action on an amending ordinance.

LEGAL ANALYSIS:

Legal has attended all P&Z meetings, provided necessary guidance, and reviewed the UDC amendments.

RECOMMENDATION/PROPOSED MOTION:

I move to recommend approval of the proposed Unified Development Code amendments to Chapters 1-3 and authorize advancement to the City Council.



PLANNING & ZONING COMMISSION CONSIDERATION ITEM
CITY OF FAIR OAKS RANCH, TEXAS
July 13, 2023

AGENDA TOPIC: Review proposed amendments to the Unified Development Code (UDC) which includes the following:
Chapter 4: Zoning Districts and Use Regulations
Chapter 5: Subdivision Design Standards

MEETING DATE: July 13, 2023

DEPARTMENT: Public Works and Engineering Services

PRESENTED BY: Grant Watanabe, P.E., Director of Public Works & Engineering Services
Lata Krishnarao, AICP, LEED ND, Consultant, Ardurra

PURPOSE

The purpose of this item is to review the amendments to Chapters 4 and 5 of the UDC.

FUTURE STEPS

It is anticipated that the adoption of these amendments to Chapter 4 and 5 will follow this tentative schedule:

- August 10, 2023 - P&Z public hearing and recommendation to City Council
- September 7, 2023 - City Council public hearing and first reading of the ordinance
- September 21, 2023 - Second reading of the ordinance

ATTACHMENTS

- Change summary reports for Chapters 4 and 5
- Redlined versions of Chapters 4 and 5

Rev. 7/7/23

Fair Oaks Ranch Proposed UDC Amendments - Summary of Changes Chapter 4

Topic # 2 - Zoning

	Sections of the Current UDC (2019)	Proposed Change This list reflects the changes made to the UDC adopted in 2019	Reason	Topic	Other Topics Affected
Chapter 4					
1	Section 4.6 (1)	Removed - "Local Connector Streets" from Section 4.6 (1) b Neighborhood Residential District (NR).	To address safety issues and prevent homes in new subdivisions from directly accessing collectors.	Zoning	Subdivision Standards
2	Section 4.6 (2)	MU District setback along Primary Frontage: added 25' min.- 30' max. setback along IH 10.	P & Z and developer input - added a wider setback for properties along IH-10.	Zoning	Site and Building Standards
3	Section 4.6 (2)	NC District setbacks for Primary Frontage Changed 10' min. setback – 20' max. setback to 50' min. setback along Arterial; Changed 10' min. setback – 20' max. setback to 30' along other streets; No max. setback for both categories	P & Z and developer input - increased setbacks for Hill Country aesthetics.	Zoning	Site and Building Standards
4	Section 4.6 (2)	CF District - Moved relevant sentences from Chapter 6 that described the zoning district. Setbacks for Primary Frontage Changed 20' min. – 50' max. setback to 50' min. along Arterial; Changed 20' min. – 50' max. setback to 30' along other streets; No max. setback for both categories Changed min. setback along Secondary Frontage from 20' to 10'.	P & Z and developer input - increased setbacks for Hill Country aesthetics.	Zoning	Site and Building Standards
5	Table 4.2	Added that the maximum percentage of residential component in mixed use development is 30%.	Addressed the conflict between Comprehensive Plan and UDC. Additionally the matrix did not reflect the purpose of this zone as written in the UDC.	Zoning	
6	Section 4.10 (1)	4.9 (1) in the clean version Removed - "...promulgated by the City or by a design UDC. Until such guidelines are adopted, an applicant will develop plans consistent with the comprehensive plan and submit them to the City for approval by the City Manager (or designee), with appeal to the Zoning Board of Adjustment." Added sub sections a-c.	Removed conflicting language. Added locational requirement for drive through facilities to protect residential and added references to applicable regulations in Chapter 6.	Zoning	Site and Building Standards
7	Section 4.14	4.13 in the clean version Rewritten by legal for conformance with recent changes to the state law.	Legal input - modified to ensure consistency with the recent changes in the state law.	Zoning	

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This June version is prepared for the PH and compares the current adopted 2019 UDC to the P & Z recommended 2023 amended version and captures ALL the incremental changes over 18 months and multiple reviews by P & Z.

The highlighted changes were all reviewed twice before by legal and staff. However, due to recent legislative changes, this version was reviewed by legal on July 3, 2023.

July 7, 2023

CHAPTER 4 ZONING DISTRICTS AND USE REGULATIONS

Section 4.1 Purpose and Intent

The purpose of this Chapter is to establish zoning districts and allowable uses within the City Limits of Fair Oaks Ranch, as well as procedures for special and temporary uses within each district. The zoning regulations herein established have been designed in accordance with the planning principles and land use patterns outlined within the City of Fair Oaks Ranch's Comprehensive Plan for the purpose of promoting health, safety, and the general welfare of the public.

Section 4.2 Permits, Projects, and Vested Rights

(1) Permit applications - expiration

Notwithstanding any other provision of this code, all permit applications shall expire as stated herein, and any approved permit or authority to construct, build or execute any project pursuant to a permit or series of permits shall expire as follows:

- a. A permit application or plan for development, filed on or after April 27, 2005, shall expire on the 45th day after said application or plan is filed, unless approved, if:
 - i. The applicant fails to provide documents or other information necessary to comply with the city's technical requirements relating to the form and content of the application;
 - ii. The city provides written notice to the applicant of the failure not later than the 10th business day after the date the application is filed specifying the necessary documents or other information and the date the application will expire if the documents or other information are not provided; and
 - iii. The applicant fails to provide the specified documents or other information within the time provided in the notice.
- b. ~~The City Manager or his/her designee. The director~~ may, but is not required, to extend the time only for issuance of a building permit to erect or improve a building or other structure, in which event the permit application shall expire when said extension expires. Any such extension shall be in writing and signed by the ~~City Manager or his/her designee~~ director or his designee.

(2) Permits and projects - expiration

- a. Only a project which was in progress (as defined by LGC section 245.003) or for which a completed permit application was filed after September 1, 1997 may be eligible to claim vested rights; any project for which the completed permit application was filed prior to September 1, 1997, or has expired, is not eligible.
- b. The following permits (as well as other permits satisfying the requirements of LGC chapter 245), which include plat applications, and plats, may be relied on by a property owner or developer to establish certain vested rights for a project. A project will expire in five (5) years from the date the first permit application was filed for the project with the city if progress, as defined in LGC section 245.005, has not been made towards completion of the project. An expired project is considered dormant, vested rights lapse and the project must comply with current ordinances and requirements.
 - i. Plat applications. Vested rights under LGC chapter 245 will be recognized for the project that is the subject of a completed application for a plat that has been filed with the city,

provided all necessary fees have been paid. The vested rights recognized for a project located within the area being ~~platted~~planted by such a plat application will expire two (2) years after the date of the initial plat application, provided fair notice is provided with the plat application in accordance with LGC chapter 245, unless the plat application is heard by the city council and approved within two (2) years after the date of the initial application. Neither an expired nor a withdrawn plat application may be relied upon as a permit for the declaration of vested rights under LGC chapter 245. If after the expiration or the withdrawal of a plat application the applicant wishes future plat approval of the subject property, a new plat application must be filed and new application fees shall be required.

- ii. Plats. Vested rights under LGC chapter 245 will be recognized for a project associated with the property which is the subject of a plat that has been approved by the city council or ~~the City Manager or his/her designee director of public works~~ for the city provided that fair notice is provided with the plat application in accordance with LGC chapter 245. The vested rights recognized for a project located within the area platted by an approved plat will expire two (2) years after the date of plat approval unless the plat is recorded in the county deed records within two (2) years after the date of approval by the city council.
- iii. Other permits. For the purposes of determining whether any vested rights exist, any other permit for which an expiration date is not specifically set forth in this Code of Ordinances or in other applicable law shall expire two (2) years after the date the application for the permit was filed with the city if progress, as defined in LGC section 245.005, has not been made towards completion of the project.

(3) Administrative procedure for consideration of claim of vested rights

- a. Any property owner claiming vested rights under Chapter 245 of the LGC, or other applicable vesting law, shall submit a letter explaining in sufficient detail the basis upon which the property owner is claiming vesting and, consequently, is exempt from or not subject to a particular current regulation, ordinance, rule, expiration date, or other requirement. Such written submission shall include, at a minimum, the following:
 - i. The name, mailing address, telephone number and email address of the property owner (or the property owner's duly authorized agent);
 - ii. Identification of the property, including the address (if it exists) and the plat reference (if it exists) or metes and bounds (if not platted), for which the property owner claims a vested right;
 - iii. Provide project name, type of permit and date the permit was filed;
 - iv. If a property owner claims that certain regulations do not apply to the project, the property owner must identify, with particularity, all requirements that the property owner claims do not apply; and
 - v. Attach all supporting documents, if any.
- b. The letter should be addressed to the city's public works department.

(4) Vested rights determination

The ~~City Manager or his/her designee director~~ will review the request and supporting documents and issue a final administrative determination of whether a vested right exists in relation to the project, and shall identify in writing to the property owner all claims for which vested rights have been granted (the "vested rights determination").

(5) Appeal

If the property owner believes that the vested rights determination is in error, the property owner shall have the right to appeal such vested rights determination to the city council, which will have jurisdiction to hear and decide the appeal.

Section 4.3 Official Zoning Map**(1) Creation of Official Zoning Map**

The City is divided into zoning districts, shown on the Official Zoning Map (described in Sections 4.5 and 4.6), which, together with all explanatory matter thereon, is hereby adopted by reference and declared to be a part of this UDC. The Official Zoning Map shall be located in the City of Fair Oaks Ranch City Hall and be identified by the signature of the Mayor, attested to by the City Secretary and bear the Seal of the City of Fair Oaks Ranch under the following words: *"This is to certify that this is the Official Zoning Map of the City of Fair Oaks Ranch."*

(2) Changes to the Official Zoning Map

If, in accordance with the provisions of this UDC and §211.006 of the Texas Local Government Code, as amended, changes are made in the district boundaries or other matter portrayed on the Official Zoning Map, such changes shall be effective immediately.

- a. Once a year, or subsequent to the approval of the changes, the City shall update the Official Zoning Map by entering any changes approved by the City Council and the Mayor shall sign the map attesting the changes.
- b. Approved zoning changes shall be entered on the Official Zoning Map by the City Manager or a designated representative and each change shall be identified on the Map with the date and number of the Ordinance making the change.
- c. No change of any nature shall be made on the Official Zoning Map or matter shown thereon except in conformity with procedures set forth in this UDC.

(3) Replacement of Official Zoning Map

In the event that the Official Zoning Map becomes damaged, destroyed, lost, or difficult to interpret because of the nature or number of changes and additions, the City Council may at any time by resolution adopt a new Official Zoning Map, which shall supersede the prior Official Zoning Map. The new Official Zoning Map may correct drafting or other errors or omissions in the prior Official Zoning Map and bring the Official Zoning Map up-to-date to reflect any and all amendments or changes in the same.

(4) Digital Mapping

Digital maps, created through the use of Geographical Information Systems (GIS) technology, containing registration points recorded on the Texas State Plane Coordinate System (USGS NAD 83, mean sea level) and Texas State Plane, measured in feet, as amended, may be used in the administration and enforcement of this UDC, but will not replace the paper originals of official maps required by this UDC.

(5) Interpreting Zoning District Boundaries

Where uncertainty exists as to the boundaries of districts as shown on the Official Zoning Map, the following rules shall apply:

- a. Boundaries indicated as approximately following the centerlines of street, highways, or alleys shall be construed to follow such centerlines.

- b. Boundaries indicated, as approximately following platted lot lines shall be construed as following such lot lines.
- c. Boundaries indicated, as approximately following city limits shall be construed as following city limits.
- d. Boundaries indicated as approximately following the center lines of streams, rivers, canals, lakes, or other bodies of water shall be construed to follow such center lines.
- e. Boundaries indicated as parallel to or extensions of features indicated in subsections (a) through (d) above shall be so construed. Distances not specifically indicated on the Official Zoning Map shall be determined by the scale of the map.
- f. Where physical or cultural features existing on the ground are at variance with those shown on the Official Zoning Map, or where precise scale is difficult to determine, or in circumstances not covered by subsections (a) through (e) above, the City Manager shall interpret the district boundaries. Boundaries indicated in the legal description that is provided with the application that established zoning may be referred to as a guide to resolve discrepancies.

(6) Building Frontage

Building Frontage designations are established by the Zoning Map to specify certain building form and site development standards along each street illustrating the City's regulatory commitment to providing streets in certain areas that are oriented to pedestrian travel and safety, as well as auto travel and safety. The Zoning Map illustrates the Building Frontage designations within Fair Oaks Ranch. For additional regulations on building frontages, please refer to Section 6.4 (1) of this Code.

Section 4.4 Rezoning

(1) Applicability

Any decision to amend the Official Zoning Map shall be made based on the procedure outlined below, and the criteria in Chapter 2, Review Authority and Procedures, and Chapter 3, Applications and Permits. No rezoning action may specifically vary from the Permitted Uses Table 4.2 found in Section 4.8, or from the Future Land Use Map included in the Comprehensive Plan.

- a. Applicability. For the purpose of establishing and maintaining sound, stable, and desirable development within the corporate limits of the City, the Official Zoning Map may be amended based upon changed or changing conditions in a particular area or in the City generally, or to rezone an area, or to extend the boundary of an existing Zoning District.
- b. Amending the Official Zoning Map for Planned Use Developments. For Planned Use Developments, the City Manager will promulgate a procedure based on the Comprehensive Plan and related planning studies.
- c. Any decision to amend the Official Zoning Map shall be heard for approval by a joint public hearing of the City Council and the Planning and Zoning Commission.

(2) Newly Annexed Territory

All areas annexed into the City shall be provided a temporary zoning designation of Rural Residential (RR) by City Council at the time of annexation, unless permanent zoning is requested with the annexation. As soon as practical, after the completion of annexation proceedings City Council shall permanently zone the area.

Section 4.5 Lot Standards and Zoning

(1) Lot standards

Zoning Districts and their respective development standards are set forth below.

(2) The Future Land Use Map

The Future Land Use Map should be consulted for areas located outside of the current City Limits of Fair Oaks Ranch in order to determine the recommended use(s) of land for a specific area.

Section 4.6 Zoning Districts

The following Zoning Districts reflect the existing land uses ~~and recommended future land use areas, applicable zoning districts, and recommended future land use classifications~~ included in the City of Fair Oaks Ranch's Comprehensive ~~Plan~~ Plan's Future Land Use Map (FLUM). Portions of the City of Fair Oaks Ranch, as specified on the Official Zoning Map of the City, are hereby divided into the following zoning districts. (Refer to Table 4.2 for allowable uses within each Zoning District):

Table 4.1 Zoning Districts

RESIDENTIAL DISTRICTS	
Rural Residential	RR
Neighborhood Residential	NR
Existing Residential 1	R1
Existing Residential 2	R2
Existing Residential 3	R3
Existing Residential 4	R4
NON-RESIDENTIAL DISTRICTS	
Mixed Use Village	MU
Neighborhood Commercial	NC
Community Facilities	CF
Logistics	LO
Open Space	OS
SPECIAL DISTRICTS	
Planned Unit Development	PUD

RESIDENTIAL DISTRICTS	ZONING ABBREVIATIONS	EQUIVALENT FLUM CLASSIFICATION
Rural Residential	RR	Rural Residential
Neighborhood Residential	NR	Neighborhood Residential
Existing Residential 1	R1	Existing Residential 1
Existing Residential 2	R2	Existing Residential 2
Existing Residential 3	R3	Existing Residential 3
Existing Residential 4	R4	Existing Residential 4
NON-RESIDENTIAL DISTRICTS	ZONING ABBREVIATIONS	EQUIVALENT FLUM CLASSIFICATION
Mixed Use Village	MU	Mixed Use Village
Neighborhood Commercial	NC	Neighborhood Commercial
Community Facilities	CF	Community Facilities
Logistics	LO	Logistics
Parks/Open Spaces/Existing Parks	OS	Parks/Open Spaces/Existing Parks
SPECIAL DISTRICTS	ZONING ABBREVIATIONS	EQUIVALENT FLUM CLASSIFICATION
Planned Unit Development	PUD	None

(1) Residential Districts

All residential development shall adhere to applicable development standards found in Chapter 5, Subdivision Standards and Chapter 6, Site Development and Building Form Standards, as well as other applicable standards found in this UDC.

a. Rural Residential District (RR)

The Rural Residential District (RR) is a residential district that includes land subdivided for single-family residential purposes and associated uses. The lots are a minimum of 5 acres (or one (1) acre using the Conservation Development Alternative Minimum to incentivize conservation areas), and are generally not served by urban infrastructure, such as City sewer service. This district is intended to retain a rural character. Residences in the RR district are appropriate primarily for direct access to Local Rural Residential streets.

b. Neighborhood Residential District (NR)

The Neighborhood Residential District (NR) serves as the residential district for areas where low-to-medium density development is appropriate in Fair Oaks Ranch. The lots are a minimum of one (1) acre (or 0.5 acres using the Conservation Development Alternative Minimum to incentivize conservation areas). The NR district allows a variety of lot sizes and housing. NR developments provide pedestrian-friendly residential neighborhoods, protected from incompatible uses. Residences in the NR district are appropriate primarily for direct access to ~~Local Connector streets,~~ Local Neighborhood Residential streets and Rural Residential streets.

c. Existing Residential 1 (R1)

The Existing Residential 1 (R1) category governs the most dense existing residential types with lot sizes generally under 0.3 acres. In addition to applicable City ordinance requirements, the lot, building, landscaping and other similar standards are regulated through private deed restrictions in these neighborhoods and owners are strongly encouraged to review their deed restrictions before beginning a development project. The City does not enforce private deed restrictions or HOA regulations. ~~Exclusive of city permits and ordinances, all lot, building, landscaping and other standards will be controlled by the applicable deed restrictions in these neighborhoods, in compliance with City ordinance requirements.~~

d. Existing Residential 2 (R2)

The Existing Residential 2 (R2) category governs existing residential lots with lot sizes generally between 0.3 acres and 1.3 acres. In addition to applicable City ordinance requirements, the lot, building, landscaping and other similar standards are regulated through private deed restrictions in these neighborhoods and owners are strongly encouraged to review their deed restrictions before beginning a development project. The City does not enforce private deed restrictions or HOA regulations.~~Exclusive of city permits and ordinances, all lot, building, landscaping and other standards will be controlled by the applicable deed restrictions in these neighborhoods, in compliance with City ordinance requirements.~~

e. Existing Residential 3 (R3)

The Existing Residential 3 (R3) category governs the existing rural residential lots with lot sizes generally between 1.3 acres and 5 acres. In addition to applicable City ordinance requirements, the lot, building, landscaping and other similar standards are regulated through private deed restrictions in these neighborhoods and owners are strongly encouraged to review their deed restrictions before beginning a development project. The City does not enforce private deed restrictions or HOA regulations.~~Exclusive of city permits and ordinances all lot, building, landscaping and other standards will be controlled by the applicable deed restrictions in these neighborhoods, in compliance with City ordinance requirements.~~

f. Existing Residential 4 (R4)

The Existing Residential 4 (R4) category governs existing rural oriented neighborhoods with lot sizes generally greater than 5 acres. In addition to applicable City ordinance requirements, the lot, building, landscaping and other similar standards are regulated through private deed restrictions in these neighborhoods and owners are strongly encouraged to review their deed restrictions before beginning a development project. The City does not enforce private deed restrictions or HOA regulations.~~Exclusive of city permits and ordinances all lot, building, landscaping and other standards will be controlled by the applicable deed restrictions, in compliance with City ordinance requirements.~~

g. Design Standards

g. Building Placement-Setbacks						
	R1	R2	R3	R4	NR	RR
Front	-	-	-	-	25' min.	50' min.
Street Side	-	-	-	-	15' min.	25' min.
Side	-	-	-	-	10' min.	25' min.
Rear	-	-	-	-	20'min	25'min
h. Lot Size Standards						
	R1	R2	R3	R4	NR	RR
Minimum	-	.3 AC	1.3 AC	5 AC	1 AC	5 AC
Minimum w/ Conservation Development Option	-	-	-	-	.75 AC (blended average min.)	3.75 AC (blended average min.)
i. Building Height						
i. Principal Building Standards						
Building maximum			2.5 stories or 35' max.			
ii. Accessory Building Standards						
Building maximum			2 stories or 25' max.			

Building Placement - Setbacks						
	<u>R1</u>	<u>R2</u>	<u>R3</u>	<u>R4</u>	<u>NR</u>	<u>RR</u>
Front	<u>0*</u>	<u>0*</u>	<u>0*</u>	<u>0*</u>	<u>50' min.</u>	<u>75' min.</u>
Street Side	<u>0*</u>	<u>0*</u>	<u>0*</u>	<u>0*</u>	<u>25' min.</u>	<u>50' min.</u>
Side	<u>0*</u>	<u>0*</u>	<u>0*</u>	<u>0*</u>	<u>20' min.</u>	<u>25' min.</u>
Rear	<u>0*</u>	<u>0*</u>	<u>0*</u>	<u>0*</u>	<u>25' min.</u>	<u>50' min.</u>
Lot Size Standards						
	<u>R1</u>	<u>R2</u>	<u>R3</u>	<u>R4</u>	<u>NR</u>	<u>RR</u>
Minimum	<u>RC</u>	<u>.3 AC</u>	<u>1.3 AC</u>	<u>5 AC</u>	<u>1 AC</u>	<u>5 AC</u>
Minimum w/ Conservation Option	<u>NA</u>	<u>NA</u>	<u>NA</u>	<u>NA</u>	<u>Min. 0.5 acre</u>	<u>Min. 1 acre</u>
Building Height						
i. Principal Building Standards						
<u>Building maximum</u>				<u>2.5 stories or 35' max.</u>		
ii. Accessory Building Standards						
<u>Building maximum</u>				<u>2 stories or 25' max.</u>		

*Note: Building setbacks for the R1, R2, R3, and R4 districts are privately enforced through deed restrictions. The City does not enforce private deed restrictions or HOA regulations.

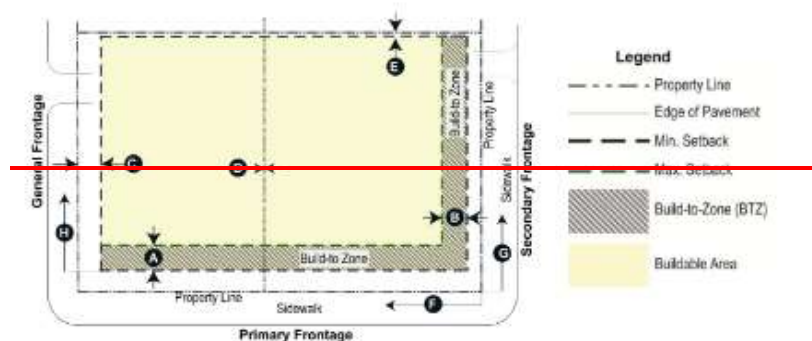
(2) Commercial / Mixed Use / Nonresidential Districts

All Commercial / Mixed Use / Nonresidential development shall adhere to development standards found in Chapter 5, Subdivision Standards and Chapter 6, Site Development and Building Form Standards, as well as other applicable standards in this UDC. The diagrams are for illustrative purposes only. If case of a conflict between the text and the diagrams, the text will govern.

a. Mixed Use Village (MU)

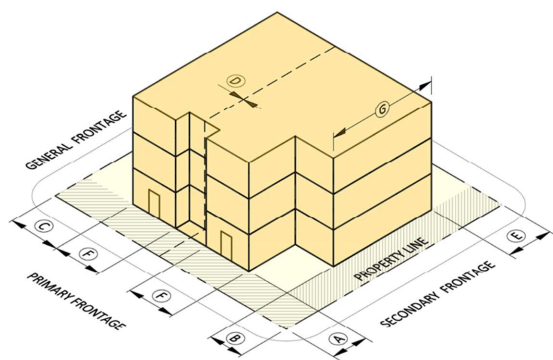
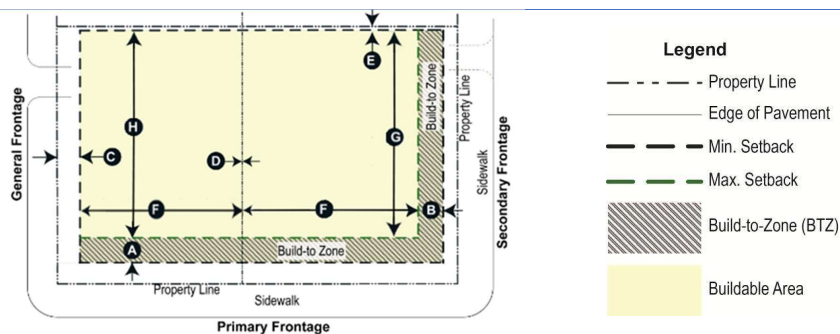
i. Purpose: The Mixed Use Village District (MU) indicates areas within the City of Fair Oaks Ranch where the City allows and encourages a mixture of uses that create pedestrian scaled commercial and residential development at major nodes in the City that generally conform to a Hill Country Design aesthetic. Sites in the MU district are appropriate for direct access to primarily Arterial, Collector streets and Local Connector Streets. Development standards in this district will require new buildings to create pedestrian friendly building frontages and generally conform to a Hill Country Design aesthetic (defined under Texas Hill Country Character in Chapter 12). Uses within this Zoning District include commercial (office, retail, and restaurant) with a variety of residential uses also permitted.

ii. Design Standards:



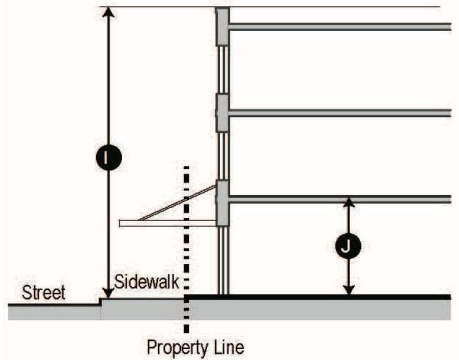
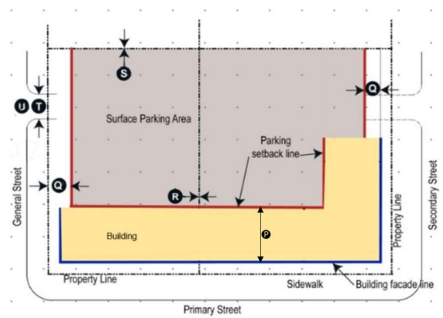
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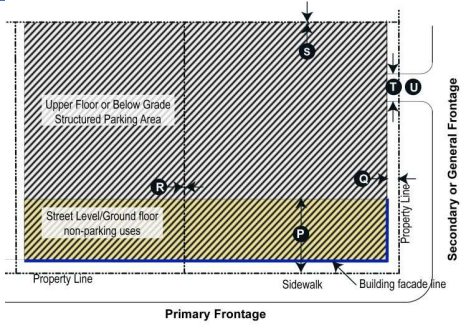
Building Placement



Building to Zone (Distance from property line to edge of the zone)

Primary Frontage	0' min. setback – 20' max. setback. <u>25' min. – 30' max. along IH -10</u>	A
Secondary Frontage	10' min. setback – 20' max. setback	B
General Frontage	20' min. setback; no max. setback	C
Interior Side	5' min.; no max. setback	D
Rear	10' min.; no max. setback	E
Building Frontage		
Primary Frontage	60% min.	F
Secondary Frontage	40% min.	G
General Street or Alley Frontage	None Required	H

Building Height		
Principal Building Standards		
	Building Maximum	3 stories or 45' max. I
	First floor to floor height (fin. Floor to fin. Floor)	12' min. for all buildings with Primary Frontage designation 10' min. for all other frontages J
Parking & Service Access		
Surface Parking Setbacks		
	Primary Frontage	Shall be located behind the principal building along the street frontage P
	Secondary Frontage/General Frontages/Alley	Shall be located behind the principal building along that street frontage Q If no building is located along the street frontage; then surface parking shall be setback a minimum of 6' from the property line.
	Side	5' min. R
	Rear	5' min. S

Structured Parking

Primary Frontages	Shall be located behind the principal building;	P
Secondary Frontages/ General Frontages	Allowed to be built up to the minimum setback line along that street frontage	C
Side	5' min.	R
Rear	5' min.	S

Partially Below and Above Grade Parking

Allowed to be built up to the building façade line along all streets

Below Grade Parking

May be built up to the property line along all street frontages

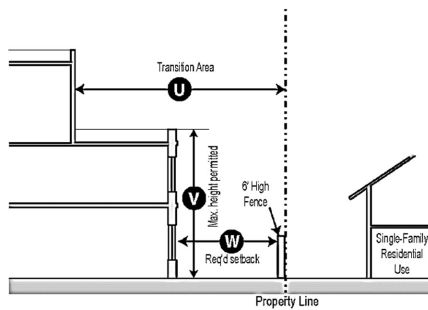
Driveways and Service Access

i. Parking driveway width	Section 6.6 shall apply	T
ii. Driveways and off-street loading and unloading standards	Section 6.6 shall apply	U

Residential Transition Standards

The following transition standards shall apply to all new building construction adjacent to a Residential Zoning District. This requirement shall NOT apply if a street, alley or other similar R-O-W separates the subject lot and adjoining Residential Zoning District

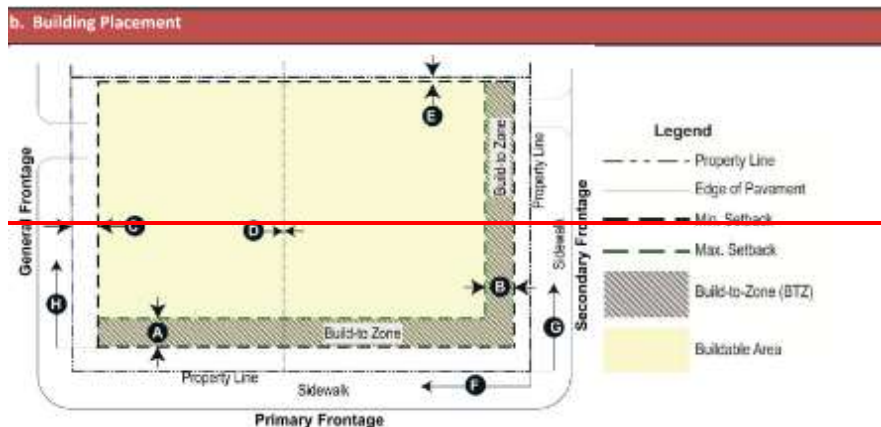
i. Transition Area	25' min.	U
ii. Max. Building Height within Transition Area	2 stories or 30'	V
iii. Required setback	10' min.	W
iv. A maximum 6' high solid screening fence and landscaping screen shall also be required. The required fence shall NOT be chain link or vinyl. Wood fencing must be double-sided		



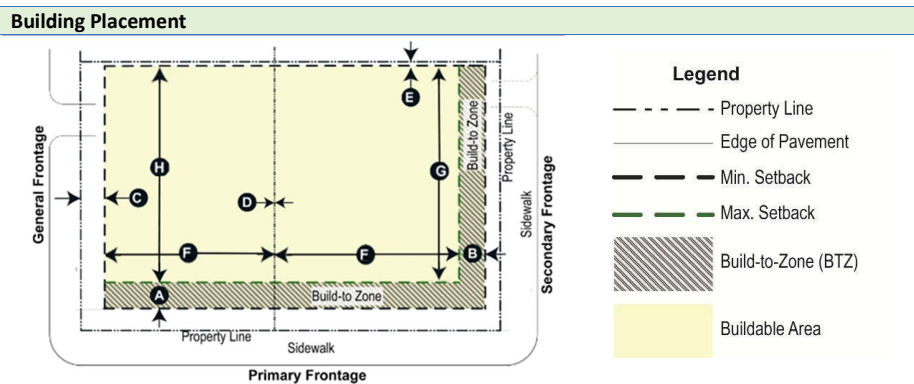
b. Neighborhood Commercial District (NC)

- i. **Purpose:** The Neighborhood Commercial District (NC) is intended to provide areas for commercial activity that is relatively compatible with residential areas or is located within residential neighborhoods. Other light commercial uses that are not major daily traffic generators and are generally compatible with nearby residential activity are also allowed. Neighborhood commercial areas shall have pedestrian access to adjacent residential areas. Sites in the NC district are appropriate primarily for direct access to Collector streets, Local Connector streets and Local Neighborhood streets.

ii. **Design Standards:**

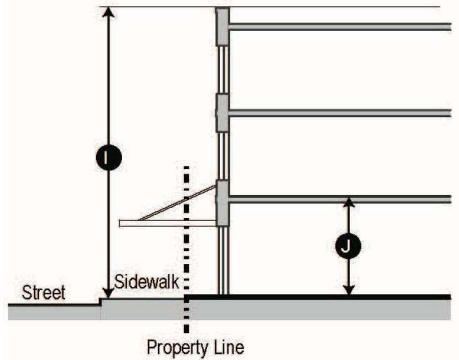
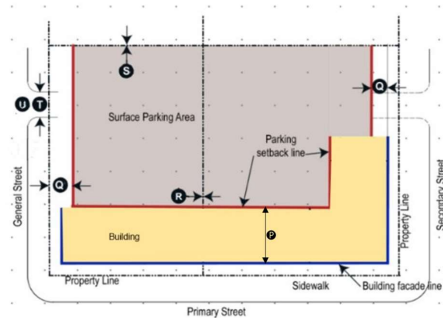


iii.



Build to Zones (BTZs)
(Distance from property line to edge of the zone)

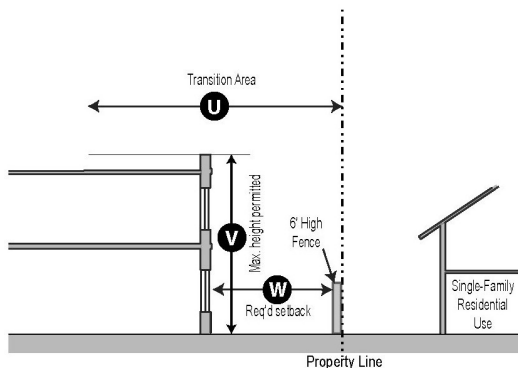
Primary Frontage	10' min. setback – 20' max. setback <u>50' min. setback along Arterial;</u> <u>30' along other streets;</u> <u>no max. setback</u>	A
Secondary Frontage	10' min. setback – 80' <u>no</u> max. setback	B
General Frontage	20' min. setback; no max. setback	C
Interior Side	20' min; no max. setback	D
Rear	20' min.; no max. setback	E
Building Frontage		
Primary Frontage	40% min.	F
Secondary Frontage	20% min.	G
General Frontage	None Required	H

Building Height		
Principal Building Standards		
	Building Maximum	2 stories or 30' max. I
	First floor to floor height (fin. Floor to fin. Floor)	12' min. for all buildings with a Secondary Frontage designation 10' min. for all other frontages J
Parking & Service Access		
Surface Parking Setbacks		
	Primary Frontage	Shall be located behind the principal building along the street frontage or Min. 10' behind the property line along that street P
	Secondary/ General Frontage	Min. 3' behind the property line along that street Q
	Side	10' min. R
	Rear	10' min. S
Driveway and Service Access		
1. Parking driveway width	Section 6.6 shall apply	T
2. Driveways and off-street loading /unloading standards	Section 6.6 shall apply	U

Residential Transition Standards

The following transition standards shall apply to all new building construction adjacent to a Residential Zoning District. This requirement shall NOT apply if a street, alley or other similar R-O-W separates the subject lot and adjoining Residential Zoning District

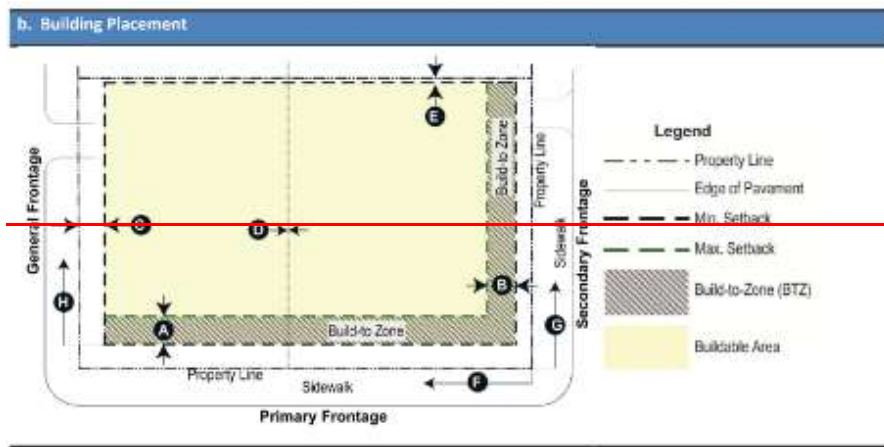
i. Transition Area	30' min.	U
ii. Building Height within Transition Area	25' max	V
iii. Required setback	20' min.	W
iv. A maximum 6' high solid screening fence and landscaping screen shall also be required. The required fence shall NOT be chain link or vinyl. Wood fencing must be double-sided		



c. **Community Facilities District (CF)**

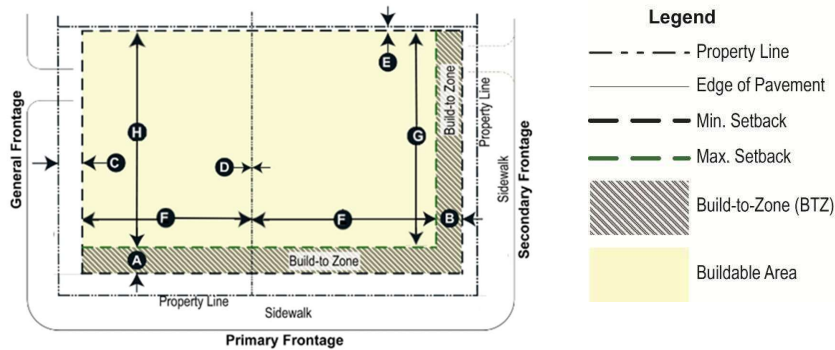
- i. **Purpose:** The Community Facilities (CF) District is intended for locations at which facilities are provided for governmental, religious, educational, health care, public gatherings, and social services. Sites in the CF district are appropriate primarily for direct access to Arterial, Collector streets and Local Connector Streets. Development standards in this district will require new buildings to create pedestrian friendly building frontages and generally conform to a Hill Country Design aesthetic. Uses within this Zoning District include primarily Civic and places of worship.

ii. **Design Standards**



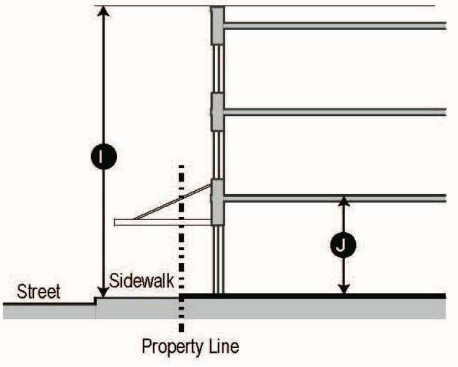
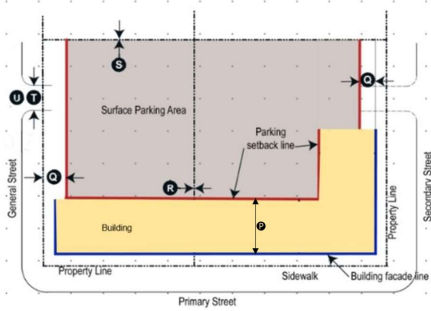
iii.

Building Placement



Build to Zones (BTZs)

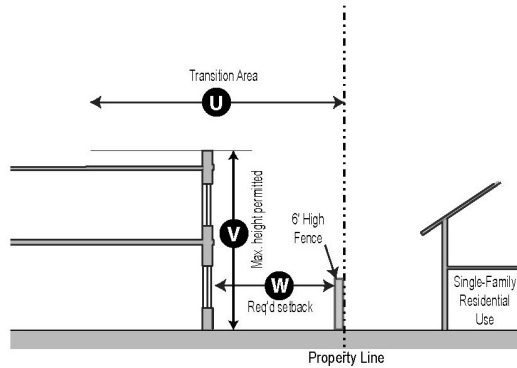
(Distance from property line to edge of the zone)		
Primary Frontage	20' min. setback — 50' max. setback <u>50' min. setback along Arterial;</u> <u>30' along other streets;</u> <u>no max. setback</u>	A
Secondary Frontage	20' — 10' min. setback — 80' <u>no</u> max. setback	B
General Frontage	20' min. setback; no max. setback	C
Interior Side	20' min; no max. setback	D
Rear	20' min.; no max. setback	E
Building Frontage		
Primary Frontage	40% min.	F
Secondary Frontage	20% min.	G
General Frontage	None Required	H

Building Height		
Principal Building Standards		
	Building Maximum	2 stories or 30' max. I
	First floor to floor height (fin. Floor to fin. Floor)	12' min. for all buildings with a Secondary Frontage designation 10' min. for all other frontages J
Parking & Service Access		
Surface Parking Setbacks		
	Primary Frontage	Shall be located behind the principal building along the street frontage or Min. 10' behind the property line along that street P
	Secondary/ General Frontage	Min. 3' behind the property line along that street Q
	Side	10' min. R
	Rear	10' min. S
Driveway and Service Access		
1. Parking driveway width	Section 6.6 shall apply	T
2. Driveways and off-street loading /unloading standards	Section 6.6 shall apply	U

Residential Transition Standards

The following transition standards shall apply to all new building construction adjacent to a Residential Zoning District. This requirement shall NOT apply if a street, alley or other similar R-O-W separates the subject lot and adjoining Residential Zoning District

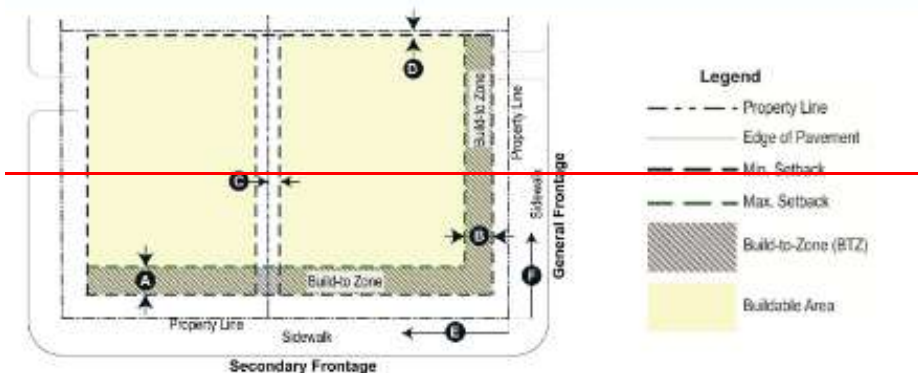
a. Transition Area	30' min.	U
b. Building Height within Transition Area	25' max	V
c. Required setback	20' min.	W
d. A maximum 6' high solid screening fence and landscaping screen shall also be required. The required fence shall NOT be chain link or vinyl. Wood fencing must be double-sided.		



d. Logistics (LO)

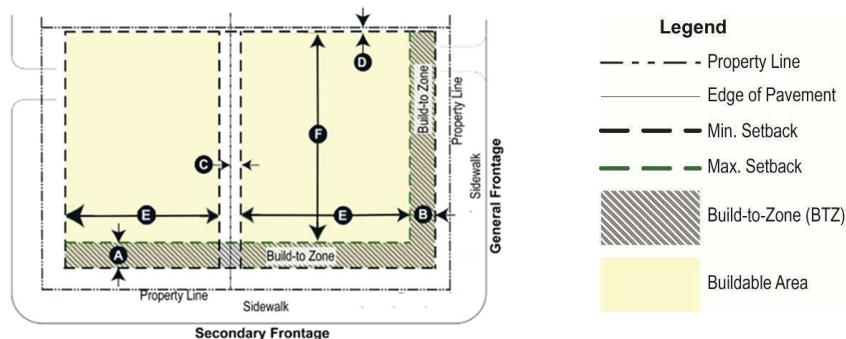
- i. **Purpose:** The Logistics District (LO) is intended to provide an area for appropriately scaled office- warehouse and what is sometimes called light industrial/commercial uses at discrete locations in the City. It is also appropriate for non-commercial uses that may generate significant traffic at limited times, such as places of worship and educational or community institutions. Sites in the L O district are appropriate for direct access to primarily Arterial and Collector streets.

b. Building Placement



ii. Design Standards

Building Placement



Build to Zones (BTZs)

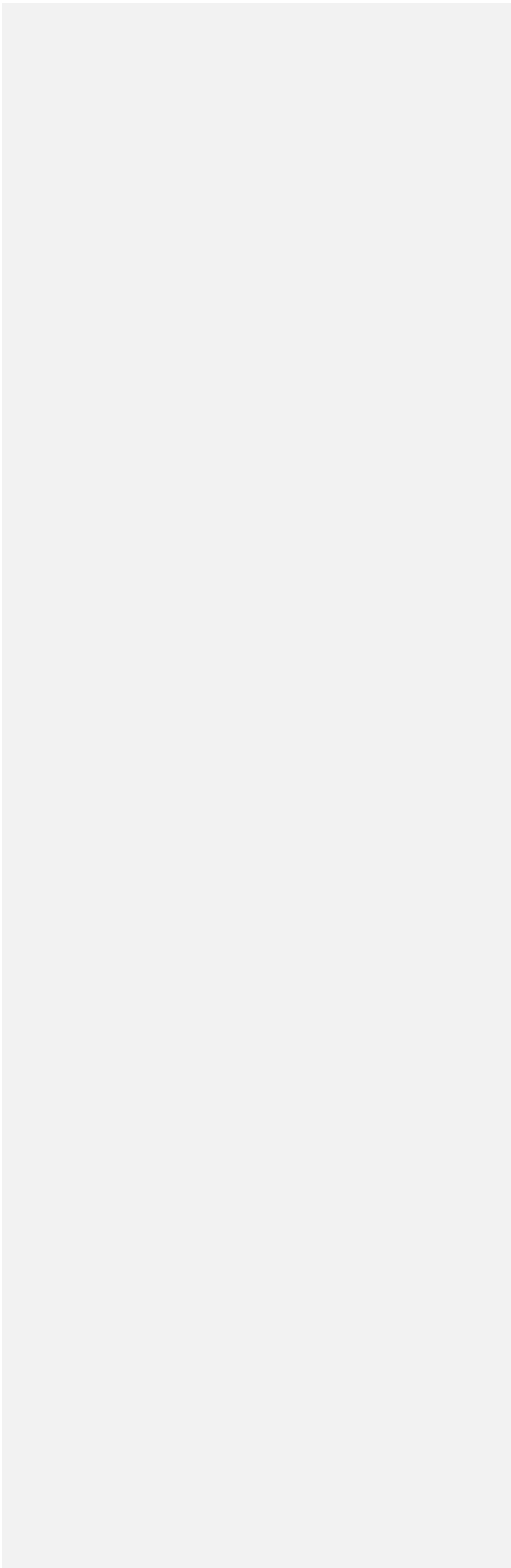
(Distance from property line to edge of the zone)

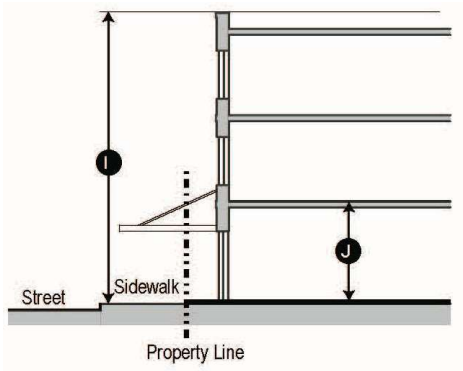
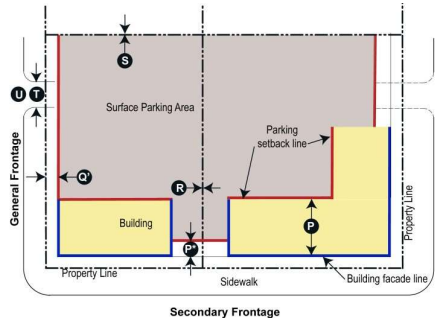
Secondary Frontage	30' min. setback – 80' max. setback	E
General Frontage	30' min. setback; no max. setback	F
Side	30' min; no max. setback	A
Rear	30' min.; no max. setback	D

Building Frontage

Secondary Frontage	50% min.	B
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General Frontage	None Required	
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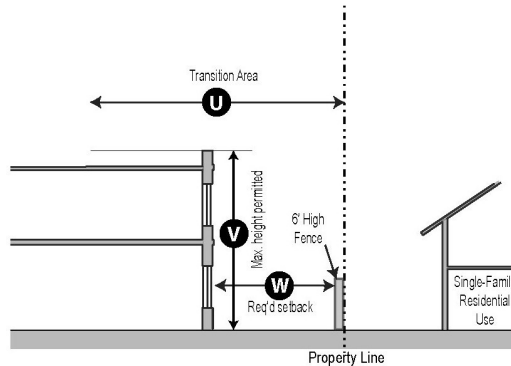


Building Height		
Principal Building Standards		
	Building Maximum	2 stories or 30' max. I
	First floor to floor height (fin. Floor to fin. Floor)	12' min. for all buildings J
Parking & Service Access		
Surface Parking Setbacks		
	Secondary Frontage	Shall be located behind the principal building along the street frontage or Min. 3' behind the building facade line along that street; If no building is located along the street frontage; then surface parking shall be setback a minimum of 6' from the property line. Min. 3' behind the property line P
	General Frontage	Min. 3' behind the property line along that street Q
	Side	10' min. R
	Rear	10' min. S
Driveway and Service Access		
1. Parking driveway width	Section 6.1 shall apply	T
2. Driveways and off-street loading /unloading standards	Section 6.1 shall apply	U

Residential Transition Standards

The following transition standards shall apply to all new building construction adjacent to a Residential Zoning District. This requirement shall NOT apply if a street, alley or other similar R-O-W separates the subject lot and adjoining Residential Zoning District

e. Transition Area	50' min.	U
f. Max. Building Height at within Transition Area	1 story or 20' max	V
g. Required setback	min. 30'	W
h. A maximum 6' high <u>solid screening</u> fence and landscaping screen shall also be required. The required fence shall NOT be chain link or vinyl. Wood fencing must be double-sided		



e. Open Space (OS)

Open Space (OS) serves to preserve the quasi-rural aesthetic character of Fair Oaks Ranch, to ensure preservation of land for environmental stewardship, to guard against erosion and provide for flood control, to provide for natural light and greenery within the City, and to generally contribute to the public health and welfare. These areas may be owned and operated by a government entity such as the City of Fair Oaks Ranch, a private entity, or protected through private covenant and managed by a homeowner's entity such as FORHA. All open space identified on the Future Land Use Map indicates areas where open space is to be preserved. Proposed development near these general locations shall consider including open space within the development.

Section 4.7 Special Zoning Districts

A Special Zoning District is a zoning district that establishes regulations that are unique to the district but combine with the regulations of an underlying (base) zoning district. The purposes of a Special Zoning District shall be to establish additional or different development and/or design criteria in exchange for a public benefit. An overlay may also establish conditions for uses, or to authorize special uses, together with standards for such uses, not otherwise allowed in the base district.

(1) Planned Unit Development (PUD)

The purpose of the Planned Unit Development District (PUD) is to provide land for uses and developments that promote development that is more sensitive to the natural environment, creates a significantly enhanced natural setting and/or sense of place, or otherwise enhances the standard pattern of development in Fair Oaks Ranch. Development is required to provide a higher level of amenities to its users or residents than what is usually required under the normal standards of this UDC. A PUD can be used to provide a creative solution around unforeseen constraints or to offer development flexibility that is in keeping with the Comprehensive Plan but is outside the prescriptions of the base zoning district. A PUD may be used to permit new or innovative concepts in land use not permitted by other zoning districts in this UDC or to permit development projects that existing districts cannot easily accommodate. This district is appropriate in areas where the Comprehensive Plan reflects the specific uses proposed in the PUD or mixed use as a land category. Rezoning to the PUD district requires a specific PUD ordinance and a ~~g~~General dDevelopment ~~P~~lan from the property owner. Applicants are responsible for developing the PUD Ordinance. Further information on PUD applications and applicability is found in Section 3.7(5).

~~Section 4.8(2)~~ — **Conservation Development Alternative (CDA)**

The Conservation Development Alternative provides a development option that permits flexibility of design in order to promote environmentally sensitive and efficient uses of the land. A Conservation Development Alternative is a development of land within Rural Residential or Neighborhood Residential Districts, occupying ten (10) contiguous acres or more, that is developed in a manner generally consistent with engineering and planning principles often described as “low impact design.” The land must also be under unified control and planned and developed as a whole in a single development operation or programmed series of development stages. The development may cover more than one parcel as long as all parcels are contiguous, but the entirety of each included parcel will be included in the gross area of the development. This process also provides incentives to landowners by providing uniform rules to govern increased density, outlined in the table below, entitled “Conservation Development Alternative Density Incentive.” Conservation Development may also be used to preserve natural resources, minimize infrastructure costs for the landowner or the City, and to better conform lot configurations and housing types to topography and market needs in places where the City deems it appropriate. These regulatory incentives are intended to ensure that regulatory modifications to the zoning standards benefit the general public welfare as well as the landowner. Additional regulations for the Conservation Development ~~Zoning~~ Alternative may be found in Section ~~87.3~~ of this UDC.

~~Section 4.9~~ Section 4.8 Permitted Uses

(1) Use Table

The following table (Table 4.2) reflects the uses permitted within each zoning district. ~~For uses not listed, the City Manager or his/her designee shall make a determination based on their interpretation of the intent and spirit of this ordinance and the Fair Oaks Ranch Comprehensive Plan.~~ An applicant

may appeal the decision of the City Manager by presenting their case to the Zoning Board of Adjustment.

- a. A Use Permitted by right (P) is subject to all other applicable regulations of this UDC.
- b. Some uses require supplemental regulations in addition to the other applicable regulations of this UDC. A use indicated by (P/C) is permitted by right and **approval by City Council is not required**, provided that it meets the conditional use standards found in Section 4.9, as well as the other applicable regulations of this UDC.
- c. A Special Use Permit (S) is allowed **only if approved by City Council** in accordance the standards found in Section 3.7.
- d. Not Permitted (NP).

(2) Unlisted Uses

~~For uses not listed, the City Manager or his/her designee shall make a determination based on their interpretation of the intent and spirit of this ordinance and the Fair Oaks Ranch Comprehensive Plan. The City Manager shall produce an administrative policy for addressing unlisted uses, consistent with all other provisions of this UDC, either allowing for administrative decisions by the City Manager or requiring legislative action by the City Council, or a combination of both the above, depending on the circumstance.~~

For uses not listed or new uses, the City Manager shall use the descriptions found in Appendix B: Definitions to determine how an unlisted use should be treated.

- a. A new and unlisted use may be interpreted by the City Manager (or designee) as similar to another listed use and treated in the same manner as that listed use.
- b. If the City Manager (or designee) finds that the use is not substantially similar to a listed use, an amendment to the UDC shall be required as per Section 3.6 to add such a use to the Land Use Matrix.
- c. Any decision of the City Manager (or designee) may be appealed according to the process outlined in Section 2.3.

Table 4.2: Use Table

Zoning District	Mixed Use Village	Neighborhood Commercial	Community Facilities	Logistics	Existing Residential	Neighborhood Residential	Rural Residential	Open Space ^a
Retail Sales or Service <u>with no drive through facility</u>	P	P	NP	NP	NP	NP	NP	NP
Retail Sales or Service <u>with drive through facility</u> (includes retail with associated fuel sales)	P/C	NP	NP	NP	NP	NP	NP	NP
Bars	S	S	NP	NP	NP	NP	NP	NP
Food Service Uses such as full-service restaurants, cafeterias, bakeries catering and snack bars <u>with no drive through facilities</u>	P	P	NP	P	NP	NP	NP	NP
Art, antique, museum, furniture or galleries (retail, repair or artisanal fabrication)	P	P	NP	P	NP	NP	NP	NP
Entertainment, theater, cinema, or music venue	P/C	NP	NP	P/C	NP	NP	NP	NP
Sexually Oriented Business	NP	NP	NP	P	NP	NP	NP	NP
Commercial/ Office <u>with no drive through facility</u>	P	P	NP	NP	NP	NP	NP	NP

Zoning District	Mixed Use Village	Neighborhood Commercial	Community Facilities	Logistics	Existing Residential	Neighborhood Residential	Rural Residential	Open Space ¹
Commercial/ Office <u>with drive through facility</u>	P	NP	NP	NP	NP	NP	NP	NP
Pet and animal sales or service	P	NP	NP	P	NP	NP	NP	NP
Fitness, recreational sports, gym, athletic club, dance or yoga studio	P	P	P	P	NP	NP	NP	NP
Parks, greens, plazas, squares, and playgrounds	P	P	P	P	P	P	P	P
Business associations and professional membership organizations	P	P	P	P	NP	NP	NP	NP
Childcare, day care, and preschools	P/C	P/C	P/C	NP	NP	NP	NP	NP
Family home child care	P/C	P/C	P/C	NP	S	S	S	NP
Schools, libraries, and community/civic facilities	P	NP	P	NP	NP	NP	NP	NP
Religious Institutions	NP	NP	P	P	NP	NP	NP	NP
Universities and Colleges and Technical, trade, and specialty schools	P	NP	P	P	NP	NP	NP	NP
Hospitals and nursing establishments	P	NP	P	NP	NP	NP	NP	NP
Social, fraternal and philanthropic organizations	P	P	P	P	NP	NP	NP	NP
Transitional Housing	S	S	S	S	S	S	S	NP
Community or Group Homes	P/C	P/C	P/C	P/C	P/C	P/C	P/C	NP
Public administration uses (including local, state, and federal government uses, public safety, health and human services)	P	P	P	P	NP	NP	NP	NP

Zoning District	Mixed Use Village	Neighborhood Commercial	Community Facilities	Logistics	Existing Residential	Neighborhood Residential	Rural Residential	Open Space ¹
Funeral homes	P/C	NP	NP	NP	NP	NP	NP	NP
Single Family Residential	P	NP	P	NP	P	P	P	NP
Accessory Building Residential Unit (Garage Apt.)	P	P	P	P	P	P	P	NP
Single-family Residential Attached/ Townhomes/ Patio Home/ Duplex/ Multi Unit Home (3-4 Units)	P	P	P	P	P/C	NP	NP	NP
Multi-family Residential	P	NP	NP	NP	NP	NP	NP	NP
Home Occupations	P	P	P	P	P	P	P	NP
Manufactured Housing	NP	NP	NP	P/C	NP	NP	NP	NP
Auto and Vehicle Related Sales and Service Establishment	NP	NP	NP	P/C	NP	NP	NP	NP
Brewery, Distillery, or Winery	NP	NP	NP	P	NP	NP	NP	NP
Brewpub (restaurant with auxiliary: Brewery, Distillery, or Winery)	P	NP	NP	P	NP	NP	NP	NP
Commercial food, textile and product manufacturing	NP	NP	NP	NP	NP	NP	NP	NP
Heavy manufacturing that may produce hazardous waste	NP	NP	NP	NP	NP	NP	NP	NP
Miscellaneous light manufacturing (Manufacturing processes that do not create hazardous waste)	NP	NP	NP	P	NP	NP	NP	NP
Warehouse and Self-Storage	NP	NP	NP	P/C	NP	NP	NP	NP
Climate Controlled Self-Storage	P/C	NP	NP	P/C	NP	NP	NP	NP
Transportation services (air, rail, road, truck and freight)	NP	NP	NP	P	NP	NP	NP	NP

Zoning District	Mixed Use Village	Neighborhood Commercial	Community Facilities	Logistics	Existing Residential	Neighborhood Residential	Rural Residential	Open Space ¹
Telecommunications and broadcasting (radio, TV, cable, wireless communications, telephone, etc.)	S	S	S	S	S	S	S	NP
Utility Facilities (electric, natural gas, alternative)	P/C	P/C	P/C	P/C	P/C	P/C	P/C	NP
Hotel (45 or fewer rooms)	P	NP	NP	NP	NP	NP	NP	NP
Hotels (more than 45 rooms)	P	NP	NP	NP	NP	NP	NP	NP
Bed and Breakfast (5 or fewer guest rooms)	P	P/C	P	P/C	P/C	P/C	P/C	NP
Parking, structured	P	NP	NP	NP	NP	NP	NP	NP
Veterinary Services	P	NP	NP	P	NP	NP	NP	NP
Commercial Stables/Boarding	NP	NP	S	S	S	S	S	NP

Table 4.2: Use Table

Zoning District	Mixed Use Village	Neighborhood Commercial	Community Facilities	Logistics	Existing Residential	Neighborhood Residential	Rural Residential	Open Space	Parking
Retail Sales or Service with no drive through facility	P*	P	NP	NP	NP	NP	NP	NP	1 space per 300 sf of usable building area
Retail Sales or Service with drive through facility (includes retail with associated fuel sales)	P/C	NP	NP	NP	NP	NP	NP	NP	1 space per 300 sf of usable building area
Bars	S	S	NP	NP	NP	NP	NP	NP	1 space per 150 sf of usable building area
Food Service Uses such as full-service restaurants, cafeterias, bakeries catering and snack bars with no drive through facilities	P*	P	NP	P	NP	NP	NP	NP	1 space per 100 sf of usable building area
Art, antique, museum, furniture or galleries (retail, repair or artisanal fabrication)	P*	P	NP	P	NP	NP	NP	NP	1 space per 300 sf of usable building area
Entertainment, theater, cinema, or music venue	P/C	NP	NP	P/C	NP	NP	NP	NP	1 for each 4 seats w/ outdoor facilities – add 1 for each 800 square feet of outdoor area

Zoning District	Mixed Use Village	Neighborhood Commercial	Community Facilities	Logistics	Existing Residential	Neighborhood Residential	Rural Residential	Open Space	Parking
<u>Outdoor recreation and entertainment facilities</u>	<u>P/C</u>	<u>P/C</u>	<u>P/C</u>	<u>P/C</u>	<u>NP</u>	<u>NP</u>	<u>NP</u>	<u>NP</u>	1 for each 800 sf of outdoor recreational area
Sexually Oriented Business	NP	NP	NP	P	NP	NP	NP	NP	1 space per 300 sf of usable building area
Commercial/ Office with no drive through facility	P*	P	NP	NP	NP	NP	NP	NP	1 space per 300 sf of usable building area
Commercial/ Office with drive through facility	P*	NP	NP	NP	NP	NP	NP	NP	1 space per 300 sf of usable building area
Pet and animal sales or service	P*	NP	NP	P	NP	NP	NP	NP	1 space per 300 sf of usable building area
Fitness, recreational sports, gym, athletic club, dance or yoga studio	P*	P	P	P	NP	NP	NP	NP	1 space per 100 sf of usable building area
<u>Golf course</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	3 spaces per hole, plus additional spaces required for accessory uses (restaurant, bar, pro shop)
Parks, greens, plazas, squares, and playgrounds	P	P	P	P	P	P	P	P	To be determined by the City Manager or designee based on use and location
<u>Park maintenance facilities</u>	<u>P/C</u>	<u>P/C</u>	<u>P/C</u>	<u>P/C</u>	<u>P/C</u>	<u>P/C</u>	<u>P/C</u>	<u>P/C</u>	To be determined by the City Manager or designee based on use and location
Business associations and professional membership organizations	P*	P	P	P	NP	NP	NP	NP	1 space per 200 sf of usable building area
Childcare, day care, and preschools	P/C	P/C	P/C	NP	NP	NP	NP	NP	2 spaces per employee
Family home child care	P/C	P/C	P/C	NP	S	S	S	NP	2 spaces per residential use plus 1 space for drop off/pick up.
<u>Kindergarten, Elementary and Middle Schools</u> , libraries, and community/civic facilities	P	NP	P	NP	NP	NP	NP	NP	3 spaces per classroom, plus 1 space per administrative employee
Religious Institutions	NP	NP	P	P	NP	NP	NP	NP	1 space per 200 square feet of usable building area
<u>High Schools</u> , Universities and Colleges and Technical, trade, and specialty schools	P	NP	P	P	NP	NP	NP	NP	1 space per 3 seats in classroom, plus 1 space per staff

Zoning District	Mixed Use Village	Neighborhood Commercial	Community Facilities	Logistics	Existing Residential	Neighborhood Residential	Rural Residential	Open Space	Parking
									member (plus additional required for auditoriums, gymnasiums)
<u>Health Clinic/Medical Office</u>	<u>P*</u>	<u>P</u>	<u>NP</u>	<u>NP</u>	<u>NP</u>	<u>NP</u>	<u>NP</u>	<u>NP</u>	1 for each 200 sf of usable building area
Hospitals and nursing establishments	P	NP	P	NP	NP	NP	NP	NP	1 for each 1.5 beds
<u>Residential Care Facility</u>	<u>P</u>	<u>NP</u>	<u>P</u>	<u>NP</u>	<u>NP</u>	<u>NP</u>	<u>NP</u>	<u>NP</u>	1 for each on duty or resident care provider and 1 space per 2 residents
<u>Retirement Community</u>	<u>P</u>	<u>NP</u>	<u>P</u>	<u>NP</u>	<u>NP</u>	<u>NP</u>	<u>NP</u>	<u>NP</u>	1 for each dwelling unit
<u>Long Term Care Facility</u>	<u>P</u>	<u>NP</u>	<u>P</u>	<u>NP</u>	<u>NP</u>	<u>NP</u>	<u>NP</u>	<u>NP</u>	1 for each 4 beds
Social, fraternal and philanthropic organizations	P/C	P	P	P	NP	NP	NP	NP	1 space per 200 sf of usable building area
Transitional Housing	S	S	S	S	S	S	S	NP	1 for each on duty or resident care provider and 1 for each bedroom
Community or Group Homes	P/C	P/C	P/C	P/C	P/C	P/C	P/C	NP	1 for each on duty or resident care provider and 1 per 2 residents
Public administration uses (including local, state, and federal government uses, public safety, health and human services)	P	P	P	P	NP	NP	NP	NP	1 for each 300 sf of usable building area of offices
Funeral homes	P/C	NP	NP	NP	NP	NP	NP	NP	1 space per 4 seats in chapel/sanctuary where the congregation is seated during worship services (22" of undivided seating = 1 seat)
Single Family Residential	<u>PP*</u>	NP	P	NP	P	P	P	NP	2 for the first three bedrooms plus 1 for each additional bedroom in each family unit
<u>Accessory Building Residential Unit (Garage Apt.), with an additional 7,000 square foot lot area for each additional dwelling, and not to exceed the total floor area of the principal dwelling unit. Limited to one unit per lot.</u>	P	P	P	P	P	P	P	NP	1 space per each additional dwelling unit
Single-family Residential Attached/ Townhomes/ Patio Home/ Duplex/ Multi Unit Home (3-4 Units)	<u>PP*</u>	P	P	P	P/C	NP	NP	NP	2 spaces per each dwelling unit
Multi-family Residential	<u>P*</u>	NP	NP	NP	NP	NP	NP	NP	1.5 for each studio, one or two-bedroom unit; 2 for

Zoning District	Mixed Use Village	Neighborhood Commercial	Community Facilities	Logistics	Existing Residential	Neighborhood Residential	Rural Residential	Open Space	Parking
									each unit with 3 or more bedrooms
Home Occupations	P	P	P	P	P	P	P	NP	2 spaces per each dwelling unit
Manufactured Housing	NP	NP	NP	P/C	NP	NP	NP	NP	2 spaces per each dwelling unit
Auto and Vehicle Related Sales and Service Establishment	NP	NP	NP	P/C	NP	NP	NP	NP	1 for each 300 sf of usable building area
Brewery, Distillery, or Winery	NP	NP	NP	P	NP	NP	NP	NP	1 space per 500 sf of usable building area
Brewpub (restaurant with auxiliary: Brewery, Distillery, or Winery)	P/C	NP	NP	P	NP	NP	NP	NP	1 space per 300 sf of dining area, 1 per 1000 sf of manufacturing area
Commercial food, textile and product manufacturing	NP	NP	NP	NP	NP	NP	NP	NP	1 space per 500 sf of usable building area
Heavy manufacturing that may produce hazardous waste	NP	NP	NP	NP	NP	NP	NP	NP	1 space per 500 sf of usable building area
Miscellaneous light manufacturing (Manufacturing processes that do not create hazardous waste)	NP	NP	NP	P	NP	NP	NP	NP	1 space per 500 sf of usable building area
Warehouse and Self-Storage	NP	NP	NP	P/C	NP	NP	NP	NP	1 space per each employee or 1 space per 1,000 sf of usable building area, whichever is greater area
Climate Controlled Self-Storage	P/C	NP	NP	P/C	NP	NP	NP	NP	1 space per each employee or 1 space per 1,000 sf of usable building area, whichever is greater
Transportation services (air, rail, road, truck and freight)	NP	NP	NP	P	NP	NP	NP	NP	As required per the service
Telecommunications and broadcasting (radio, TV, cable, wireless communications, telephone, etc.)	S	S	S	S	S	S	S	NP	As required per the utility
Utility Facilities (electric, natural gas, alternative)	P/C	P/C	P/C	P/C	P/C	P/C	P/C	NP	As required per the utility
Hotel	P	NP	NP	NP	NP	NP	NP	NP	.75 space per guest room; all other areas, such as conference space shall be parked at 1 space per 300 sf of usable building area.
Hotel (45 or fewer rooms)	P	NP	NP	NP	NP	NP	NP	NP	
Hotel (more than 45 rooms)	P	NP	NP	NP	NP	NP	NP	NP	
Bed and Breakfast (5 or fewer guest rooms)	P	P/C	P	P/C	P/C	P/C	P/C	NP	1 space per guest room.
Parking, structured	P	NP	NP	NP	NP	NP	NP	NP	
Veterinary Services	P	NP	NP	NP	NP	NP	NP	NP	As required by the associated use
Commercial Stables/Boarding	NP	NP	SNP	SP	S NP	SNP	S NP	NP	1 space per 300 sf of usable building area

P* - Permitted as part of a mixed use development that contains a mix of residential and nonresidential designed as a unified development. The residential component of any type shall not exceed thirty (30) percent of the entire development.

- Open Spaces are reserved for active or passive recreation, and for the preservation of land in its natural state. Building on, or modification of, land in Open Space districts is generally prohibited except where incidental to a larger purpose of preserving and enhancing Open Space areas; or, where necessary for public health and safety purposes. The only exception is the category in Table 4.2 described as “Parks, greens, plazas, squares, and playgrounds.” These uses are allowed in Open Space districts, provided that vertical construction is kept to a minimum and, in the opinion of the City Manager, the primary purpose of the land use is not to provide for activity intended for other districts nor to otherwise circumvent this provision and the intent of this zoning UDC and the Comprehensive Plan of Fair Oaks Ranch.
- When square feet are specified in the above chart the area measured shall be the primary interior floor area of the structure(s) on the property within which the use operates, which shall exclude stairwells, restrooms, elevator shafts, hallways, ornamental balconies, space occupied by heating, air conditioning or other utility equipment, and interior area devoted to parking or loading.
- The number of employees of a new or expanding business shall be estimated in a manner reflecting realistic needs, considering factors such as number of shifts, employees per shift, and parking space turnover rates of the existing or comparable business. The City Manager or designee shall determine number of employees from employment information presented by the use or owner of the property.
- In the event several uses occupy a structure or property simultaneously, the total requirements for off-street parking shall be the sum of the requirements of the several uses computed separately based on the proportional area devoted to each separate use.
- A stacked or tandem parking arrangement, where one vehicle parked directly behind another must be removed before the front vehicle can exit its space, shall be allowed only for a structure containing one, or two (2) residential dwelling units.
- The City Manager or designee shall determine the number of off-street parking spaces required for uses not specifically listed in this section following an assessment of comparable uses and associated parking requirements.
- Refer to Section 6.7 for additional parking standards.

~~Section 4.10~~ Section 4.9 Conditional Uses

(1) Retail Sales or Service with Drive Through Facility

Retail Service with drive through facility will be governed by the guidelines ~~promulgated by the City or by a design UDC. Until such guidelines are adopted, an applicant will develop plans consistent with the comprehensive plan and submit them to the City for approval by the City Manager (or designee), with appeal to the Zoning Board of Adjustment~~ specified below:

- Drive through windows and similar elements shall not be located in yards adjacent to residential zone or use.
- Such facilities must meet all applicable screening and landscaping requirements of Chapter 6.
- Stacking spaces shall be provided as per the requirements in Section 6.6 (3).

(2) Alcohol Sales or Liquor Store

Alcohol Sales or Liquor Store is permitted in accordance with Table 4.2 and subject to the following standards:

- a. Alcohol sales shall be prohibited within 300 feet of a church, public or private school.
- b. Method of measurement. The measurement of the distance between the premises and a church, public or private school shall be from the property line of the church, public or private school to the property line of the place of business, and in a direct line across intersections.
- c. This section does not apply to any establishment that is licensed for the sale or consumption of alcoholic beverages at the time a church, public school or private school begins construction or occupancy of a building within 300 feet of the licensed establishment. Nor shall it apply to churches, public schools or private schools that are themselves licensed for the sale or consumption of alcoholic beverages.
- d. This section does not apply to on-premises consumption if less than 50 percent of the gross receipts for the premises is from the sale or service of alcoholic beverages; off-premise consumption if less than 50 percent of the gross receipts for the premises, excluding the sale of items subject to the motor fuels tax, is from the sale or service of alcoholic beverages; or a wholesaler, distributor, brewer, distiller, rectifier, winery, wine bottler or manufacturer as those words are ordinarily used and understood in Chapter 102 of the Texas Alcoholic Beverage Code.

e. Alcohol Sales or Liquor Store shall conform to all applicable regulations of the State of Texas, and the applicable County.

(3) Bed and Breakfast

A bed and breakfast establishment is permitted in accordance with Table 4.2 and subject to the following standards:

- a. A maximum of five guest rooms may be provided in any one bed and breakfast establishment.
- b. No food preparation, except beverages, is allowed within individual guest rooms.
- c. Preparation and service of food for guests shall conform to all applicable regulations of the State of Texas, the applicable County, and the City of Fair Oaks Ranch.
- d. The operator shall keep a current guest register including names, permanent addresses, dates of occupancy and motor vehicle license numbers for all guests.
- e. Bed and breakfast establishments in any residential district shall be subject to the following additional standards:
 - i. The operator of the bed and breakfast must be a full-time resident of the dwelling in which the bed and breakfast establishment is housed.
 - ii. No exterior evidence of the bed and breakfast shall be allowed, except for one attached sign which meets the requirements of Chapter 9, Signs. No additional outdoor advertising of any kind is allowed on site.
 - iii. There must be adequate parking with one off-street space for every two (2) rooms. All parking areas on property (except driveways) shall be located behind the primary buildings front façade or must be screened from the view of adjacent residences to a height of six (6) feet by a solid masonry screening fence, or an opaque buffer of dense shrubs and vegetation.

(4) Entertainment

Entertainment uses are permitted in accordance with Table 4.2 and subject to the following standards:

- a. Outdoor entertainment uses adjacent to a residential district shall not create or permit any unreasonably loud noise which disturbs or causes distress to those residents in the surrounding neighborhoods.
- b. A noise is presumed to be unreasonable if the noise exceeds a decibel level of 85 after the person making the noise receives notice from the magistrate or peace officer that the noise is a public nuisance.
- c. Entertainment uses that include regular outdoor activities (twice per month or more) involving live or recorded music within 300 feet of a residence; amplified speaking, music, or sound affects; motors operating at high revolution, or other activities considered by a reasonable person likely to create loud or obnoxious noises to the distress of other residents of the City, shall file a plan in writing with the City outlining what standards and procedures will be followed to prevent violation of Conditions a and b.

(5) Auto Vehicle Related Sales and Service Establishment

An Auto and Vehicle Related Sales and Service Establishment is permitted in accordance with Table 4.2 and subject to the following standards:

- a. Fixed lighting shall be so arranged to prevent direct glare of beams onto any adjacent public or private property or street and be in compliance with the Camp Bullis Joint Land Use Study lighting guidelines and the City of Fair Oaks Ranch lighting guidelines.
- b. Repairs shall be performed only within the principal building on the premises, unless it can be shown to the satisfaction of the City Manager that a separate building containing parts or accessories can achieve the intended aesthetic purpose of this Section.
- c. Screening shall be provided along all lot lines abutting or adjacent to residentially zoned or developed property, to block any view of the use, its operations and stored materials and equipment from all points on such residential property when viewed from ground level. Minimum screening shall include a row of shrubs.
- d. Outdoor display of vehicles shall be set back a minimum of fifty (50) feet from all lot lines abutting residentially zoned or developed property.
- e. Setback areas shall be configured to prevent access by vehicles.
- f. Open space along the perimeter of the required buffer yard shall be landscaped in accordance with City development regulations.
- g. Portable buildings on site are prohibited.
- h. All automotive parts shall be stored within an enclosed building, and there shall be no open storage of dismantled vehicles visible at any point beyond the premises.
- i. All repair or service work requiring six or more consecutive hours (i.e. major repair) shall take place either within an enclosed structure or behind a suitable screening device.
- j. The bay doors to the garage shall not be oriented toward the public right-of-way.

(6) Warehouse/ Self-Storage

A self-storage establishment is permitted in accordance with Table 4.2 and subject to the following standards:

- a. No direct glare from any illumination on the site shall be visible from lots in any adjacent residential zoning district, and the site must be in compliance with the Camp Bullis Joint Land Use Study lighting guidelines and the lighting regulations of the City of Fair Oaks Ranch.

(7) Climate Controlled Self-Storage

A climate controlled self-storage establishment is permitted in accordance with Table 4.2 and subject to the following standards:

- a. No direct glare from any illumination on the site shall be visible from lots in any adjacent residential zoning district, and the site must be in compliance with the Camp Bullis Joint Land Use Study lighting guidelines and the lighting regulations of the City of Fair Oaks Ranch.

(8) Utility Facilities

A utility facility is permitted in accordance with Table 4.2 and subject to the following standards:

- a. Such uses must be accompanied by an eight-foot high solid screening fence (or alternate material approved in writing by the City Manager) with a gate made of similar material and with landscaping in compliance with Chapter 8, Infrastructure and Public Improvements.
- b. The facility must be secured so as not to pose a threat to the health or safety of human life.
- c. Requirements for Wireless Transmission Facilities found in Chapter ~~11~~ 10 are met.

(9) Childcare

- a. Day Care. Day care use is permitted in accordance with Table 4.2 and subject to the following standards:
 - i. All day care facilities shall meet the minimum state requirements for such facilities and shall be registered with the State of Texas.
 - ii. Day care facilities are permitted subject to state regulations and the restrictions in this section.
 - iii. All child care facilities shall provide at least as much outdoor play area and indoor activity space per child as required by the state for licensed day care centers. All outdoor play areas shall be located behind front building lines and a 6 ft. tall opaque screen shall be provided to screen abutting property that is zoned residential at the time the child care facility is established.
- b. Family Home Child Care. Family home child care use is permitted in accordance with Table 4.2 and subject to the following standards:
 - i. Number of children: A family home care facility shall provide regular care to no more than six (6) children under fourteen (14) years of age (as defined by State Regulations), excluding children who are related to the caretaker; may provide care after school hours for not more than six additional elementary school children; provided that the total number of children, including those related to the caretaker, shall not exceed twelve (12) at any given time.
 - ii. Number of employees: A family home childcare facility may employ only residents of the premises, including all paid and unpaid care providers.
 - iii. Signs: Signage shall be in accordance with the regulations specified in Section 10.4 of this UDC and for the district in which the facility is located.
 - iv. Separation: Family home care facilities located in residential districts shall be separated from other child care facilities in that district by not less than six hundred (600) feet. Upon the recommendation of the Planning and Zoning Commission, the Council may grant exceptions to this rule upon finding that such exceptions do not contribute to the proliferation of child care facilities within a neighborhood.
- c. Group Day Care Home. Group day care home use is permitted in accordance with Table 4.2 and subject to the following standards:

- i. Number of Children: A group day care home shall provide regular care for seven to twelve (7-12) children under fourteen (14) years of age for less than twenty-four (24) hours a day.
 - ii. Separation: Group Day Care home care cannot be located in residentially zoned areas.
 - iii. Number of Employees: A maximum of two (2) non-resident employees may work at group day care home.
 - iv. Signs: Signage shall be in accordance with the regulations for the district where the facility is located.
- d. Day Care Center. Day care center use is permitted in accordance with Table 4.2 and subject to the following standards:
- i. Number of children: A Day care center shall provide regular care to children under fourteen (14) years of age for less than twenty-four (24) hours a day.
 - ii. Separation: Day Care Centers cannot be located in residentially zoned areas.
 - iii. Off-street parking and loading: Loading zones must be off-street, drive-through and paved to a minimum width of ten (10) feet and a maximum width of twenty (20) feet. Loading zones shall have a holding capacity of one vehicle per five hundred (500) square feet of the facility, exclusive of parking spaces, provided that no facility shall be required to have a loading zone with a capacity in excess of six (6) spaces.

(10) Senior Adult Group Home Care

- a. Number of Residents: A Senior Adult Group Home Care shall provide regular live-in care for two to four (2-4) adults.
- b. Separation: Senior Adult Group Home care facilities located in residential districts shall be separated from other Senior Adult Group Home care facilities in that district by not less than six hundred (600) feet. Upon the recommendation of the Planning and Zoning Commission, the Council may grant exceptions to this rule upon finding that such exceptions do not contribute to the proliferation of facilities within a neighborhood.
- c. Number of Employees: A maximum of two (2) non-resident employees may work at Senior Adult Group Home Care home.
- d. Signs: Signage shall be in accordance with the regulations for the district where the facility is located.

(11) Community Home or Group Home

- a. For the limitation of six or fewer clients, this means six or fewer clients and two authorized supervisory personnel.
- b. A community home or group home must be at least 2,000 feet from other halfway house or inpatient substance abuse treatment facility, measured property line to property line.
- c. A community home or group home must be at least 750 feet from any community home or group home, notwithstanding any additional distance restrictions of Federal, State or local law for moderate and high risk (level 2 and 3) and civil commitment sex offenders, measured property line to property line.
- d. The appearance and residential character of the structure cannot be altered, either through use of colors, materials, construction (excepting provisions for the physically handicapped) and lighting; the emission of sound, noise, vibration and electromagnetic interference; or outdoor storage of any kind.

- e. Signs identifying the property as a community home or group home are prohibited in residential zoning districts.
- f. Vehicles used primarily for the community home or group home (for instance, vans displaying an institution name) must be stored where they cannot be seen from the public right-of-way or adjacent properties when located in a residential zoning district.
- g. Any single-family dwelling unit to be utilized for a community home or group home shall provide as a minimum, the following square footage in each bedroom:
 - i. To house one person per bedroom, the dwelling unit must provide one hundred (100) square feet of space per bedroom utilized for this purpose.
 - ii. To house two or more persons per bedroom, the dwelling unit must provide at least eighty (80) square feet of space per person housed in the bedroom utilized for this purpose. For example, two persons would require a one hundred sixty (160) square foot room.
- h. A single-family dwelling unit to be utilized for a community home or group home shall provide as a minimum, one parking space for each bedroom in the home, including the spaces provided by the garage but not including the parking on public right of way adjacent to the home.

(12) Manufactured Housing

- a. Mobile Homes may not be installed.
- b. HUD-Code Manufactured Homes may be installed.
- c. No more than four units may be installed on a single lot.

(13) Funeral Homes

- a. Users seeking a Conditional Use Permit shall file a written plan with the City demonstrating how operations will not adversely impact residential uses within 1000 feet.

(14) Single Family Residential Attached

- a. Permitted only on Lots that have current or previous use (within the past 12 months) as a single-family attached residential dwelling; or,
- b. Where applicant can demonstrate that the total density of dwelling units within a proposed development is equal to or less than the average density of the zoning district. For the purposes of this Condition, a “development” includes the total number of dwelling units proposed or accounted for in a development agreement, a master drainage plan, or another type of master plan approved by the City. If two or more such plans exist for the property in question, the one with higher total number of dwelling units controls.

(15) Park Maintenance Facilities

Park Maintenance Facilities are permitted by right in I zoning districts provided that the following conditional use standards are met (P/C)

- Permitted only on lots that have current or previous use (within the past 12 months) as a Park Maintenance Facility; or
- City approval of a written plan from the user demonstrating how the operations will not adversely impact residential uses within 1,000 feet.

~~Section 4.11~~ Section 4.10 Accessory Uses

(1) General

Any accessory use may be permitted provided there is association with a primary use that may be permitted in accordance with Table 4.2 of this UDC. The establishment of such accessory uses shall be consistent with any or all of the following standards:

- a. The accessory use shall be subordinate to and support a primary use or principal;
- b. The accessory use shall be subordinate in area, extent or purpose to the primary use;
- c. The accessory use shall contribute to the comfort, convenience or necessity of the primary use;
- d. The accessory use shall be located within the same zoning district as the primary use and/or;
- e. Accessory uses located in residential districts shall not be used for commercial purposes other than authorized and legitimate Home Occupations.

(2) Home Occupations

- a. A home occupation is that accessory use of a dwelling that shall constitute all or some portion of the livelihood of a person or persons living in the dwelling. The home occupation shall be clearly incidental to the residential use of the dwelling and shall not change the essential residential character of the dwelling or adversely affect the uses permitted in the district of which it is a part.
- b. Home occupations are permitted provided the occupation meets the following provisions:
 - i. Is conducted entirely within a dwelling or integral part thereof and has no outside storage of any kind related to the home occupation;
 - ii. Is clearly incidental and secondary to the principal use of the dwelling;
 - iii. Is conducted only by persons residing on the premises (nonresident employees are not permitted);
 - iv. Does not affect the residential character of the dwelling or cause the dwelling to be extended or altered, internally or externally;
 - v. No identification sign or advertising of the home occupation is placed or situated on the site or structures, as required in Chapter ~~10~~ 9, Signs;
 - vi. Deliveries by commercial vehicle occur only between the hours of 8 a.m. and 6 p.m.;
 - vii. Does not generate traffic, parking, sewage, or water use in excess of what is typical in the residential neighborhood;
 - viii. Does not create disturbing or offensive noise, vibration, smoke, dust, odor, heat, glare, unhealthy or unsightly condition, electrical interference, or other hazard to persons or property within the vicinity;
 - ix. Does not result in the off-street or on-street parking of more than two vehicles at any one time not owned by members of the occupant family; and
 - x. Does not involve any on-site retail sales.
- c. Prohibited Home Occupations
The following are prohibited as Home Occupations:
 - i. Animal hospitals, kennels, or crematoriums.
 - ii. Mortuaries;
 - iii. Private clubs;
 - iv. Repair shops;
 - v. Restaurants (excluding Bed and Breakfasts);
 - vi. Automobile or mechanical paint or repair shops;

- vii. Doctor, dentist, veterinarian or other medically related office;
- viii. Rooming/Boarding House;
- ix. Barber shops, Hair Salon and Beauticians.

~~Section 4.12~~ Section 4.11 Temporary Uses

(1) Purpose

Temporary uses, as set forth below, are declared to have characteristics which require certain controls in order to ensure compatibility with other uses in the district within which they are proposed to be located. Permits for Temporary Uses must be submitted for review prior to its use.

(2) Temporary Sales Offices and Model Homes

Model homes are allowed provided they are servicing only the subdivision in which they are located.

(3) Construction Oversight Offices

A temporary building for use as a construction oversight office is permitted on a twelve- (12) month or shorter basis ~~unless a renewal is approved by the City, subject to the renewal policy outlined for model homes found in Section 3.9.~~ One construction oversight temporary building shall be allowed for each builder in a subdivision in which that builder has the authority to construct structures.

(4) Temporary Parking Lots

- a. When additional parking, in excess of what this UDC requires and/or in excess of what was installed when a facility first opened, is necessary to accommodate business or patronage that was unanticipated when the facility first opened, this parking may be supplied using the standards below. All such parking lots must receive site plan approval from the City Council or City Manager following the site plan review procedures outlined in Section 3.10(1). If these standards are allowed, the parking lot may exist on a temporary basis, not to exceed twelve (12) months. The beginning date of the 12-month period shall be determined by the City Manager.
- b. Standards. Temporary parking lots are subject to the following standards:
 - i. The surface of the parking lot may be gravel or some other temporary material approved by the City Engineer;
 - ii. Curbs, gutters or other improvements may be required where necessary to comply with drainage regulations as approved by the City Engineer;
 - iii. Entrance to the lot from any public right-of-way is at the discretion of the City Engineer;
 - iv. When entrance to the lot is allowed from a public right-of-way, that portion of the entrance located in the right-of-way must be paved with an all-weather surface as approved by the City Engineer; and
 - v. It must be shown that steps will be taken to prevent the blowing of dust onto adjacent properties and the tracking of mud or gravel onto public rights-of-way. Violation of this standard will suspend use and immediately shut down parking lot until problem has been corrected to the satisfaction of City Engineer.
- c. Future Compliance.

At the end of the twelve-month period the lot must be brought up to full compliance with parking lot standards, as approved through the applicable site plan review process. If no site plan is approved within two (2) months of the expiration of the temporary parking lot approval, the lot, including all paving material, must be removed and the area no longer used for the parking of

vehicles. If the lot is removed, the area must be sodded, seeded or hydro mulched with grass within ten (10) days of removal. Driveway access shall be removed and curb and gutter replaced.

~~Section 4.13~~ Section 4.12 Outdoor Display and Storage

(1) General

Outdoor display and storage shall be allowed in nonresidential districts in accordance with this Section. Any merchandise, material or equipment situated outdoors in nonresidential districts shall be subject to the requirements of this Section. For the purpose of this section, outdoor storage and display shall be classified into three categories.

(2) Categories of Outdoor Display and Storage

- a. Outdoor Display
 - i. Outdoor display is a display of items actively for sale.
 - ii. Outdoor display shall be allowed adjacent to a principal building wall, may not extend into the right-of-way, and may only extend a distance of no greater than 5 feet from the wall. Such storage shall not be permitted to block windows, entrances or exits, and shall not impair the ability of pedestrians to use the building.
 - iii. Outdoor display may not occupy more than 30 percent of the linear distance along any principal building wall facing a public right-of-way.
- b. Limited Outdoor Storage
 - i. Limited outdoor storage is temporary storage of goods in individual packaging and not in storage containers. Organic materials stored on pallets are considered limited outdoor storage.
 - ii. Limited outdoor storage shall be to the side or rear and not exceed 1,000 square feet or 5 percent of the total site area (whichever is greater), except in the Logistics district where additional outdoor storage and display is allowed so long as it is completely screened from view from outside the site, by a solid opaque wall or fence at least six feet in height. Such area may extend from the primary building, but not for a distance greater than 50 feet, and not into a public right-of-way or easement.
 - iii. Limited outdoor storage may not occupy more than 30 percent of the linear distance along any principal building wall facing a public right-of-way.
 - iv. Limited outdoor storage shall not be allowed in required off-street parking spaces.
- c. General Outdoor Storage
 - i. General outdoor storage consists of all remaining forms of outdoor storage not classified as outdoor display or limited outdoor storage, including items stored in shipping containers, and semitrailers not attached to a truck.
 - ii. General outdoor storage shall be allowed in unlimited quantity, provided that the storage area is screened from any public right-of-way and meets the location restrictions below.
 - iii. No general outdoor storage shall be permitted within the following areas:
 1. A required front or side setback or easement.
 2. Between a front setback and the building front.
 3. Between a side setback along a public right-of-way and any building or structure.
 - iv. General outdoor storage may not occupy more than 30 percent of the linear distance along any principal building wall facing a public right-of-way.

- v. Areas intended for general outdoor storage must be paved and painted to distinguish them from required off-street parking areas. No general outdoor storage shall be allowed in required off-street parking areas.

(3) Outdoor Display and Storage Requirements

- a. Required in Site Plan: All outdoor display and storage areas must be clearly shown in the site plan submitted for the property.
- b. Right-of-Way: Unless specifically authorized elsewhere in this UDC, all outdoor storage and display shall be located outside the public right-of-way and/or at least 15 feet from the back edge of the adjacent curb or street pavement and outside of any required landscape area. Additionally, all outdoor display and storage shall only be on pavement, and still within the maximum impervious cover limitations set forth in Chapter 5, Subdivision Design Standards.
- c. Side Yards: No form of outdoor display and storage shall be allowed in required side setbacks or buffer yards. Landscaping and Buffers shall be provided as set forth in Chapter 6, Site Development and Building Form Standards.

(4) Exceptions

- a. Vehicles for sale within part of a properly permitted vehicle sales use (including boats and recreational vehicles) shall not be considered outdoor display or storage.
- b. Such vehicles must be located and displayed on a paved vehicle use area, clearly indicated on the site plan, and screened under the same requirements for a parking lot.
- c. Waste generated on-site and properly deposited in ordinary refuse containers shall not be subject to the restrictions of this Section.
- d. Outdoor display and sales rules do not apply to temporary sales by a charitable organization that is operating with the permission of the City.

Section 4.1 - Section 4.13 Nonconforming Uses

Revised for compliance with S.B. 929.

(1) Purpose

Nonconforming uses are lawful uses within a zoning district that do not conform to the requirements of this UDC when it was adopted, or when any amendments thereto, take effect. The purpose of this section is to provide for recognition of such uses, ~~and procedures for bringing such uses into conformance.~~

(2) Notice of Nonconforming Status

- a. In addition to any notice required by this section or Section 211.007, the governing body of a municipality or a zoning commission, as applicable, shall provide written notice of each public hearing regarding any proposed adoption of or change to a zoning regulation or boundary under which a current conforming use of a property is a nonconforming use if the regulation or boundary is adopted or changed.
- b. The notice must be:
 - (i) be mailed by United States mail to each owner of real or business personal property where the proposed nonconforming use is located as indicated by the most recently approved municipal tax roll and each occupant of the property not later than the 10th day before the hearing date; and

(ii) contain the time and place of the public hearing; and

(iii) include the following text in bold 14-point type or larger: "THE [MUNICIPALITY NAME] IS HOLDING A HEARING THAT WILL DETERMINE WHETHER YOU MAY LOSE THE RIGHT TO CONTINUE USING YOUR PROPERTY FOR ITS CURRENT USE. PLEASE READ THIS NOTICE CAREFULLY."

(23) Description

- a. Any use of property existing at the time of the passage of this section of the UDC or that exists when land is annexed into the city that does not conform with the regulations prescribed in the preceding sections of this UDC shall be deemed a nonconforming use, except that any single-family use existing at the time of passage of this UDC shall be thereafter deemed a conforming use.
- b. A nonconforming use of land may be continued, but if said nonconforming use is discontinued intentionally abandoned by the property owner for a period of time in excess of 180 consecutive days six (6) consecutive months, any future use of said premises shall be in conformance with the provisions of this UDC.
- c. A nonconforming use of a building may be continued although such does not conform to the provisions hereof, and such use may be extended throughout the building provided no structural alterations except those required by law or ordinance are made therein.
- d. The right to maintain the nonconforming use shall be subject to such regulations as to pertaining to the maintenance of the premises, and conditions of operation, and other measures, as may, in the judgment of the Zoning Board of Adjustment, be reasonably required for the protection of adjacent property.
- e. A nonconforming use or a structure shall not be extended or rebuilt in case of obsolescence as per Section 4.14 (2)(d) above or total destruction by fire or other cause. In cases of partial destruction by fire or other causes, not exceeding fifty (50) per cent of its value, the building inspector shall issue a permit for reconstruction and continuation of the previously existing non-conforming use where no expansion or changes are proposed to the footprint. If greater than fifty (50) per cent and less than the total, the Zoning Board of Adjustment, may grant a permit-Special Exception for repair after public hearing (similar to a variance process) and having due regard for the property rights of the persons affected when considered in the light of the public welfare and the character of the area surrounding the designated nonconforming use and of the conservation and preservation of property.
- ~~f. A violation of this UDC provision and a request for a nonconforming designation or request for relief under this designation shall not create an estoppel of the trial of any lawsuit which may be filed in any court.~~
- ~~g.f.~~ Notwithstanding any other provisions of this chapter, any legal nonconforming use of property existing as of March 1, 2018, that does not conform to the regulations prescribed in the UDC of the City of Fair Oaks Ranch, shall be deemed a non-conforming use, subject to the provisions contained in this section.
- ~~h.g.~~ A non-conforming use and/or a non-conforming structure shall not be expanded or enlarged outside of the limits of the existing building or area. The Zoning Board of Adjustment may grant

Commented [CT1]: Revised for compliance with S.B. 929.

Commented [CT2]: Same as above - will trigger S.B. 929 if the City attempts to use this section as a means on discontinuing nonconforming status.

a Special Exception for expansion of a non-conforming use and/or enlargement of a non-conforming structure after a public hearing (similar to a variance) and having due regard for the property rights of the persons affected when considered in the light of the public welfare and the character of the area surrounding the designated nonconforming use and/or structure and of the conservation and preservation of property. The Zoning Board of Adjustment may attach conditions of approval that they may deem necessary to mitigate the adverse impacts of such an enlargement or expansion on neighboring properties and residents.

(4) Notice and Compensation

- a. A person using a property in a manner considered to be a nonconforming use as a result of the adoption of or change to a zoning regulation or boundary may continue to use the property in the same manner unless required by the City to stop the nonconforming use of the property.
- b. The following actions by the City are considered a requirement to stop a nonconforming use of a property under this section:
 - (i) an official action by the governing body of the City or a board, commission, department, or official of the City; or
 - (ii) a determination by the City that a nonconforming use has an adverse effect or other necessary determination that the City must make before imposing a requirement to stop a nonconforming use under applicable law.
- c. If the City requires the property owner to stop the nonconforming use, the property owner or lessee shall be entitled to notice and payment as required by Local Government Code 211.006, as amended.

(5) Appeal of Nonconforming Determination and Compensation

- (a) A property owner or lessee entitled to a remedy under this section may appeal a determination to the Board of Adjustment not later than the 20th day after the date the determination is made. At the hearing before the Board of Adjustment, the City has the burden of proof to establish the correctness of its determination.
- (b) Any property owner or lessee aggrieved by a final decision of the Board of Adjustment may appeal the final decision to a court of competent jurisdiction within twenty (20) days.

Rev. 7/10/23

Fair Oaks Ranch Proposed UDC Amendments - Summary of Changes Chapter 5

Topic # 3 - Subdivision Standards

	Sections of the Current UDC (2019)	Proposed Change This list reflects the changes made to the UDC adopted in 2019	Reason	Topic	Other Topics Affected
Chapter 5					
1	Section 5.4 (2)	Added - "No building is allowed on slopes greater than 25%."	Clarified the formula to make it easier to understand.	Subdivision Standards	
2	Section 5.4 (4)	Added - "...of a policy variance, after a recommendation from the Planning and Zoning Commission. The minimum width of the pole portion of the lot shall be twenty feet (20')."	Clarified that the process requires a recommendation from Planning and Zoning Commission. Added minimum width for the pole portion of the lot to ensure fire/emergency services access. This information was missing.	Subdivision Standards	
3	Table 5.1	Impervious Cover Replaced "Refer to Restriction Committees" with "Not Regulated". Added a note regarding enforcement through deed restrictions.	Legal input - impervious cover for the R1, R2, R3, and R4 districts are privately enforced through deed restrictions.	Subdivision Standards	
4	Section 5.5	Section 5.5 (3) Added standards for cul-de-sacs Table 5.2 Block Length and Character Block length increased to 1200'.	Staff input. Missing standards. Old subdivision regulations had addressed these requirements. Diagrams added. Input from building/development community.	Subdivision Standards	
5	Section 5.6	Easements Added language to address minimum width, encroachments, overhangs.	Staff input. Missing standards. Old subdivision regulations had addressed these requirements.	Subdivision Standards	

Chapter 5 Subdivision Design Standards ~~84~~ 94

Section 5.1 Purpose ~~84~~ 94

Section 5.2 Applicability..... ~~84~~ 94

Section 5.3 Minimum Requirements ~~84~~ 94

Section 5.4 Lots ~~85~~ 95

Section 5.5 Blocks ~~87~~ 97

Section 5.6 Easements ~~87~~ 102 100

July 10, 2023

Page numbering will be finalized after the content changes and page formatting are completed. Deletions and additions affect the numbering.

CHAPTER 5 SUBDIVISION DESIGN STANDARDS

Section 5.1 Purpose

The purpose of this Chapter is to describe Subdivision development standards for residential and non-residential developments. This Chapter contains lot size, lot configuration, easement considerations, and general open space requirements in order to provide for a variety of housing and land development patterns and to meet the diverse needs of the current and future residents of Fair Oaks Ranch, all in a manner consistent with the goals and objectives set forth in the Comprehensive Plan. This Chapter also contains standards on Maximum Impervious Cover, both for entire subdivisions and for individual lots as they are developed. The impervious cover standards are essential in order to manage or avoid the adverse problems of excessive quantity and degraded quality of urban storm water runoff, increased erosion of downstream channels and waterways, reduced interception and absorption of rainfall and runoff by the soil and vegetative cover, increased reradiating of excessive heat from large pavement surfaces, and other related problems that can arise as a result of intensive urban development. Chapter 6 Site Development and Building Form Standards, and 7, Design Standards, have additional standards that pertain to both residential and non-residential development.

Section 5.2 Applicability

- (1) This Chapter identifies minimum standards for areas both within the city limits and the ETJ. Lot design standards within the city limits are categorized by Zoning District. Because zoning only applies to areas within the City limits, these standards are not applicable to development in the ETJ; however, these lot standards will apply to areas previously outside the City limits after they are incorporated and then zoned through annexation and zoning procedures.
- (2) Lot sizes outside the City limits are restricted by on-site sewage facility (OSSF) standards. Bexar, Comal and Kendall Counties are the responsible entities that review and approve applications for an OSSF. For developments planning to utilize OSSFs, please consult the County in which the property is located for OSSF standards and rules.

Section 5.3 Minimum Requirements

- (1) The design standards contained in this Unified Development Code (Code) represent minimum standards considered necessary to ensure good public health and safe development within the community. The Subdivider is required to meet or exceed these standards.
- (2) Approval of plans and specifications by the City will not be construed as relieving the Subdivider and his professional engineer of responsibility for compliance with this Code or with the requirements of other local, county or state authorities having jurisdiction.
- (3) No Preliminary Plat or Final Plat will be approved and no completed improvements will be accepted unless they conform to the standards and specifications of this Code. Every building erected or moved and every lot platted for development must conform to the following minimum requirements:
 - a. Meet the minimum lot requirements of the zoning district that it is located on;
 - b. Have direct access to an approved public or private street or street right of way, as specified in this Code; ~~except as provided in Section 7.4(1) of this Code~~;
 - c. Provide safe parking and fire and police access; and
 - d. Meet ~~the minimum dimensional, environmental, parking, landscaping, and water conservation~~ all other applicable requirements of this Code.

- (4) No development applications for a Subdivision development will be approved without a geological assessment, if required by the City, as per Title 30, Texas Administration Code 213.5. Development applications include Site Plans, Site Develop ~~submit a geological assessment in conjunction with a Site Plan.~~
- The geological assessment must contain all that information required by Title 30, Texas Administration Code 213.5.
 - Subsequent applications required to develop the subject property will not require a new geological assessment provided the regulated activity, as submitted in the application, is consistent with the accepted geological assessment. Any deviations will result in the need to submit an updated geological assessment prior to final approval of the application.
 - Critical and sensitive geological features shall count towards dedication of open space in accordance with the regulations provided in Section 8.6 of this Code.

Section 5.4 Lots

(1) Minimum Lot Size

- Lots Served by a Public Water and Wastewater System. All lots in a subdivision within the corporate limits of the City or within the City's extraterritorial jurisdiction (ETJ) which are served by a Public Water and a Public Wastewater System will have no minimum area, except the applicable regulations outlined in Chapter 4, Zoning Districts and Use Regulations, of this Code.
- Lots Served by a Private Well or OSSF. Lots in a subdivision within the corporate limits of the City or within the City's ETJ which are served by either individual private wells and public Wastewater Systems, or Public Water Systems and private on-site sewage facilities disposal systems (OSSF), will have a minimum street frontage of 150 feet and total lot area greater than 1 acre.
- Lots Served by a Private Well and OSSF. Lots in a subdivision within the corporate limits of the City or within the City's ETJ which are served by individual private wells and private on-site sewage disposal systems will have a minimum street frontage of 200 feet and total lot area greater than 217,800 square feet (5 acres).

(2) Impervious Cover

- Maximum Impervious Cover. Each development has a Maximum Impervious Cover standard based on zoning district that limits the intensity of development over the entire tract or proposed subdivision. Impervious cover will be calculated by the developer. The formula for computing Maximum Impervious Cover is a two- step process, as follows:
 - Net Site Area. The Net Site Area is calculated by summing those portions of the tract or subdivision that are readily developable- lands outside of floodplain areas and having a flat or moderately sloping surface. It is defined as follows:
 - One hundred (100) percent of land with a slope of fifteen (15) percent or less and located outside of the one hundred (100) year floodplain; and
 - Fifty (50) percent of the land with a slope of more than fifteen (15) percent and not more than twenty five (25) percent and located outside the one hundred (100) year floodplain; and
 - Zero (0) Percent of the land with a slope of more than twenty-five (25) percent of the land percent and located outside the one hundred (100) year floodplain.

- 4)** Put another way: Net Site Area = Gross Site Area – (100-year floodplains +100% of land at 15% slope or greater outside of floodplain +50% of land area with 15%-25% slopes outside of floodplain). **No building is allowed on slopes greater than 25%.**
- ii. Maximum Impervious Cover Application. Maximum Impervious Cover standard is applied to the Net Site Area as follows:
 - 1) The Maximum Impervious Cover, measured as a percent, is multiplied by the Net Site Area to calculate the Total Allowable Impervious Cover for the entire tract or proposed subdivision.
 - 2) Put another way: Maximum Impervious Cover (%) X Net Site Area = Total Allowable Impervious Cover.
 - 3) Impervious Cover Example: For example, a hypothetical 100 acre tract has 90 acres of land outside the 100 Year Flood. Of that 90 acres 50 acres has a slope less than 15% and 40 acres has a slope of 20%. The 50 acres of relatively flat land has no penalty but the moderately sloped 40 acres only counts as half towards the net site area. Therefore, the applicant is left with 70 acres of net site area of the 100 acres. The tract is zoned at rural residential so the applicant would be allowed up to 20% of the site to be impervious cover, in this case 14 acres.)
 - iii. Infrastructure. Impervious cover includes the infrastructure for the development (streets, sidewalks, parking areas, etc.) plus specific improvements on each lot (buildings, driveways, patios) and any other constructed surfaces that are impenetrable to stormwater. When calculating impervious cover for a subdivision the impervious cover due to infrastructure can be clearly calculated and an approximation can be calculated based on the average size building footprint and driveway footprint per lot.
 - iv. Maximum Impervious Cover by Zoning District

Zoning District	Mixed Use Village	Neighborhood Commercial	Community Facilities	Logistics	Existing Residential	Neighborhood Residential	Rural Residential
Maximum Impervious Cover	80%	80%	60%	70%	Refer to Restriction Committees	40%	20%

Table 5.1 Impervious Cover

Zoning District	Mixed Use Village	Neighborhood Commercial	Community Facilities	Logistics	Existing Residential	Neighborhood Residential	Rural Residential
Maximum Impervious Cover	80%	80%	60%	70%	Not regulated*	40%	20%

* Note: Impervious Cover for the R1, R2, R3, and R4 districts are privately enforced through deed restrictions. The City does not enforce private deed restrictions or HOA regulations. The City does not enforce private deed restrictions or HOA regulations.

(3) Street Access

All lots subdivided under this Code will front on a public or private street built in conformance with city standards. Lots without direct street access are prohibited. Direct street access is defined as a common property line between the lot in question and the public or private street ROW line.

(4) Flag Lots

Flag shaped lots generally will not be approved in any subdivision. Lots that have a long dimension (depth) greater than five times the lots' street frontage (width) will only be permitted with City Council approval of a policy variance, after a recommendation from the Planning and Zoning Commission. The minimum width of the pole portion of the lot shall be twenty feet (20').

Section 5.5 Blocks

(1) Block Length and Character

Zoning District	Mixed Use Village	Neighborhood Commercial	Community Facilities	Logistics	Existing Residential	Neighborhood Residential	Rural Residential
Block Length	600' Maximum and no more than 400' without a midblock pedestrian connection	500' Maximum	1000' Maximum	1000' Maximum	Refer to individual Restriction Committees	800' Maximum	No Maximum
Block Character	Rectilinear and/or connected blocks	Rectilinear and/or connected blocks	Rectilinear and/or connected blocks	Rectilinear and/or connected blocks	Defer to individual Restriction Committees	Rectilinear or curvilinear connected blocks	Rectilinear or curvilinear blocks

Table 5.2 Block Length and Character

Zoning District	Mixed Use Village	Neighborhood Commercial	Community Facilities	Logistics	Existing Residential	Neighborhood Residential	Rural Residential
BLOCK LENGTH	1200' MAXIMUM AND NO MORE THAN 400' WITHOUT A MIDBLOCK PEDESTRIAN CONNECTION	1200' MAXIMUM	1200' MAXIMUM	1200' MAXIMUM	REFER TO INDIVIDUAL RESTRICTION COMMITTEES NO REGULATION*	1200' MAXIMUM	NO MAXIMUM
BLOCK CHARACTER	RECTILINEAR AND/OR CONNECTED BLOCKS	RECTILINEAR AND/OR CONNECTED BLOCKS	RECTILINEAR AND/OR CONNECTED BLOCKS	RECTILINEAR AND/OR CONNECTED BLOCKS	NO REGULATION*	RECTILINEAR OR CURVILINEAR CONNECTED BLOCKS	RECTILINEAR OR CURVILINEAR BLOCKS

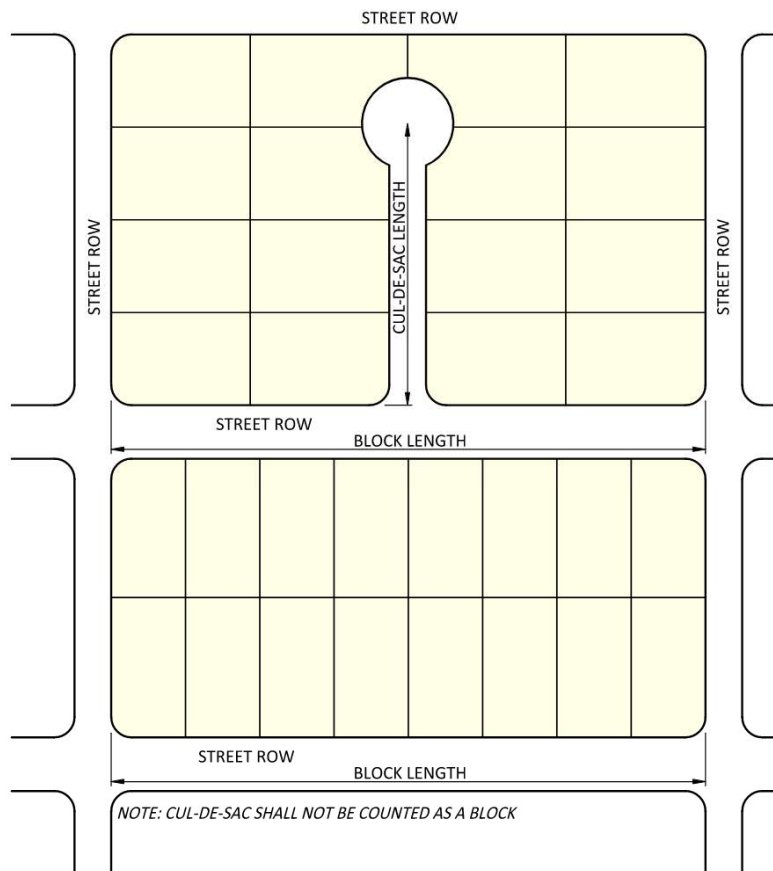
* Note: Block Length and Block Character for the R1, R2, R3, and R4 districts are privately enforced through deed restrictions. The City does not enforce private deed restrictions or HOA regulations. The City does not enforce private deed restrictions or HOA regulations.

(2) Width

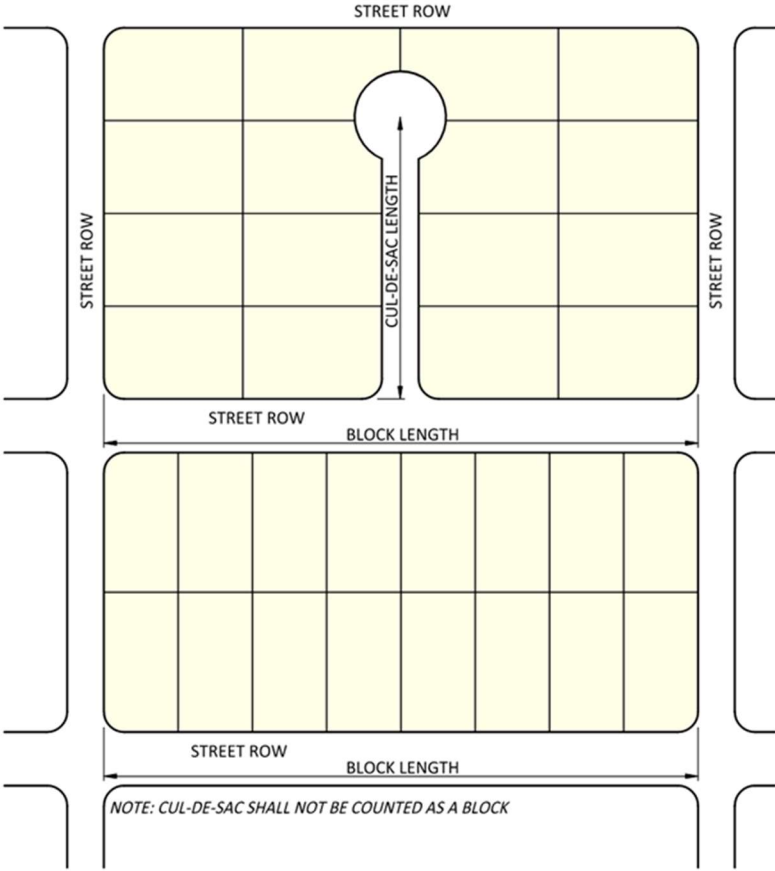
Blocks will be wide enough to accommodate two rows of lots, except where the lots back up to a major street with no access by the lots.

(3) Cul-de-sacs

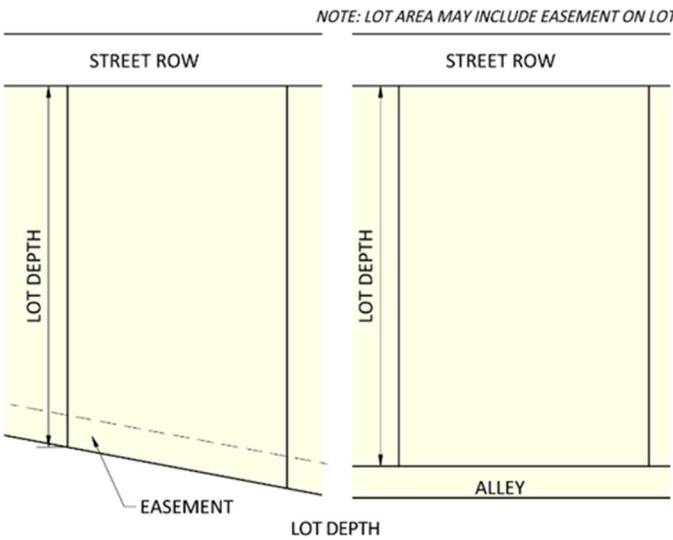
In general, cul-de-sac streets may not exceed 600 feet in length and shall be designed with a minimum cul-de-sac turnaround of not less than a 100-foot diameter right-of-way and a minimum 96-foot diameter pavement surface in residential areas and not less than a 150-foot diameter right-of-way and a minimum 146-foot diameter pavement surface in commercial and industrial areas. Cul-de-sac streets over 600 feet in length may be acceptable upon approval of a policy variance by the Planning and Zoning Commission. The Planning and Zoning Commission will accept or reject a plan with longer cul-de-sac streets based on its merits after considering density, land use, safety and convenience.

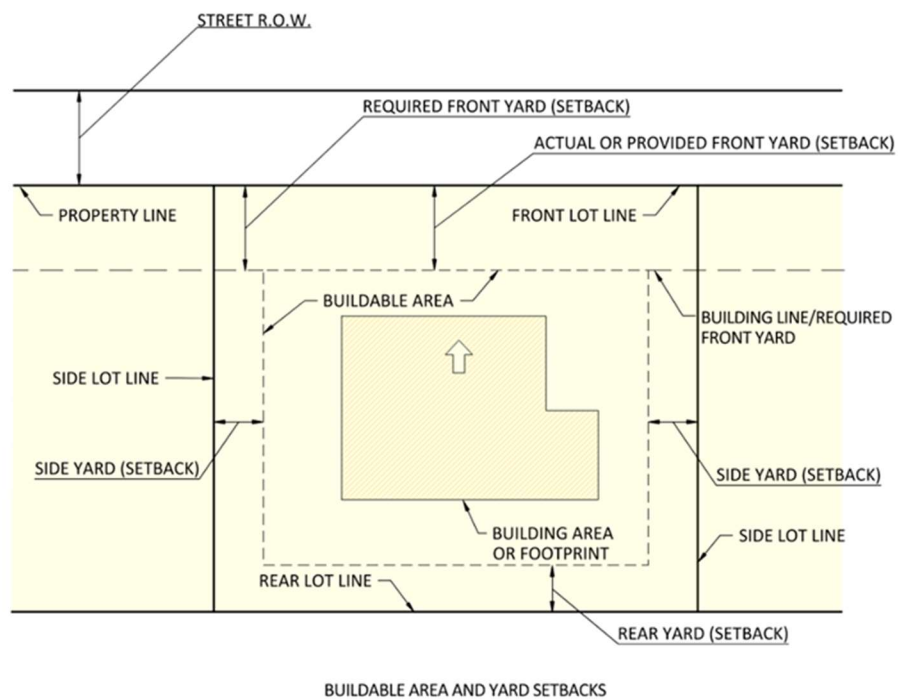
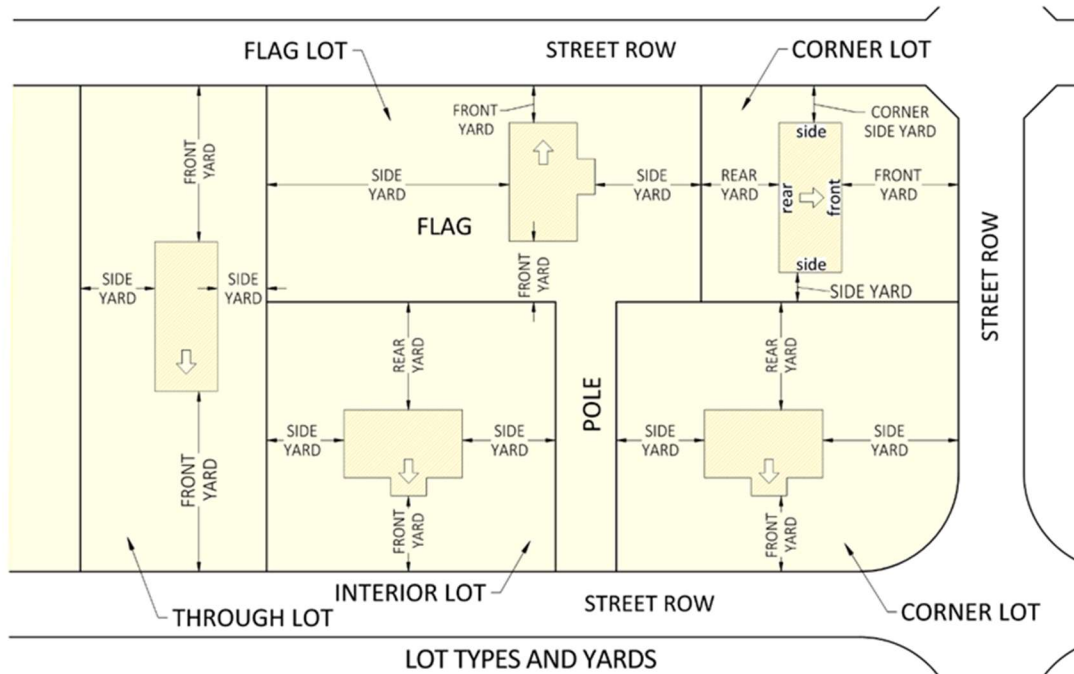


BLOCK LENGTH AND CUL-DE-SAC LENGTH



BLOCK LENGTH AND CUL-DE-SAC LENGTH





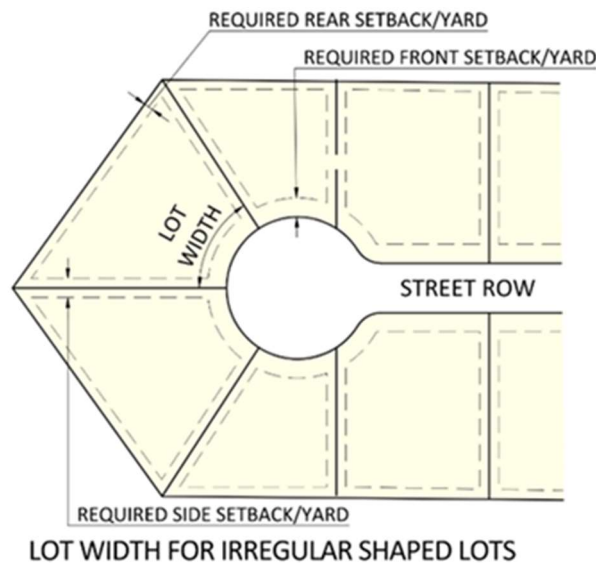


Figure 5.1 Block and lot illustrations

Section 5.6 Easements

(1) Dedication required

Where necessary to adequately serve a subdivision with public utilities, the subdivider will dedicate or grant easements for poles, wires, conduits, drainage channels, stormwater, water, wastewater and other utilities. These easements shall be at least 15 feet wide, except that where an easement contains multiple utilities and the city determines that a greater width is necessary, the city may require a minimum width of up to 20 feet. In certain circumstances, additional width may be required by the City or the utility provider. All necessary on-site easements should be established during the platting process and establishment of easements by a separate instrument is discouraged.

(2) Location of easements

The easements required under this section will be continuous for the entire length of the block. These easements will parallel as closely as possible the street line frontage of the block. Easements may ~~not~~ straddle, ~~but may~~ cross property lines and ~~may~~ cross lots other than along lot boundary lines, if in the opinion of the City Manager (or designee), such locations are needed.

(3) Access to easements

Drainage easements are not permitted to be enclosed by a fence or gate, except to contain a basin or pond in accordance with TCEQ. All fences crossing an easement will have double swing gates to allow ready access to the easement. The minimum width of the opening will be no less than 12 feet.

(4) Additional easements for guy wires

Where aboveground utility easements or alleys are not straight within each block, or if they do not connect on a straight course with the utility easements or alleys of adjoining blocks, then additional

easements will be provided for the placing of guy wires on lot division lines in order to support poles set on the curving or deviating easement lines or alley row.

(5) Encroachments on easements

No structure, vegetation (other than ground cover), or equipment shall be placed within any easement dedicated pursuant to this UDC unless the person or entity wishing to place such structure or equipment has first obtained written consent to encroach from all holders of the right to use said easement. A fence or screen shall be permitted over any utility easement only if approved by the City Manager or designee and provided that the easement remains fully accessible to the city for maintenance and repair purposes. A fence or screen shall be permitted over any drainage easement if the water flow within the easement is not adversely affected by the fence or screen. In addition to all other remedies provided by this Unified Development Code, the city may summarily remove any fence or screen erected in violation of this section, and the city shall not incur any liability or assume any duty to compensate the owner or replace the fence or screen.

(6) Overhang easements

Where utilities are not located in alleys, an overhang easement at least six (6) feet wide must be provided on the opposing side of the 15-foot easement strip, at a height at and above 10 feet. In all alleys, overhang easements at least six feet wide must be provided on each side of the alley for electric and telephone lines, at a height at and above 10 feet.