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A. Title.

The Zoning Ordinance, Subdivision Regulations, and Tree Management Ordinance, adopted separately and under separate authority as indicated in each applicable section, shall be collectively referred to as the Land Development Regulations of Lakeland, TN

B. Authority.

This Article includes provisions that fall under both Zoning and Subdivision authority, as defined by the Tennessee Code Annotated (TCA). The division of authority is as follows, with blue text being applicable to subdivision requirements, black text being applicable to zoning requirements, green text being applicable to the Tree Management Ordinance, and red text applicable to zoning and subdivision requirements. Where there is red text, that text is hereby duplicated and incorporated into all regulations.

The Lakeland Board of Commissioners (BOC) and the Municipal Planning Commission (MPC), under the authority of Tennessee Code Annotated (T.C.A.) §13-7-201 and §13-4-303, enact the Zoning Regulations, Tree Management Ordinance, and Subdivision Regulations, respectively, to promote and protect the public health, safety, morals, comfort, convenience, and general welfare of the people.

1. **Subdivision Regulations.** Sections of these Land Development Regulations listed under "Authority" in each Section as the Municipal Planning Commission's (MPC's) purview and color coded by blue text are Subdivision Regulations. Refer to I.3.C for a list of Sections.
2. **Zoning Regulations.** All Sections color coded by black text are Zoning Regulations.
3. **Tree Management Ordinance.** The Tree Management Ordinance is adopted as part of the Municipal Code.

C. Jurisdiction.

The regulations detailed in these Land Development Regulations shall be effective throughout the corporate limits of the City of Lakeland, Tennessee (City).

D. Purpose.

These Land Development Regulations are adopted to promote the public health, safety, morals, convenience, order, prosperity, and general welfare of the City and for the specific purposes set forth below and elsewhere in these regulations.

1. To promote better public health through innovative community design.
2. To promote safety within the community through design principles, such as entrance location and Facade Transparency.
3. To create walkable environments within the City.
4. To control and guide the orderly growth and development within the City in accordance with the intents and purpose of the Comprehensive Plan.
5. To regulate the division of land and to ensure that the land is suitable for building sites and Public Improvements.
6. To preserve and enhance the City's natural resources and open spaces, such as its rolling topography, trees, and natural drainageways, for current and future residents of Lakeland.
7. To establish a relationship between buildings, streets, and open spaces to create compatible, cohesive development within Lakeland.
8. To guide development to minimize visual clutter and promote economic and social stability within the community.
9. To promote innovatively designed development that promotes the character of Lakeland.
10. To prevent conflicts among the Uses of land and buildings.
11. To establish processes, criteria, and applications for development within Lakeland.

E. Repeal of Existing Ordinances.

The adoption of these Land Development Regulations shall repeal the existing Zoning, Subdivision Regulations, and Tree Management Ordinance of the City, as amended.

1. **Conflicts.** All ordinances or parts of ordinances which are in conflict with these Land Development Regulations, or inconsistent with the provisions of these regulations, are repealed to the extent of any inconsistency.
2. **Continuation of Institution or Proceedings.** The adoption of these Land Development Regulations shall not affect nor prevent any pending or future

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prosecution of an action to abate any existing violation of said existing regulations, as amended, if the violation is also a violation of these regulations.

F. Effective Date.

These Land Development Regulations shall be effective immediately upon adoption and public notification in the manner prescribed by law.

G. Application of the Regulations.

The provisions in these Land Development Regulations shall be applied as follows.

1. **New Development.** All development, construction, and establishment of Uses occurring after the effective date of these Land Development Regulations shall be subject to the applicable requirements of these regulations.
2. **In-Process Development.** Where land development approvals and permits, such as Plats, development contracts, site plans, planned developments, and construction plans, have been approved or issued in advance of these Land Development Regulations' effective date and in accordance with the prior laws, said development may comply with the plans from which the approval or permit were based, provided that the development complies with the "sunset" or expiration of approvals established in the development contract and planned development approval or, in the absence of such a provision, the construction is begun within two (2) years of the effective date of these Land Development Regulations and that work or construction continues diligently toward completion.
3. **Nonconformance.** After the effective date of these Land Development Regulations, existing legally developed buildings and Uses that do not comply with the regulations of these Land Development Regulations shall be considered nonconforming and are subject to the standards of I.8 Nonconformance.
4. **Existing Planned Developments.** Any existing approved, unexpired planned developments, whether constructed or not, shall be considered during the enforcement of these Land Development Regulations as existing zoning. For the purposes of transitions and relationships to proposed developments, the Municipal Planning Commission (MPC) shall determine the Zoning District(s) in these Land Development

Regulations that match the requirements of each Lot in the planned development as closely as possible.

H. Enforcement.

The provisions of these Land Development Regulations shall be administered and enforced by the Code Administrator or his or her designees. Appointed by the City Manager, the Code Administrator shall have the authority and duty to take or direct all actions necessary or appropriate to punish and abate any violation of these Land Development Regulations, and to make inspections of building or premises in connection with enforcement activities.

I. Violations and Penalties.

Any one (1) or more of the following fines, penalties, or remedies may apply to a violation of these Land Development Regulations:

1. Any person violating any provisions of these Land Development Regulations shall be guilty of a Class C misdemeanor. Each day of such violation constitutes a separate offense.
2. Any person violating these Land Development Regulations may be required to reimburse the City for any expenses incurred, whether administrative or legal, prosecuting the violation.
3. The City may pursue all remedies allowed under law for violations of these Land Development Regulations including, without limitation, seeking an injunction, filing a mandamus action, revoking building permits, denying certificates of occupancy, and bringing an action to vacate or remove an unlawful building or structure.
4. The sale of land involving a Plat of Subdivision that has not been approved pursuant to these Land Development Regulations is a Class C misdemeanor, and the City may enjoin such a sale by action for injunction.

J. Severability.

If any Section, clause, provision, or portion of these Land Development Regulations shall be held to be invalid or unconstitutional by any court of competent jurisdiction, such holding shall not affect any other Section, clause, provision, or portion of these regulations which is not of itself invalid or unconstitutional.

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K. Fees.

Upon the filing of an application for any development approval or other process or permit outlined in Section 4 of this Article an administrative fee shall accompany said application.

1. The BOC shall determine and set a schedule of fees to be charged by adopted ordinance.
2. These fees shall cover the costs incurred by the City in processing development approval or permit applications, and includes such expenses as plan review by staff, recording secretarial services, engineering and other professional and technical consultant services, legal fees, provision of notice, and document recordation.
3. All fees are non-refundable and shall be collected at the time of application.

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Section 2 - Definitions

A. Rules for Construction of Language.

In the construction of these Land Development Regulations, the rules and definitions set forth shall be observed and applied, except when the context clearly indicates otherwise.

1. Numbers, abbreviations, terms, and words used in these Land Development Regulations shall have the meanings provided in this Section.
2. The graphics, tables, and text used throughout these Land Development Regulations are regulatory. In case of a conflict, text shall control over tables or graphics; tables shall control over graphics.
3. Unless the context clearly indicates to the contrary:
 - a. Words used in the present tense include the future tense.
 - b. Words used in the singular number include the plural; and words used in the plural number include the singular.
 - c. The words "these Land Development Regulations" or "these regulations" shall mean "the illustrations, text, tables, maps, and schedules included in these regulations or any amendments to these regulations."
4. In regard to actions taken via City review and approval processes in these regulations by Boards, Commissions, or City staff, "shall approve", "shall recommend", and similar language means that in order for approval to occur, these actions must be taken. Generally, Boards, Commissions, and Staff may take other appropriate action as described in these regulations and/or Tennessee law, such as disapproving, recommending disapproval, or postponing action. Occurrences of the word "shall" is always mandatory and not discretionary in other instances herein. The word "may" is permissive herein.
5. The word "person" includes individuals, firms, corporations, and other similar entities.
6. Lists of examples prefaced by "including the following," "such as," or other similar preface shall not be construed as exclusive and shall not preclude an interpretation of the list including other similar and non-mentioned examples by the Code Administrator.
7. The word "building" or "structure" includes all other structures, or parts thereof, of every kind regardless of similarity to buildings; and the phrase "used for"

shall include the phrases "arranged for", "designed for", "intended for", "maintained for", and "occupied for".

8. The "City" is the City of Lakeland in the county of Shelby, State of Tennessee.
 - a. All public officials, bodies, and agencies to which reference is made are those of the City of Lakeland, Tennessee, unless otherwise defined.
 - b. The "MPC" refers to the City of Lakeland Municipal Planning Commission, unless otherwise defined.
 - c. The "BOC" refers to the City of Lakeland Board of Commissioners, unless otherwise defined.
 - d. The "BOA" refers to the City of Lakeland Board of Appeals, unless otherwise defined.
 - e. The "DRC" refers to the City of Lakeland Design Review Committee, unless otherwise defined.
 - f. Other agencies include but are not limited to Memphis Light, Gas, & Water (MLGW), Tennessee Department of Environment and Conservation (TDEC), Tennessee Department of Transportation, Tennessee Division of Water Supply, Tennessee Department of Agriculture, the Shelby County Health Department, the Shelby County Fire Department, Shelby County Schools, and the Shelby County Register of Deeds.
9. Except where definitions are specifically included in various Articles and Sections, words in the text or tables of these Land Development Regulations shall be interpreted in accordance with the provisions set forth in this Section. Where words have not been defined, the standard dictionary definition shall prevail. In any case, the Code Administrator shall have the right to interpret the definition of any word.

B. Definitions.

Words capitalized throughout these Land Development Regulations are defined below or defined within the Section in which they occur.

1. Uses. Definitions for all Uses can be found in III.2 Uses.
2. The following definitions are alphabetized based on the root word.

Access Point. Vehicular access into a Subdivision. Measured in terms of the number of Access Points around the perimeter of a Subdivision.

Adjustments, Minor. Changes or revisions to an approved Preliminary Plat, Final Plat, or site plan that can be approved by the Code Administrator and include changes that do no alter the intent and purpose of

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the approved Plat or plan and that do not result in a violation of any standard or requirement of these Land Development Regulations.

Adjustments, Major. Changes or revisions to an approved Preliminary Plat or site plan that do not qualify as Minor Adjustments and require approval of the MPC.

Aggrieved Party. A Property Owner or Applicant of the property in question, or a Property Owner or Applicant with a direct interest in the property, issue, or grievance.

Agricultural Services. Establishments primarily engaged in supplying soil preparation services, crop services, landscaping, horticultural services, and farm labor and management services.

Agriculture. The science, art, and business of cultivating the soil, producing crops, and raising livestock; it may also include the limited preparation and marketing of associated by-products with no noxious by-products.

Ammunition. Ammunition or cartridge cases, primers, bullets, or propellant powder designed for use in any Firearm, and any component thereof, but shall not include blank cartridges or Ammunition that can be used solely in an "antique Firearm" as that term is defined in Section 921(a)(16) of Title 18 of the United States Code.

Animal. All non-human members of the Animal kingdom, including domestic and livestock species.

Applicant. The Owner of a subject property on which a land development application is being made, or the Owners' authorized representative.

Applicant's Property. All of the Parcels or Lots included in an Applicant's land development application.

Application, Complete. An application for a land development process (Section 4 of this Article) shall be considered complete when the Code Administrator has verified that all submittal requirements have been satisfied. An application shall not be docketed for review by any office, commission, or review body until it is deemed complete.

Area of Special Flood Hazard. See Flood Hazard, Area of Special.

Balcony. A platform enclosed with a parapet or railing that projects from the exterior wall of a building; it is suspended or cantilevered from or supported solely by the Principal Structure or a porch Base Type. Refer to III.3 Building Type Standards for specific regulations.

Base Type. The permitted treatment types of the Ground Story Facade of a structure. Refer to III.3.C Base Types.

Block. The aggregate of Lots, passages, lanes, and Alleys bounded on all sides by vehicular Rights-of-Way.

Block Depth. A Block measurement that is the horizontal distance between the Front Property Line on a Block Face and the Front Property Line of the parallel or approximately parallel Block Face.

Block Ends. The Lots located on the end of a Block; these Lots are often larger than the Lots in the interior of the Block or those at the opposite end of the Block and can be located on a more intense Street Type. They may be suitable for more intensive development, such as multifamily or Mixed Use development.

Block Face. The aggregate of all the building Facades on one side of a Block.

Block Length. A Block measurement that is the horizontal distance along the Front Property Lines of the Lots comprising the Block.

Building Code. Latest edition of the International Building Code as amended and adopted by Shelby County, TN.

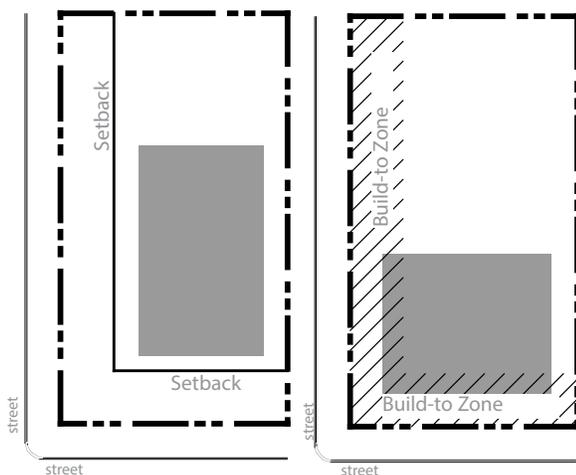


Figure 2.B-1. Setback Line v Build-to Zone.

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Build-to Zone. An area in which the front or corner side Facade of a building shall be placed; it may or may not be located directly adjacent to a Property Line. The zone dictates the minimum and maximum distance a structure may be placed from a Property Line. Parking, or other areas of Impervious Surfaces, except for access for vehicles and pedestrians, are not permitted within the Build-to Zone, unless specifically stated in these Land Development Regulations. Refer to Figure 2.B-1. Setback Line v Build-to Zone.

Building, Principal. See Structure, Principal.

Building Type. A structure defined by a specific combination of configuration on the site, form, facade design, and Use. Refer to III.3 Building Type Standards for more information.

Caliper. Measurement and notation for the diameter of new trees, measured in inches at six (6) inches above mean grade of the trunk for trees less than four (4) inches Caliper and measured at twelve (12) inches above mean grade of the trunk for larger trees.

Cap Type. The detail at the top of a building that finishes a Facade including the roof and any parapet. Refer to III.3.D Cap Types.

Cast Stone Concrete. An acceptable, natural architectural material of precast concrete manufactured offsite to look like natural cut stone, typically used for trim, ornamentation, often custom made.

Certificate of Completion. An administrative approval for certain items indicated in the regulations that does not pertain to occupancy, such as for seasonal landscaping, accessory structures, etc.

Code Administrator. The City Manager, or a City employee designated by the City Manager, responsible for the primary administration of these Land Development Regulations.

Common Improvements. Common Improvements include certain improvements to the Applicant's Property intended for use and aesthetics for the entire development. Common Improvements are not subject to City acceptance, but are required to be reviewed in parallel with Public Improvements at the time that acceptance of Public Improvements is proposed.

Condominium – An ownership arrangement in which the buyer purchases only a dwelling unit and does not receive the title to any real property. This term

may apply to apartments or townhouses. Also, a building, or group of buildings, in which units are owned individually, and the structure, common areas and facilities are owned by all the owners on a proportional, undivided basis.

Conservation Area. An area confirmed through a Qualifying Features Delineation process (refer to II.11.B for Subdivisions or III.8.B for Sites with no Subdivision) as having limited disturbance and high landscape value and intended for ongoing restoration, management, and conservation. Refer to II.11 for Subdivisions or III.8 for Sites with no Subdivision.

Corner Store. A small retail space and Use intended to provide neighborhoods within a walkable or bikeable distance with goods typically needed on a regular basis.

Coverage, Building. The percentage of a Lot developed with a building(s), both Principal and Accessory.

Coverage, Impervious Site. Also referred to as Lot Coverage. The percentage of a Lot developed with buildings and Impervious Surfaces, such as driveways, sidewalks, or patios.

Courtyard. An outdoor area enclosed by a building on at least two (2) sides that is open to the sky.

Critical Root Zone. The circular area of soil and roots with a radius as measured from the trunk of one and one-half (1 1/2) feet for Landmark Trees, one (1) foot for Specimen Trees, and one half (1/2) foot for all other trees for every inch of the tree's Diameter Breast Height (DBH)).

Cut. An alteration or excavation of the slope of native soils material resulting in a new face or slope.

Dedication. The intentional appropriation of land and/or public improvements by the Owner to the City for public Use and/or ownership.

Developable Area. That part of the Lot Area that may be developed or improved; it is the Lot Area exclusive of Conservation Areas, Streamside Management Buffers, Scenic Corridor Buffers, and dedicated City Park or Greenway land.

Diameter Breast Height (DBH). Measurement and notation for the diameter of existing trees, measured in inches at four and a half (4 1/2) feet above the mean grade of the tree's trunk.

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Drop-Off Drive. A driveway with two Access Points off adjacent streets, either off the Front and/or Corner Side Property Line. The drive is "C" or "L" shaped and includes a Landscape Area between the drive and the public sidewalk.

Dwelling Unit. A room or rooms connected together, constituting a separate independent housekeeping establishment for a Family only, for Owner occupancy, rental, lease, or other occupancy on a weekly or longer basis, physically separated from any other rooms or Dwelling Units, and containing independent cooking and sleeping facilities.

Easement. A legal interest in land, granted by the Owner to another person or entity, which allows that person(s) the Use of all or a portion of the Owner's land, generally for a stated purpose including but not limited to access, landscape buffers, or placement of utilities.

Easement, Public Use. An Easement established for public access or use, such as for a trail or sidewalk.

Eave. The edge of a pitched roof; it typically overhangs beyond the side of the building.

Exempt Division. A division of land, without undergoing Preliminary Plat approval, resulting in no more than two (2) lots, each greater than five (5) acres, which do not require improvements to develop, such as new streets or utilities, nor will they likely necessitate such improvements in the future.

Expression Line. An architectural feature. A decorative, three dimensional, linear element, horizontal or vertical, protruding or indented at least two (2) inches from the exterior Facade of a building, often used to delineate the floors or stories of a building.

Facade. The exterior face of a building, including, but not limited to the wall, windows, window sills, doorways, and design elements such as Expression Lines. The front Facade is any building face adjacent to the Front Property Line.

Family.

- An individual or two (2) or more persons related by blood, marriage, or adoption, maintaining a common household in a Dwelling Unit.
- A group of not more than five (5) persons who are not related by blood, marriage, or adoption, living



Figure 2.B-2. Lots.

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together as a common household in a Dwelling Unit.

- c. Pursuant to Tennessee State Code §13-24-101 et seq., a residence in which up to eight (8) unrelated mentally retarded, mentally or physically handicapped persons, and up to three (3) additional unrelated persons acting as guardians or house-parents reside provided that such a home is not operated on a commercial basis. The term “mentally handicapped” excludes persons who due to a mental illness pose a likelihood of serious harm as defined by Tennessee State Code §33-6-501 or who have been convicted of serious criminal conduct related to their illness.

Fiber Cement Board. An acceptable, exterior grade natural siding panel material consisting of portland cement mixed with ground sand, wood cellulose fibers, and other additives, typically textured to look like stucco, wood clapboards, or cedar shingles. HardiPlank and HardiPanel are brand names.

Fill. The placement of soils material to achieve a new ground surface.

Firearm. Any device, designed to be used as a weapon or modified to be used as a weapon, from which is expelled through a barrel a projectile by the force of explosion or other means of combustion, provided that the term “Firearm” shall not include an “antique Firearm” as defined in Section 921(a)(16) of Title 18 of the United States Code.

Flood Hazard, Area of Special. The land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year, defined by Section III.11, the Floodplain Overlay District.

Floodway. The channel of the river or other water course and the adjacent land area that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height, defined by Federal Emergency Management Agency (FEMA). Refer to Section III.11, the Floodplain Overlay District.

Furnishings Zone. That portion of the street Right-of-Way, typically within commercial areas, between the walkway and the back of curb, reserved for additional pavement, street trees in Tree Wells, benches, and other furnishings.

Grade, Finished. The averaged level of the finished surface of the Ground Story adjacent to the exterior walls of a building.

Green Roof. Also referred to as a vegetated roof. Plantings placed on the roof of a structure for such purposes as stormwater management or building energy efficiency.

Gross Building Area. Also referred to as Gross Floor Area. The sum of all areas of a building, including accessory storage areas or closets within sales or working spaces and any basement floor area used for such activities as retail, the production or processing of goods, or business offices. Floor area shall not include attic space having headroom of seven (7) feet or less and areas devoted primarily to storage, off-street parking and loading areas, enclosed porches, roof decks, roof gardens, or basement floor area other than specified above. Measurement is typically provided in square feet.

Gross Floor Area. See Gross Building Area.

Half Street. Development of a portion of the street pavement and Right-of-Way from the Centerline to one curb, longitudinally. Refer to II.8.D(3)(b).

Historic Color Palette. Any paint manufacturers’ palette of colors labeled as referencing historic architectural styles, prior to 1930. For example, Valspar color charts contain the 250 hues identified at National Trust for Historic Preservation sites and Benjamin Moore’s Historic Paint line or Pratt & Lambert Williamsburg palette are considered historic..

Home Occupation. A permitted occupational Use that is clearly subordinate to the Lot’s Principal Use as a residence and does not require any alteration to the exterior of a building or its appearance.

Impervious Surface. Any hard-surfaced, man-made area that does not absorb or retain water, including but not limited to building roofs, sidewalks, parking, driveways, and other paved areas.

Lakeland Heritage Plant. Any plant whose Coefficient of Conservatism is four (4) or greater. Coefficient of Conservatism is defined as representing an estimated probability that a plant is likely to occur in a landscape relatively unaltered from what is believed to be pre-European settlement condition.

Landscape Area. Area on a Lot not dedicated to a structure, sidewalk or pedestrian pathway, parking or loading facility, frontage buffer, side and rear buffer, or interior parking lot landscaping.

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- Landscape Area, Natural.** Area of a Lot designated for a natural landscape system in lieu of ornamental landscape. Ornamental landscapes include but are not limited to turf grass and ornamental planted beds, whether planted with native or non-native plant material. Refer to III.5.E for specific information.
- Lot.** Also referred to as Parcel. A plot of land intended to be separately owned, developed, or otherwise used as a unit. Refer to Figure 2.B-2. Lots.
- Lot, Corner.** A Parcel of land abutting two (2) vehicular Rights-of-Way, other than an Alley, at their intersection. Refer to Figure 2.B-2. Lots.
- Lot, Double Frontage.** See Lot, Through.
- Lot, Flag.** A Lot that only has access to the adjacent vehicular Right-of-Way through a narrow strip of land. Refer to Figure 2.B-2. Lots.
- Lot, Interior.** A Parcel of land abutting a vehicular Right-of-Way along one (1) Property Line; surrounding by Lots on the remaining Property Lines. Refer to Figure 2.B-2. Lots.
- Lot, Through.** Also known as a Double Frontage Lot; a Lot having frontage on two (2) approximately parallel vehicular Rights-of-Way, other than an Alley. Refer to Figure 2.B-2. Lots.
- Lot Area.** The computed area contained within the Property Lines; it is typically denoted in square feet or acres.
- Lot Depth.** The smallest horizontal distance between the Front and Rear Property Lines measured parallel to the Corner Side or Side Property Lines. Refer to Figure 2.B-2. Lots.
- Lot Frontage.** The horizontal distance between the Side or the Side and Corner Side Property Lines, measured at the Front Property Line. Refer to Figure 2.B-2. Lots.
- Lot Line.** See Property Line.
- Lot Width.** The horizontal distance between the Corner Side or Corner Side and Side Property Lines measured at the front of the Build-to Zone or at the Front Setback. Refer to Figure 2.B-2. Lots.
- Manufactured Home.** A structure complying with the National Manufactured Home Construction and Safety Standards Act of 1974 that is transportable in one (1) or more sections, which, in the traveling mode, is eight (8) feet or more in width, or forty (40) feet or more in length, or, when erected on site, is three hundred twenty (320) or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained in the structure.
- Mixed Use.** A building that contains more than one (1) Use; the multiple Uses are located “vertically” or in different floors or stories of the building.
- Modular Home.** A factory built, single family structure that is transportable in one or more sections, but is not constructed on a permanent chassis or with a permanent hitch. For the purposes of these Land Development Regulations, Modular Homes are considered single family homes.
- Neighborhood Scale Open Space Requirement.** A requirement to include open space for use by neighborhood residents, meeting one of the permitted Open Space Types for that Neighborhood Type. Refer to II.1.D.
- Neighborhood Type.** The permitted and regulated neighborhood development types. Refer to II.1 through II.7.
- Scenic Corridor Buffer.** A required buffer adjacent to certain Street Types to be maintained in its natural landscape state in order to preserve the character of the street. Refer to II.8.C(9).
- Node.** A consolidated cluster of Mixed Use, commercial, and/or office development that serves the adjacent neighborhoods.
- Nonconformance.** A structure, Use, or other site characteristic that was legally constructed or operated prior to the adoption of or amendment to these Land Development Regulations, but that cannot be constructed or operated after adoption or amendment. Refer to I.8.
- Open Boundary.** The perimeter of a Parcel(s) being subdivided, available for present or future Access Points, with no limitations due to natural features (City Waterways, steep grades) or jurisdictional boundaries (City limits) or existing neighborhoods with no available Access Points.

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- Open Space.** The categories of open space permitted and required by these Land Development Regulations include Neighborhood Scale Open Space in the form of the Open Space Types (refer to III.4), Conservation Areas (refer to II.11 for Subdivisions and III.8 for Site Developments), Streamside Management Buffers (refer to III.12), City-wide Parks and Greenways, and Scenic Corridor Buffers (refer to II.8.C(9)). Refer to II.1.D for additional information on open space requirements for Subdivisions.
- Open Space Type.** Open Space Types are defined in Section III.4 and shall be utilized to meet the Neighborhood Scale Open Space Requirements required by II.1.D for Subdivisions.
- Open Water.** A pond, lake, reservoir, or other body of water feature with the water surface fully exposed, that may be man-made or naturally occurring.
- Owner.** The legal or beneficial Owner of all the land included within the application pursuant to these Land Development Regulations or the holder of a written option or contract to purchase the land subject to the application.
- Parcel.** See Lot.
- Pedestrianway.** A pathway designed and dedicated for Use by pedestrians or bicyclists, typically not aligned with a street Right-of-Way.
- Pervious Surface.** Also referred to as permeable surface. A material that allows for the absorption of water into the ground or plant material.
- Planting Zone.** That portion of the street Right-of-Way, typically within residential areas, between the walkway and the back of curb, reserved for street trees and other plantings.
- Plat.** A map or chart of a Subdivision of land. Creating a Plat typically has four (4) stages, pre-application conference and approval of the Preliminary Plat, Construction Plans, and Final Plat.
- Porte-cochere -** A permanent roofed structure attached to a dwelling to accommodate the passage of a vehicle, that is open on at least two sides, directly attached to a principal building and enclosed on one side by the wall of the principal building, and is located in the side or rear yard.
- Priority Area.** An area delineated on the City's Natural Resource Assessment as an initial priority in terms of conservation and to be verified as a Conservation Area through the Qualifying Features Designation process (refer to II.11.B for Subdivisions and III.8 for Site Developments).
- Property Line.** Also referred to as Lot Line. A boundary line of a Parcel of land or Lot. Refer to Figure 2.B-2. Lots.
- Property Line, Corner Side.** Also referred to as the Corner Lot Line. A boundary of a Lot that is approximately perpendicular to the front Lot Line and is directly adjacent to a public Right-of-Way, other than an Alley. Refer to Figure 2.B-2. Lots.
- Property Line, Front.** Also referred to as the front Lot Line. The boundary abutting a Right-of-Way, other than an Alley, from which the required Setback or Build-to Zone is measured. On Corner Lots, this line is typically the narrower of the two (2) Lot Lines along the vehicular Right-of-Way. Refer to Figure 2.B-2. Lots.
- Property Line, Side.** Also referred to as the interior side Lot Line. The boundary of a Lot that is approximately perpendicular to the front Lot Line and is not adjacent to a vehicular Right-of-Way; this line separates Lots from one another. Refer to Figure 2.B-2. Lots.
- Property Line, Rear.** Also referred to as the rear Lot Line. The boundary of a Lot that is approximately parallel to the front Lot Line; this line separates Lots from one another or separates a Lot from an Alley. Refer to Figure 2.B-2. Lots.
- Protection Zone.** An area on a Lot that during site development or construction shall not be disturbed with development activities, such as grading. Refer to II.12 for Subdivisions and III.9 for Site Developments.
- Public Improvements.** Public Improvements include all improvements to the Applicant's Property located within rights-of-way typically intended to be dedicated to the City, within public or private utility Easements, or on Parcels intended to be dedicated to the City. Public Improvements are subject to the City acceptance process.
- Public Parking Facilities.** A parking facility that has at least seventy-five (75) percent of its spaces open to the general public, is not associated with a certain Use(s), and may or may not be free of charge.
- Public Tree.** A tree that is located on lands for which the City has responsibility and authority for tree management.

I. Administration

Section 2 - Definitions

Regulations, Subdivision. Per T.C.A. §13-4, all the terms and provisions of these Land Development Regulations relating to the Subdivision of land and planning, development, provision of all categories of open space and other common elements, and development and maintenance of Public Improvements, specifically Sections I.4.B through I; Section I.5; Section I.7; and all of Article II except II.1.C and II.2.B, II.3.B, II.4.B, II.5.B, II.6.B, and II.7.B.

Regulations, Zoning. All the terms and provisions of these Land Development Regulations other than the Subdivision Regulations.

Retaining Wall. A manmade structure built out of rock, concrete, block, wood, or other similar material and used to either directly support retained material or to serve as a facing of a cut slope. This definition includes, but is not limited to, other systems designed to retain earth or other materials such as a geosynthetic-reinforced soil system or pre-engineered structures. .

Right-of-Way. Land dedicated or used for a Street Type, trail, utility or other public purposes.

Scale. Refers to the relative size of a building, street, sign, or other element in the built environment.

Semi-Pervious Surface. Also referred to as semi-permeable. A material that allows for at least fifteen (15) percent absorption of water into the ground or plant material, such as pervious asphalt, pervious concrete, permeable pavers or a Green Roof.

Setback. The horizontal distance from a Property Line inward, beyond which a structure may be placed. Structures, parking, or other areas of Impervious Surfaces, except for access for vehicles and pedestrians, are not permitted within the Setback, unless specifically stated in these Land Development Regulations. Refer to Figure 2.B-1. Setback Line v Build-to Zone.

Solar Reflectance Index (SRI). A measure of a constructed surface's ability to reflect solar heat, as shown by a small temperature rise. The measure utilizes a scale from 0 to 100 and is defined so that a standard black surface is 0 and a standard white surface is 100. To calculate for a given material, obtain the reflectance value and emittance value for the material; calculate the SRI according to ASTM E 1980-01 or the latest version.

Stormwater Best Management Practices (BMP) or Techniques. Conservation practices or systems of practices and management measures that control soil loss; reduce water quality degradations caused by nutrients, Animal waste, toxins, and sediment; and minimize adverse impacts to surface water and groundwater flow circulation patters and to chemical, physical, and biological characteristics of wetlands by natural means, including replicating natural systems.

Story, Ground. Also referred to as ground floor. The first floor of a building that is level to or elevated above the Finished Grade on the Front and Corner Side Facades, excluding basements and cellars.

Story, Half. A story either in the base of the building, partially below grade and partially above grade, or a story fully within the roof structure with the Transparency facing the street.

Story, Upper. Also referred to as upper floor. The habitable upper stories of a building, located above the Ground Story.

Streamside Management Buffer. Refer to Section III.12.

Street Centerlines. A required regulation for the Neighborhood Types (refer to II. Neighborhood Development Regulations); it measures in miles the

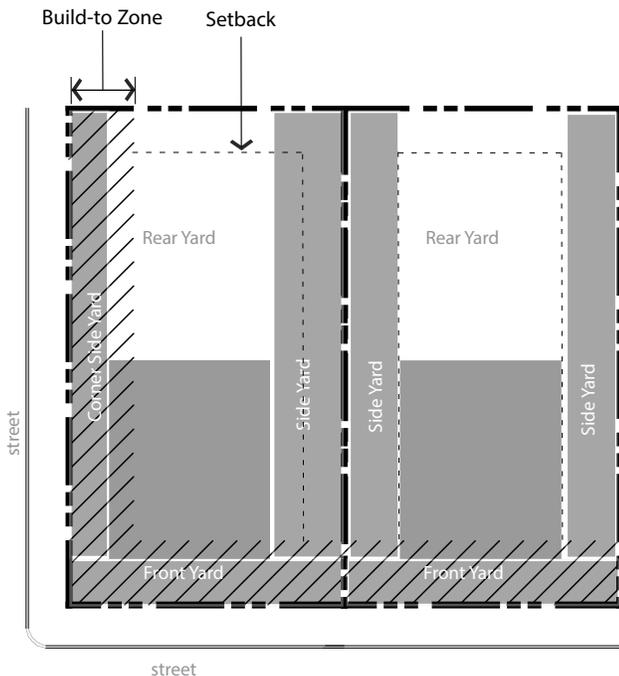


Figure 2.B-3. Yards.

I. Administration

Section 2 - Definitions

- length of a line drawn down the middle or center of a vehicular Right-of-Way.
- Street Face.** The Facade of a building that faces a Right-of-Way. The Front and Corner Side Facades of a building are examples.
- Street Termini.** At a three-way or "T" intersection, it is the location where one (1) street terminates at the other street.
- Street Type.** The permitted and regulated types of streets in these Land Development Regulations. Refer to II.8 Street Type Standards.
- Structure, Accessory.** The general term for a subordinate structure detached from, but located on the same Lot as the Principal Structure; it may or may not be an enclosed or inhabitable structure and includes such structures as, accessory buildings (garages and sheds), gazebos, swimming pools, and antennae or satellite dishes. Refer to III.2.N through Q and Table 2.O-1.
- Structure, Principal.** Also referred to as a Principal Building on a Lot; contains the dominant Use of the Lot and typically located toward the front of the Lot in the front Build-to Zone or behind the Front Yard Setback.
- Subdivision.** The division of a Parcel or multiple Parcels of land into two (2) or more Lots of less than five (5) acres for immediate or future development that require improvements to develop, now or in the future, such as a new street or utility construction. Other divisions, regardless of the size of the resulting Lots, that require Public Improvements are also considered a Subdivision. This includes resubdivision of a Parcel.
- Supermajority.** Greater than the simple majority, as in four of the five Commissioners represent the Supermajority.
- Swale.** A low lying, naturally planted area with gradual slopes that facilitate the transport, absorption, and/or filtration of stormwater.
- Through Street.** A street that is continuous through a neighborhood or a series of neighborhoods, connecting a major road (Avenue, Boulevard, Scenic Corridor) to another major road.
- Timber Harvest.** The cutting and removal of timber products from forested lands which usually includes felling and bucking trees, skidding bucked and tree length logs, and loading logs at landings.
- Timber Harvesting plan.** A plan submitted to the City that provides information on landowner, timber owner, timber operator, specific management practices and objectives, reforestation techniques, and other supporting information needed to demonstrate that a timber harvest operation will follow best management practices as set forth by the Tennessee Department of Agriculture, Division of Forestry.
- Total Open Space –** The total land area comprising all open spaces that are Categories of Open Space, per the Subdivision Regulations II.1.D, which are to be set aside on the site. Insofar as site plans, Subdivision Regulations II.1.D. definitions for Categories of Open Space are hereby duplicated and reproduced in the Zoning Ordinance.
- Traditional Neighborhood Design.** A complete neighborhood including a range of housing types, a network of well-connected walkable streets and Blocks, public spaces, and amenities such as stores, schools, and places of worship within walking distance of residences.
- Transparency.** The level of highly transparent, low reflectance glass in the windows and doors of a building, allowing viewing into and out of the building.
- Tree, Landmark.** A tree which qualifies, according to an arborist, forester, or other qualified professional, for special consideration for preservation due to size, type, and health as defined in the Tree Management Ordinance. Refer to Tree Management Ordinance, Title 13, Chapter 4 of the Municipal Code.
- Tree, Specimen.** A tree which qualifies, according to an arborist, forester, or other qualified professional, for special consideration for preservation due to size, type, and health as defined in the Tree Management Ordinance. Refer to Tree Management Ordinance, Title 13, Chapter 4 of the Municipal Code.
- Tree Canopy.** The uppermost area of spreading branches and leaves of a tree.
- Tree Canopy Coverage.** The area of ground covered or shaded by a Tree's Canopy, measured in square feet.
- Tree Stand.** A grouping of trees of sufficiently uniform species, age, and condition to be considered a homogeneous unit for management purposes.
- Tree Well.** An opening in pavement for tree planting, sometimes, but not always, covered by a tree grate.

I. Administration

Section 2 - Definitions

- Unified Stormwater Sizing Criteria.** A unified approach for sizing stormwater management practices, which addresses groundwater recharge, water quality treatment, channel protection, overbank flooding control, and management of large events.
- Use.** Also known as land Use; a purpose or activity that may occur within a building or on a Lot.
- Use, Accessory.** A Use incidental and subordinate to the Principal Use or Structure and located on the same Lot with such Principal Use or Structure.
- Use, Conditional.** A Use that does not result in an intensity and scale substantially different from the Uses permitted in the District and that may not be appropriate in certain locations based on the potential negative impacts associated with that Use. A Conditional Use Permit, refer to I.4.N for more information.
- Use, Principal.** The specific primary purpose for which a Lot or building is used.
- Visible Basement.** A basement where the ceiling is located a minimum of two (2) feet and a maximum of four and half (4 1/2) feet above the Finished Grade of the front or corner side Facade, with Transparency visible on Street Faces.
- Waterway, City.** In these Land Development Regulations, means any of the following creeks, streams, and lakes within the city limits: Oliver Creek, Clear Creek, Rocky Branch, Scott's Creek, Loosahatchie River, Garner Lake, Paradise Lake
- Yard.** The space on a Lot which is unoccupied and unobstructed from the ground to the sky by the Principal Structure. Refer to Figure 2.B-3. Yards.
- Yard, Corner Side.** A Yard extending from the corner side building Facade along a Corner Side Property Line between the Front Yard and Rear Property Line. Refer to Figure 2.B-3. Yards.
- Yard, Front.** A Yard extending from the front building Facade along the full length of the Front Property Line, between the Side Property Lines or Side and Corner Side Property Lines. Refer to Figure 2.B-3. Yards.
- Yard, Rear.** A Yard extending from the rear building Facade along the Rear Property Line between the Side Yards or, on a Corner Lot, the Corner Side and Side Yards. Refer to Figure 2.B-3. Yards.
- Yard, Side.** A Yard extending from the side building Facade along a Side Property Line between the Front Yard and Rear Property Line. Refer to Figure 2.B-3. Yards.
- Zoning.** The process of specifically delineating an area or district within which uniform development standards govern the placement, spacing, size, and Use of land and buildings.
- Zoning District.** A designation given to each Lot within the City that dictates the standards for development on that Lot; the districts are mapped on the Zoning Map. Refer to III.1 Zoning Districts.
- Zoning Map.** The official map designating the Zoning District the City has assigned to each Lot within city limits.

I. Administration

Section 3 - Review Bodies and Authority

A. City Staff.

The Code Administrator or his/her designees shall perform the following duties:

1. Establish Procedural Rules and Forms. The Code Administrator shall assist in the management of the Municipal Planning Commission's (MPC), Board of Appeals' (BOA), Natural Resources Board's (NRB), Parks and Recreation Board's (PRB), and Design Review Commission (DRC) review of development approvals and permit requests by establishing application procedures and forms.
2. Administrative Approvals. The Code Administrator shall review and approve certain applications (refer to I.4).
3. Record Applications. The Code Administrator shall accept, maintain, and keep applications for all processes outlined in I.4.
4. Inspections. The Code Administrator or his/her staff shall be empowered to make inspections of sites or buildings in order to properly assist the review bodies outlined in this Section and otherwise carry out the enforcement of these Land Development Regulations.
5. Interpretation. The Code Administrator shall render interpretations of these Land Development Regulations, which may be appealed according to the provisions in either I.4.G Subdivision Administrative Appeal or I.4.P Zoning Administrative Appeal, depending on the regulation interpretation being appealed.
6. Cancellation of Approvals. The Code Administrator shall, upon finding any violation of these Land Development Regulations, take or direct all activities necessary and appropriate to abate and redress such violation, such as revocation of permits.

B. Board of Commissioners (BOC)

The Board of Commissioners (BOC) shall have the following powers and authorities in application of the Zoning Regulations, which include parts of Articles I and II and all of Articles III and IV (refer to I.2.B Definitions).

1. Rezoning. The BOC shall review and approve requests for changes in a Lot's zoning designation.
2. Amendment to the Zoning Regulations. The BOC shall review and approve any proposed amendments.

C. Municipal Planning Commission (MPC).

The Municipal Planning Commission (MPC) has the authority and power set forth in these Land Development Regulations pursuant to T.C.A. §13-4-301 through §13-4-309, to promote municipal planning within the City.

1. Authority. The MPC shall have the following powers.
 - a. Comprehensive Plan. The MPC shall make and adopt an official Comprehensive plan for the physical development of the municipality, including any land outside of the planning area of municipality which, the MPC judges to be in relation to the planning of the municipality.
 - b. Approval of Certain Improvements. MPC shall review and approve location and extent of all proposed streets; parks or other public ways, grounds, places, or spaces; public buildings or structures; or utilities, whether publicly or privately owned.
 - c. Subdivision. MPC shall have the following authorities in application of the Subdivision Regulations, which include parts of Articles I and II and IV (refer to I.2.B Definitions).
 - (1) Subdivision Administrative Appeal. MPC shall review and approve appeal requests resulting from a decision made by the Code Administrator or other City official.
 - (2) Subdivision Modification. MPC shall review and approve applications for modification requests from the strict application of the Subdivision Regulations.
 - (3) Amendment to Subdivision Regulations. The MPC shall adopt and amend any proposed amendments.
 - (4) Plat Approval. MPC shall review and approve Plats, including Plat Vacation.
 - d. Zoning. MPC shall have the following authorities in application of the Zoning Regulations, which include parts of Articles I and II and all of Articles III and V (refer to I.2.B Definitions).
 - (1) Site Plans. The MPC shall review and approve certain site plan applications.
 - (2) Rezoning. The MPC shall review and make recommendations on requests for changes in a Parcel's Zoning designation.
 - (3) Amendment to the Zoning Regulations. The MPC shall review and make recommendations on any proposed amendments.

I. Administration

Section 3 - Review Bodies and Authority

D. Board of Appeals (BOA).

The Board of Appeals (BOA) has the authority and power set forth in these Land Development Regulations pursuant to T.C.A. §13-7-205 through §13-7-207.

1. Authority. The BOA shall have the following powers and authorities in application of the Zoning Regulations, which include parts of Articles I and II and all of Article III and IV.
 - a. Conditional Uses. The BOA shall review and approve applications for Conditional Use Permits.
 - b. Zoning Variance. The BOA shall review and approve variance requests from the strict application of the Zoning Regulations.
 - c. Zoning Appeal. The BOA shall review and approve requests for appeals where the appellant alleges that there is error in any order, requirement, decision or change made by Code Administrator or other City official.
 - d. Boundary Interpretation. The BOA shall be charged with interpretation of the Zoning Map.

E. Design Review Commission (DRC).

The Lakeland Design Review Commission (DRC) is a community design and review commission for development having an influence upon the appearance of the environment of the community pursuant to T.C.A. §6-54-133.

1. Authority. The DRC reviews Site Plan and Design Review applications (refer to I.4.K and I.4.Q) that involve the following issues.
 - a. Facade design, materials, and certain Cap Types per III. Building Types for both new construction and modification of existing non-single-family buildings and their Accessory Structures.
 - b. Facade modification of all historic buildings or structures per applicable local, state, and national standards.
 - c. Certain fence installation per III.5.Q Fences and Walls.
 - d. All Subdivision entrance treatments.
 - e. Signs.
 - f. Wireless Transmission Facilities.
 - g. All landscape required per III.5.
 - h. All lighting per III.13.

F. Parks and Recreation Board (PRB).

The Lakeland Municipal Parks and Recreation Board (PRB) is organized to plan, advise and promote the development of a comprehensive, community-endorsed parks and recreation program under the authority of Lakeland Ordinance 00-07, as amended by Lakeland Ordinance 02-08.

1. Authority. The PRB reviews Preliminary Plat, Construction Plans, Final Plat, Site Plans for City Projects, and Subdivision Modification applications (refer to I.4.C, I.4.D, I.4.E, and I.4.H) which create new residential lots or units, or which include City park land or facilities. (refer to II.1.D(3)(b)).

G. Natural Resources Board (NRB).

The Lakeland Natural Resources Board (NRB) is organized to provide a venue to hear citizen concerns regarding natural resources related issues and to make recommendations or otherwise provide assistance to the Board of Commissioners or other Boards regarding these community issues related to natural resources under the authority of Lakeland Ordinance 08-114.

1. Authority. The NRB reviews the following pertaining to these Land Development Regulations:
 - a. Preliminary Plat, site plan, Subdivision Modification applications (refer to I.4.C, I.4.D, I.4.E, and I.4.H) and any other type of plan submission which involves a new or substantially revised Restoration and Management Plan, Dedicated Conservation Open Space, or Tree Bank Contribution.
 - b. Tree Removal Permit applications (refer to I.4.K and I.4.S) that involve tree bank contributions (refer to Tree Management Ordinance, Title 13, Chapter 4 of the Municipal Code).

I. Administration

Section 4 - Process Criteria and Application

		Required Application Process									
		Initial Review				Review and Decision					
		Preapplication Conference	Administrative Review	Natural Resources Board (NRB) *	Parks & Recreation Board (PRB) *	Administrative Decision	Design Review Commission (DRC)*	Municipal Planning Commission (MPC)	Board of Appeals (BOA)	Board of Commissioners (BOC)	
Land Development Applications	I.4.A	Preapplication Conference	●				●				
	I.4.D	Construction Plans	●				●				
	I.4.E	Final Plat	●						●		
	I.4.F	Plat Vacation	●						●		
	I.4.G	Subdivision Administrative Appeal	●						●		
	I.4.H	Subdivision Modification	●	●	○	○			●		
	I.4.I	Amendment to Subdivision Regulations	●	●	○				●		
	I.4.J	Minor Site Plan Review		●			●	●			
	I.4.K	Site Plan Review	●	●	○	○		●	●		
	I.4.L	Rezoning	●	●					●		●
	I.4.M	Amendment to Zoning Regulations	●	●					●		●
	I.4.N	Conditional Use Permit	●	●						●	
	I.4.O	Zoning Variance		●						●	
	I.4.P	Zoning Administrative Appeal		●						●	
	I.4.Q	Design Review		●			●	●			
	I.4.R	Certificate of Compliance		●			●				
I.4.S	Tree Removal Permit		●	○		●					

● Required Step for Each Application

○ May Be Required Depending on Application Scope and Subject Matter

* Note: Residential Plats when parkland contribution is applicable, and Site Plans for City projects are the only items the PRB reviews

*Note: NRB only reviews Restoration Management Plans, Tree Bank contributions, and Conservation Areas.

*Note: DRC reviews plats only when a subdivision entrance is proposed.

Table 4.A-1. Summary of the Required Processes for Each Land Development Application. Refer to each application (refer to I.4.A-S) for specific details.

I. Administration

Section 4 - Process Criteria and Application

- A. Preapplication Conference.
1. Intent. The purpose of the Preapplication Conference is to afford the Applicant an opportunity to receive the advice and assistance of the professional staff of the City before preparation of formal plans and before making an official application.
 2. Eligible Applicant. An Applicant shall apply in the following circumstances.
 - a. A Preapplication Conference is required for Preliminary Plat, Subdivision Modification, Amendment to Subdivision Regulations Site Plan Review, Rezoning, Amendment to Zoning Regulations application and Conditional Use Permit applications.
 3. Application. The Applicant shall submit the following to the Code Administrator.
 - a. Application Form and Fee. The application and fee list can be obtained at City Hall.
 - b. Schematic Plan. The schematic plan shall be at a scale of one (1) inch equal to or less than two hundred (200) feet and shall include the date and north arrow. The plan shall detail the Applicant's proposal and include the following:
 - (1) Boundaries and Phases. A map of the entire area scheduled for development and proposed phasing, if applicable.
 - (2) Vicinity Plan. Illustrate existing adjacent development within one thousand (1,000) feet, including: Blocks, Lots, existing buildings, Rights-of Way, acreage of Lots, and names of Subdivisions.
 - (3) Land Use. Land Use and Zoning designation of the proposed Subdivision and adjacent Parcels within one thousand (1000) feet of the Parcels in question.
 - (4) General layout of proposed streets, Blocks, and Lots.
 - (5) Proposed community improvements, including open space (Open Space Type and Conservation Area Type), pedestrian and bike systems, and any other community facilities.
 - (6) Existing conditions, topography, trees, Areas of Special Flood Hazard per Section III.11, and other unique characteristics of the land on and adjacent to the site.
 - (7) Utilities. Proposed layout of utilities, both internal and any external extensions required.
 - (8) Map summary of proposed public and private land and facilities.
 - c. Street Sections, including any Scenic Corridor Buffers, internal utility locations, on street parking, and Street Types per II.8 as well as classification per the Major Roads Plan.
 - d. Table keyed to schematic plan of proposed Uses, Building Types, and estimate of Gross Floor Areas.
 - e. Natural Features Map. All areas denoted as low, medium, high, or very high priority on the Conservation Priority Map (available in City Hall).
 - f. Compliance Summary. A summary by Article of how the development complies with Articles I, II, and III of these Land Development Regulations.
 - g. Soils Summary. County Soil Conservation Service information summary and plan of soil types.
 - h. Traffic Plan. Plan illustrating traffic generated by all proposed Uses and existing traffic counts and capacities of surrounding streets.
 - i. Signage. Schematic layout and description of general approach to a unified signage scheme.
 - j. Fences and Walls. Schematic layout and types of fences and walls.
 - k. Irrigation. Schematic location of areas to be irrigated, irrigation types, and methodology for reuse of water for irrigation.
 - l. Lighting. Schematic lighting locations and lighting

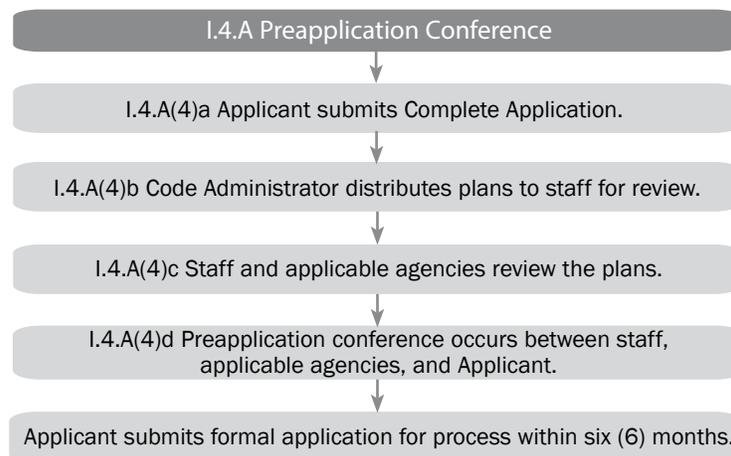


Figure 4.A-1. Preapplication Conference.

I. Administration

Section 4 - Process Criteria and Application

types (cut sheets representative of typical fixture types) for streets, parking and driveways, and other public areas. Refer to III.13.

- m. Additional Information. Unless deemed not applicable by the Code Administrator, Applicant shall also provide the following information.
- (1) Engineering Letter. A letter from a surveyor or engineer concerning the general feasibility of the land for the development proposed, including capacity of utilities and traffic impact to handle proposed project.
4. Application Process. The following specific application process shall apply to Preapplication Conference Applicants.
- a. Submit Complete Application. Applicant shall submit application, fees, and plans to the Code Administrator, the number of copies sufficient for staff and commissions review as determined by the Code Administrator.
 - (1) Application shall be submitted according to the preapplication meeting schedule, which can be obtained at City Hall.
 - (2) The Preapplication Conference shall not be scheduled until all submission requirements have been met and a Complete Application is submitted.
 - (3) Applicant shall distribute plans to relevant agencies for review, as is listed on the application, and obtain comments. The Preapplication Conference shall be delayed if plans are not properly distributed and comments are not received by the Code Administrator prior to the Preapplication Conference.
 - b. Distribute Plans to Staff. The Code Administrator shall distribute the application to staff for comment, including:
 - (1) City Engineer
 - (2) City Manager
 - (3) Planning Director
 - (4) Growth Management Director
 - (5) Natural Resource Director
 - c. Plan Review. Staff and applicable agencies shall review the application.
 - d. Meeting. The Preapplication Conference between the Applicant and City staff shall occur no later than forty-five (45) days from receipt of the Complete Application.
 - (1) Acceptance of the preapplication plan or Plat does not assure acceptance of future applications.
 - e. Update Commissions. The Code Administrator shall regularly update the MPC, BOA, DRC, NRB, PRB

and BOC on Preapplication Conference items the respective board or commission would act upon.

- C. Preliminary Plat.
1. Intent. Preliminary Plat process allows the City to review development of Parcels, Rights-of Way, Common Improvements, Public Improvements, and other public spaces to ensure it meets with the goals of the Comprehensive Plan and these Land Development Regulations.
 2. Applicability. All divisions of a tract or Parcel of land other than divisions approved through I.4.B Exempt Division shall obtain Preliminary Plat approval.
 3. Eligible Applicant. An Applicant may apply for Preliminary Plat approval provided the following.
 - a. A Preapplication Conference (I.4.A) was completed within the six (6) months prior to application.
 - b. If the Preliminary Plat requires approval of a modification or variance (refer to I.4.H and I.4.O.), Applicant may submit for all processes at the same time, for concurrent approvals, so long as any required variances receive approval prior to the corresponding plat.
 4. Application. The Applicant shall submit the following to the Code Administrator to constitute a Complete Application.
 - a. Application Form and Fee. The application, fee list, and MPC Filing and Meeting Schedule can be obtained at City Hall.
 - b. Digital and Paper. All Plats and plans shall be submitted in both digital and paper format.
 - c. Plat. The Plat shall be at a scale of one (1) inch equal to or less than two hundred (200) feet and include the date and north arrow, as well as the following information.
 - (1) The names of the proposed Subdivision and streets and the existing Subdivisions and streets directly abutting it.
 - (2) Location of the Subdivision.
 - (3) Subdivision plan and layout with Dimensions for all Rights-of Way, Easements, Lot Lines, and Blocks.
 - (4) Names, addresses, and telephone numbers of the Applicant and the surveyor preparing the Plat.
 - d. Plans and Information. Applicants shall illustrate the following information on the Preliminary Plat or supplemental plans.
 - (1) Boundaries and Phases. A map of the entire area scheduled for development and proposed phasing, if applicable.

I. Administration

Section 4 - Process Criteria and Application

- (2) Vicinity Plan. Illustrate existing adjacent development within one thousand (1,000) feet, including: Blocks, Lots, existing buildings, Rights-of Way, acreage of Lots, and names of Subdivisions.
 - (3) Land Use. Land Use and Zoning designation of the proposed Subdivision and adjacent Parcels within one thousand (1000) feet of the Parcels in question.
 - (4) Statement of Intent. The Applicant shall submit a description of the intended Use of the proposed Plat, including public and private Uses, the number of new Lots per Block, the number of new residential units by type and the new commercial or industrial Uses by square feet.
 - (5) Statement of Compliance. Applicant shall provide evidence that the Neighborhood Type requirements are met per II.2 through II.7.
 - (6) Qualifying Features Delineation (refer to II.11.B) .
 - (7) Conservation Area Map (refer to II.11.B(1)).
 - (8) Draft Restoration and Management Plan for Conservation Areas (refer to II.11.C)
 - (9) Tree Survey (refer to Tree Management Ordinance, Title 13, Chapter 4 of the Municipal Code, B(2)).
 - (10) Tree Replacement Schedule (refer to Tree Management Ordinance, Title 13, Chapter 4 of the Municipal Code, B(5)).
 - (11) A schedule of Tree Bank contributions for consideration by the Code Administrator for approval.
 - (12) Street Tree Plan and Schedule (refer to II.8.C(11) (b))
 - (13) Site Grading. Existing and proposed contour data showing contour intervals of two (2) feet or less; elevation shall reference a bench mark on or near the subject property.
 - (14) Protection Zone Plan (refer to II.12.A(4)).
 - (15) Utility Easements. Existing and proposed Easements, including location and dimension of Easements on the Parcel(s) and within three hundred (300) feet of the Parcel(s) or to the location of the proposed connection, if greater than three hundred (300) feet.
 - (16) Stormwater Management Plan as required per II.10.A(6), if Large Development per II.10.A(2).
 - (17) Sanitary Sewer Agreement (refer to II.9.C(1)(c)).
 - (18) Sanitary Sewer Collection Study (refer to II.9.C(1)(d)).
 - (19) Preliminary Engineering Plans.
 - (a) The Applicant shall submit preliminary engineering plans for streets (including on street parking), water, storm sewers, sanitary sewers, sidewalks, and other required public or private improvements.
 - (b) The engineering plans shall contain enough information and detail to enable the City to make preliminary determination as to conformance of the proposed improvements to applicable city regulations and standards.
 - (20) Other Utilities. Schematic plans and details for all other public or private utilities proposed for the development.
 - (21) Geotech soils report to include soils types, soil infiltration rates, location of soil borings, photographic documentation of all geologic features along streams, forested areas, and open areas, and other areas of interest such as wetlands and sites of erosion.
 - (22) Soil Erosion and Sediment Control Plan prepared in accordance with city ordinances and the Tennessee Erosion and Sediment Control Handbook Second Edition, March 2002 or latest version released by the Tennessee Department of Environment and Conservation. (Refer to II.13)
 - (23) The location of required stream management buffers including Zone 1 and Zone 2 per the City of Lakeland Zoning Ordinance.
- e. Board of Sewerage Commissioners (BOSC). Sewer capacity associated with the Subdivision shall be approved by the BOSC prior to approval of the Preliminary Plat.
 - f. Engineering Letter. A letter from a surveyor or engineer concerning the general feasibility of the land for the development proposed, including capacity of utilities to handle proposed project.
 - g. Phase I Environmental Study prepared by and independent, qualified consultant in accordance with ASTM E2247, Practice for Environmental Site Assessments: Phase I Environmental Site Assessment Process for Forestland or Rural Property. If the Phase I study indicates contamination or a reasonable expectation of contamination, a Phase II study shall be provided.
 - h. Additional Plans and Information. Applicant shall also illustrate the following information on the Preliminary Plat or supplemental plans.
 - (1) School Impact Study. Unless waived by the MPC, a school impact study is required for any development containing more than twenty (20) residential units.
 - (2) Traffic Impact Study as required per II.1.F and detailed in IV.2 of the Appendix.
 - (3) Community Facilities Impact Analysis (refer to II.1.G).
 - (4) Parkland and greenway dedications, if applicable.

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- (5) Conservation Area Dedications (refer to II.11)
 - (6) Boundaries and elevations of the Floodway and Area of Special Flood Hazard as published in the most recent Federal Insurance Rate Maps for the City and per Section III.11.
 - (7) Details of previously recorded Subdivisions on the Parcel(s) in question.
5. Review Criteria. The Preliminary Plat shall be reviewed using the following criteria.
- a. The proposed division of land meets with standards of Articles II and III of these Land Development Regulations.
 - b. The proposed division of land is in the interest of public health, safety, and welfare.
 - c. All Parcels, including any proposed development, are in conformance with the Zoning Regulations.
 - d. The proposed plan and street system are in compliance with intent and purposes of the City of Lakeland's Comprehensive Plan and Major Roads Plan.
6. Application Process. The following specific application process shall apply to all Preliminary Plat Applicants.
- a. Submit Complete Application. Applicant shall submit the application, fee, and all required plans and documentation per I.4.C(4) to the Code

Administrator according to the MPC Filing and Meeting Schedule which can be obtained at City Hall.

- (1) Applicant shall simultaneously submit plans to the agencies listed on the application, including police, fire, county board of education, and appropriate utility companies.
 - (2) Application shall not be considered complete and eligible for docketing for the MPC until all submission requirements have been met and a Complete Application has been received.
 - (3) Applicant may withdraw application twenty four hours or more in advance of any MPC meeting by submitting a request in writing to the Code Administrator; new form, fees, and plan sites are required for reapplication.
- b. Administrative Review. The Code Administrator, City staff, and applicable review boards shall review the plan sets using the criteria outlined in I.4.C(5) and the Code Administrator shall complete a report with recommendations for the MPC.
- c. MPC Hearing. The MPC shall hold a public hearing to review the Preliminary Plat application.
- (1) Hearing Notice. Notice shall be provided through publication, mailing, and physical posting of a sign(s). Refer to IV.1.D. Notice Specifications for detailed requirements.
 - (2) MPC Consideration and Action. The MPC shall

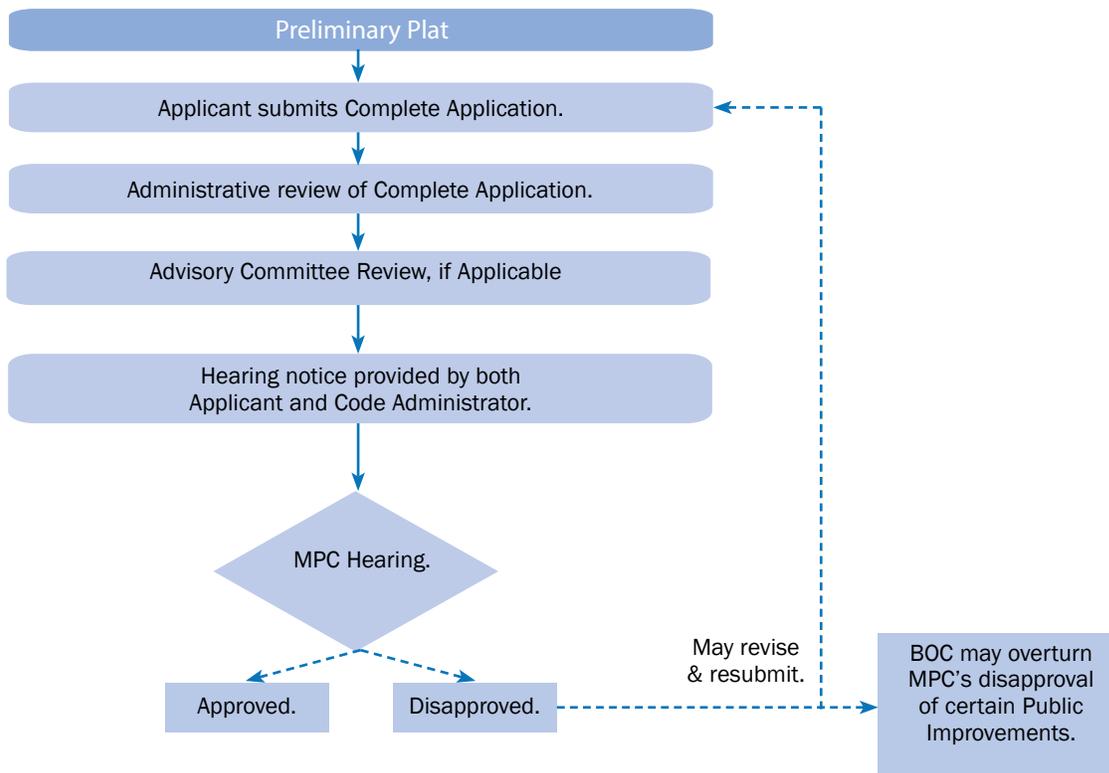


Figure 4.C-1. Preliminary Plat.

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consider the Code Administrator's report and the application utilizing the criteria detailed in I.4.C(5).

- (a) The MPC shall review and consider the plat and may approve or disapprove the plat within thirty (30) days of submittal of a complete application.
 - (b) MPC shall approve, approve with conditions, or disapprove the Plat no later than sixty (60) days from its initial consideration of the application. Failure to act within sixty (60) days shall be deemed an approval of the Plat.
 - (c) The sixty (60) day action period may be extended with the Applicant's written consent or until the regularly scheduled MPC meeting subsequent to the period, if municipal offices are closed due to an unforeseen event during the period.
 - (d) Prior to the close of the public meeting, MPC may hold a matter under advisement or defer a decision until the next regularly scheduled meeting.
 - (e) MPC may request modifications or changes to the Preliminary Plat based on the requirements of these Land Development Regulations.
 - (f) If disapproved, the application may be resubmitted; the new application (including a new application form, fees, and plan sets) may only be submitted after the recommended changes have been made.
 - (g) Preliminary Plat approval does not constitute acceptance of the Construction Plans (I.4.D) or Final Plat (I.4.E); this fact shall be indicated on the Preliminary Plat.
- d. Action Upon Approval. Applicant shall provide copies of the approved Plat for signature by the MPC secretary and filing within City Hall.
- e. Expiration of Approval. Approval of the Preliminary Plat shall lapse if a Complete Application for Construction Plans (refer to I.4.D) is not submitted for review and approval within twenty-four (24) months.
- (1) Applicant may request an extension if done in writing at least sixty (60) days prior to the end of the twenty-four (24) month period. If such construction plans subsequently lapse for the first phase or for the entire development, the preliminary Plat shall lapse.
 - (2) Failure to act within the twenty-four (24) month period shall require a new Preliminary Plat application, including form, fees, and plans.
- f. Disapprovals of Certain Public and/or Common Improvements. If the MPC disapproves any portion of an application relating to the location or extent of Right(s)-of-Way; parks or public spaces; public building or structures; or public utilities, whether publicly or privately owned, the MPC shall communicate its reasons for disapproval to the BOC and such disapproval may be overruled by the BOC as follows:
- (1) If the authorization or financing of the improvement is, pursuant to Tennessee or federal law, within the purview of a government body other than the City, such government body may, within thirty (30) days after the MPC's disapproval, overrule the disapproval of the MPC by a majority vote of its membership or by the head of the government body if there is no board.
 - (2) For any other disapproval of an improvement described in this subsection, the BOC may overrule the disapproval of the MPC by a majority vote of the members of the BOC.
7. Procedure for Minor Plat Amendment. Minor Amendment to an approved Preliminary Plat may be permitted by the Code Administrator, if the adjustments are within the intent, terms, and conditions of the original approval.
- a. Applicant shall submit a revised Plat and letter detailing the changes to the Code Administrator.
 - b. Minor amendments may apply to an entire Plat or only that portion which is impacted by the amendment.
 - c. Amendments to any of the following are not acceptable:
 - (1) The vacation of a plat or portion of a Plat unless otherwise permitted in this Article and Section.
 - (2) The vacation or revision of Plat conditions required by the MPC, unless grammatical or typographical only.
 - (3) The vacation of a platted Easement.
 - (4) The vacation of a public way or platted Right-of-Way.
 - (5) The vacation of public lands or a public place.
 - (6) Substantive changes to bearings, distances, dimensions, or the location of any Public Improvement, Common Improvement, utility, drainage system, or associated Easement, such as by increasing or decreasing any of these measures by more than five (5) percent, unless specifically permitted below.
 - (7) Any platted land that is not part of a residential or non-residential development Lot or public Right-of-Way (such as open space), unless the terms and procedure for such an amendment are fully described in the previously recorded plat. In the case that the land or related

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improvements to it are described in the prior recorded Plat, the procedure for amendment so described may be followed to make an amendment, so long as the result otherwise complies with these regulations.

d. Minor amendments are limited to the following:

- (1) Modification in the location of a street or Access Point by not more than ten (10) feet, assuming all Building Type and Street Type requirements (refer to III.3. II.1, and II.8) are still met.
- (2) Modification in the location of any open space, provided that all Open Space Standards (refer to III.4) are still met.
- (3) Modification of the final grade by not more than ten (10) percent of the approved grade.
- (4) Alteration in the type of landscaping provided, assuming all Landscape Screening requirements (refer to III.5) are still met.
- (5) Modification of the Tree Replacement Schedule wherein no more than 20 inches of tree planting is either added or removed due to changes in tree removal or retention and that does not require a revision to Tree Bank contributions.

e. After review, the Code Administrator shall notify the Applicant if the amendment is considered minor and if they are approved.

f. Approved Minor Amendment shall be shown on the Final Plat when submitted for approval.

g. If the amendments are deemed to be major changes to the approved Plat, the Applicant must seek Preliminary Plat (refer to I.4.C) approval for the new plan, including a new application (including a new application form, fees, and plan sets).

h. Appeal. Applicant may appeal the Code Administrator's decision on the Plat amendments per the Subdivision Administrative Appeal process (refer to I.4.G).

D. Construction Plans.

1. Intent. Construction Plan approval allows the City to verify that all improvements to be installed or constructed meet the required construction and design standards in these Land Development Regulations, and that the requirements of Article II. Neighborhood Development Regulations and the approved Preliminary Plat are being implemented.
2. Applicability. All Plats receiving Preliminary Plat approval (I.4.C) or Site Plan Review (I.4.K) shall submit for Construction Plan approval within twenty-four (24) months to prevent preliminary approvals being voided.
 - a. Extension of the twenty-four (24) month period

may be requested of the MPC in writing or in person.

b. Extension requests shall be made a minimum of sixty (60) days prior to the end of the twenty-four (24) month period.

3. Eligible Applicant. An Applicant with an approved Preliminary Plat or Site Plan shall apply for Construction Plan approval.

a. If the Construction Plan requires approval of a variance (refer to I.4.O), Applicant shall complete the variance process prior to Construction Plan approval.

4. Application. The Applicant shall submit the following to the Code Administrator to constitute a Complete Application.

a. Application Form and Fee. The application and fee list can be obtained at City Hall.

b. Digital and Paper. All Plats and plans shall be submitted in both digital and paper format.

c. Public Works Construction Specifications. All Construction Plans and specifications shall comply with the City's Public Works Construction Specifications.

d. Construction Plans and Specifications Requirements.

The Construction Plans shall conform substantially to the approved Preliminary Plat or Site Plan and shall, at a minimum include the following items:

(1) Signature and seal of an engineer registered in the State of Tennessee.

(2) Grading Plan. Existing and proposed contour data showing contour intervals of two (2) feet or less that extend a minimum of fifty (50) feet beyond the property boundary or a sufficient distance to clarify the topography of the immediate area; elevation shall reference a bench mark on or near the subject property.

(3) Floodway/Area of Special Flood Hazard. Boundaries and elevations of the Floodway and Area of Special Flood Hazard as published in the most recent Federal Insurance Rate Maps for the City and per Section III.11.

(4) Water and Sanitary Sewage Systems. Construction engineering plans for proposed public or private water and sewage improvements shall be provided, showing feasible connections to adequate existing or proposed utility systems. Where such connections are not feasible, the plans shall include the designs for any proposed individual water supply and/or sewerage disposal systems that have been approved by the Tennessee Department of Environment and Conservation,

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the City of Lakeland, MLGW, and the County Health Department.

- (5) Utilities. Existing and proposed, public or private, utilities and Easements, including location and dimension of all Easements on the Parcel and within three hundred (300) feet of the Parcel or to the location of the proposed connection, if greater than three hundred (300) feet.

- (6) Plan and Profiles. Plan and profile sheets showing all engineering data necessary for construction of proposed Street Types, including all controls for surface water, sanitary sewer and waterline layout, and connection to existing or proposed utilities.

(a) The street profiles shall be plotted along the Street Centerline showing the existing and Finished Grades and utility locations drawn to a scale of not less than one (1) inch equals fifty (50) feet horizontal and one (1) inch equals five (5) feet vertical.

(b) Typical cross section of each Street Type proposed shall be shown.

(c) Construction details of all inlets, typical driveways, sidewalks, curb and gutter, manholes, sewer connections, and all other details necessary to ensure compliance with the City's Design Standards.

(d) Finished floor Elevations. The elevation of the lowest habitable floor of the building, excluding basements, for each building proposed.

(7) Tree Survey (refer to Tree Management Ordinance, Title 13, Chapter 4 of the Municipal Code)

(8) Tree Replacement Plan (refer to Tree Management Ordinance, Title 13, Chapter 4 of the Municipal Code), in conformance with Tree Replacement Schedule approved with Preliminary Plat.

(9) Street Tree Plan, Schedule, & Construction Details (refer to II.8.C(11) Street Trees and

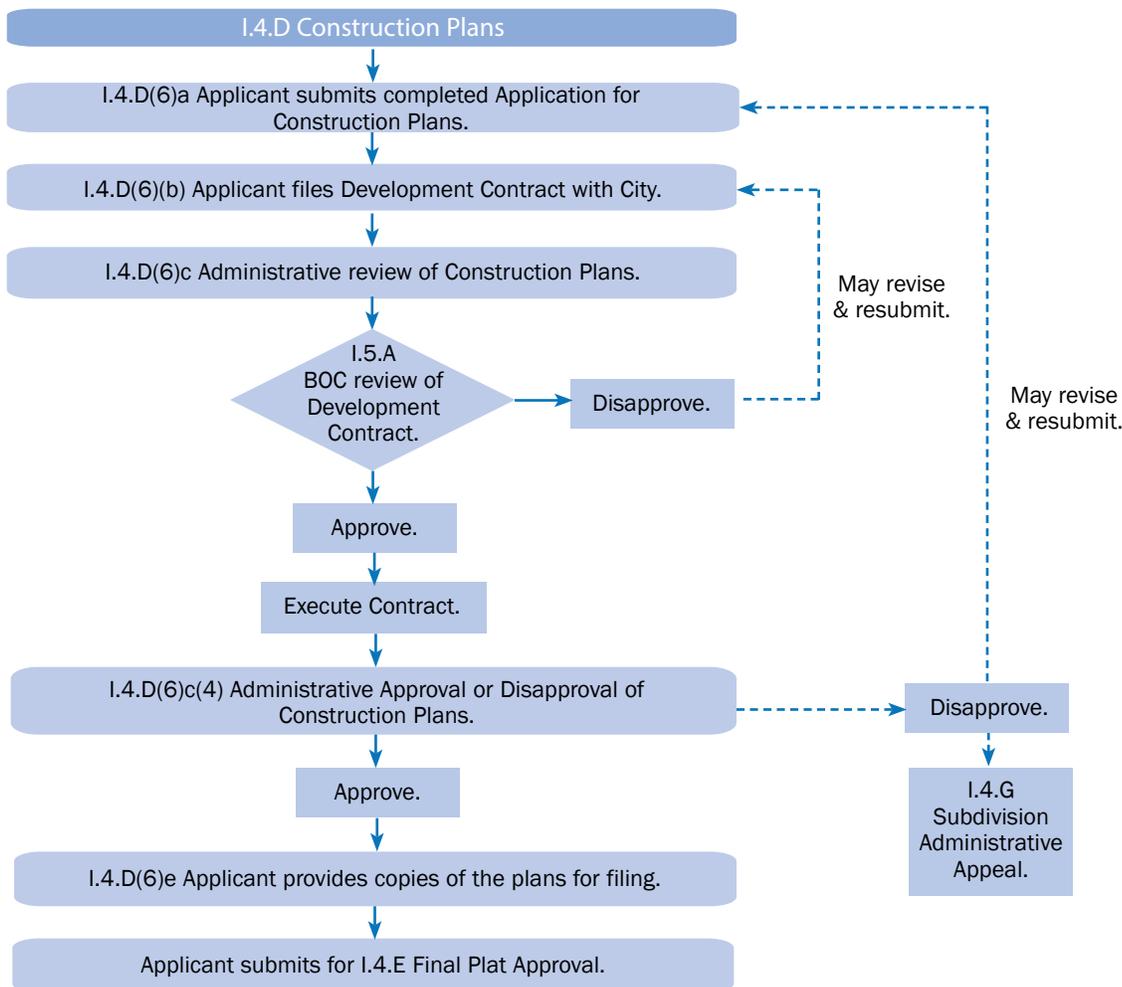


Figure 4.D-1. Construction Plans.

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- III.5.A(4) for Landscape Plan requirements)
- (10) Tree Protection Plan (refer to Tree Management Ordinance, Title 13, Chapter 4 of the Municipal Code)
 - (11) Landscape Plan, Schedule, and Construction Details (refer to III.5.A(4) Landscape Standards)
 - (12) Site Stormwater Management Plan and Operation and Maintenance Plan (refer to II.10.A(6))
 - (13) Protection Zone Plan (refer to II.12.A(4)).
 - (14) Soil Erosion and Sediment Control Plan (refer to II.13)
 - (15) Aquatic Resource Alteration Permit (ARAP), per the requirements of Tennessee Department of Environment and Conservation (TDEC).
 - (16) Monuments. An affidavit shall be prepared by the licensed surveyor and submitted to the City prior to the recording of the Plat at the Shelby County Register of Deeds, stating the following have been set and marked:
 - (a) Subdivision Corners. Subdivision corners shall be set with two (2) inch diameter brass caps, twenty-four (24) inches in length and set in a post constructed of dense Portland cement concrete four (4) inches round or square and three (3) feet long. Show the number of the corner, the elevation of the corner, the identifying initial of the surveyor or the company making the survey, and the license number of the surveyor making the survey or certifying the survey.
 - (b) Lot corners, points of tangency (PT's) and points of curve (PC's) of all curves shall be marked by an iron pin not less than five-eighths (5/8) inches in diameter and not less than twenty-four (24) inches in length, unless otherwise impractical. All survey monuments shall include a permanent attached identifying marker.
 - (c) The points of intersection (PI's) and the points of return (POR's) of all Blocks shall be referenced by an iron pin. Also, the PC's and PT's of all curves shall be so referenced by an iron pin.
- e. Additional Requirements. Applicant shall provide the following unless deemed unnecessary by the Code Administrator.
- (1) Storm Water Discharge Letter of Coverage. The Applicant shall submit a signed and certified letter of approval for the Storm Water Pollution Prevention Plan (SWPPP). The SWPPP shall have been filed with the Tennessee Department of Environment and Conservation, Division of Water Pollution Control.
 - (2) Verification of having filed a Notice of Intent for Stormwater Discharges/Construction Activity, with the Tennessee Department of Environment and Conservation.
 - (3) Public Water System Approval. Applicants who plan to construct or modify a public water system are required to obtain an approval from the Tennessee Division of Water Supply.
 - (4) NPDES Discharge Permit. Applicants planning to operate a construction site involving clearing, grading, or excavation that results in either an area of disturbance of one (1) or more acres (or an activity that results in the disturbance of less than one (1) acre if it is part of a larger common plan of development or sale shall obtain an NPDES Stormwater Construction Permit from the appropriate field office of Texas Department of Environment and Conservation.
 - (5) State DOT Permits. Construction activities involving State Highway Rights-of-Way shall comply with the Rules of the Tennessee Department of Transportation, Maintenance Division, Constructing Driveways on State Highway Right-of-Way and permits for driveways shall be obtained by the appropriate Regional Engineer's office.
5. Review Criteria. The Construction Plans shall be reviewed using the following criteria.
 - a. The proposed division of land meets with standards of Articles II and III of these Land Development Regulations.
 - b. The proposed plan and street system are in compliance with the City's Comprehensive Plan and Major Roads Plan.
 - c. The proposed plan is in substantial conformance with the approved Preliminary Plat or Site Plan or, if deviations from the approved preliminary plan exist, they have been approved them per I.4.C(7).
 6. Application Process. The following specific application process shall apply to all Construction Plan applications.
 - a. File Development Contract. Applicant shall file the Development Contract for consideration of approval by the BOC. Refer to I.5.
 - b. Submit Complete Application. Applicant shall submit the application, fee, and all required plan(s) and documentation per I.4.D(4) to the Code Administrator.
 - (1) An application shall not be docketed for review by any office, commission, or review body until it

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is deemed complete.

- (2) Applicant may withdraw application at any time by submitting a request in writing to the Code Administrator; new form, fees, and plan sets are required for reapplication.

c. Administrative Review. The Code Administrator, and City staff, shall review the Construction Plans in accordance with the criteria outlined in I.4.D(5).

- (1) The Development Contract shall be executed prior to approval of the Construction Plans.
- (2) Staff shall review and render a decision on the plans no later than ninety (90) days from receipt of the Complete Application.
- (3) The ninety (90) days may be extended with Applicant's written consent or if municipal offices are closed due to an unforeseen event during the period.
- (4) Staff shall approve, approve with conditions, or disapprove the plans, providing reasons for disapproval in writing.
- (5) Approval of the Construction Plans shall not constitute acceptance of the Final Plat.
- (6) Staff shall determine the amount and terms of security necessary for the construction of Public Improvements related to the development. Refer to I.5. Development Contracts.

d. Appeal. If disapproved, Applicant may appeal decision to the MPC per the Subdivision Administrative Appeals process (refer to I.4.G).

e. Action Upon Approval. Applicant shall provide copies of the approved Construction Plans for signature by the Code Administrator and filing in City Hall.

f. Expiration of Approval. Approval of the Construction Plans for a development section or phase shall lapse if, a) Final Plat approval (refer to I.4.E) is not obtained within four (4) years, or if the development contract lapses.

g. Extension of Construction Plans

- (1) Applicant may request an extension of up to three (3) years, if done in writing at least sixty (60) days prior to the end of the four (4) year period, and if a development contract is in force.
- (2) Failure to act within the four (4) year period shall require a new Construction Plan application, including form, fees, and plans.

E. Final Plat.

1. Intent. Final Plat approval allows the City to verify that the Plat is consistent with the previously approved Preliminary Plat and Construction Plans (I.4.C).
2. Applicability. All Plats receiving Preliminary Plat approval (I.4.C) and Construction Plan approval (I.4.D) shall obtain Final Plat approval.
3. Eligible Applicant. An Applicant may apply for Final

Plat approval provided that:

- a. The Applicant has received the appropriate Preliminary Plat (refer to I.4.C) and Construction Plans (refer to I.4.D) approvals.
- b. Applicant has entered into a development contract with the City consistent with I.5 Development Contract, if applicable.
- c. All site improvements submitted at the Construction Plan stage have been completed and inspected for final acceptance by the City, unless the City has agreed that an item be deferred for future construction for which the City may withhold security for that item. Applicant shall request a Final Plat inspection of the improvements no sooner than ninety (90) days prior to filing and not later than 45 days.
- d. Acceptance of Public Improvements shall be requested concurrently with the Final Plat application (refer to I.5).

4. Application. The Applicant shall submit the following to the Code Administrator to constitute a Complete Application.

- a. Application Form and Fee. The application form and fee list, can be obtained at City Hall.
- b. Digital and Paper. All Plats and plans shall be submitted in both digital and paper format.
- c. Plat Requirements. The Final Plat shall conform substantially to the approved Preliminary Plat and Construction Plans and shall illustrate the following.
 - (1) Date, title, name, and location of Subdivision; graphic scale; and true north arrow.
 - (2) The lines of all streets and roads, Lot Lines, Build-to Zone or Setback lines, Lot numbers, reservations for Easements, and Zoning Districts.
 - (3) Sufficient data to determine readily and reproduce on the ground the location, bearing and length of every street line, Lot Line, boundary line, Block line, and building line whether curved or straight, and curved Property Lines that are not the boundary of curved streets.
 - (4) Location and description of monuments with Tennessee State Plane Coordinates noted on the Plat per Tennessee State Statute.
 - (5) Date, title, name, and location of adjoining Subdivisions and streets and the location and ownership of adjoining property.
 - (6) Restrictive covenants that apply within the Subdivision, shall be filed as a separate document. Refer to I.7 for the minimum requirements to be included in the declarations or covenants and restrictions.
- d. Restoration and Management Plan, to be

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- concurrently approved (refer to II.11.C).
 - e. Stormwater Management Plan, to be concurrently approved (refer to II.10.A(6)).
 - f. A set of original record drawings which show, as a minimum, the location by station and depth of all sanitary sewer services, water services, drainage improvements, the actual location of all other utilities, and the indication of any deviations from the original plans which were approved or field engineered after the Construction Plans were approved.
- 5. Review Criteria. The Final Plat shall be reviewed using the following criteria.
 - a. The proposed plan is in substantial conformance with the approved Preliminary Plat and Construction Plans; if deviations exist, they have been approved per I.4.C(7)
 - b. The proposed division of land meets with standards of Article II of these Land Development Regulations.
 - c. All Parcels, including any proposed development, are in conformance with the requirements of these Land Development Regulations and the Zoning designation for the subject property or, where an alternative Zoning designation is also being requested in association with this application, would be in conformance with the standards of the proposed Zoning District.
 - d. The proposed plan and street system are in compliance with the intent and purposes of the Comprehensive Plan and Major Roads Plan.
- 6. Application Process. The following specific application process shall apply to all Final Plat Applicants.
 - a. Submit Complete Application. Applicant shall submit the application, fee, and all required plans and documentation per I.4.E(4) to the Code Administrator according to the MPC Filing and Meeting Schedule which can be obtained at City Hall.
 - (1) Applicant shall simultaneously submit plans to the agencies listed on the application, including, but not limited to, police, fire, county board of education, and appropriate utility companies.
 - (2) Application shall not be considered complete and eligible for docketing for the MPC until all submission requirements have been met and a Complete Application has been received.
 - (3) Applicant may withdraw application twenty four hours or more in advance of any MPC meeting by submitting a request in writing to the Code Administrator; new form, fees, and plan sets are required for reapplication.
 - b. Administrative Review. The Code Administrator, and City staff shall review the plan sets using the criteria outlined in I.4.E(5) and the Code Administrator shall complete a report with recommendations for the MPC.
 - c. MPC Review. The MPC shall, at a public meeting, review the Final Plat application utilizing the criteria

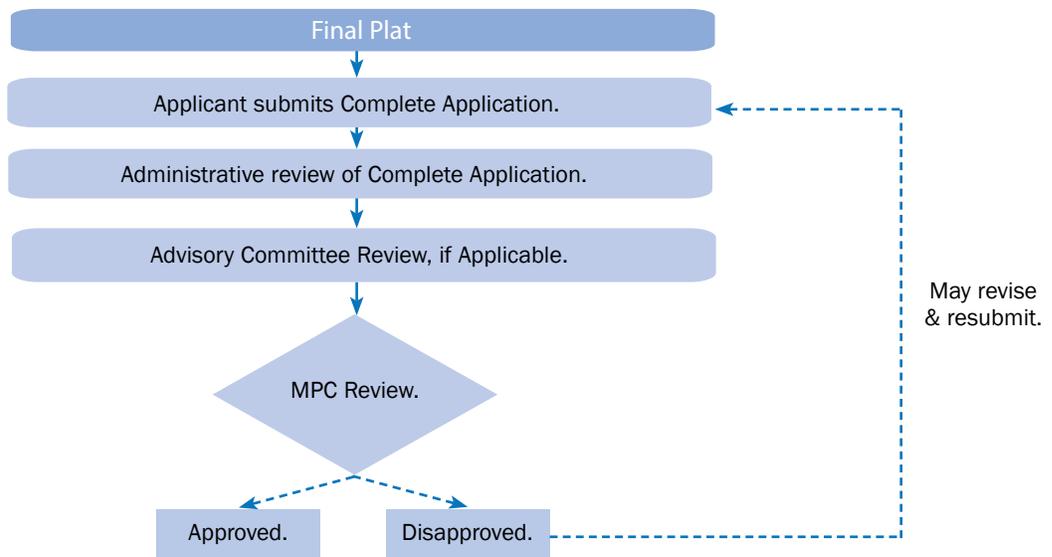


Figure 4.E-1. Final Plat.

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detailed in I.4.E(5).

- (1) The MPC shall review and consider the application within thirty (30) days of submittal of a complete application and may approve or disapprove the application.
- (2) MPC shall approve, approve with conditions, or disapprove the Plat no later than sixty (60) days from its initial consideration of the application; failure to act within sixty (60) days shall be deemed an approval of the Plat.
 - (a) The sixty (60) day action period may be extended with the Applicant's written consent or until the regularly scheduled MPC meeting subsequent to the sixty (60) day period, if municipal offices are closed due to an unforeseen event during the period.
 - (b) A recommendation for Acceptance of Public Improvements may be requested concurrently with the Final Plat application. Refer to I.5. Development Contract.
 - (c) Prior to the close of the public meeting, MPC may hold a matter under advisement or defer a decision until the next regularly scheduled meeting.
- (3) If disapproved, the application may be resubmitted; the new application (including a new application form, fees, and plan sets) may only be submitted after changes have been made to fulfill the requirements of these Land Development Regulations.
- (4) Concurrent with approval, the MPC shall make a recommendation to the BOC on the acceptance of the Public Improvements or land per the development contract (refer to I.5). The approval of the Final Plat shall not constitute acceptance by the City or the Dedication of any Public Improvements; this is the prerogative of the BOC.

d. Action Upon Approval.

- (1) Applicant shall provide the Code Administrator with an original Plat (refer to IV.1.C) and copies, per the application form available in City Hall, for signature and recording in the Shelby County Register of Deeds. The Applicant shall be responsible for payment of any and all costs and fees associated with such recordation.
- (2) The recorded original Plat shall be retained as a permanent record in City Hall after it has been stamped, signed, and recorded by the County Register.

7. Procedure for Minor Plat Amendments. Requests for Minor Amendments to an approved or recorded Final Plat may be submitted to the Code Administrator in

accordance with this subsection.

- a. Review criteria. The Minor Amendment may be approved provided that all of the following are met.
 - (1) Any and all conditions imposed by the Municipal Planning Commission on the Preliminary Plat have been fully complied with by the Subdivider.
 - (2) The resulting plat remains in compliance with the Zoning Ordinance and Subdivision Regulations.
 - (3) The nature of the Minor Amendment is consistent with the determination of Minor Amendments set forth herein.
 - (4) Applicable procedures for recording a plat are completed.
- b. Minor Amendments may include the following.
 - (1) Correction of a typographical error in a legal description.
 - (2) Correction of a bearing, distance or curve data, provided such correction does not alter the location or boundary of any lot or easement.
 - (3) Correction of a misspelling.
 - (4) Correction of an incorrect or missing signature(s).
 - (5) Correction or change of an address assigned to a lot.
 - (6) Correction or change of an assigned street name.
 - (7) Addition, deletion or modification of a note on a Final Plat that does not affect the use or enjoyment of a lot.
 - (8) The addition, deletion or modification of the delineation of a feature (e.g., notations regarding areas subject to the National Flood Insurance Program, if in compliance with the program (FEMA) maps).
 - (9) The name of a recorded Subdivision.
 - (10) Modification of an easement which does not increase the use or extent of the easement.
 - (11) Moving a side or rear lot line in common with an abutting lot, so long as the resulting lots and setbacks remain in compliance with the Zoning Ordinance.
 - (12) The combination of two (2) lots to create one (1) lot that is larger than the original lots being joined, so long as the resulting lot and development otherwise complies with the zoning ordinance and subdivision regulations, and so long as the lot(s) have not already been combined with any other lot in such a manner .
 - (13) The enlargement of a recorded non-residential lot to include abutting land that was part of the applicable Preliminary Plat, but which abutting land has not yet been included in a recorded Final Plat.
 - (15) Corrections to match the applicable Preliminary Plat.

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- (16) Revising the terms and condition of the applicable zoning district.
 - c. To apply, Applicant shall submit in the same manner as a Final Plat with the recorded Plat, Plat application, letter detailing the changes, and fees for processing and re-recording the Plat to the Code Administrator.
 - (1) It shall contain signature blocks for the Secretary of the MPC and the City Engineer.
 - (2) If the ownership of the Subdivision has changed or Lots have been sold since the previous recording, an Owner's and notary's certificate shall be provided on the Plat for each new Owner and each Lot Owner.
 - d. After review, the Code Administrator shall notify the Applicant if the adjustments can be considered Minor Amendments and if they are approved.
 - e. If the adjustments are deemed to be Major Amendments to the recorded Plat, the Applicant shall seek Preliminary Plat (I.4.C) approval for the new plan, including a new application (including a new application form, fees, and plan sets).
 - f. If the Code Administrator determines that the request can be approved, the plat document shall be submitted for signatures. The City shall record any approved Minor Amendments.
 - g. Appeal. If disapproved, Applicant may appeal decision per the Subdivision Administrative Appeals process (refer to I.4.G).
- F. Plat Vacation.
1. Intent. The process to vacate a Plat or part of a Plat allows the City to review changes to an existing division of land.
 2. Applicability. Approval of a Plat Vacation is required anytime Property Lines in an existing Subdivision are to be removed; nullifying a Plat or part thereof.
 - a. Separate application for Plat Vacation is not required when Exempt Division (I.4.B) or Preliminary Plat (I.4.C) approval is also sought.
 3. Eligible Applicant. Any Applicant may apply for a Plat Vacation.
 4. Application. The Applicant shall submit the following to the Code Administrator.
 - a. Application Form and Fee. The application, fee list, and MPC Filing and Meeting Schedule can be obtained at City Hall.
 - b. Digital and Paper. All Plats and plans shall be submitted in both digital and paper format.
 - c. Original and New Plat. The Plat shall be at a scale of one (1) inch equal to or less than two hundred (200) feet and include the date and north arrow, as well as the following information:
 - (1) The names of the streets and the existing Subdivisions and streets directly abutting it.
 - (2) Location of the Subdivision.
 - (3) Subdivision plan and layout with Dimensions for all Rights-of-Way, Easements, Property Lines, and Blocks.
 - (4) Names, addresses, and telephone numbers of the Applicant and the surveyor preparing the

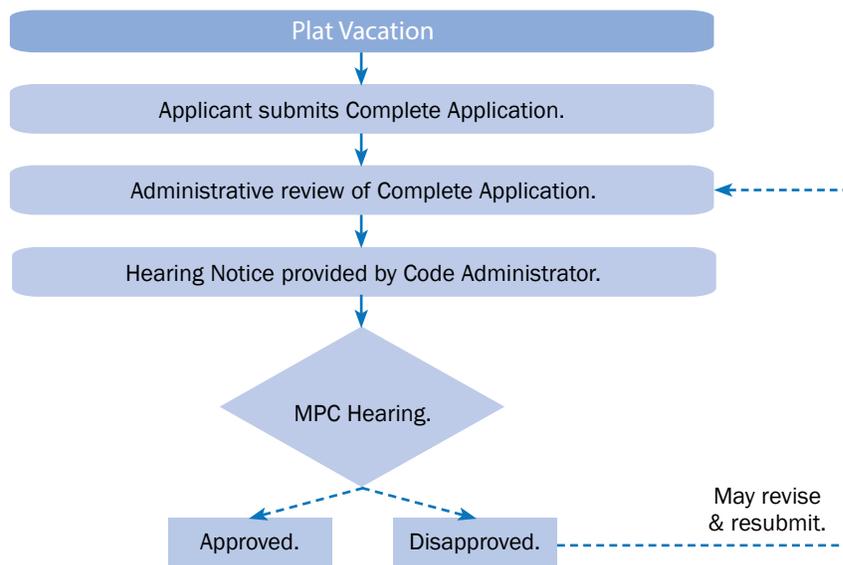


Figure 4.F-1. Plat Vacation.

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Plat.

5. Review Criteria. The application for a Plat Vacation shall be reviewed based upon the rationale behind the request.
 - a. The City reserves the right to maintain ownership of and platting of Rights-of-Way and Easements associated with the original Plat.
 - b. The vacation will not have a negative effect on the existing or future street or utility network.
 - c. The plat never developed after many years to allow it to be replatted.
 - d. The intents described in Article II. Neighborhood Development Regulations shall be considered.
 6. Application Process. The following specific application process shall apply to all Plat Vacation applications.
 - a. Submit Complete Application. Applicant shall submit the application, fee, and all required plans and documentation per I.4.F(4) to the Code Administrator according to the MPC Filing and Meeting Schedule which can be obtained at City Hall.
 - (1) Application shall not be considered complete and eligible for docketing for the MPC until all of the submission requirements have been met and a Complete Application has been received.
 - (2) Applicant may withdraw application twenty four hours or more in advance of any MPC meeting by submitting a request in writing to the Code Administrator; new form, fees, and plan sites are required for reapplication.
 - b. Administrative Review. The Code Administrator, City staff, and other applicable review boards shall review the plan sets using the criteria outlined in I.4.F(5) and the Code Administrator shall complete a report with recommendations for the MPC no later than thirty (30) days from receipt of the Complete Application.
 - c. MPC Hearing. The MPC shall hold a public hearing to review the vacation application.
 - (1) Hearing Notice. Notice shall be provided through publication, mailing, and posted sign. Refer to IV.1.D. Notice Specifications for detailed requirements.
 - (2) MPC Consideration and Action. The MPC shall consider the Code Administrator's report and the application utilizing the criteria detailed in I.4.F(5).
 - (a) MPC shall approve, approve with conditions, or disapprove the Plat Vacation no later than sixty (60) days from receipt of the Complete Application.
 - (b) The sixty (60) day action period may be extended with the Applicant's written consent or until the regularly scheduled MPC meeting subsequent to the sixty (60) day period, if municipal offices are closed due to an unforeseen event during the period.
- (c) Prior to the close of the public meeting, MPC may hold a matter under advisement or defer a decision until the next regularly scheduled meeting.
 - (d) If modifications or changes are requested by the MPC, the Applicant shall submit a revised Plat, along with a letter addressing the revisions requested, no less than fifteen (15) days prior to the MPC meeting at which it is to be considered.
 - (e) If disapproved, the application may be resubmitted; the new application (including a new application form, fees, and plan sets) may only be submitted after the recommended changes have been made.
- d. Action Upon Approval.
 - (1) Applicant shall provide the Code Administrator with an original Plat and copies, per the application form available in City Hall, for signature and recording in the Shelby County Register of Deeds. The Applicant shall be responsible for payment of any and all costs and fees associated with such recordation.
 - (2) The recorded original Plat shall be retained as a permanent record in City Hall after it has been stamped, signed, and recorded by the County Register.
- G. Subdivision Administrative Appeal.
 1. Intent. The Subdivision Administrative Appeal process allows the review of any decision made by the Code Administrator or other City official in carrying out or enforcing the Subdivision Regulations.
 - a. This process is provided as a safeguard against arbitrary, ill-considered, or erroneous administrative decisions, and to provide a local procedure for their review and correction.
 - b. This process is not intended as a means to subvert either the clear purposes, intent, or meaning of these Land Development Regulations or the rightful authority of the Code Administrator to enforce these regulations.
 - c. MPC, in reviewing these cases, shall give all proper deference to the spirit and language of these Land Development Regulations and to the reasonable interpretations of those charged with its administration.
 2. Applicability. An Applicant may appeal to the MPC

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a decision made by the Code Administrator, an administrative official, or other body related to the Subdivision Regulations.

3. Eligible Applicant. Any Applicant or Aggrieved Party with an actual interest and their authorized representative may request an Appeal within thirty (30) days of a decision subject to the appeals process.
4. Application. The Applicant shall submit the following to the Code Administrator to constitute a Complete Application.
 - a. Application Form and Fee. The application, fee list, and MPC meeting schedule and submission deadline can be obtained at City Hall.
 - b. Digital and Paper. All Plats and plans shall be submitted in both digital and paper format.
 - c. Plan Requirements. Resubmit all Plats and plans reviewed during the initial action.
5. Application Process. The following specific application process shall apply to all Subdivision Administrative Appeal Applicants.
 - a. Submit Complete Application. Applicant shall submit the application, fee, and all required plans and documentation per I.4.G(4) to the Code Administrator according to the MPC Filing and Meeting Schedule which can be obtained at City Hall.

- (1) Application shall not be considered complete and eligible for docketing for the MPC until all submission requirements have been met and a Complete Application has been received.
- b. Administrative Review. The Code Administrator shall review the appeals application and shall complete a report for the MPC no later than thirty (30) days from receipt of the Complete Application.
- c. MPC Hearing. The MPC shall hold a public hearing to review the Code Administrator's report and the application by considering the merits of the individual appeal within the context of any and all standards and considerations established in these Land Development Regulations.
 - (1) MPC shall approve, approve with conditions, or disapprove the Subdivision appeals application no later than sixty (60) days from receipt of the Complete Application.
 - (2) The sixty (60) day action period may be extended with the Applicant's written consent or until the regularly scheduled MPC meeting subsequent to the sixty (60) day period, if municipal offices are closed due to an unforeseen event during the period.
 - (3) Prior to the close of the public meeting, MPC may hold a matter under advisement or defer a decision until the next regularly scheduled meeting.
 - (4) The MPC shall render a decision that shall

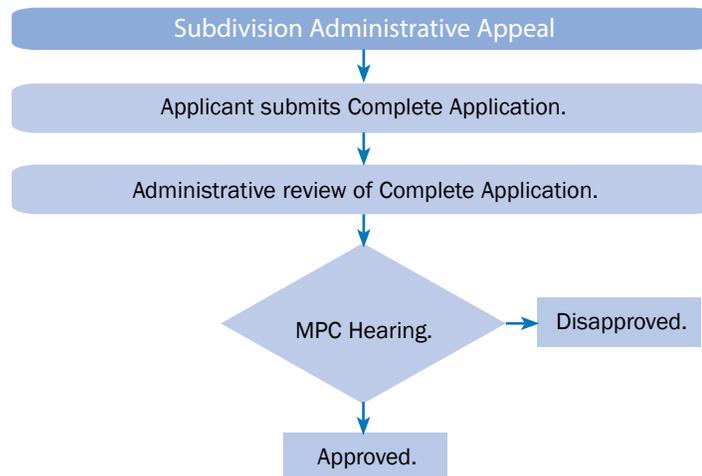


Figure 4.G-1. Subdivision Administrative Appeal.

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reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination of issue.

- (5) The MPC shall have all the powers of the official or body from whom the appeal was taken, and may direct the issuance of a permit.
- (6) The MPC shall detail the reason(s) and the facts supporting the decision.

H. Subdivision Modification.

1. Intent. The Subdivision Modification process allows the City flexibility in the application of the Subdivision Regulations, if certain criteria are met.
2. Applicability. A Modification may be requested to relieve a difficulty or hardship arising from the strict application of the Subdivision Regulations.
3. Eligible Applicant. An Applicant may apply for Modification from the Subdivision Regulations approval provided the following.
 - a. A Preapplication Conference (I.4.A) was completed within the six (6) months prior to application.
 - b. An Applicant may submit with the Preliminary Plat for concurrent approvals.
4. Application. The Applicant shall submit the following to the Code Administrator to constitute a Complete Application.
 - a. Application Form and Fee. The application, fee

list, MPC meeting schedule, and submission deadline can be obtained at City Hall.

- b. Digital and Paper. All Plats and plans shall be submitted in both digital and paper format.
- c. Plan Requirements.
 - (1) A Plat of survey with metes and bounds legal description and property identification number.
 - (2) Plan (site plan or Plat) illustrating the Modification request shall be at a scale of one (1) inch equal to or less than two hundred (200) feet and shall include the date and north arrow.
 - (3) Engineering plans and support documentation to detail the request shall be at the size and scale as outlined in I.4.C-D and/or shall contain information as specified in Article III.

5. Review Criteria. The application for a Modification shall be reviewed utilizing the following sets of criteria.
 - a. Applicant shall meet the following two criteria.
 - (1) The strict application of the Subdivision Regulations results in peculiar and exceptional practical difficulties to or exceptional or undue hardship upon the Applicant.
 - (2) If granted, relief shall not cause substantial detriment to the public good and without substantially impairing the intent and purposes of the Comprehensive Plan and these Land Development Regulations.
 - b. In determining whether the above criteria are met, the MPC shall consider the following.

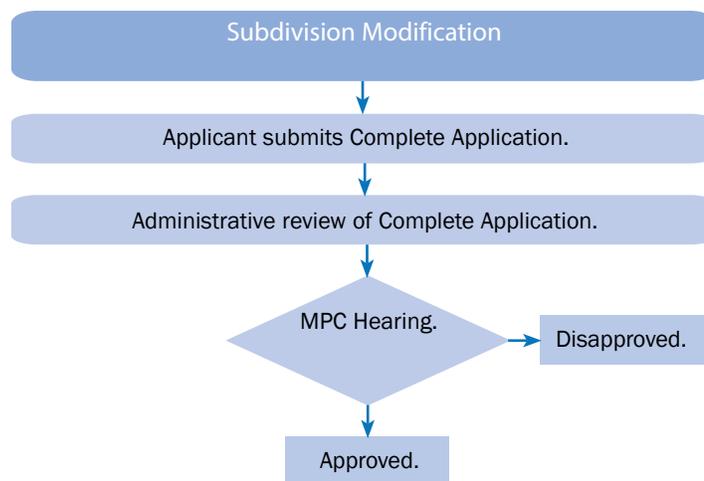


Figure 4.H-1. Subdivision Modification.

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- (1) Shall not adversely affect or diminish the purpose of these Land Development Regulations.
 - (2) Is not based on financial returns.
 - (3) Was not a self-made hardship, created by any person having an interest in the property after the effective date of these Land Development Regulations.
 - (4) Is the minimum request that shall make possible the reasonable Use of the land, building, or structure.
 - (5) The situation is unique; the conditions upon which the application is based would not be applicable, generally, to other properties in the same district.
 - (6) Shall not impair an adequate supply of light and air to adjacent property, substantially increase the congestion in the public streets, increase the danger of fire, endanger the public safety, or substantially diminish or impair property values within the area.
6. Application Process. The following specific application process shall apply to all Modification Applicants.
- a. Submit Complete Application. Applicant shall submit the application, fee, and all required plans and documentation per I.4.H(4) to the Code Administrator according to the MPC Filing and Meeting Schedule which can be obtained at City Hall.
 - (1) Application shall not be considered complete and eligible for docketing for the MPC until all submission requirements have been met and a Complete Application has been received.
 - (2) Applicant may withdraw application twenty four hours or more in advance of any MPC meeting by submitting a request in writing to the Code Administrator; new form, fees, and plan sites are required for reapplication.
 - b. Administrative Review. The Code Administrator, City staff, and applicable review boards shall review the Modification application in accordance with the criteria outlined in I.4.H(5) and shall complete a report with recommendations for the MPC no later than forty-five (45) days from receipt of the Complete Application.
 - c. MPC Hearing. The MPC shall hold a public hearing to review the proposed Modification.
 - (1) Hearing Notice. Notice shall be provided through publication, mailing, and physical posting of a sign. Refer to IV.1.D. Notice Specifications for detailed requirements.
 - (2) MPC Consideration and Action. The MPC shall consider the Code Administrator's report and the application utilizing the criteria detailed in I.4.H(5).
 - (a) MPC shall approve, approve with conditions, or disapprove the Modification application no later than ninety (90) days from receipt of the Complete Application.
 - (b) The ninety (90) day action period may be extended with the Applicant's written consent or until the regularly scheduled MPC meeting subsequent to the ninety (90) day period, if municipal offices are closed due to an unforeseen event during the period.
 - (c) Prior to the close of the public meeting, MPC may hold a matter under advisement or defer a decision until the next regularly scheduled meeting.
 - (d) The MPC shall hear and decide the application.
 - (e) The MPC may impose such conditions and restrictions upon the approval of the application as may be necessary to reduce or minimize the injurious effect of such variation upon adjacent properties and/or to better carry out the general intent of these Land Development Regulations.
 - d. Action Upon Disapproval. If disapproved, the application may be withdrawn; a new application (including a new application form, fees, and plan sets) may only be submitted after a twelve (12) month period.
 1. Amendment to the Subdivision Regulations.
 2. Intent. The process to amend regulations allows the City to review and revise the Subdivision Regulations from time to time.
 3. Applicability. All the regulations and provisions stated in the graphics, tables, and text of the Subdivision Regulations may be amended, supplemented, or changed.
 4. Eligible Applicant. An Amendment may be initiated by the Code Administrator, the MPC, the BOC, or a person with an actual interest.
 5. Application. The Applicant shall submit the following to the Code Administrator to constitute a Complete Application.
 - a. Application Form and Fee. Interested persons shall submit an application and pay all fees. The application, fee list, MPC meeting schedule, and submission deadline can be obtained at City Hall.
 - b. Digital and Paper. All proposed amendments shall be submitted in both digital and paper format.
 - c. Proposed Subdivision Regulation Amendments.

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Applicant shall submit the proposed Amendment to the Code Administrator. Code Administrator and City staff, during their review, may recommend revisions to the amendment language.

5. Review Criteria. The application for an Amendment to the Subdivision Regulations shall be reviewed utilizing the following criteria:
 - a. The proposed Amendment is in accordance with the intent and purposes of the Comprehensive Plan and other development policies of the City or, if not, additional attention is given to the reasons for deviating from these City policies.
 - b. The application is consistent with the intent and standards of these Land Development Regulations.
 - c. No one property Owner or small group of property Owners shall benefit materially from the change to the detriment of the general public.
 - d. The application is in the interest of the public health, safety, and welfare.
6. Application Process. The following specific application process shall apply to all Subdivision Regulation Amendment Applicants.
 - a. Submit Complete Application. Applicant shall submit the application, fee, and all required plans and documentation per I.4.I(4) to the Code Administrator according to the MPC Filing and Meeting Schedule which can be obtained at City Hall. If process is initiated by the City, no application is required.
 - (1) Application shall not be considered complete

and eligible for docketing for the MPC until all submission requirements have been met and a Complete Application has been received.

- (2) Applicant may withdraw application twenty four hours or more in advance of any MPC meeting by submitting a request in writing to the Code Administrator; new form, fees, and plan sites are required for reapplication.
- b. Administrative Review. The Code Administrator, City staff, and applicable review boards shall review the application in accordance with the criteria outlined in I.4.I(5) and shall complete a report with recommendations for the MPC no later than forty-five (45) days from receipt of the Complete Application.
- c. MPC Hearing. The MPC shall hold a public hearing to review the proposed Subdivision Regulation Amendment.
 - (1) Hearing Notice. Notice shall be provided through publication. Refer to IV.1.D. Notice Specifications for detailed requirements.
 - (2) MPC Consideration and Action. The MPC shall review the Code Administrator's report and the application utilizing the criteria detailed in I.4.I(5).
 - (a) MPC shall approve, approve with conditions, or disapprove the proposed Amendment no later than one hundred eighty (180) days from receipt of the Complete Application.
 - (b) The one hundred eighty (180) day action period may be extended with the Applicant's written consent or until the regularly

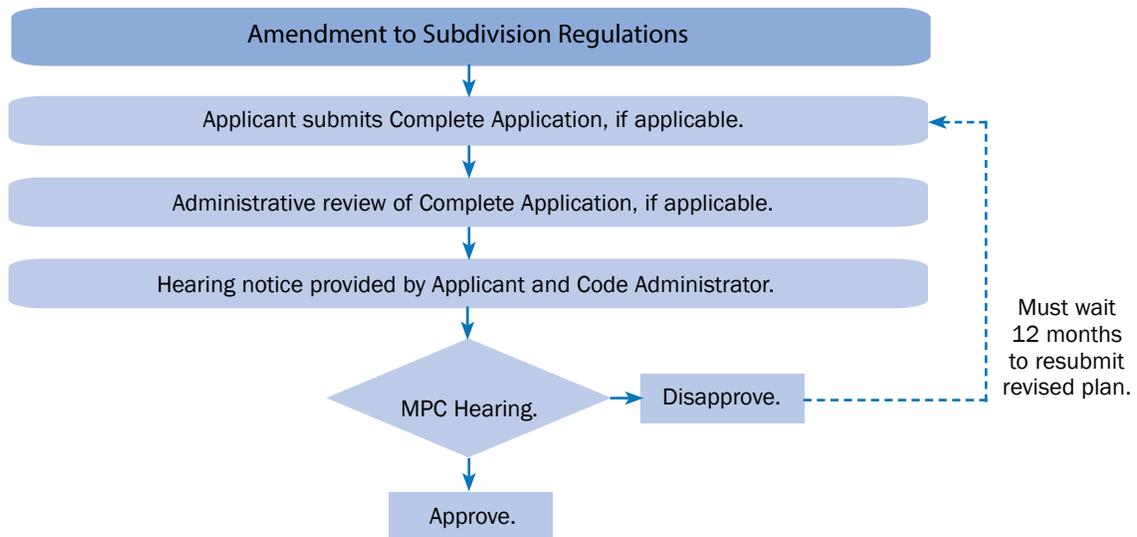


Figure 4.I-1. Subdivision Regulations Amendment.

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scheduled MPC meeting subsequent to the one hundred eighty (180) day period, if municipal offices are closed due to an unforeseen event during the period.

- (c) Prior to the close of the public meeting, MPC may hold a matter under advisement or defer a decision until the next regularly scheduled meeting.

d. **Action Upon Disapproval.** If disapproved, a new application (including a new application form, fees, and plan sets) may only be submitted after a twelve (12) month period, unless the application involves a substantively different proposed amendment.

J. Minor Site Plan Review.

1. **Intent.** Minor Site Plan Review allows the City to administratively review specific development activities to ensure that the requirements and purposes of these Land Development Regulations are met
2. **Applicability.** Minor Site Plan Review may be submitted for in lieu of Site Plan Review in the following circumstances. In any circumstance, if removal of a Landmark Tree is proposed, the Applicant shall submit for Site Plan Review (refer to I.4.K).
 - a. Alterations to an existing site or development, except for a single family home on a Lot, that does not also involve the construction of a new Principal or Accessory Structure, such as the following:
 - (1) Construction of driveways (up to 15% expansion of total square-footage).
 - (2) Construction of loading and/or parking areas (up to 15% expansion of total square-footage).
 - (3) Grading and/or removal or installation of landscaping (up to 15% expansion of total square-footage).
 - (4) Installation of lighting, not including an increase in mounting height, or an increase in foot candles at the property line.
 - (5) Installation of fences.
 - (6) Construction, repair, or modification of a Retaining Wall (refer to II.12.E).
 - b. Alteration to an existing Principal or Accessory Structure that results in a less than fifteen (15) percent change in the Gross Floor Area.
 - c. Construction of a single family home or alteration to the Front and Corner Side Facades of a single family home.
 - d. Open Space. Privately developed open space.
3. **Eligible Applicant.** Any Applicant may apply for Minor Site Plan Review.
 - a. If the proposed minor site plan also requires approval of a Modification or Variance (refer to I.4.H and/or I.4.O.), Applicant shall obtain

the Modification or Variance approval first. An Application for Variance or Modification may be submitted concurrently, so long as the Variance or Modification is approved first.

4. **Application.** The Applicant shall submit the following to the Code Administrator to constitute a Complete Application.
 - a. **Application Form and Fee.** The application, fee list, and submission deadline can be obtained at City Hall.
 - b. **Digital and Paper.** All Plats and plans shall be submitted in both digital and paper format.
 - c. **Plan Requirements.**
 - (1) A Plat of survey with metes and bounds legal description and property identification number.
 - (2) The site plan shall be at a scale of one (1) inch equal to or less than two hundred (200) feet and include the date and north arrow. It shall also detail the following.
 - (a) Names, addresses, and telephone numbers of the Applicant and developer.
 - (b) Existing and proposed development, including buildings, structures, points of access, parking or loading areas, landscaping, lighting, and public or private utilities.
 - (c) Dimensioned Lots and Property Lines, including those abutting the Parcel(s) in question, Right(s)-of-Way, and Easements, as well as names of the existing streets and the Zoning designation of the Lots.
 - (d) Existing natural conditions, including existing vegetation, trees, drainageways, flood elevation, and/or Area of Special Flood Hazard per Section III.11, slope, and other unique features.
 - (3) **Additional Plans and Information.** Unless deemed not applicable by the Code Administrator, Applicant shall also provide the following information.
 - (a) Tree Survey (refer to Tree Management Ordinance, Title 13, Chapter 4 of the Municipal Code)
 - (b) Tree Replacement Plan (refer to the Tree Management Ordinance, Title 13, Chapter 4 of the Municipal Code)
 - (c) Tree Protection Plan (refer to Tree Management Ordinance, Title 13, Chapter 4 of the Municipal Code)
 - (d) Grading Plan.
 - (e) Stormwater Management Plans (refer to III.7.A(6))
 - (f) Traffic Impact Study (refer to IV.2).
 - (g) Traffic Circulation Plan (on-site and off-site)

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- and vehicular and pedestrian).
- (h) Landscape Plan (refer to III.5 Landscape Standards).
- (i) Protection Zone Plan (refer to III.9.A(4)).
- (j) Existing and proposed grading plan and elevations, if appropriate, including the location of any existing and proposed Retaining Walls
- (k) Lighting plan.
- (l) Utility plans.
- (p) Soil Erosion and Sediment Plan, refer to III.9)
- (m) Signage, including entrance treatment plans.
- (n) Building Elevations and summary table of achieved Building Type Standards (refer to III.3 Building Type Standards).
- (o) Building Type Location Plan (if multiple single family residences are being reviewed for a Subdivision or development).
- (p) Setback Averaging Documentation, if seeking reduced Setbacks. Refer to III.3.A(4).
- (q) Statement of Intent. Describe the alterations to the existing site or development.

5. Review Criteria. The Minor Site Plan Review application shall be reviewed using the following criteria.
 - a. The proposed plan is in accordance with the purposes and intent of the Comprehensive Plan, the requirements of these Land Development Regulations, and the intent and requirements of other development policies of the City.
 - b. The proposed plan is designed to be consistent with the intent and planning criteria of the Zoning District (refer to III.1 Districts) and shall not adversely impact the intent and planning criteria of any adjacent Zoning District(s) or the Use and enjoyment of surrounding properties
 - c. The proposed plan is served by or provides essential public facilities, such as vehicular and

pedestrian access, open space, and services such as emergency services and utilities and these public facilities and services have sufficient capacity to the site.

6. Application Process. The following specific application process shall apply to all Minor Site Plan Review Applicants.
 - a. Submit Complete Application. Applicant shall submit the application, fee, and all required plans and documentation per I.4.J(4) to the Code Administrator.
 - (1) Application shall not be considered complete and eligible for review until all submission requirements have been met and a Complete Application has been received.
 - (2) Applicant may withdraw application twenty four hours or more in advance of any MPC meeting by submitting a request in writing to the Code Administrator; new form, fees, and plan sets are required for reapplication.
 - b. Administrative Review. The Code Administrator, City staff, and applicable review boards shall review the minor site plan in accordance with the criteria outlined in I.4.J(5).
 - (1) Staff shall review and render a decision on the plans no later than forty-five (45) days from receipt of the Complete Application.
 - (2) The forty-five (45) days may be extended with Applicant's written consent or if municipal offices are closed due to an unforeseen event during the forty-five (45) day period.
 - (3) Staff shall hear and decide the application, providing the conditions for approval in writing.
 - c. Expiration of Approval. Approval of the minor site plan shall lapse if permits for construction are not submitted for review and approval within twelve (12) months.
 - (1) Applicant may request an extension if done so in writing at least sixty (60) days prior to the end of the twelve (12) month period.

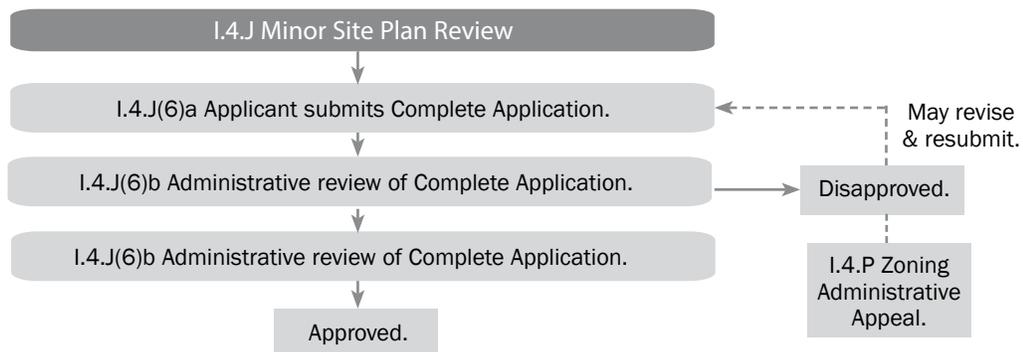


Figure 4.J-1. Minor Site Plan Review.

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- (2) Failure to act within the twelve (12) month period shall require a new minor site plan application, including form, fees, and plans.
- d. Appeal. If disapproved, Applicant may appeal decision per the Zoning Administrative Appeal process (refer to I.4.P).
- K. Site Plan Review.
1. Intent. Site Plan Review allows the City to review development activity to ensure that it meets with the requirements and purposes of these Land Development Regulations.
 2. Applicability. Site Plan Review is required in the following circumstances:
 - a. All new development, except:
 - (1) Construction of a single family home on a Lot.
 - (2) Construction of Accessory Structures unless otherwise stated in III.2.N Accessory Structure Standards.
 - (3) Development that qualifies for Minor Site Plan Review (refer to I.4.J).
 - b. Prior to the physical alteration of an existing Principal or Accessory structure or building to the extent that results in a greater than or equal to fifteen (15) percent change in the Gross Floor Area, or results in the need for a traffic study, except for a single family home on a Lot.
 - c. Development of a wireless transmission facility. Refer to III.14.
 - d. Exceptions to I.8 Nonconformance standards as detailed in I.8.E.
 - e. New or redevelopment of utilities requiring clearing, grading, or any other land disturbance.
 3. Eligible Applicant. The Owner of the subject property may apply for site plan approval provided the following.
 - a. A Preapplication Conference (I.4.A) was completed within the six (6) months prior to application.
 - b. If the proposed site plan requires approval of a Modification or Variance (refer to I.4.H and/or I.4.O.), Applicant shall obtain the Modification or Variance approval, prior to applying for Site Plan Review.
 4. Application. The Applicant shall submit the following to the Code Administrator to constitute a Complete Application.
 - a. Application Form and Fee. The application, fee list, and MPC Filing and Meeting Schedule can be obtained at City Hall.
 - b. Digital and Paper. All Plats and plans shall be submitted in both digital and paper format.
 - c. Tree Bank Contributions. Refer to the Tree Management Ordinance, Title 13, Chapter 4 of the Municipal Code.
- d. Plan Requirements.
- (1) A Plat of survey with metes and bounds legal description and property identification number.
 - (2) The site plan shall be at a scale of one (1) inch equal to or less than two hundred (200) feet and include the date and north arrow. It shall also detail:
 - (a) Names, addresses, and telephone numbers of the Applicant and developer.
 - (b) Existing buildings, structures, points of access, parking or loading areas, and public or private utilities.
 - (c) Dimensioned Lot and Property Lines, including those abutting the Parcel(s) in question, Right(s)-of-Way, and Easements, as well as names of the existing streets and the Zoning designation of the Lots.
 - (d) Existing natural conditions, including existing vegetation, trees, drainageways, flood elevation and/or Area of Special Flood Hazard per Section III.11, slope, and other unique features.
 - (e) Proposed private and Public Improvements, including but not limited to Building Types, Accessory Structures, points of access, parking and loading areas, Easements, Right(s)-of-Way, and open space.
 - (3) Additional plans required, unless deemed not applicable by the Code Administrator include:
 - (a) Architectural elevations (all Facades) for all structures and buildings.
 - (b) Tree Survey (refer to Tree Management Ordinance, Title 13, Chapter 4 of the Municipal Code)
 - (c) Tree Replacement Plan (refer to Tree Management Ordinance, Title 13, Chapter 4 of the Municipal Code)
 - (d) Tree Protection Plan (refer to Tree Management Ordinance, Title 13, Chapter 4 of the Municipal Code)
 - (e) Stormwater Management Plans (refer to III.7.A(6))
 - (f) Protection Zone Plan (refer to III.9.A(4)).
 - (g) Traffic Impact Study (refer to IV.2).
 - (h) Traffic Circulation Plan (on-site and off-site and vehicular and pedestrian).
 - (i) Landscape Plan (refer to III.5 Landscape Standards).
 - (j) Lighting plan.
 - (k) Parking Plan (refer to III.6.A(4)).
 - (l) Utility plans.
 - (m) Signage, including entrance treatment plans.

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- (n) Qualifying Features Delineation (refer to II.11.B).
 - (o) Conservation Area Map (refer to III.8.B(7))
 - (p) Restoration and Management Plan, to be concurrently approved by the BOC (refer to III.8.C).
 - (q) Soil Erosion and Sediment Plan, refer to III.9)
 - (r) Statement of Intent. Describe the intended Use of the proposed development, including public and private Uses, the number of new Lots per Block, the number of new residential units by type, the new commercial or industrial Uses by square feet, number of employees and other Users, number of parking spaces provided, and quantity (acreage) of open space.
5. Review Criteria. The Site Plan Review application shall be reviewed using the following criteria.
- a. The proposed plan is in accordance with the purposes and intent of the Comprehensive Plan, the requirements of these Land Development Regulations, and the intent and requirements of other development policies of the City.
 - b. The proposed plan is designed to be consistent with the intent, character, and planning criteria of the Zoning District (refer to III.1 Zoning Districts) in which it will be located.
 - c. The proposed plan shall not adversely impact the intent and planning criteria of any adjacent Zoning District(s) or the Use (refer to III.1 Zoning Districts and III.2 Uses) and enjoyment of surrounding properties.
- d. The proposed plan is served by or provides essential public facilities, such as vehicular and pedestrian access, open space, and services such as emergency services and utilities and these public facilities and services have sufficient capacity to the site.
- e. The proposed plan is designed with regard to preserving the unique environment and topography of the city, including areas of slope, existing vegetation, and natural drainage ways.
6. Application Process. The following specific application process shall apply to all Site Plan Review Applicants.
- a. Submit Complete Application. Applicant shall submit the application, fee, and all required plans and documentation per I.4.K(4) to the Code Administrator according to the MPC Filing and Meeting Schedule which can be obtained at City Hall.
 - (1) Applicant shall simultaneously submit plans to the agencies listed on the application, including police, fire, county board of education, and appropriate utility companies.
 - (2) Application shall not be considered complete and eligible for docketing for any board or the MPC until all submission requirements have been met and a Complete Application has been received.
 - (3) Applicant may withdraw application twenty four hours or more in advance of any MPC meeting by submitting a request in writing to the Code Administrator; new form, fees, and

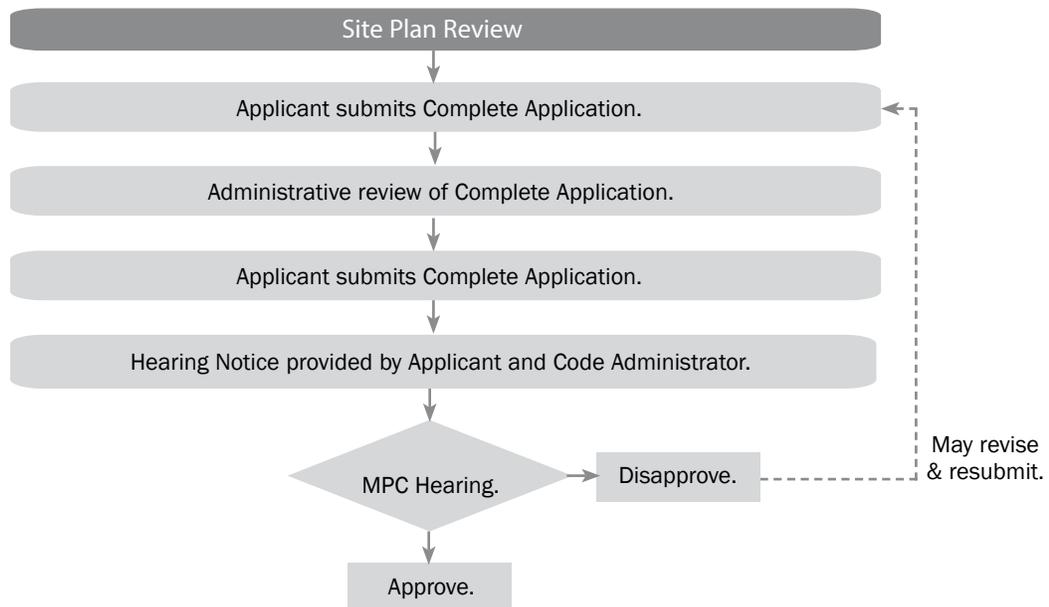


Figure 4.K-1. Site Plan Review.

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plan sets are required for reapplication.

- b. Administrative Review. The Code Administrator, City staff, and applicable review boards shall review the plan sets using the criteria outlined in I.4.K(5). The Code Administrator shall complete a report with recommendations for the boards and MPC.
 - c. Other Board Review. The Design Review Commission (DRC), Natural Resources Board (NRB), and Parks and Recreation Board (PRB), if applicable shall review the site plan application according to the provisions in these Land Development Regulations.
 - (1) DRC shall review the application utilizing the criteria outlined in I.4.K(5) and I.4.Q(5).
 - (2) NRB shall review the application utilizing the criteria in II.11 and III.4, if Restoration Management Plan, Tree Bank contribution, or Conservation Areas are included.
 - (3) PRB shall review the application for public projects utilizing the criteria in these Land Development Regulations referencing the Recreation Master Plan.
 - (4) DRC and NRB, and PRB as may be applicable, shall provide their recommendation for approval, approval with conditions, or disapproval of the application to the MPC.
 - d. MPC Consideration and Action. The MPC shall hold a public hearing to consider the site plan application and the recommendations of other boards and commissions.
 - (1) Hearing Notice. Notice shall be provided through publication, mailing, and posted sign. Refer to IV.1.D. Notice Specifications for detailed requirements.
 - (2) MPC Hearing. The MPC shall review the Code Administrator's report, other board recommendation (if applicable), and the application utilizing the criteria detailed in I.4.K(5).
 - (a) The MPC shall review and consider the site plan within sixty (60) days of submittal of a complete application.
 - (b) MPC shall approve, approve with conditions, or disapprove the site plan no later than sixty (60) days from its initial consideration of the application.
 - (c) The action period may be extended with the Applicant's written consent or until the regularly scheduled MPC meeting subsequent to the period, if municipal offices are closed due to an unforeseen event during the action period.
 - (d) Prior to the close of the public meeting, MPC may hold a matter under advisement or defer a decision until the next regularly scheduled meeting.
 - e. Expiration of Approval. Approval of the site plan shall lapse if permits for construction are not submitted for review and approval within twelve (12) months or if an applicable development contract (if required) expires.
 - (1) Applicant may request an extension if done so in writing at least sixty (60) days prior to the end of the twelve (12) month period.
 - (2) Failure to act within the twelve (12) month period shall require a new site plan application, including form, fees, and plans.
 - f. Action Upon Approval.
 - (1) If Public or Common Improvements are required for development of the site plan or certain private improvements are required per the conditions of approval, a development contract per I.5. may be required by the City.
 - (2) If a development contract is not required by the City, compliance with the conditions of approval shall be a condition of the Certificate of Compliance.
 - (3) Applicant shall provide copies of the approved site plan for filing within City Hall.
7. Procedure for Minor Adjustments. Minor Adjustments to an approved site plan may be permitted by the Code Administrator, if the adjustments are within the scope and intent of the original approval.
- a. Applicant shall submit a revised site plan and letter detailing the changes to the Code Administrator.
 - b. After review, the Code Administrator shall notify the Applicant if the revisions are considered Minor Adjustments and if they are approved. Minor Adjustments may include:
 - (1) Modification in the location of a structure(s) by not more than ten (10) feet, assuming all Building Type requirements (refer to III.3 Building Type Standards) are still met.
 - (2) Modification in the location of a street or Access Point by not more than ten (10) feet, assuming all Building Type and Street Type requirements (refer to III.3. II.1, and II.8) are still met.
 - (3) Modification in the location of any open space, provided that all Open Space Standards (refer to III.4) are still met.
 - (4) Modification of the final grade by not more than ten (10) percent of the approved grade.
 - (5) Alteration in the type of landscaping provided, assuming all Landscape Screening requirements (refer to III.5) are still met.
 - c. If the revisions are deemed to be Major Adjustments to the approved site plan, the

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- Applicant shall seek Site Plan Review (refer I.4.K) approval for the new plan, including a new application (including a new application form, fees, and plan sets).
- d. Appeal. Applicant may appeal the Code Administrator’s decision regarding Minor Adjustments through the BOA per the Zoning Administrative Appeal process (I.4.P).
- L. Rezoning.
1. Intent. The Rezoning process allows the City to review requests for changes in a Lot’s Zoning District designation.
 2. Applicability. A Rezoning changes the Zoning District (refer to III.1) designation allowing a Parcel to be utilized or developed for a purpose or Use not permitted under the current designation.
 3. Eligible Applicant. An owner may apply for Rezoning provided that a Preapplication Conference (I.4.A) was completed within the six (6) months prior to application. The Code Administrator or the MPC, on behalf of any City department or the BOC, may also make an application.
 4. Application. The Applicant shall submit the following

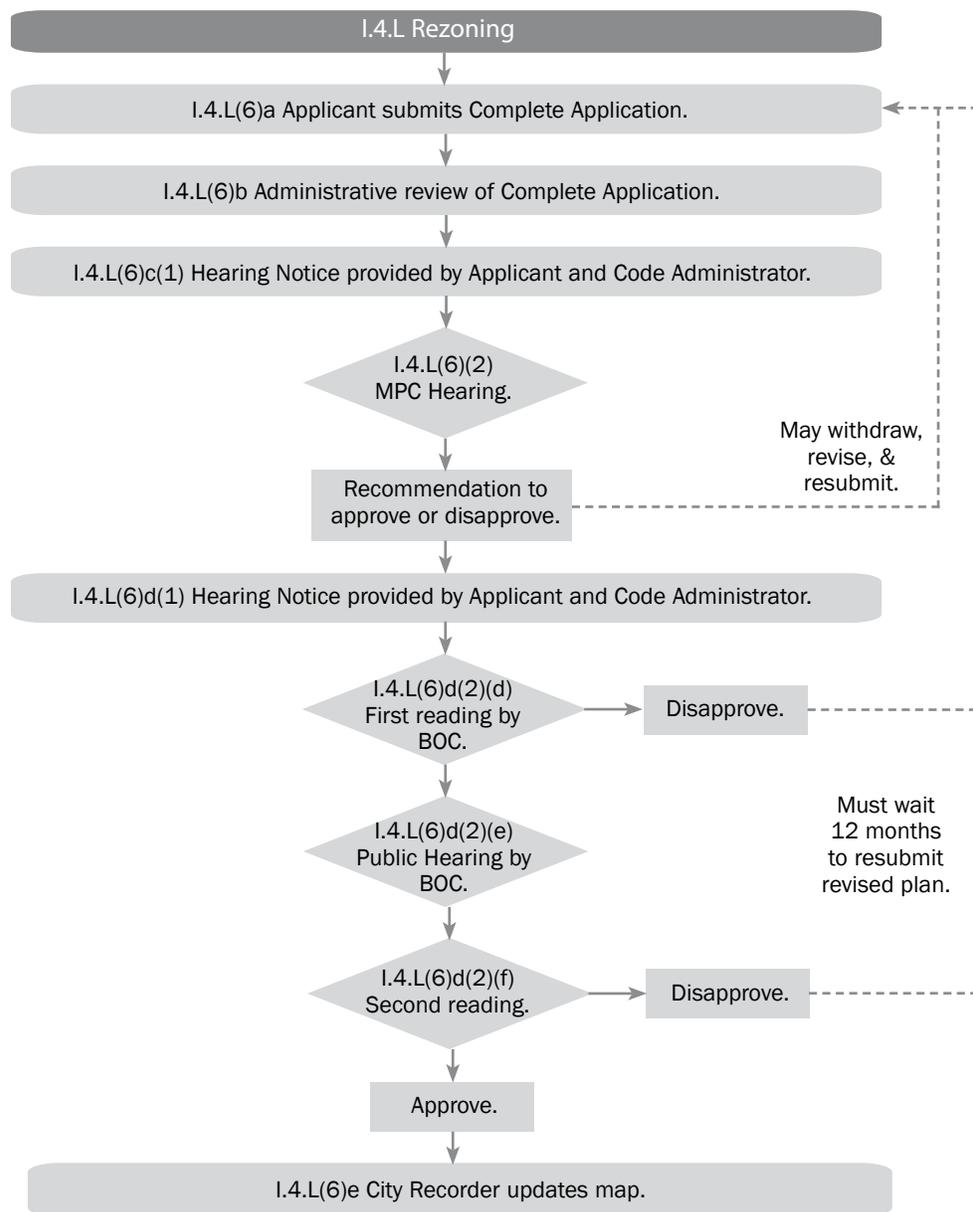


Figure 4.L-1. Rezoning.

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- to the Code Administrator to constitute a Complete Application.
- a. Application Form and Fee. If the Applicant is not the City, an application shall be completed and fees paid. The application, fee list, MPC meeting schedule, and submission deadline can be obtained at City Hall.
 - b. Digital and Paper. All Plats and plans shall be submitted in both digital and paper format.
 - c. Rezoning Plan Requirements.
 - (1) A Plat of survey with metes and bounds legal description and property identification number.
 - (2) The plan shall be at a scale of one (1) inch equal to or less than two hundred (200) feet and shall include the date and north arrow, as well as the following information:
 - (a) Present and proposed zoning designation and proposed Use of each Parcel in question.
 - (b) The recommended land Use classification contained in the adopted Land Use Plan of the City.
 - (c) Map of proposed Building and Open Space Types (refer to III.3-4), Conservation Area (refer III.8), Streamside Buffers (refer to III.12) per Lot.
 - d. Additional Requirements. Applicant shall provide the following unless determined unnecessary by the Code Administrator.
 - (1) Traffic Impact Study (refer to IV.2).
 - (2) Vicinity Map. A vicinity map showing the subject property and all other Parcels, buildings, structures, Rights-of-Way, and Zoning Districts within one thousand (1,000) feet of the outer boundary of the Parcel under consideration.
 - (3) When in conjunction with Preliminary Plat, all submittals for Preliminary Plat are required.
5. Review Criteria. The application for Rezoning a Parcel shall be reviewed utilizing the following criteria:
- a. The requested change is in accordance with the intent and purpose of the City's Comprehensive Plan and other development policies of the City or, if not, additional attention is given to the reasons for deviating from the intent and purposes of these City policies.
 - b. The application is consistent with the intent and standards of these Land Development Regulations, including any existing, applicable plat restrictions and Zoning District and Use regulations (refer to III.1 Districts and III.2 Uses) requested; and the rezoning shall not adversely impact any adjacent Zoning Districts.
- c. No one property Owner or small group of property Owners shall benefit materially from the change to the detriment of the general public.
 - d. The application is in the interest of the public health, safety, and welfare.
 - e. Adequate public infrastructure exists to serve the full range of Uses permitted and conditionally permitted in the proposed Zoning District.
 - f. In addition, a rezoning request may be considered inappropriate to the context and/or premature, if any of the following are expected by the City at the time of the application:
 - (1) The size of the expected land Uses are not considered supportable in the near future or within the applicable planning horizon, when considering traffic levels and patterns, population, and other measures for the applicable market area for the land Uses indicated.
 - (2) The impact on natural resources is anticipated to substantially deviate from the recommendations of the Comprehensive Plan or from the intent of these Land Development Regulations.
 - (3) The resulting Subdivision design and mix of building types which would be congruent with the proposed Zoning district, are considered out of context according to the Neighborhood Types Map (refer to II.1.B), or are considered out of context with existing and proposed developments in the nearby general area, where such existing area has been predominantly built up.
6. Application Process. The following specific application process shall apply to all Rezoning Applicants.
- a. Submit Complete Application. Applicant shall submit the application, fee, and all required plans and documentation per I.4.L(4) to the Code Administrator according to the MPC Filing and Meeting Schedule which can be obtained at City Hall.
 - (1) Application shall not be considered complete and eligible for docketing for the MPC until all submission requirements have been met and a Complete Application has been received.
 - (2) Applicant may withdraw application twenty four hours or more in advance of any MPC or BOC meeting by submitting a request in writing to the Code Administrator; new form, fees, and plan sets are required for reapplication.
 - b. Administrative Review. The Code Administrator and City staff shall review the Rezoning application in accordance with the criteria outlined in I.4.L(5) and

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shall complete a report with recommendations for the MPC.

c. MPC Hearing. The MPC shall hold a hearing to facilitate public comment on the Rezoning application.

(1) Hearing Notice. Notice shall be provided through publication, mailing, and physical posting of a sign. Refer to IV.1.D. Notice Specifications for detailed requirements.

(2) MPC Review and Action. The MPC shall consider the Code Administrator's report and the application utilizing the criteria detailed in I.4.L(5).

(a) MPC shall recommend approval or disapproval of the application no later than seventy-five (75) days from receipt of the Complete Application.

(b) Prior to the close of the public meeting, MPC may hold a matter under advisement or defer a decision until the next regularly scheduled meeting.

(c) The findings of the MPC shall be enumerated in the minutes and included in the report to the BOC.

d. BOC Hearing. The BOC shall hold a public hearing on the Rezoning application.

(1) Hearing Notice. Notice shall be provided through publication and mailing. Refer to IV.1.D. Notice Specifications for detailed requirements.

(2) BOC Consideration and Action. The BOC shall consider the application, Code Administrator's report, MPC findings, and hearing testimony utilizing the criteria in I.4.L(5). However, the decision to amend the Zoning Map is a matter committed to the legislative discretion of the BOC.

(a) BOC shall approve, approve with conditions, or disapprove the application no later than ninety (90) days from the MPC's recommendation.

(b) First Discussion. The BOC shall review the application and determine whether to docket for the next meeting.

(c) First Reading. The BOC shall review the application and either disapprove the amendment or continue the process.

(d) Public Hearing. The BOC shall hold a public hearing to gather public comment.

(e) Second Reading. The BOC shall review the application through a second reading.

(f) Prior to the close of the public meeting, BOC may hold a matter under advisement or defer a decision until the next regularly scheduled meeting.

(g) If the MPC recommended disapproval of the Rezoning application, a favorable vote from a Supermajority of the entire membership of the BOC is required to approve the amendment.

e. Action Upon Approval. The City Recorder shall update the Zoning Map noting the ordinance number and effective date of such amendment.

f. Action Upon Disapproval. If disapproved, a new application (including a new application form, fees, and plan sets) may only be submitted after a twelve (12) month period, unless the application involves a different proposed Zoning designation.

M. Amendment to Zoning Regulations.

1. Intent. The process to amend the Zoning Regulations allows the City to review and revise the Zoning Regulations from time to time.

2. Applicability. All the regulations and provisions stated in the graphics, tables, and text of the Zoning Regulations may be amended, supplemented, or changed.

3. Eligible Applicant. An Amendment may be initiated by the Code Administrator, the MPC, BOA, BOC, or any person with an actual interest.

4. Application. The Applicant shall submit the following to the Code Administrator to constitute a Complete Application.

- a. Application Form and Fee. Interested persons shall submit an application and pay all fees. The application, fee list, and MPC Filing and Meeting Schedule can be obtained at City Hall.
- b. Digital and Paper. All proposed amendments shall be submitted in both digital and paper format.
- c. Proposed Amendment. Applicant shall submit the proposed amendment language to the Code Administrator. Code Administrator and City staff, during their review, may recommend revisions.

5. Review Criteria. The application for an Amendment shall be reviewed utilizing the following criteria.

- a. The proposed Amendment is in accordance with the intent and purposes of the Comprehensive Plan and other development policies of the City or, if not, additional attention is given to the reasons for deviating from these City policies.
- b. The application is consistent with the intent and standards of these Land Development Regulations.
- c. No one property Owner or small group of property Owners shall benefit materially from the change to the detriment of the general public.
- d. The application is in the interest of the public health, safety, and welfare.

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6. Application Process. The following specific application process shall apply to all Amendment applications.
- a. Submit Complete Application. Applicant shall submit the application, fee, and all required plans and documentation per I.4.M(4) to the Code Administrator according to the MPC meeting schedule which can be obtained at City Hall. If amendment process is initiated by the City, no application is required.
 - (1) Application shall not be considered complete and eligible for docketing for the MPC until all

- submission requirements have been met and a Complete Application has been received.
- (2) Applicant may withdraw application twenty four hours or more in advance of any MPC or BOC meeting by submitting a request in writing to the Code Administrator; new form, fees, and plan sets are required for reapplication.
- b. Administrative Review. The Code Administrator and City staff shall review the application in accordance with the criteria outlined in I.4.M(5) and shall complete a report with recommendations for the MPC no later than forty-five (45) days

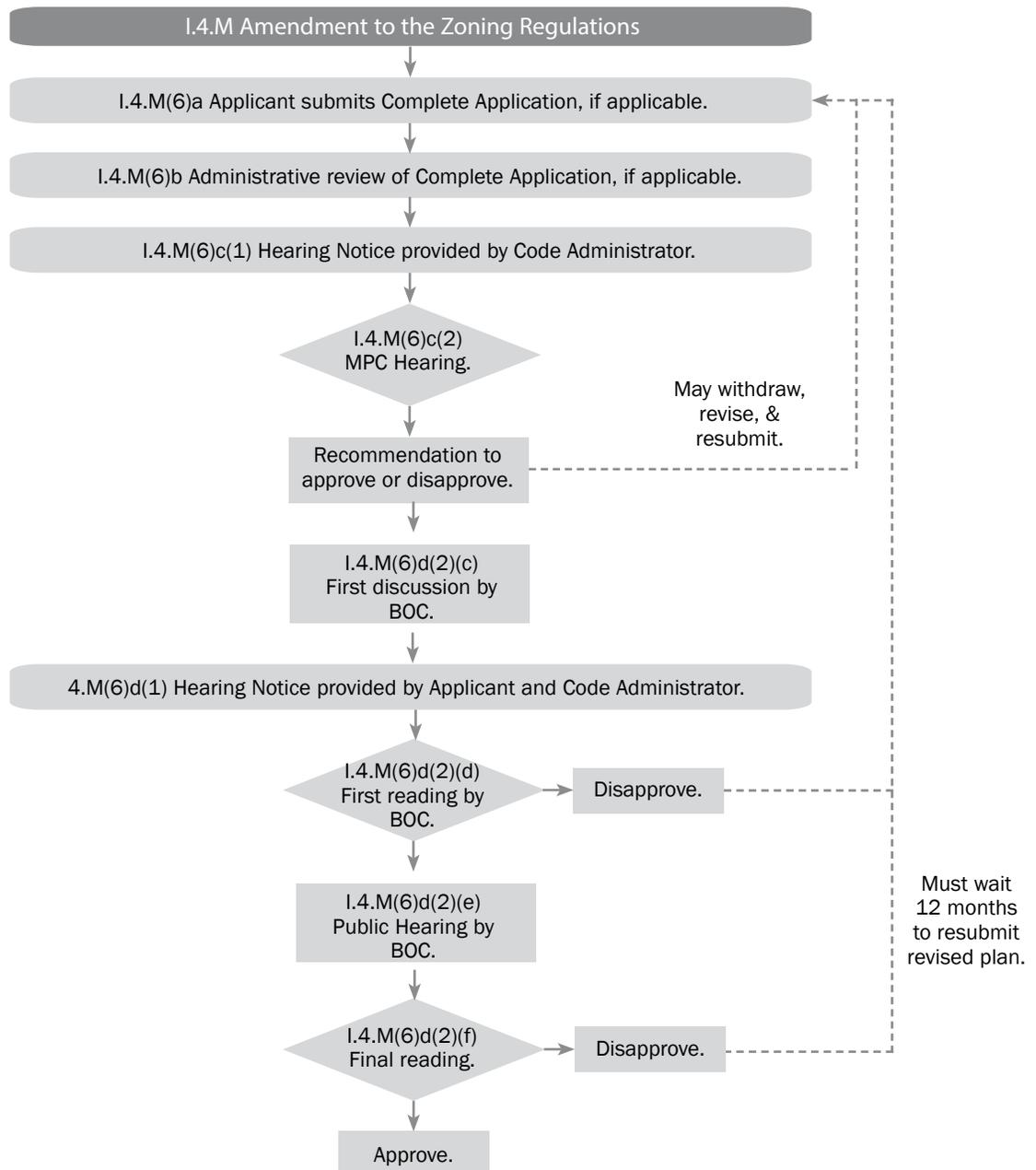


Figure 4.M-1. Zoning Regulations Amendment.

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from receipt of the Complete Application.

- c. MPC Hearing. The MPC shall hold a hearing to review the proposed Amendment.
 - (1) Hearing Notice. Notice shall be provided through a publication. Refer to IV.1.D. Notice Specifications for detailed requirements.
 - (2) MPC Review and Action. The MPC shall consider the Code Administrator's report and the application utilizing the criteria detailed in I.4.M(5).
 - (a) MPC shall recommend approval or disapproval of the proposed Amendment no later than ninety (90) days from receipt of the Complete Application.
 - (b) The ninety (90) day action period may be extended with the Applicant's written consent or until the regularly scheduled MPC meeting subsequent to the ninety (90) period, if municipal offices are closed due to an unforeseen event during the action period..
 - (c) Prior to the close of the public hearing, MPC may hold a matter under advisement or defer a decision until the next regularly scheduled meeting.
 - (d) The findings of the MPC shall be enumerated in the minutes and included in the report to the BOC.
 - d. BOC Hearing. The BOC shall hold a public hearing to review the review the proposed amendment.
 - (1) Hearing Notice. Notice shall be provided through a publication. Refer to IV.1.D. Notice Specifications for detailed requirements.
 - (2) BOC Consideration and Action. The BOC shall consider the proposed Amendment, Code Administrator's report, MPC findings, and hearing testimony utilizing the criteria in I.4.M(5). However, the decision to amend the text of the Zoning Regulations is a matter committed to the legislative discretion of the BOC.
 - (a) BOC shall approve, approve with conditions, or disapprove the application no later than ninety (90) days from the MPC's recommendation.
 - (b) The ninety (90) day action period may be extended with the Applicant's written consent.
 - (c) First Discussion. The BOC shall review the application and determine whether to docket for the next meeting.
 - (d) First Reading. The BOC shall review the application.
 - (e) Public Hearing. The BOC shall hold a public hearing to gather public comment
 - e. Action Upon Disapproval. If disapproved, a new application (including a new application form, fees, and plan sets) may only be submitted after a twelve (12) month period, unless the application involves a different amendment proposal.
- N. Conditional Use Permit.
 1. Intent. A Conditional Use Permit allows the City to review requests to allow Uses or development types designated within these Land Development Regulations as potential Conditional Uses to be permitted in certain locations, under certain conditions, based on an evaluation of the potential negative impacts associated with the Use.
 - a. Each Conditional Use Permit application possesses characteristics of such unique and distinct form that each specific application shall be considered on an individual case.
 - b. The granting of a Conditional Use Permit does not negate the requirements for any other permit or the need to satisfy any other requirement of these Land Development Regulations.
 2. Applicability. In order that these Land Development Regulations be flexible and reasonable, certain Uses (refer to III.2 Uses) and development types (refer to II.1-7 Neighborhood Types and III.3 Building Types) are designated as conditional. In order to be developed, these require a permit granted by the BOA and shall adhere to all applicable standards, in addition to all other requirements of these Land Development Regulations.
 3. Eligible Applicant. An Applicant may apply for a Conditional Use Permit, provided that a Preapplication Conference (I.4.A) was completed within the six (6) months prior to application.
 4. Application. The Applicant shall submit the following to the Code Administrator to constitute a Complete Application.
 - a. Application Form and Fee. The application,

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- fee list, BOA meeting schedule, and submission deadline can be obtained at City Hall.
 - b. Digital and Paper. All Plats and plans shall be submitted in both digital and paper format.
 - c. Plan Requirements.
 - (1) A Plat of survey with metes and bounds legal description and property identification number.
 - (2) The plan shall be at a scale of one (1) inch equal to or less than two hundred (200) feet and shall include the date and north arrow, as well as the following information:
 - (a) Present and proposed Zoning District and Use of each Parcel in question.
 - (b) The recommended land Use classification contained in the adopted Land Use Plan of the City.
 - (c) Exhibits required to satisfy the Conditional Use or other applicable standards as outlined in III.2 Uses, II.1-7 Neighborhood Types, or III.3 Building Types.
 - d. Additional Requirements. Applicant shall provide the following.
 - (1) Building Type information, including proposed square footage and height.
 - (2) Traffic Impact Study (refer to IV.2), if traffic is to be analyzed as a condition of the Use. (refer to III.2 Uses).
 - (3) Vicinity Map. A vicinity map showing the subject property and all other Parcels, buildings, structures, Rights-of-Way, and Zoning Districts within one thousand (1,000) feet of the outer boundary of the Parcels under consideration, or a minimum of three (3) Owners, whichever is greater
5. Review Criteria. The application shall be reviewed using the following criteria.
- a. The proposed development is in accordance with the intent and purpose of the Comprehensive Plan and other development policies of the City
 - b. General public safety, health, and welfare are not negatively impacted by its approval.
 - c. The character of the neighborhood and district in which the Conditional Use is requested shall not be negatively impacted from the Applicant's proposal; its location; intensity; and the height of its buildings, walls, fences, and other structures.
 - d. The proposed development is consistent with the intent and planning criteria of the district in which it is proposed.
 - e. All criteria detailed in III.2 Uses, II.1-7 Neighborhood Types, and III.3 Building Types that pertain to the proposed development are satisfied.
 - f. The operations of the proposed development shall not be environmentally objectionable to nearby properties by reason of noise, fumes, pollution, vibration, dust, traffic, signage, or lights to an extent that is more than would be the operations of any Use or activity permitted by right for that district where the Conditional Use is proposed.
6. Application Process. The following specific application process shall apply to all Conditional Use Permit Applicants.
- a. Submit Complete Application. Applicant shall submit the application, fee, and all required plans and documentation per I.4.N(4) to the Code Administrator according to the BOA meeting

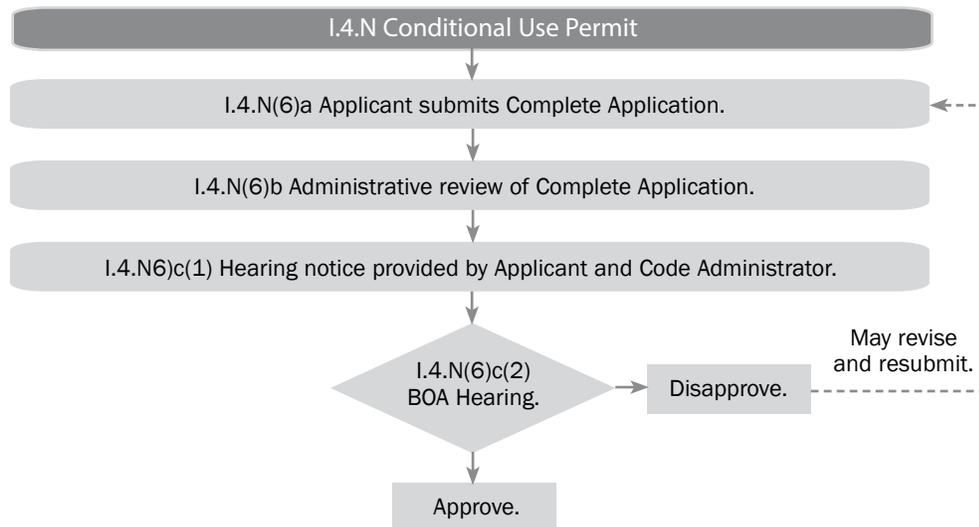


Figure 4.N-1. Conditional Use Permit.

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schedule which can be obtained at City Hall.

- (1) Application shall not be considered complete and eligible for docketing for the BOA until all submission requirements have been met and a Complete Application has been received.
 - (2) Applicant may withdraw application twenty four hours or more in advance of any BOA meeting by submitting a request in writing to the Code Administrator; new form, fees, and plan sets are required for reapplication.
- b. Administrative Review. The Code Administrator and City staff shall review the Conditional Use Permit application in accordance with the criteria outlined in I.4.N(5) and shall complete a report with recommendations for the BOA no later than thirty-five (35) days from receipt of the Complete Application.
- c. BOA Hearing. The BOA shall hold a public hearing to review the proposed application.
- (1) Hearing Notice. Notice shall be provided through publication, mailing, and physical posting of a sign. Refer to IV.1.D. Notice Specifications for detailed requirements.
 - (2) BOA Consideration and Action. The BOA shall consider the Code Administrator's report and the application utilizing the criteria detailed in I.4.N(5).
 - (a) BOA shall approve, approve with conditions, or disapprove the Conditional Use Permit application no later than seventy-five (75) days from receipt of the Complete Application.
 - (b) The seventy-five (75) day action period may be extended with the Applicant's written consent or until the regularly scheduled BOA meeting subsequent to the action period, if municipal offices are closed due to an unforeseen event during the action period.
 - (c) Prior to the close of the public meeting, BOA may hold a matter under advisement or defer a decision until the next regularly scheduled meeting.
 - (d) The BOA shall hear and decide the Conditional Use Permit.
 - (e) The BOA may impose such conditions and restrictions upon the approval of the application as may be necessary to reduce or minimize the injurious effect of such variation upon adjacent properties and/or to better carry out the general intent of these Land Development Regulations.
 - (3) Action Upon Approval. All approved plans, conditions, restrictions, and requirements made part of the approval by the BOA shall run with the land and the Conditional Use permitted for the land shall conform to same at all times.
- d. Expiration of Approval. The Applicant is required to begin construction of the approved Conditional Use within twelve (12) months of BOA approval and/or to fully establish said Use within twenty-four (24) months of approval.
- (1) Failure to begin construction on the approved Use or to establish the Use within the prescribed time period shall result in an expiration of the approval and the permit is no longer valid.
 - (2) The Applicant may request an extension of up to six (6) months, if requested in writing to the Code Administrator at least sixty (60) days prior to the expiration of the prescribed time period.
- O. Zoning Variance.
1. Intent. The Zoning Variance process allows the City flexibility in the application of the Zoning Regulations, if certain criteria are met.
 2. Applicability. A Variance may be requested to relieve a difficulty or hardship from:
 - a. Exceptional narrowness, shallowness, or shape of a Lot at the time of enactment of these Land Development Regulations.
 - b. Exceptional topography or other extraordinary and exceptional situation or condition of such Lot.
 3. Eligible Applicant. Any Applicant may apply for a Zoning Variance from the Zoning Regulations of these Land Development Regulations.
 4. Application. The Applicant shall submit the following to the Code Administrator to constitute a Complete Application.
 - a. Application Form and Fee. The application, fee list, BOA meeting schedule, and submission deadline can be obtained at City Hall.
 - b. Digital and Paper. All Plats and plans shall be submitted in both digital and paper format.
 - c. Plan Requirements.
 - (1) A Plat of survey with metes and bounds legal description and property identification number.
 - (2) The plan illustrating the variance request(s) shall be at a scale of one (1) inch equal to or less than two hundred (200) feet and shall include the date and north arrow.
 5. Review Criteria. The application for a Zoning Variance shall be reviewed utilizing the following sets of criteria.
 - a. The strict application of the Zoning Regulations results in peculiar and exceptional practical difficulties to or exceptional or undue hardship upon the Applicant.

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- b. If granted, relief shall not cause substantial detriment to the public good and without substantially impairing the intent and purposes of the Comprehensive Plan and these Land Development Regulations.
 - c. Financial disadvantage to the Owner is not proof of hardship within the purpose of Zoning.
 - d. The BOA shall not grant the variance unless it makes findings based upon evidence presented as follows:
 - (1) Physical or Topographical Conditions. The particular physical surroundings, shape, or topographic conditions of the specific property involved would result in a particular hardship upon the Owner as distinguished from a mere inconvenience, if the strict application of these Land Development Regulations were carried out.
 - (2) Relationship to other Properties within the District. The conditions upon which the Application is based would not be applicable, generally, to other property within the same district.
 - (3) Permitted Activity. The variance shall not authorize activities in a Zoning district other than those permitted by these Land Development Regulations.
 - (4) Financial Implications - The variance is not based solely on financial returns.
 - (5) Self-created Hardship. The alleged difficulty or hardship has not been created by any person having an interest in the property after the effective date of these Land Development Regulations.
 - (6) Special Privilege. Granting the variance shall not confer on this Applicant any special privilege that is denied by these Land Development Regulations to other lands, structures, or building in the same district.
 - (7) Minimum Variance Required. The variance is the minimum variance that will make possible the reasonable Use of the land, building, or structure.
 - (8) Effect on Public Welfare. The variance shall not be detrimental to the public welfare or injurious to other property or improvements in the area in which property is located.
 - (9) Effect on Adjacent Properties. The variance shall not impair an adequate supply of light and air to adjacent property, substantially increase the congestion in the public streets, increase the danger of fire, endanger the public safety, or substantially diminish or impair property values within the area.
 - (10) Nonconforming Status. The variance is not based on the presence of nonconforming Use of neighboring lands, structures or buildings in the same district.
 - (11) Prohibited Uses. Under no circumstances shall the BOA grant a variance to allow a Use not permissible under the terms of these Land Development Regulations in the district involved, or any Use expressly or by implication prohibited by the terms of these Land Development Regulations in said district.
6. Application Process. The following specific application process shall apply to all Zoning Variance Applicants.
- a. Submit Complete Application. Applicant shall submit the application, fee, and all required plans and documentation per I.4.O(4) to the Code Administrator according to the BOA meeting schedule which can be obtained at City Hall.

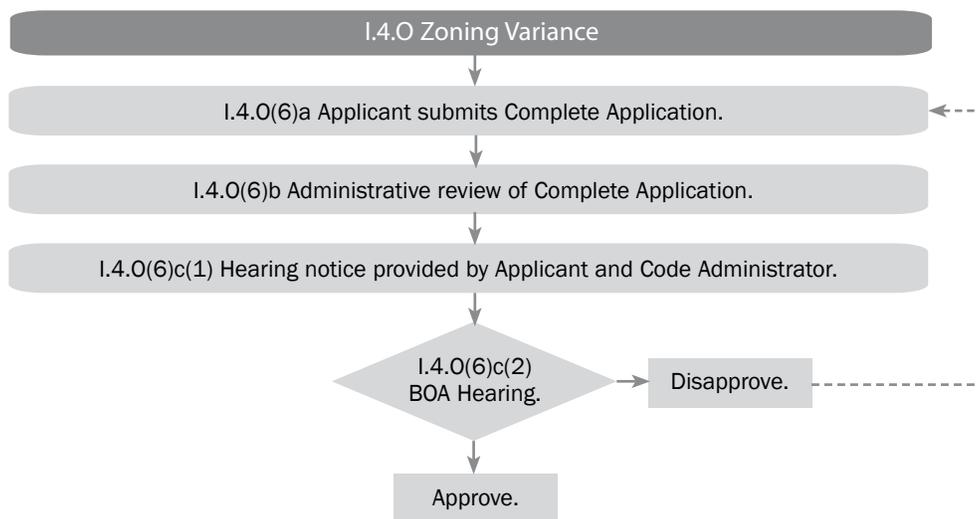


Figure 4.O-1. Zoning Variance.

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- (1) Application shall not be considered complete and eligible for docketing for the BOA until all submission requirements have been met and a Complete Application has been received.
 - (2) Applicant may withdraw application twenty four hours or more in advance of any BOA meeting by submitting a request in writing to the Code Administrator; new form, fees, and plan sets are required for reapplication.
 - (3) Applicant may not submit additional materials after submittal of the Complete Application or the application is rejected and the Applicant shall schedule a new Pre-Application conference to restart the process.
- b. Administrative Review. The Code Administrator, City staff, and applicable review boards shall review the Zoning Variance application in accordance with the criteria outlined in I.4.O(5) and shall complete a report with recommendations for the BOA.
- c. BOA Hearing. The BOA shall hold a public hearing to review the proposed Variance.
- (1) Hearing Notice. Notice shall be provided through publication, mailing, and physical posting of a sign. Refer to IV.1.D. Notice Specifications for detailed requirements.
 - (2) BOA Consideration and Action. The BOA shall consider the Code Administrator's report and the application utilizing the criteria detailed in I.4.O(5).
 - (a) BOA shall approve, approve with conditions, or disapprove the Zoning Variation application no later than seventy-five (75) days from receipt of the Complete Application.
 - (b) The action period may be extended with the Applicant's written consent or until the regularly scheduled BOA meeting subsequent to the ninety (90) period, if municipal offices are closed due to an unforeseen event during the action period..
- (c) Prior to the close of the public meeting, BOA may hold a matter under advisement or defer a decision until the next regularly scheduled meeting.
- (d) The BOA shall hear and decide the application.
- (e) The BOA may impose such conditions and restrictions upon the approval of the application as may be necessary to reduce or minimize the injurious effect of such variation upon adjacent properties and/or to better carry out the general intent of these Land Development Regulations.
- P. Zoning Administrative Appeal.
- 1. Intent. The Zoning Administrative Appeal process allows the review of any decision made by the Code Administrator or other City official in carrying out or enforcing the Zoning Regulations.
 - a. This process is provided as a safeguard against arbitrary, ill-considered, or erroneous administrative decisions, and to provide a local procedure for their review and correction.
 - b. This process is not intended as a means to subvert either the clear purposes, intent, or meaning of these Land Development Regulations or the rightful authority of the Code Administrator to enforce these regulations.
 - c. BOA, in reviewing these cases, shall give all proper deference to the spirit and language of these Land Development Regulations and to the reasonable interpretations of those charged with its administration.
 - 2. Applicability. An Applicant may appeal to the BOA a decision made by the Code Administrator or other

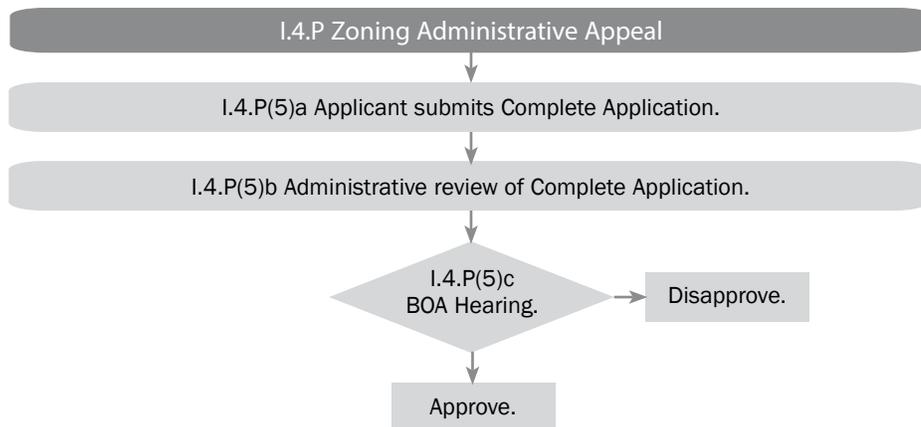


Figure 4.P-1. Zoning Administrative Appeal.

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City official in carrying out or enforcing the Zoning Regulations.

- a. Unless otherwise specified in this Article, Appeal of any other decisions made pursuant to these Land Development Regulations shall be made to a court of record per the laws of the State of Tennessee.
 3. Eligible Applicant. Any Applicant, Aggrieved Party with an actual interest, department, board, or office of the City, or their authorized representative may request a Zoning Administrative Appeal within thirty (30) days of the Code Administrator's or other City official's decision.
 4. Application. The Applicant shall submit the following to the Code Administrator to constitute a Complete Application.
 - a. Application Form and Fee. The application, fee list, and BOA meeting schedule and submission deadline can be obtained at City Hall.
 - b. Digital and Paper. All Plats and plans shall be submitted in both digital and paper format.
 - c. Plan Requirements. Resubmit all Plats and plans reviewed during the initial action.
 5. Application Process. The following specific application process shall apply to all Zoning Administrative Appeal Applicants.
 - a. Submit Complete Application. Applicant shall submit the application, fee, and all required plans and documentation per I.4.P(4) to the Code Administrator according to the BOA meeting schedule which can be obtained at City Hall.
 - (1) Application shall not be considered complete and eligible for docketing for the BOA until all submission requirements have been met and a Complete Application has been received.
 - (2) Applicant may withdraw application twenty four hours or more in advance of any BOA meeting by submitting a request in writing to the Code Administrator; new form, fees, and plan sets are required for reapplication.
 - b. Administrative Review. The Code Administrator and City staff shall review the Zoning Administrative Appeal application and shall complete a report with recommendations for the BOA.
 - c. BOA Consideration and Action. The BOA shall review the Code Administrator's report and the application by considering the merits of the individual appeal within the context of any and all standards and considerations established in these Land Development Regulations.
 - (1) BOA shall grant or deny the appeal no later than ninety (90) days from receipt of the Complete Application.
- (2) The ninety (90) day action period may be extended with the Applicant's written consent or until the regularly scheduled BOA meeting subsequent to the ninety (90) period, if municipal offices are closed due to an unforeseen event during the action period..
 - (3) Prior to the close of the public meeting, BOA may hold a matter under advisement or defer a decision until the next regularly scheduled meeting.
 - (4) The BOA shall render a decision that shall reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination of issue.
 - (5) The BOA shall have all the powers of the official or body from whom the appeal was taken, and may direct the issuance of a permit.
- Q. Design Review.
1. Intent. The Design Review Commission (DRC) shall review new construction or development having an influence upon the City's appearance and character to determine whether the proposed building(s), lighting, landscape, fencing, or structure(s) will conform to proper design standards per Article III of these Land Development Regulations and be conducive to the proper aesthetic development of the city.
 2. Applicability. The DRC shall review and make recommendations to MPC on all Site Plan and to City staff on all Minor Site Plan applications, and Preliminary Plats that include any of the following.
 - a. Facade design, materials, and certain Cap Types per III.3. Building Types for both new construction and modification of existing non-single-family buildings and their Accessory Structures.
 - b. Facade modification of all historic buildings or structures.
 - c. Certain fence installation per III.5.Q Fences and Walls.
 - d. All Subdivision entrance treatments.
 - e. Signs.
 - f. Wireless Transmission Facilities.
 - g. All landscape required per III.5.
 - h. All lighting per III.13.
 3. Eligible Applicant. Any Applicant applying for Site Plan or Minor Site Plan that includes the applicable buildings or structures is automatically docketed for the Design Review Process.
 4. Application. The Applicant shall submit the following to the Code Administrator to constitute a Complete Application.
 - a. Application Form and Fee. The application, fee

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- list, and DRC meeting schedule and submission deadline can be obtained at City Hall.
 - b. Digital and Paper. All Plats and plans shall be submitted in both digital and paper format.
 - c. Plan Requirements.
 - (1) A Plat of survey with metes and bounds legal description and property identification number.
 - (2) The site plan shall be at a scale of one (1) inch equal to or less than two hundred (200) feet and include the date and north arrow.
 - (3) Architectural elevations (all Facades) for all structures and buildings.
 - d. Fence Height Justification.
5. Review Criteria. The application for Design Review shall be reviewed utilizing the following criteria.
- a. The plans conform with standards in Article III.
 - b. The proposed building's or structure's relationship to adjacent structures and the Right(s)-of-Way.
 - c. The character of the Zoning District in which the structure is located.
 - d. The plans conformance to the Comprehensive Plan, these Land Development Regulations, and all other City development codes.
 - e. The plan's design in relation to preserving the unique environment and topography of Lakeland, including areas of slope, existing vegetation, and natural drainage ways.
6. Application Process. The following specific application process shall apply to all Applicants for Design Review of applicable projects.
- a. Submit Complete Application. Applicant shall submit the application, fee, and all required plans and documentation per I.4.Q(4) to the Code Administrator according to the DRC meeting schedule which can be obtained at City Hall.
 - (1) Application for a Site Plan Review (refer to I.4.K) or Minor Site Plan Review (refer to I.4.J) shall be deemed an application for Design Review; additional application per the parameters outlined in I.4.Q Design Review is not necessary.
 - (2) Application shall not be considered complete and eligible for docketing for the DRC until all of the submission requirements have been met and a Complete Application has been received.
 - (3) Applicant may withdraw application twenty four hours or more in advance of any DRC meeting by submitting a request in writing to the Code Administrator; new form, fees, and plan sets are required for reapplication.
 - b. Administrative Review. The Code Administrator and City staff shall review the DRC application and shall complete a report with recommendations for the DRC no later than forty-five (45) days from receipt of the Complete Application.
 - c. DRC Review. The DRC shall review the Code Administrator's report and the application utilizing the criteria outlined in I.4.Q(5).
 - (1) DRC shall recommend approval, approval with conditions, or disapproval no later than sixty (60) days from receipt of the Complete Application.
 - (2) The action period may be extended with the Applicant's written consent or until the regularly

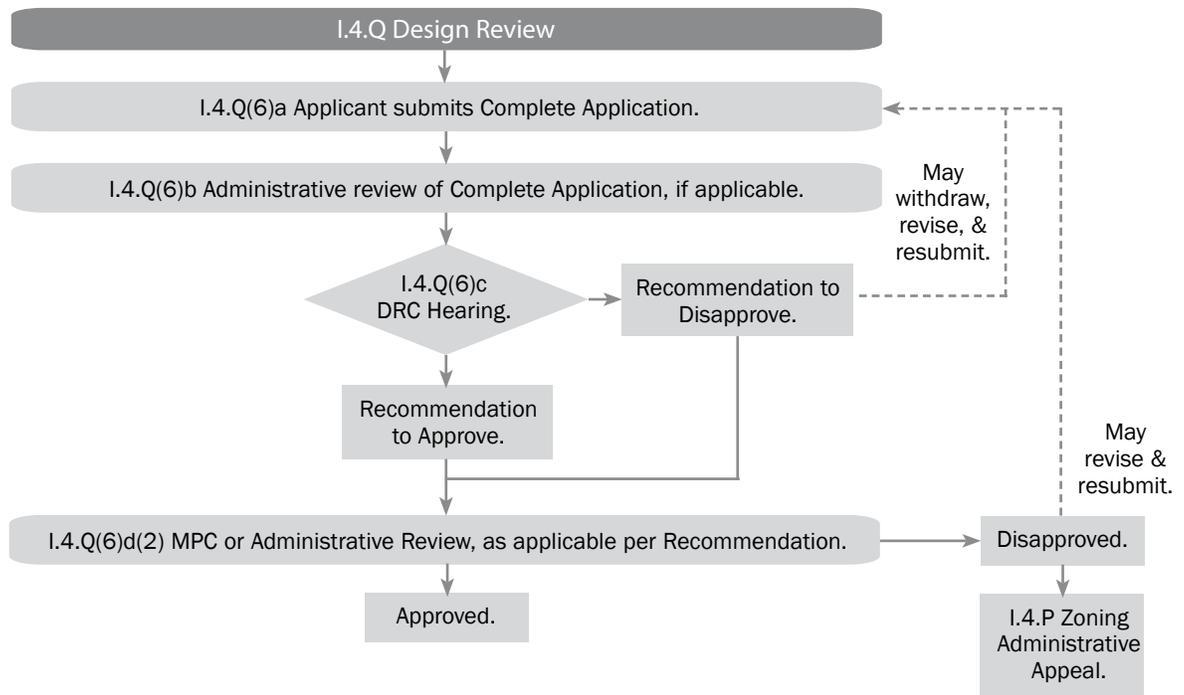


Figure 4.Q-1. Design Review without Minor Site Plan or Site Plan Approval Process.

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scheduled DRC meeting subsequent to the period, if municipal offices are closed due to an unforeseen event during the action period.

d. Action Upon Approval.

(1) If the plan(s) was reviewed in conjunction with a Site Plan Review application, the DRC’s recommendation and minutes of the meeting are provided to the MPC for their and consideration and action by the Code Administrator.

(2) In all other cases, DRC’s recommendation is transmitted to the Code Administrator, who will review the decision and, if appropriate, direct the issuance of the necessary permit(s).

e. Appeal. If the Code Administrator denies the permit, Applicant may appeal decision per the Zoning Administrative Appeals process (I.4.P).

R. Certificate of Compliance.

1. Intent. To ensure that both a Use and the structure in which it is located meets the standards of these Land Development Regulations prior to commencing the Use.
2. Applicability. A Certificate of Compliance is required anytime a Use changes to a different or more intense Use, including a new Use in a previously vacant unit, building, or site whether or not a building permit is required.
 - a. Application for a building permit shall be deemed an application for a Certificate of Compliance; additional application is not necessary.
 - b. Accessory structures do not require separate certificates of Compliance, unless detailed in III.2.N Accessory Uses and Structures.
3. Eligible Applicant. Any Applicant may apply for a Certificate of Compliance.

4. Application. The Applicant shall submit the following to the Code Administrator to constitute a Complete Application.
 - a. Application Form and Fee. The application and fee list can be obtained at City Hall.
 - b. Digital and Paper. The Use description shall be submitted in both digital and paper format.
 - c. Use Description. A description of the new Use shall be provided in addition to the application.
5. Review Criteria. The application for a Certificate of Compliance will be reviewed based upon the standards in these Land Development Regulations and other applicable City development codes.
6. Application Process. The following specific application process shall apply to all Certificate of Compliance Applicants.
 - a. Submit Complete Application. Applicant shall submit the application, fee, and all required documentation per I.4.R(4) to the Code Administrator.
 - (1) Application shall not be considered complete and eligible for review until all submission requirements have been met and a Complete Application has been received.
 - b. Inspection. The Code Administrator will conduct an inspection no later than ten (10) business days from submission of the Complete Application.
 - c. Administrative Review. Upon inspection and review of any known records relating to the site in question, the Code Administrator shall, no later than ten (10) business days from the inspection, provide the Applicant with one of the following.
 - (1) A Certificate of Compliance shall be granted if the site meets the standards outlined in these Land Development Regulations, applicable County codes, all other applicable City development codes, and any additional

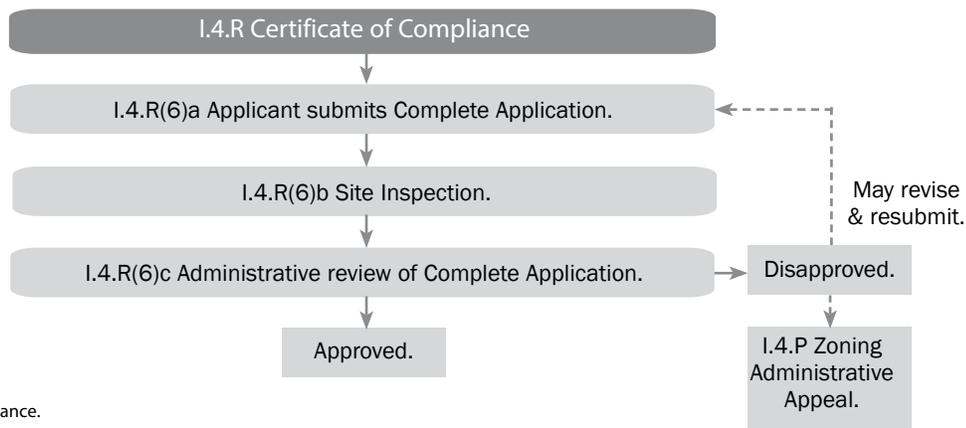


Figure 4.R-1. Certificate of Compliance.

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conditions per applicable development approvals.

(2) A correction notice shall be provided in writing to the Applicant if the site does not meet the standards outlined in these Land Development Regulations and all other applicable City development codes.

- d. Re-submission of Application. If a Certificate of Compliance is not issued, the Applicant, upon meeting the requirements of the Code Administrator's correction notice, may request a second inspection. If the Certificate of Compliance is again denied, a new application and fee will be required to obtain the Certificate of Compliance. If additional site work or construction is needed to achieve compliance, a second inspection is required.
- e. Appeal. If disapproved, Applicant may appeal decision per the Zoning Administrative Appeal process (refer to I.4.P).

5. Tree Removal Permit.

1. Intent. To establish a process for reviewing tree removal requests.

2. Applicability. Tree Removal Permit is required on every Lot within all Zoning Districts for the removal of all Landmark and Specimen Trees and all other trees ten (10) DBH inches and greater, except on certain single family Lots as detailed in Tree Management Ordinance, Title 13, Chapter 4 of the Municipal Code.

- a. Tree farms with valid American Tree Farm System Certification or other third-party forestry certification (such as Sustainable Forestry Initiative) are required to submit a timber harvesting plan, which is consistent with III.2.
- b. All Landmark trees to be removed on Lots zoned

Agriculture (A) and used for agricultural production (such as crops or livestock) are required to obtain a Tree Removal Permit unless the Landmark tree removal is part of a timber harvest, permitted activity, hazard mitigation, or agricultural production use.

c. Application for Preliminary Plat (I.4.C), Construction Plans (I.4.D), Minor Site Plan review (I.4.J), and Site Plan Review (I.4.K) shall be deemed as an application for a Tree Removal Permit. All requirements of I.4.S shall be met through any process.

3. Eligible Applicant. An Applicant and persons removing trees on someone else's behalf, including tree removal companies and utility companies may apply for a Tree Removal Permit.

4. Application. The Applicant shall submit the following to the Code Administrator to constitute a Complete Application. The Code Administrator may administratively waive certain application requirements if deemed unnecessary to complete the permit review and/or provide the needed records.

- a. Application Form and Fee. The application and fee list can be obtained at City Hall.
- b. Digital and Paper. All surveys and plans shall be submitted in both digital and paper format.
- c. Plan illustrating reason for tree removal request.
- d. Tree Survey (refer to Tree Management Ordinance, Title 13, Chapter 4 of the Municipal Code, B(4)).
- e. Tree Replacement Plan (refer to the Tree Management Ordinance, Title 13, Chapter 4 of the Municipal Code, B(5)).
- f. For timber harvesting, a Timber Harvesting Plan is required the provisions in III.2.
- g. Tree Bank Contributions. Refer to the Tree

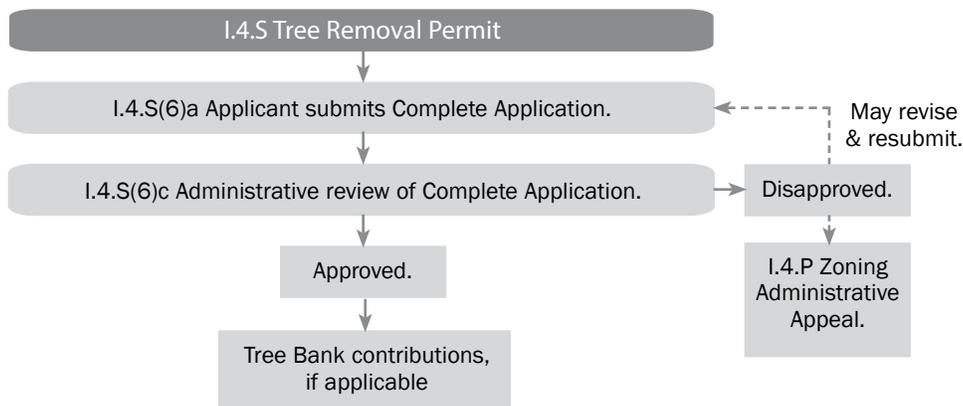


Figure 4.S-1. Administrative Review of Tree Removal Permit.

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Management Ordinance, Title 13, Chapter 4 of the Municipal Code.

5. Review Criteria. All tree removal permits shall be reviewed using the following requirements:
 - a. All requirements of Tree Management (refer to Tree Management Ordinance, Title 13, Chapter 4 of the Municipal Code).
 - b. Removal does not prevent the Lot from meeting the requirement of the Landscape Standards (refer to III.5), including Tree Canopy Coverage and landscape buffer requirements.
 - c. The following shall be considered:
 - (1) The extent to which tree clearing shown avoids excessive clearing and still permits the Applicant to achieve the proposed development or land Use.
 - (2) The ability to reasonably preserve or transplant the trees in question.
 - (3) The desirability of preserving Landmark and Specimen Trees and other larger healthy trees on the Permitted Tree List, available in City Hall.
 - (4) The extent to which the area would be subject to environmental degradation due to removal of the trees.
 - (5) The extent to which the removal is to thin a wooded area to promote its health and development.
 - d. Removal of the tree shall not adversely impact soil erosion or runoff.
 - e. The following trees may be approved for removal without adherence to the Tree Management requirements (refer to Tree Management Ordinance, Title 13, Chapter 4 of the Municipal Code).
 - (1) Tree poses an imminent danger or interferes with existing utility service or traffic.
 - (2) A City plan or ordinance requires the location of infrastructure in the path of the tree.
6. Application Process. The following specific application process shall apply to all Tree Removal Permit Applicants.
 - a. Submit Complete Application. Applicant shall submit the application, fee, and all required plans and documentation per I.4.S(4) to the Code Administrator.
 - (1) Application shall not be considered complete and available for review until all submission requirements have been met and a Complete Application has been received.
 - (2) Applicant may withdraw application at any time, submitted in writing to the Code Administrator; new form, fees, and plan sets are required for reapplication.
 - b. NRB Review. The NRB shall review the Tree Permit Application if any contribution to the Tree Bank is involved.
 - c. Administrative Review (refer to Figure 4.S-1). When submitted solely without another application, or submitted with a Minor Site Plan or Construction Plan application, the Code Administrator, City staff, and applicable review boards shall review the Tree Removal Permit in accordance with the criteria outlined in I.4.S(5).
 - (1) Staff shall review and render a decision on the plans no later than forty-five (45) days from receipt of the Complete Application.
 - (2) The forty-five (45) days may be extended with Applicant's consent.
 - (3) Staff shall approve, approve with conditions, or disapprove the application, providing the conditions for approval or the reasons for disapproval in writing.
 - d. MPC Review. When submitted with Preliminary Plat (I.4.C) or Site Plan Review (I.4.K) application, the MPC shall review the Tree Removal Permit application simultaneously with the Preliminary Plat or Site Plan application.
 - (1) MPC shall hear and decide the Tree Removal Permit application, providing the conditions for approval or the reasons for disapproval in writing.
 - e. Action Upon Approval. If construction or building permits are to be requested, a tree protection plan (refer to Tree Management Ordinance, Title 13, Chapter 4 of the Municipal Code, B(6)) may be required to ensure that remaining trees are appropriately handled during the site disturbance.
 - f. Appeal. If an administratively reviewed permit is disapproved, Applicant may appeal the decision per the Zoning Administrative Appeal process (refer to I.4.P).

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Section 5 - Development Contracts

Where Public or Common Improvements, or a tree replacement, Tree Bank contributions, or Restoration Management Plan are required, the developer(s) shall enter into a Development Contract with the City of Lakeland for all Public or Common Improvements required as part of the approval of a Plat or Site Plan, payment of all fees assessed for development of a project, and such other terms deemed necessary by the City to carry out the terms and provisions of these Land Development Regulations and other requirements of law.

A. General Requirements.

1. The development contract shall be in a form approved by the City Attorney.
2. The development contract shall be authorized by the BOC.
3. Applicant shall make all required improvements at their own expense. Any provisions for reimbursement by the governing body or any utility agency shall be clearly stipulated clearly in the Development Contract.
4. The development contract shall include the following provisions.
 - a. Site development cannot begin until after this agreement has been executed.
 - b. For plats, lots cannot be sold and building permits not issued until Final Plat approval is obtained, the final plat has been recorded with the Shelby County Register of Deeds, Common Improvements have been completed, and the BOC has accepted the Public Improvements, except certain improvements due to seasonal limitations in which case I.6.D applies.
 - c. For site plans that include public or common improvements, tree replacement, or tree bank contributions, a Final Inspection, Lakeland Certificate of Compliance, and a Shelby County Certificate of Occupancy shall be obtained prior to occupying a building.

B. Types of Public and Common Improvements.

The development contract shall cover all of the following types of improvements as required by these Development Regulations and any other City codes.

1. Required Public Improvements. Public Improvements include all improvements to the Applicant's Property located within rights-of-way typically intended to be dedicated to the City, within public or private utility Easements, or on Parcels intended to be dedicated to the City. Public Improvements are subject to the City

Acceptance process. Public Improvements include, but are not limited to the following:

- a. Public and/or private streets and street improvements, including but not limited to pavement, curbs, sidewalks, street trees, and Landscape Zone and Furnishing Zone improvements.
- b. Utilities and utility appurtenances, including but not limited to storm sewer, sanitary sewer, electric, gas, and water.
- c. Stormwater management features within drainage Easements necessary to meet the development-wide requirements of II.10. Neighborhood Development: Stormwater Management or III.7 Site Development: Stormwater Management.
- d. Other improvements approved for Dedication to the City, including but not limited to land for City Parks and Greenways, conservation areas, and stream management.

2. Required Common Improvements. Common Improvements include certain improvements to the Applicant's Property intended for use and aesthetics for the entire development. Common Improvements are not subject to City Acceptance, but are required to be reviewed in parallel with Public Improvements at the time that Acceptance of Public Improvements is proposed. Common Improvements include, but are not limited to the following:

- a. Neighborhood Scale Open Space or Open Space Types required by Article II.2 through II.7 for each Neighborhood Type, whether publicly or privately held and maintained, and their improvements. Refer to II.1.D. Neighborhood Development: General Open Space Categories and Requirements.
- b. Conservation Areas. When any initial restoration procedures are required by the Restoration and Management Plan to occur prior to Final Plat.
- c. Streamside Management Buffer stabilization and landscape.
- d. Scenic Corridor Easement or Buffer, plantings, and improvements.
- e. Common perimeter or entry treatments, including, but not limited to, Subdivision fencing, entry treatments, signs, and private lighting.
- f. Tree Replacement and Tree Bank contributions.
- g. Restoration Management Plan.

C. Security for Public and Common Improvements.

The development contract shall include any and all fees associated with the development project, as well as security for all Public and Common Improvements in an amount with surety and conditions satisfactory to the BOC.

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 Section 5 - Development Contracts

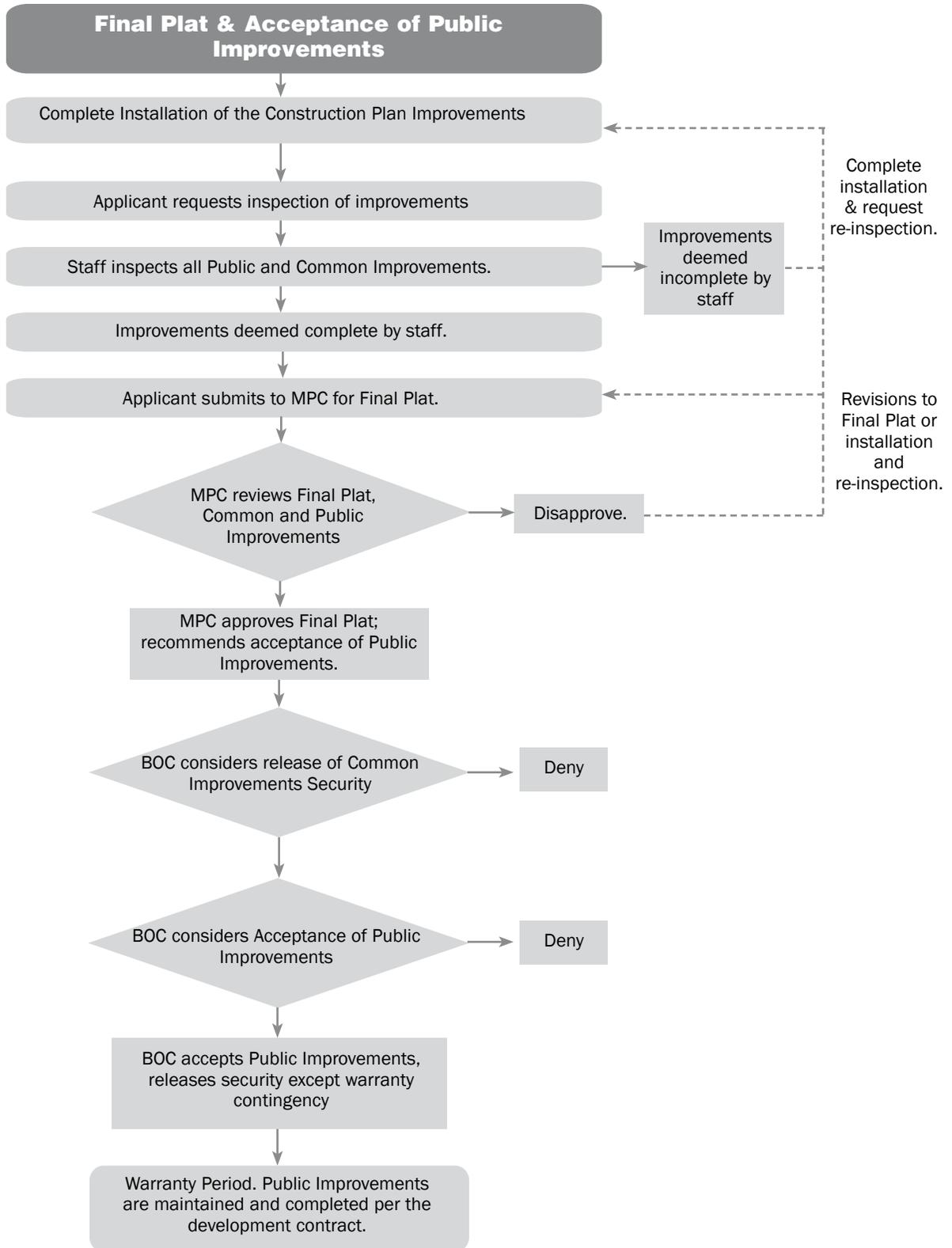


Figure 5.B-1. Final Plat and Acceptance of Public & Common Improvements

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Section 5 - Development Contracts

1. Security for all Public Improvements.
 - a. Itemized Costs. The developer shall submit to the City an itemized cost of constructing the Public Improvements as part of the development contract.
 - b. Minimum Security. Security shall be determined by the City and included in the development contract. The minimum security shall equal ten (10) percent of the construction cost of the stormwater system, ten (10) percent of the construction cost of the sanitary sewer system, ten (10) percent of the construction cost of the earthwork, ten (10) percent of the construction cost of erosion and sediment control measures, ten (10) percent of the landscape construction cost, and thirty (30) percent of the construction cost of asphaltic concrete pavement base course, unless waived by the City. The security shall also cover the entire cost of the final lift of asphaltic concrete pavement surface course.
 - c. Temporary Facilities. A separate security for temporary facilities, which shall ensure that the temporary facilities will be properly constructed, maintained, and removed, is required.
2. Security for all Common Improvements.
 - a. Itemized Costs. The developer shall submit to the City an itemized cost of constructing the Common Improvements as part of the development contract. Costs shall include all items required by these Land Development Regulations as well as other City codes for the type of development
 - b. Minimum Security. Security shall be determined by the City and included in the development contract. The minimum security shall equal one hundred (100) percent of cost of installation, restoration, replacement, or other requirements of the Common Improvement per these Land Development Regulations and all other City codes, including but not limited to the Tree Management Ordinance, Title 13, Chapter 4.
3. Security during the Warranty Period. Refer to I.5.C(2) for security required during the warranty period.
- D. Completion and Acceptance of Public and Common Improvements.
 1. Completion of Public and Common Improvements. Prior to application for Final Plat (refer to I.4.E) all Applicants shall complete, in accordance with Preliminary Plat, Construction Plan, and Site Plan approvals, all Public and Common Improvements.
 2. Inspection of Public, Common, and other Improvements. Applicant shall request an inspection of all Public and Common Improvements upon their completion, but no sooner than ninety (90) days and no later than forty five (45) days in advance of Final Plat application (refer to I.4.E).
 - a. All Public and Common Improvements shall be constructed in accordance with the Preliminary Plat, Site Plan, and Construction Plan approvals, the regulations of these Land Development Regulations, development contracts, other City codes, and the construction standards and specifications of the governing authority.
 - b. Applications shall not be docketed for approval of the Final Plat (refer to I.4.E) until Public and Common Improvements are deemed complete by City staff.
 - c. For Site Plans, a Certificate of Compliance shall not be issued until Public and Common Improvements and other items in the development contract are deemed complete by City staff.
3. Approval of Common Improvements. Security for Common Improvements shall not be released and the Final Plat shall not be approved until Common Improvements pass inspection. For Site Plans, a Certificate of Compliance shall not be issued until Common Improvements pass inspection.
4. Acceptance of Public Improvements. Upon completion of the Public Improvements and concurrent with MPC approval of the Final Plat, or in the case of a Site Plan, prior to issuance of a Certificate of Compliance, the MPC shall make a recommendation to the BOC on accepting the completed Public Improvements. Applicant shall formally offer the Dedication of all Public Improvements agreed upon by the City for City ownership.
 - a. Concurrent with Final Plat, or prior to the issuance of a Certificate of Compliance for Site Plans, the BOC shall review the offer of Dedication and act upon it.
 - b. If approved by BOC, Public Improvements shall be dedicated to the City free and clear of all liens and encumbrances on the property.
 - c. Securities for construction of the Public Improvements shall be released upon acceptance, with the exception of securities related to the warranty period.
 - d. The warranty period shall be established between the Applicant and the City, including related security per I.5.B(3). Refer to I.5.C.
5. Seasonal Limitations. Any Public and/or Common Improvements that cannot be installed due to seasonal limitations, such as street trees, trigger the following:
 - a. Certificates of Compliance for the development, with the exception of Model Homes (refer to III.2.N(1)(f) for more information), shall not be issued

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Section 5 - Development Contracts

until all Public and Common Improvements are completely installed and accepted by the City.

E. Warranty of Public Improvements.

After acceptance of Public Improvements, a warranty period begins per the development contract.

1. During the warranty period, all Public Improvements shall be maintained per these Land Development Regulations and the Tree Management Ordinance (Title 13, Chapter 4 of the Municipal Code).
2. Warranty Period.
 - a. The length of the warranty period shall be defined by the development contract.
 - b. The warranty period shall consider potential damage to the Public Improvements caused by future construction on Lots within the development.
 - c. The warranty period shall be a minimum of one (1) year.
3. Security During Warranty Period. The development contract shall stipulate the amount of security required during the warranty period for Public Improvements.
 - a. Security shall be in an amount with surety and conditions satisfactory to the BOC to restore and stabilize all disturbed property if development is stopped, sufficient to cover anticipated punch list items after the warranty period, including, but not limited to, utility trench settlements and the final layer of asphaltic concrete pavement.
 - b. Every two (2) years of warranty period, the amount of security shall be reviewed and increases shall be provided as deemed appropriate by the City to account for increases in construction costs.
 - c. Warranty security shall not be released until staff has inspected the Public Improvements and deemed them complete.
4. Final Completion of Public Improvements prior to End of Warranty Period.
 - a. Four years after the issuance of the first building permit, if the final coat of asphalt has not been applied to any street, the final coat shall be completed.
 - b. Four years after the issuance of the first building permit, all defects of Public Improvements shall be corrected and completed, regardless of the percentage of Subdivision lots having received building permits, including, but not limited to, installing the remaining sidewalks for the phase, with the exception of any other types of items that are handled through the building permit lot deposit.

F. Maintenance of Public & Common Improvements.

Throughout the process Public and Common Improvements shall be maintained to the standards and requirements of these Land Development Regulations and all other City requirements. Upon completion, inspection, acceptance, and release of all security, the following applies:

1. Public Improvements dedicated to the City through a Development Contract approved by BOC (refer to I.5.A) shall be maintained per the development contract.
2. Conservation Areas shall be maintained and restored as documented in the Restoration and Management Plan (refer to II.11.C), managed by the Owner or Owners' Association, with a commitment to funding in place per the Restoration and Management Plan approved during the Preliminary Plat.
3. The City may agree to maintain certain Public Improvements through the development contract (refer to I.5.A).
4. All stormwater facilities shall be maintained and funded per the Stormwater Management Plan (refer to II.10.A(6) or III.8.A(6)) by the Owner or Owners' Association.
5. All other items shall be defined in the development contract or the Declaration of Covenants and Restrictions.

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Section 6 - Other Types of Security

The following types of securities are required by these Land Development Regulations and the Tree Management Ordinance (Title 13, Chapter 4).

A. Tree Establishment Security.

Refer to III.5.B(6)(h). Tree Establishment Security shall be obtained as part of the development contract approved by the BOC, per III.5.B(6)(h).

B. Tree Protection Security.

Tree Protection Security shall be obtained as part of the development contract approved by the BOC, per the Tree Management Ordinance, Title 13, Chapter 4 of the Municipal Code.

C. Lot Deposit.

The Lot Deposit is required for all Lot development at the time of a building permit request.

1. Per-Lot Security for street trees installation and establishment (refer to I.5.D(1), sidewalks, erosion and sediment control, damage to Public Improvements, and other items per Title 12, Chapter 2 of the Municipal Code is required prior to the issuance of the Certificate of Compliance.

2. Upon approval of the improvements, the Lot Deposit is released, with the exception of an amount equal to the Tree Establishment Security, or, alternatively, a separate new security for Tree Establishment shall be provided prior to granting full release of the Lot Deposit.

D. Security for Incomplete Seasonal Improvements.

Refer to III.5.B(4). Whenever, by reason of the season of the year, any landscape improvements required by these Land Development Regulations cannot be performed, Building Permits and Certificates of Compliance may be issued upon the acceptance of security, provided that there is no danger to the health, safety, or general welfare caused by the delay in construction of the improvements.

1. Amount of Security. The security shall be in an amount to be determined by the City for the cost of completion of such improvements, typically equal to one and a half (1 1/2) times the installation costs as estimated by a qualified professional.
2. Owner's Permission. In addition to the security, the Applicant shall obtain and file with the Code Administrator a notarized statement from the purchaser(s) of the premise(s) authorizing the City to install the improvements at the end of the period in the event the improvements have not been installed properly by the Applicant.

3. Procedures for Security. Seasonal improvements for which securities have been accepted by the City at the time of issuance of a Certificate of Compliance shall be installed by the developer within a period of nine (9) months from the date of deposit.
 - a. In the event that the improvements have not been installed properly at the end of the time period, the Code Administrator shall provide written notice of two (2) weeks to the developer requiring him/her to install the improvements.
 - b. In the event that they are not installed properly after two (2) weeks, the Code Administrator may request that the MPC authorize the installation of the necessary improvements in a sum not to exceed the amount of the security.

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Section 7 - Owners' Association

A. Owners' Association.

The following are required.

1. Association Required. A homeowners' or property Owners' or responsible party is required for all Subdivisions or multi-owner developments, with the following exception:
 - a. Subdivisions consisting only of RE and/or A district Lots with no private common elements, such as but not limited to streets, stormwater management systems, open space, Conservation Areas.
2. Developer to Association Transfer. Transfer of responsibilities to the association is encouraged by eighty (80) percent of Lot or unit build out.
3. Covenants and Restrictions. Prior to the transfer of responsibilities to the Owners' association, all prospective members shall be furnished a copy of the Declaration of Covenants and Restrictions.

B. Declaration of Covenants and Restrictions.

The complete set of covenants and restrictions shall be provided to the City for review during the Final Plat process (refer to I.4.E). All declarations of covenants shall contain the following.

1. Provisions for the maintenance and protection of public, common, and private improvements, Easements, open space, Scenic Corridor Buffers, , and other improvements in accordance with the regulations in II. Neighborhood Development Regulations.
2. Stormwater Management Plan. Reference to and provision for meeting the requirements of the Stormwater Management Plan for stormwater facilities (refer to II.10.A(6)), approved at the Final Plat process for the Subdivision.
3. Restoration and Management Plan. Reference to and provision for meeting the requirements of the Restoration and Management Plan for any Conservation Areas (refer to II.11.C), approved in the Plat or Site Plan process.
4. Adequate safeguards to prevent the subsequent Use of open space for any Use, structure, improvement, or development other than indicated in the approved Plat and plans and in III.4 Open Space Types.
5. Assurance that the declarations shall not be amended in any matter that would result in a violation of these Land Development Regulations.
6. All property Owners and successive Owners shall be members of the owners' association and shall be provided with the complete list of covenants and restrictions upon becoming a member.

7. Establish measures for collecting and assessing fees and expenses for the maintenance and preservation of common properties, improvements, payment of real estate taxes and other applicable taxes and for the attachment of liens on the property of delinquent association members.
 8. Establish an Architectural Review Committee.
 9. Establish a minimum house size.
- ### C. Funding & Maintaining Common Elements.

If the Owner's association will be the owner of, responsible for maintenance of, or responsible for providing funding for the maintenance, protection, or restoration of certain Subdivision elements, the following shall be included in the declaration of covenants and be adhered to by the association.

1. No Lots shall be sold prior to the City's review of the declarations of covenants and establishment of the association.
2. Association shall be responsible for casualty and liability insurance, taxes, and maintenance of or funding for the maintenance and protection of the Alleys, any private streets, stormwater management systems, Neighborhood Scale Open Space, Conservation Areas, or Scenic Corridor Buffers.
3. Each Owner within the association shall pay his or her pro rata share of the cost of the association by means of an assessment to be levied by the association that meets the requirements for becoming a lien on the property, if payment is not received, in accordance with the statutes of the State of Tennessee.
4. Association shall have the right to adjust the assessment to meet changed needs.
5. Association shall have the right to perform any maintenance or repair work that any owner or association member has neglected to perform on their respective property, to levy an assessment against a member for the performance of any maintenance or repair work, and to cause a lien to be placed against the property of any such Owner or member that fails to pay such an assessment. Membership vote required to authorize such assessments shall not be fixed at more than fifty-one (51) percent of the members voting on the issue.
6. City shall have the right, without obligation, to enforce all declarations, covenants, and restrictions.
7. City shall have the right, without obligation, but only after ten (10) days written notice to the association to do the following.
 - a. To perform any maintenance or repair work that the association has neglected to perform.
 - b. To assess the association for such work performed.

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Section 7 - Owners' Association

- c. To cause a lien to be placed against the property of any member failing to pay such assessment. For this purpose alone, the City shall have all the rights and powers of the association and its governing body under the agreements and declarations creating the association.
- 8. In the case of emergencies, the City shall have the right, without obligation, to perform emergency repairs without ten (10) days written notice provided that the association is informed of the work within three (3) days or a reasonably practical period given the circumstances.
 - a. The City shall have the right to assess the association for such emergency work.
 - b. The City shall have the authority to cause a lien to be placed against the property of any member failing to pay such assessments. For this latter purpose alone, the City shall have all the rights and powers of the association and its governing body under the agreements and declarations creating the association.
- D. City Enforcement.

The City shall enforce all aspects of the Covenants and Restrictions that implement and maintain any aspect of these Land Development Regulations, Tree Management Ordinance (Title 13, Chapter 4 of the Municipal Code), and any other City codes and ordinances.

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Section 8 - Nonconformance

A. General Provisions.

The following general provisions apply to nonconforming structures and Uses.

1. Intent. It is the intent of this Section to:
 - a. Recognize the reasonable elimination over time of the existing structures or Uses that are not in conformity with the provisions of these Land Development Regulations is as much a subject of health, safety, and welfare as is the prevention of the establishment of new Uses that would violate the provisions of these regulations and undermine the goals of the Comprehensive Plan.
 - b. Administer the elimination of nonconforming Uses and structures so as to avoid an unreasonable invasion of established private property rights.
2. Applicability. A nonconforming structure (Primary or Accessory), Use, or site characteristic that lawfully existed at the time these Land Development Regulations were adopted may continue to exist or operate subject to the conditions outlined in this Section. The ultimate purpose of these conditions, however, is to secure compliance with the requirements outlined in these regulations.
3. Maintenance. All Nonconformances shall be maintained as required by law, provided said maintenance does not result in the expansion of the nonconformity.
4. Variation. Except for relief granted through I.4.H Subdivision Modification, I.4.K Site Plan Review, or I.4.O Zoning Variance, land occupied by a Nonconformance shall not be eligible for any other variance, Rezoning, or Conditional Use Permit unless the nonconformity shall be permanently removed or reduced with the granting of the variance, Rezoning, or Conditional Use Permit. Refer to I.4. Process Criteria and Application for additional information on each.
5. Variance. The Owner of any Nonconformance may request relief from these provisions from the BOA through the Zoning Variance process (refer to I.4.O), utilizing the review criteria defined for that process.

B. Nonconforming Structures.

1. Intent. A nonconforming structure is a Principal or Accessory Structure that was legally constructed prior to the adoption of these Land Development Regulations or amendment to these regulations, but that could not occur under the provision of these regulations. Applicable regulations include, but

are not limited to, such items as Build-to Zones, Setbacks, Building Coverage, Building Height, Building Transparency, entrances, Cap and Base Type, and Building Materials.

2. Continuation of a Nonconforming Structure. A nonconforming structure may continue to exist subject to the following provisions:
 - a. An existing structure is considered conforming if the size of the Nonconformance is fifteen (15) percent or less of these Land Development Regulations's requirement. For example, if the required Setback is ten (10) feet and the building's Setback is eleven and a half (11.5) feet, the Setback is considered in conformance.
 - b. An existing single family dwelling with a nonconforming Side Yard Setback that is thirty (30) percent or less of these Land Development Regulations' Side Yard Setback requirement may be enlarged or extended along that Side Yard provided that the following conditions are met:
 - (1) The enlargement or extension does not increase the structure's Nonconformance and,
 - (2) the enlargement or extension does not encroach into the front Build-to Zone or Setback beyond the original structure and,
 - (3) the enlargement or extension does not exceed fifty (50) percent of the lineal footage of the original dimensions of the structure.
 - c. Where an alteration includes an addition of more than fifty (50) percent in building square footage, the building shall be brought into conformance.
 - d. Normal repairs required for structural safety and minor alterations, such as new siding, windows, or doors are permitted with the Code Administrator's approval.
 - e. The right to utilize a nonconforming structure shall be terminated, if the structure is damaged by any cause and the cost of such damages is fifty (50) percent or more of the structure's cost to rebuild at the time of the event.
 - f. If the cost of damages to a nonconforming structure are less than fifty (50) percent of the structure's cost to rebuild prior to the event, it may be repaired provided that the repairs or reconstruction do not increase the Nonconformance.
 - (1) Repairs or reconstruction of a nonconforming structure shall be completed or substantially completed within twelve (12) months of the damage.
 - (2) If the Applicant demonstrates a good faith effort proceeding toward repair or reconstruction, such as a permit or cost proposal from a contractor, this twelve (12) month period may be extended up to an

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additional twenty-four (24) months with permission of the BOA. Self imposed situations shall not constitute cause for the delay.

g. The right to utilize a nonconforming structure shall be terminated, if the structure is not used or is abandoned for a period of twelve (12) consecutive months.

(1) If the Owner is actively seeking another tenant for the Use of land or building, the BOA may extend the time period for up to another twelve (12) months.

(2) To obtain the extension, the Owner shall provide evidence of this activity, including solicitation and showing the site to potential tenants and maintenance of utilities and other site facilities for reuse; simply listing the site as available real estate is not sufficient.

C. Nonconforming Uses.

1. Intent. A nonconforming Use is a Use of land or a structure that lawfully existed prior to the adoption of these Land Development Regulations, but could not occur under the provisions of these regulations.

2. Continuation of a Nonconforming Use. Unless subject to the exception set forth in I.8.C(3), a nonconforming Use may continue to exist subject to the following provisions.

a. The nonconforming Use shall not be enlarged or be extended to any other building, part of the building, Lot or part of a Lot.

b. The right to continue a nonconforming Use shall be terminated, if the structure housing the Use is destroyed by any cause and the cost of such damages is fifty (50) percent or more of the structure's cost to rebuild at the time of the event.

c. If the cost of the damages is less than fifty (50) percent of the structure's cost to rebuild at the time of the event, it may be repaired provided that the repairs or reconstruction do not increase the Nonconformance.

(1) Repairs or reconstruction of a structure housing a nonconforming Use shall be completed or substantially completed within twelve (12) months of the damage.

(2) This twelve (12) month period may be extended up to an additional twenty-four (24) months with permission of the BOA.

d. The right to continue a nonconforming Use shall be terminated, if the Use is not used or is abandoned for a period of twelve (12) consecutive months.

(1) If the Owner is actively seeking another tenant for the Use of land or building, the BOA may

extend the time period for up to another twelve (12) months.

(2) To obtain the extension, the Owner shall provide evidence of this activity, including solicitation and showing the site to potential tenants and maintenance of utilities and other site facilities for reuse; simply listing the site as available real estate is not sufficient.

3. Exception to Nonconforming Uses. All nonconforming industrial, commercial, or business Uses are subject to the provisions of the Tennessee Nonconforming Property Act (T.C.A. §13-7-208) and shall be permitted to do the following.

a. Continue in operation so long as the Use of the property is not changed to any other nonconforming Use.

b. Expand operations and facilities, provided that the expansion constitutes a continuation of the existing nonconforming Use and shall not result in a nuisance to neighboring properties.

c. Destroy and reconstruct existing facilities that are necessary to the ongoing conduct of the nonconforming Use, provided that any reconstructed structures shall conform with all site and bulk regulations in effect at the time of reconstruction.

D. Nonconforming Site Characteristics.

1. Intent. Any site element or characteristic of a Zoning Lot, such as impervious coverage, driveway quantity, parking, landscaping, or other non-structural characteristic of a Lot that is not in compliance with the provisions of these Land Development Regulations, whether associated with a nonconforming or conforming structure or Use, lawfully in existence prior to the adoption of this code, shall be considered a nonconforming site characteristic.

2. Continuation of a Nonconforming Site Characteristic. A nonconforming site characteristic may continue to exist subject to the following provisions:

a. An existing site characteristic is considered conforming if the size of the Nonconformance is fifteen (15) percent or less of these Land Development Regulations' requirement. For example, if the required parking is thirty (30) spaces and the number of spaces provided is twenty six (26), the parking is considered in conformance.

b. The right to continue a nonconforming site characteristic shall be terminated, if the associated structure is altered to increase the associated

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structure's footprint by more than twenty-five (25) percent.

- c. The right to continue a nonconforming site characteristic shall be terminated, if the associated Use or structure, conforming or not, is abandoned for a period of twelve (12) consecutive months.

E. Exceptions.

Through the I.4.K Site Plan Review, an exception to I.8.B through D may be granted, if:

1. The purpose of the discussed alteration is to convert a nonconforming Use of a nonconforming structure to a conforming Use in a nonconforming structure.
2. The proposed increase in the Nonconformance of a structure is the minimum necessary to allow the conversion of a nonconforming Use to a conforming Use within a nonconforming structure.
3. The proposed alteration is to decrease the nonconformity of the Use or structure.

F. Nonconforming Lot.

1. Intent. A nonconforming Lot is a Lot that was legally recorded prior to the adoption of these Land Development Regulations, but could not be created under the provisions of these regulations. Applicable regulations include Lot width and Lot size.
2. Continuation of a Nonconforming Lot. A nonconforming Lot may be developed at or after the time at which the Lot became nonconforming, provided that it meets all of the following provisions.
 - a. The Owner certifies in writing to the City that he or she does not own or have an interest in any adjacent open Lot at the time the Lot became nonconforming.
 - (1) If Owner has interest or owns any adjacent open Lot, the Lots shall be combined, if the resulting Parcel is a conforming Lot.
 - b. The Lot is undeveloped.
 - c. All other regulations of the Zoning District can be met, except those that constitute the nonconformity.