

Chapter 18.140
APPLICATIONS AND PROCEDURES

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18.140.010 Who may apply; application fees

- A. Application for a zoning text amendment may only be filed by the Governing Body or Planning Commission.
- B. An application for rezoning to a conventional zoning district or for a revised final development plan for a planned zoning district may be filed by either the Governing Body, the Planning Commission or the landowner or the landowner's agent.
- C. An application for an appeal to the Board of Zoning Appeals may be filed by any person aggrieved, or by any officer of the City or any governmental agency or body affected by any decision of an official administering the provisions of this ordinance.
- D. All other applications provided for in this chapter may only be filed by the landowner or the landowner's agent.
- E. Fees for all applications provided for in this chapter shall be established by the Governing Body by resolution.
- F. All applications shall be made on forms prescribed by the City and available in the Department of Planning and Development Services.

(History: Ord. ZRR-2343 §17, 2002; ZRR-1725; ZRR-1637; ZRR-1314)

18.140.020 Applications -- proof of ownership and/or authorization of agent

- A. Where an application has been filed by, or on behalf of, a landowner, an affidavit of ownership shall be submitted to the City.
- B. Where an application has been filed by an agent of a landowner, an affidavit of the landowner establishing the agent's authorization to act on behalf of the landowner shall also be submitted.
- C. The affidavits required by this section shall be on forms prescribed by the City or in such form as is acceptable to the Director of Planning and Development Services, and shall be submitted at the time of filing the application.

(History: Ord. ZRR-2343 §18, 2002; ZRR-1725; ZRR-1637; ZRR-1314)

18.140.030 Pre-application conference

A pre-application conference with a member or members of the professional planning staff of the Department of Planning and Development Services shall be required prior to submission of any application for a rezoning, special use permit, preliminary development plan or preliminary plat.

The purpose of this conference is to: acquaint the applicant with the procedural requirements of this Ordinance; provide for an exchange of information regarding the proposed development plan and applicable elements of this Ordinance, the master plan and other development requirements; advise the applicant of any public sources of information that may aid the application; identify policies and regulations that create opportunities or pose significant restraints for the proposed development; review any proposed concept plans and consider opportunities to increase development benefits and mitigate undesirable project consequences; and permit staff input into the general design of the project.

The applicant shall provide a concept sketch of the site, at a standard engineer scale, for consideration by the staff. The applicant shall also include a summary of the project that lists the proposed density of residential uses and the floor area ratio of non-residential uses. The Director of the Planning and Development Services Department may waive the requirement of a pre-application conference or waive any part of the submission requirements. The Director may also require additional plans, details, studies and reports be provided at the time of a pre-application conference.

(History: Ord. ZRR-2782 §1, 2008; ZRR-2343 §19, 2002; ZRR-1725; ZRR-1637)

18.140.040 Submission of technical studies

A. The Director of Planning and Development Services may require applicants for rezonings, special use permits, preliminary development plans or preliminary plats to submit such technical studies as may be necessary to enable the Planning Commission or Governing Body to evaluate the application. Examples of technical studies that may be required shall include, but not be limited to, traffic studies, engineering studies, geologic or hydrogeologic studies, flood studies, environmental impact assessments, noise studies, market studies or economic impact reports. The persons or firms preparing the studies shall be subject to the approval of the Director of Planning and Development Services. The costs of all studies shall be borne by the applicant. Any decision of the Director of Planning and Development Services to require any such study or to disapprove the person or firm selected by the applicant to perform the study may be appealed to the Planning Commission. The decision of the Planning Commission on any such appeal shall be final.

B. Notwithstanding the fact that the Director of Planning and Development Services did not require submission of any such technical study in support of the application, either the Planning Commission or the Governing Body may require the submission of such study prior to taking action on the application. In such case, the persons or firms selected to perform the studies shall be subject to the approval of the entity requesting that the study be performed. Any decision of the Planning Commission or the Governing Body to require that a study be performed or to disapprove the person or firm selected by the applicant to perform the study shall be final.

(History: Ord. ZRR-2343 §20, 2002; ZRR-1725; ZRR-1637)

18.140.050 When applications deemed complete

No application shall be deemed complete until all items required to be submitted in support of the application have been submitted. Subject to the provisions of Section 18.140.060, however, all items required to be submitted in support of an application need not be submitted at the same time that the application is filed.

(History: Ord. ZRR-1725; ZRR-1637)

18.140.060 Application and submission deadlines

The Director of Planning and Development Services or the Planning Commission may administratively provide for submission deadlines for materials required in support of any application provided for in this chapter. Compliance with such deadlines shall generally be required in order to have the application placed on an agenda to be heard by the Planning Commission. At the discretion of the Director of Planning and Development Services, non-agenda items may be brought before the Planning Commission for hearing; provided that the Planning Commission in its sole discretion may refuse to hear non-agenda items.

(History: Ord. ZRR-2343 §21, 2002; ZRR-1725; ZRR-1637; ZRR-1314)

18.140.070 Publication notices

Unless otherwise specifically provided for in this Chapter, all publication notices for public hearings required by this Chapter shall be published in one issue of the official City newspaper, and at least 20 clear days shall elapse between the date of such publication and the date set for hearing. For purposes of this section, in computing the time both the day of publication and the day of the public hearing shall be excluded. The publication notice shall fix the time and place for the public hearing. Where the hearing is for consideration of changes in the text of this ordinance, or a general revision of the boundaries of zoning districts, the notice shall contain a statement regarding the proposed changes in the ordinance or in the boundaries of the zone or district. If the hearing is on an application which concerns specific property, the property shall be designated by legal description and general street location, and the notice shall contain a general statement regarding the purpose of the application.

(History: Ord. ZRR-1725; ZRR-1637; ZRR-1314)

18.140.080 Notices to surrounding property owners

Unless otherwise specifically provided in this Chapter, whenever notice to surrounding property owners is required for consideration of an application, such notice shall be given as follows. The applicant shall mail all notices at least 20 days prior to the hearing, thus notifying such property owner of the opportunity to be heard. Notice shall be mailed to all owners of record of land within 200 feet of the property subject to the application. If the subject property is located adjacent to unincorporated property outside the City's limits, then the area of notification shall be extended to include all unincorporated land within 1000 feet of the subject property. For the purposes of this Chapter, the phrase "adjacent to unincorporated property outside the City's limits" shall mean property which lies upon or touches (1) the City boundary line; or (2) a street or public way, railway or watercourse which lies upon the City boundary line. Such mailed notice shall be given by certified mail, and shall be in letter form stating the time and place of the hearing, a general description of the proposal, the legal description and general street location of the property subject to the proposed change, and a statement explaining that the public may be heard at the public hearing. In cases of applications for which protest petitions may be

submitted, the notice shall also contain a statement explaining that property owners required to be notified by this Section shall have the opportunity to submit a protest petition, in conformance with this Ordinance, to be filed with the office of the City Clerk within 14 days after the conclusion of the public hearing. Newspaper clippings of the publication notices shall not be used for the mailed notice. Mailed notices shall be addressed to the owners of the property and not to mere occupants thereof.

When the notice has been properly addressed and deposited in the mail, failure to receive mailed notice shall not invalidate any action taken on the application. Mailed notice may be waived provided that a verified statement specifically indicating such waiver is signed by all property owners within the notification area and filed with the Secretary of the Planning Commission, or the Board of Zoning Appeals, as the case maybe, at least two business days prior to the hearing. Prior to the public hearing, the applicant shall file with the Secretary of the Planning Commission, or the Board of Zoning Appeals, as the case may be, the certified mailings and an affidavit stating the names and addresses of the persons to whom notice was sent; failure to submit the affidavit prior to the hearing may result in a continuance of the hearing.

It is recommended that an applicant hold a neighborhood meeting with surrounding property owners, homes associations, and neighborhood groups prior to any required public hearing at the Planning Commission. The purpose of this neighborhood meeting is to create a productive and cooperative relationship with the neighboring property owners. Development proposals may be deferred by the Planning Commission and Governing Body and required to have a public information meeting. The means of notification for the public information meeting may be by letter, telephone, email or other forms of notification. The notification of a public information meeting shall not be sent in the same envelope as the required notification that is sent via certified mail.

(History: Ord. ZRR-2856 §1, 2010; ZRR-2782 §2, 2008; ZRR-1725; ZRR-1637)

18.140.090 Posting of signs for rezonings and special use permits

- A. In the case of rezonings and special use permits, the applicant shall place a sign on the property informing the general public that a public hearing will be held at a specific time and place concerning proposed changes in use. The sign shall be furnished by the City to the applicant, and the applicant shall maintain the sign for at least the 15 days immediately preceding the date of the public hearing. The sign shall be firmly affixed and attached to a wood or metal backing or frame and placed within 5 feet of the street right-of-way line in a central position on the lot, tract or parcel of land so that the sign is free of any visual obstructions surrounding the sign. If a lot, tract or parcel of land is larger than 5 acres, a sign as required herein shall be placed so as to face each of the streets abutting thereto. The size, style, coloring and wording of signs for rezoning and special use permits shall be determined by the Governing Body by resolution. The applicant shall file an affidavit with the Secretary of the Planning Commission at the time of the public hearing verifying that the sign has been maintained and posted as required by this ordinance and applicable resolutions; failure to submit the affidavit prior to the

hearing may result in a continuance of the hearing. The sign may be removed at the conclusion of the public hearing and must be removed at the end of all proceedings on the application or upon withdrawal of the application.

- B. It shall be a public offense for any person to remove, deface or destroy any sign provided for in subsection A.

(History: Ord. ZRR-1725; ZRR-1637; ZRR-1314)

18.140.100 Public hearings

Where the consideration of an application requires a public hearing, the following provisions shall apply:

- A. The purpose of a public hearing is to allow the applicant and all other interested parties a reasonable and fair opportunity to be heard, to present evidence relevant to the application and to rebut evidence presented by others.
- B. An accurate written summary of the proceedings shall be made for all public hearings.
- C. The Governing Body, Planning Commission and Board of Zoning Appeals may adopt rules of procedure for public hearings by resolution or bylaws.
- D. If an item which is subject to a public hearing is continued or otherwise carried over to a subsequent date and the public hearing has been opened, then the public hearing shall not be deemed concluded until the date on which the hearing is formally closed. No additional notices shall be required once the public hearing is opened.

(History: Ord. ZRR-1725; ZRR-1637; ZRR-1314)

18.140.110 Continuances

- A. Any applicant or authorized agent shall have the right to one continuance of a public hearing before the Planning Commission or Board of Zoning Appeals, provided that a written request outlining the need for the request is submitted to the Secretary of the Planning Commission by the end of business the Tuesday prior to the scheduled hearing or the Secretary of the Board of Zoning Appeals at least two business days prior to the date of the scheduled hearing.
- B. The Planning Commission Secretary may, at his/her discretion, unless otherwise directed by the Planning Commission, grant approval of a second or third continuance to serve the public interest when necessary revisions to the plan, new or missing information or other good cause make consideration of an application by the Planning Commission premature. Requests for continuance made after the close of business the Tuesday prior to the meeting, shall be made in person to the Planning Commission and will not receive the prior approval of the Secretary. At any time, when there has been a lack of proper notice as required by Section 18.140.080, the Secretary of the Planning Commission or the Board of Zoning Appeals shall recommend approval of a continuance.

- C. In support of a request for continuance, including the first continuance, the applicant shall provide a written request outlining the specific need for the continuance and identifying the dates when the application will be ready for consideration. For each request after the third request for continuance, if, in the opinion of the Planning Commission Secretary, sufficient progress has not been made toward rectifying the deficiencies outlined by the applicant or directed by the staff or the Planning Commission, the Secretary shall not recommend approval of the request and shall cause the applicant to appear in person to request additional continuations from the Planning Commission. The Planning Commission, after the review of progress on the application may, at its discretion, continue the item to a date certain or deny the request for continuance. If the applicant is not ready to proceed after the denial of the continuance, the item will be deemed withdrawn.
- D. When a request for continuance is by right or receives prior approval from the Planning Commission or Board of Zoning Appeals Secretary, the applicant shall change the posting on the property to reflect the new hearing date and make every feasible attempt to notify all persons previously notified and any additional interested parties of the approved continuation by means of mail, phone or e-mail.
- E. The Planning Commission, Board of Zoning Appeals or the Governing Body may grant a continuance of an application at any time for good cause shown. The record shall indicate the reason such continuance was made and any stipulations or conditions placed upon the continuance. In those situations, the applicant shall change the posting on the property to reflect the new hearing date. Additionally, the Planning Commission, Board of Zoning Appeals or the Governing Body may request that the applicant notify by first-class mail all parties initially notified of the new hearing date, such notification to be mailed not less than five days prior to the date of the new hearing. In addition, the Planning Commission may direct the applicant to cause written notice of the rescheduled public hearing date to be sent to surrounding property owners in the same manner and in accordance with the same time schedule as required for notice of the original hearing and direct the staff to publish the new date in the appropriate newspaper.
- F. All motions to grant a continuance shall state the date on which the matter is to be heard. A majority vote of those members of the official body present and voting at the meeting shall be required to grant a continuance.

(History: Ord. ZRR-2787 §1, 2009; ZRR-2454 §2, 2003; ZRR-1725; ZRR-1637; ZRR-1314)

18.140.120 Consideration of zoning text amendments

- A. Public hearing required.
 Consideration of zoning text amendments shall require a public hearing before the Planning Commission following publication notice as provided in Section 18.140.070.

B. Action by Planning Commission.

A vote either for or against a zoning text amendment by a majority of all of the Planning Commissioners present and voting shall constitute a recommendation of the Planning Commission. If a motion for or against the zoning text amendment fails to receive a majority vote, the Planning Commission may entertain a new motion. A tie vote, or the failure to obtain a majority vote on any motion, shall constitute a recommendation for denial. The Planning Commission recommendation to approve or disapprove shall be submitted to the Governing Body for action, accompanied by an accurate written summary of the hearing proceedings. A recommendation to approve a zoning text amendment shall be submitted in the form of an ordinance.

C. Governing Body action upon Planning Commission recommendation.

1. When the Planning Commission submits a recommendation to approve a zoning text amendment and the Governing Body approves that recommendation, then the Governing Body shall adopt the submitted ordinance. When the Planning Commission submits a recommendation to disapprove a zoning text amendment and the Governing Body approves that recommendation, no further action need be taken by the Governing Body and the application shall be deemed terminated.
2. Upon receipt of a recommendation of the Planning Commission which the Governing Body disapproves, the Governing Body shall either override the Planning Commission's recommendation by the affirmative vote of nine (9) or more members of the Governing Body, or return such recommendation to the Planning Commission for further consideration, together with a statement specifying the basis for disapproval. A failure to obtain a vote necessary to approve or override the Planning Commission's first recommendation shall constitute a disapproval. Requests for amendments or modifications which constitute substantial changes, or requests for clarification by the Planning Commission, shall be treated as disapprovals for purposes of these procedures unless they are approved by the affirmative vote of nine (9) or more members of the Governing Body.

D. Applications returned to Planning Commission.

Upon receipt of an application returned by the Governing Body, the Planning Commission may resubmit its original recommendation giving the reasons therefor or submit a new or amended recommendation. If the Planning Commission fails to deliver its recommendation to the Governing Body following the Planning Commission's next regular meeting after receipt of the Governing Body's statement specifying disapproval, the Governing Body may consider such course of inaction on the part of the Planning Commission as a resubmission of the original recommendation and proceed accordingly. For purposes of this subsection, the "receipt" of the Governing Body's statement of disapproval shall be deemed to occur on the date of the first Planning Commission meeting on which the returned item is placed on the agenda for consideration.

- E. Reconsideration by Governing Body.
Upon receipt of the Planning Commission's recommendation after reconsideration, or if no action is taken at the next regular meeting following the Planning Commission's receipt of the Governing Body's disapproval of the prior recommendation without a new recommendation being submitted, the Governing Body may take such action as it deems appropriate, including approval, disapproval or amendment of the application and adoption as amended, or the Governing Body may return the same to the Planning Commission for further consideration. Unless the Governing Body returns the application to the Planning Commission for further consideration or continues its consideration of the matter to another date, the Governing Body's action on the application shall constitute a final decision.

(History: Ord. ZRR-2454 §3, 2003; ZRR-1725; ZRR-1637)

18.140.130 Rezoning applications -- submission requirements

The following items shall be submitted in support of any application for rezoning:

- A. Legal description of the property.
- B. A statement of the reasons why rezoning is being requested.
- C. In the case of an application for rezoning to a planned zoning district, a preliminary development plan.
- D. All studies as may reasonably be required by the Director of Planning and Development Services pursuant to Section 18.140.040.
- E. Assurances of adequate public facilities as required by Section 18.100.070.

(History: Ord. ZRR-2487 §1, 2004; ZRR-2343 §22, 2002; ZRR-1725; ZRR-1637)

18.140.140 Special use permit applications -- submission requirements

The following items shall be submitted in support of an application for a special use permit:

- A. Legal description of the property.
- B. A statement of the reasons why the special use permit is being requested.
- C. Either a site plan or a preliminary development plan, whichever is, in the opinion of the Director of Planning and Development Services, necessary in order for the City staff, Planning Commission and Governing Body to properly evaluate the application. Notwithstanding a determination by the Director of Planning and Development Services that only a site plan is required, the Planning Commission or Governing Body may require the submission of a preliminary development plan prior to taking action on the application.

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- D. All studies as may reasonably be required by the Director of Planning and Development Services pursuant to Section 18.140.040.
- E. Assurance of adequate public facilities as required by Section 18.100.070.
(History: Ord. ZRR-2343 §23, 2002; ZRR-1725; ZRR-1637)

18.140.150 Consideration of rezonings and special use permits

- A. Public hearing required.
Consideration of all applications for rezoning or a special use permit shall require a public hearing before the Planning Commission, with publication notice and notice to surrounding property owners as required by Sections 18.140.070 and 18.140.080, respectively.
- B. Procedures.
Except as hereinafter provided, the procedures for Planning Commission and Governing Body consideration of rezoning or special use permit applications shall conform to the procedures set forth in Section 18.140.120 for zoning text amendments. Prior to submission of the application to the Planning Commission, City staff shall determine whether dedication of right-of-way will be required pursuant to the provisions of Chapter 18.400. The Governing Body shall not take action on an original recommendation of the Planning Commission unless the time for filing the protest petition as provided in subsection C of the section has elapsed. Provided, however, that where the right to file a protest petition has been waived in a verified statement signed by all property owners holding such right, the Governing Body may consider the recommendation at any time.
- C. Protest petitions.
 - 1. A protest against any rezoning or a special use permit application shall be filed in the office of the City Clerk not later than the end of the business day (5:00 p.m.) on the 14th day following the date of the conclusion of the Planning Commission's public hearing held pursuant to the publication notice. In order to be considered a "valid" protest, a protest petition must be timely filed and duly signed and verified by the owners of record of 20% or more of the property subject to the application or by the owners of record of 20% of the total area, excepting public streets and ways, required to be notified by Section 18.140.080. Verification of the genuineness and correctness of the signatures on the protest petition, either individually or collectively, shall be made by a person who has signed the protest petition.
 - 2. The 14-day period for filing the protest petition shall begin with the day following the conclusion of the public hearing before the Planning Commission and shall end at 5:00 p.m. on the 14th calendar day thereafter. For purposes of calculating the 14-day period, weekends and holidays shall be counted. Provided, however, if the filing deadline falls on a weekend, holiday or other non-business day for City offices, then the filing deadline shall be at 5:00 p.m. on the next regular business day.

3. Once a valid protest petition has been filed with the City, it may not be withdrawn unless every person eligible to sign the protest signs a verified affidavit which states and fully explains the rights being waived by the withdrawal of the protest petition. Such affidavits of withdrawal must be filed with the City Clerk on or before the last regular business day preceding the Governing Body meeting for which the protest applies. For purposes of withdrawal, signatures shall not be required of the City where City-owned property lies within the protest area or of entities controlling rights-of-way or utility easements.
- D. Adoption where protest filed.
Where a valid protest petition has been filed, an ordinance approving the rezoning or special use permit application shall not be passed except by the affirmative vote of ten (10) or more members of the Governing Body.
- E. Criteria for considering applications.
In considering any application for rezoning or a special use permit, the Planning Commission and the Governing Body may give consideration to the criteria stated below, to the extent they are pertinent to the particular application. In addition, the Planning Commission and Governing Body may consider other factors which may be relevant to a particular application.
1. The character of the neighborhood.
 2. The zoning and uses of nearby properties, and the extent to which the proposed use would be in harmony with such zoning and uses.
 3. The suitability of the property for the uses to which it has been restricted under the applicable zoning district regulations.
 4. The length of time the property has remained vacant as zoned.
 5. The extent to which approval of the application would detrimentally affect nearby properties.
 6. The extent to which the proposed use would substantially harm the value of nearby properties.
 7. The extent to which the proposed use would adversely affect the capacity or safety of that portion of the road network influenced by the use, or present parking problems in the vicinity of the property.
 8. The extent to which utilities and services, including but not limited to, sewers, water service, police and fire protection, and parks and recreation facilities, are available and adequate to serve the proposed use.

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9. The extent to which the proposed use would create excessive stormwater runoff, air pollution, water pollution, noise pollution or other environmental harm.
10. The extent to which there is a need for the use in the community.
11. The economic impact of the proposed use on the community.
12. The ability of the applicant to satisfy any requirements applicable to the specific use imposed pursuant to the zoning district regulations or Chapter 18.370.
13. The gain, if any, to the public health, safety and welfare due to denial of the application as compared to the hardship imposed upon the landowner, if any, as a result of denial of the application.
14. The conformance of the proposed use to the Master Plan, the Land Use Intensity System and other adopted planning policies.
15. The recommendation of professional staff.

(History: Ord. ZRR-2454 §4, 2003; ZRR-2440 §1, 2003; ZRR-2015 §9, 97; ZRR-1725; ZRR-1637)

18.140.160 Rezoning for lesser change

The Planning Commission may recommend and the Governing Body may adopt a change in zoning which is a lesser change than the one requested, provided that the more restrictive district is in the same residential, commercial or industrial grouping as the district for which the change was requested. In no case may a change to a residential district be approved if the application is for a commercial or industrial district, and in no case may a commercial district be approved if the application is for an industrial district. Applications for District A may not be changed to another category unless a new application is filed. A planned district shall be equally restrictive to its equivalent district. Provided, the Governing Body may refer any such application back to the Planning Commission for further consideration if, in its judgment, it deems such referral advisable and in the best interest of the public and the applicant.

(History: Ord. ZRR-1725; ZRR-1637)

18.140.170 Site plans -- contents

All site plans shall contain the following information:

- A. North arrow and scale.
- B. Location of existing rights-of-way, easements and infrastructure (streets, sewers, water lines, etc.).
- C. Size and location of existing and proposed structures and drives on the subject property, and existing structures and drives on surrounding properties.
- D. Location of floodplain and special flood hazard areas.

- E. Conceptual locations, types and sizes of all storm drainage conveyance, detention and treatment facilities.
- F. Location of proposed drives and parking areas.
- G. Platted setback lines.
- H. Elevations of proposed buildings.
- I. Final grades.
- J. Landscaping.
- K. Name and address of landowner.
- L. Name and address of architect, landscape architect, planner, engineer, surveyor, or other person involved in the preparation of the plan.
- M. Date of preparation of the plan.
(History: Ord. ZRR-2675 §3, 2008; ZRR-1725; ZRR-1637)

18.140.180 Consideration of site plans

- A. Where property is being rezoned to a zoning district which requires approval of a site plan, the site plan shall be submitted and considered as a part of the rezoning application.
- B. After the effective date of this ordinance, no property which has a zoning district classification which requires approval of a site plan may be developed or redeveloped without a site plan first having been submitted to and approved by the Director of Planning and Development Services. Disapproval of a site plan by the Director of Planning and Development Services may be appealed to the Planning Commission. The decision of the Planning Commission on the appeal may be appealed to the Governing Body by either the property owner or the Director of Planning and Development Services by filing a notice of appeal with the City Clerk within 10 days following the Planning Commission's decision.
- C. The Planning Commission or Director of Planning and Development Services shall approve the site plan if it is determined that the following criteria are satisfied:
 - 1. The site is capable of accommodating the building(s), parking areas and drives with appropriate open space.
 - 2. The plan provides for safe and easy ingress, egress and internal traffic circulation.
 - 3. The plan is consistent with good land planning and site engineering design principles.

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4. An appropriate degree of harmony will prevail between the architectural quality of the proposed building(s) and the surrounding neighborhood.
5. The plan represents an overall development pattern that is consistent with the Master Plan, the Official Street Map, the Land Use Intensity System and other adopted planning policies.
6. Right-of-way for any abutting thoroughfare has been dedicated pursuant to the provisions of Chapter 18.400.

(History: Ord. ZRR-2015 §10, 97; ZRR-1725; ZRR-1637)

18.140.190 Preliminary development plans -- submission requirements and contents

A. Five copies of the preliminary development plan shall be submitted in support of the application. The preliminary development plan shall contain the following information:

1. North arrow and scale.
2. With regard to the subject property only:
 - a. Existing topography with contours at 5-foot intervals, and delineating any land areas within the 100-year floodplain.
 - b. Proposed location of buildings and other structures, parking areas, drives, walks, screening, drainage patterns, public streets and any existing easements.
 - c. Conceptual locations, types and sizes of all storm drainage conveyance, detention and treatment facilities.
 - d. Sufficient dimensions to indicate relationship between buildings, property lines, parking areas and other elements of the plan.
 - e. General extent and character of proposed landscaping.
3. With regard to areas within 200 feet of the subject property:
 - a. Any public streets which are of record.
 - b. Any drives which exist or which are proposed to the degree that they appear on plans on file with the City, except those serving single-family houses.
 - c. Any buildings which exist or are proposed to the degree that their location and size are shown on plans on file with the City. Single- and two-family residential buildings may be shown in approximate location and general size and shape.

- d. The location and size of any drainage structures, such as culverts, paved or earthen ditches or stormwater sewers and inlets.
4. Preliminary sketches depicting the general style, size and exterior construction materials of the buildings proposed. Where several building types are proposed on the plan, such as apartments and commercial buildings, a separate sketch shall be prepared for each type. Such sketches shall include elevation drawings, but detailed drawings and perspectives are not required.
 5. A schedule shall be included indicating total floor area, dwelling units, land area, parking spaces, land use intensity if the project lies south of 103rd Street and other quantities relative to the submitted plan in order that compliance with requirements of this Ordinance can be determined.
 6. For all developments proposed in the RP-OE, RP-OS, RP-3, RP-5 and RP-6 Districts, the following information, if applicable, shall be submitted if requested by the Director of Planning and Development Services, or his or her designee, in addition to the above-listed requirements:
 - a. Up to three site section plans.
 - b. Slope analysis representing slopes falling within the following categories:
 - 1) 0%-5% slope;
 - 2) 6%-10% slope;
 - 3) 11%-17% slope;
 - 4) 18% slope and greater.
 - c. Existing streams and other bodies of water.
 - d. Surface drainage channels.
 - e. Location, massing and pattern of existing vegetation.
 - f. Views within the site.
 - g. Vistas to and from the site.
 - h. Focal points and site amenities.
 - i. Existing structures on the site.

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- j. Street and traffic patterns affecting the site.
 - k. Pedestrian and vehicular access points.
 - l. Physical barriers (such as interstate highways).
 - m. Noise generation sources.
 - n. Surrounding uses, activities and influences of the site and adjacent properties.
7. For all developments proposed in the PRN District, the following information, if applicable, shall be submitted if requested by the Director of Planning and Development Services, or his or her designee, in addition to the above-listed requirements:
- a. Up to three site section plans.
 - b. Slope analysis representing slopes falling within the following categories:
 - 1) 0%-5% slope;
 - 2) 6%-10% slope;
 - 3) 11%-17% slope;
 - 4) 18% slope and greater.
 - c. Existing streams and other bodies of water.
 - d. Surface drainage channels.
 - e. Location, massing and pattern of existing vegetation.
 - f. Views within the site.
 - g. Vistas to and from the site.
 - h. Focal points and site amenities.
 - i. Existing structures on the site.
 - j. Street and traffic patterns affecting the site.
 - k. Pedestrian and vehicular access points.

- l. Physical barriers (such as interstate highways).
 - m. Noise generation sources.
 - n. Surrounding uses, activities and influences of the site and adjacent properties.
 - o. A plan clearly defining the type of residential dwelling unit to be constructed on each block or specific area.
 - p. A written criteria (can include drawings or pictures) describing each residential area or building type to be constructed in the Planned Residential Neighborhood development. Items to be included are possibly residential type (Colonial, Prairie, etc.), colors, materials and any other information that will help explain the proposal.
 - q. Typical elevations for the various building types.
 - r. A pedestrian and open space concept plan.
8. Name and address of landowner.
 9. Name and address of architect, landscape architect, planner, engineer, surveyor, or other person involved in the preparation of the plan.
 10. Date of preparation of the plan.
- B. The following information shall be submitted in support of the application for the preliminary development plan approval:
1. All studies as may reasonably be required by the Director of Planning and Development Services pursuant to Section 18.140.040.
 2. Assurances of adequate public facilities as required by Section 18.100.070.
- C. For all developments proposed in the RP-OE, RP-OS, and PRN zoning districts an acceptable plan shall be submitted to the City that demonstrates that all common open space and natural conservation areas will be managed by a responsible party and how these areas will be managed.
- D. For all developments proposed in the MXD zoning district the following additional submittals shall be required:
1. Regulating Plan.
 2. Building Type Plan.

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3. Street Type Plan.
4. Utility Location Strategy.
5. Project Design Manual.
6. Additional plans or studies deemed necessary by the Director of Planning and Development Services.

(History: Ord. ZRR-2829 §1, 2009; ZRR-2675 §4, 2008; ZRR-2590 §2, 2005; ZRR-2345 §2, 2002; ZRR-1725; ZRR-1637)

18.140.200 Consideration of preliminary development plans

A. Plans for planned zoning districts.

1. When property is rezoned to a planned zoning district, the preliminary development plan shall be considered and approved as part of the rezoning application.
2. Once property has been rezoned to a planned zoning district, changes in the preliminary development plan may be made only after approval of a revised preliminary development plan. Changes in the preliminary development plan which are not substantial or significant may be approved by the Planning Commission, and disapproval of such changes by the Planning Commission may be appealed to the Governing Body. Substantial or significant changes in the preliminary development plan may only be approved after rehearing by the Planning Commission and Governing Body; such rehearing shall be subject to the notice and protest provisions set forth in Section 18.140.150. For substantial or significant changes to preliminary development plans in the PRN, Planned Residential Neighborhood District only the area directly affected by the revisions or that area subject to the application will be subject to the notice and protest provisions set forth in Section 18.140.150. Prior to consideration of any revised preliminary development plan, City staff shall determine whether dedication of right-of-way will be required pursuant to the provisions of Chapter 18.400.
3. For purposes of this Section, "substantial or significant changes" in the preliminary development plan shall mean any of the following:
 - a. Increases in the density or intensity of residential uses of more than five percent (5%).
 - b. Increases in the total floor area of all nonresidential buildings covered by the plan of more than ten percent (10%).
 - c. Increases of lot coverage of more than five percent (5%).
 - d. Increases in the height of any building of more than ten percent (10%).

- e. Changes of architectural style which will make the project less compatible with surrounding uses.
 - f. Changes in ownership patterns or stages of construction that will lead to a different development concept.
 - g. Changes in ownership patterns or stages of construction that will impose substantially greater loads on streets and other public facilities.
 - h. Decreases of any peripheral setback of more than five percent (5%).
 - i. Decreases of areas devoted to open space of more than five percent (5%) or the substantial relocation of such areas.
 - j. Changes of traffic circulation patterns that will affect traffic outside of the project boundaries.
 - k. Modification or removal of conditions or stipulations to the preliminary development plan approval.
 - l. For any developments proposed in the RP-OE, RP-OS, or PRN zoning districts, any change in the specified use or maintenance of any designated open space lands.
 - m. For any developments proposed in the PRN, any changes in the type of dwelling units or style of dwelling units proposed to be constructed in a particular area or block.
 - n. For any developments proposed in the MXD zoning district the following shall apply (see Mixed Use Design Guidelines for additional information):
 - 1) Internal sub-zones in an MXD development may be changed administratively if no internal property or units have been sold to a separate entity.
 - 2) Perimeter sub-zones in an MXD development may be changed to a less intensive sub-zone without a public hearing. Any changes of the perimeter property line of an MXD zoned development shall result in a revised preliminary plan subject to the requirements found in Section 18.140.150.
4. The determination of whether a proposed revised preliminary development plan contains "substantial or significant changes" shall be made by the Director of Planning and Development Services within five (5) business days following the filing of the application. The determination of the Director of Planning and Development Services may be appealed to the Planning Commission, whose decision shall be final.

5. In determining whether to approve an application for a revised preliminary development plan, the Planning Commission or Governing Body shall apply the criteria set forth in subsection E of Section 18.140.150. In the event that the application for the revised preliminary development plan is denied, the previously-approved preliminary development plan will remain in effect.

B. Plans for non-residential uses in residential districts.

1. Consideration of a preliminary development plan for non-residential uses in a residential district requires a public hearing before the Planning Commission, with notice to surrounding property owners as required by Section 18.140.080. Prior to Planning Commission consideration of the preliminary development plan, City staff shall determine whether dedication of right-of-way will be required pursuant to the provisions of Chapter 18.400.
2. Following the close of the public hearing, the Planning Commission shall determine the appropriateness of the proposed preliminary development plan according to the following criteria:
 - a. The capability of the site to accommodate the proposed uses, buildings, parking and drives with appropriate open space, adequate separation from surrounding land uses, and safe and easy ingress and egress.
 - b. An appropriate degree of harmony shall prevail between the architectural quality of the proposed building and the surrounding neighborhood.
 - c. The appropriateness of the minimum dimensions and areas of lots and yards contained in the applicable zoning district regulations may be considered and increased; in the case of a church, the site shall be of not less than four acres in area, and shall have direct access to a thoroughfare, super-collector or a collector street.

The Planning Commission may approve the application, deny the application, or approve the application subject to modifications being made. Unless the Planning Commission's action is appealed by the applicant or subject to a valid protest by surrounding property owners, the Planning Commission's decision shall be final.

3. In the event of denial of a preliminary development plan by the Planning Commission, the applicant may appeal the decision to the Governing Body by filing a notice of appeal with the City Clerk within 10 days of the Planning Commission's decision. On appeal, the Governing Body shall apply the criteria set forth in subsection B.2 above, and may approve the proposed plan, deny the proposed plan or approve the proposed plan subject to modifications being made.
4. In the event of approval of a preliminary development plan by the Planning Commission, such approval may be protested by the owners of twenty percent (20%) of the total area, excepting public streets and ways, located within or

without the corporate limits of the City and located within 200 feet of the boundaries of the property subject to the application. Such protest shall be filed within 14 days following the Planning Commission's decision. The provisions of subsection C of Section 18.140.150 regarding verification and determining the validity of the protest shall be applicable to protests under this Section. If a valid protest is filed, the application for preliminary development plan approval shall be reviewed by the Governing Body. The Governing Body shall apply the criteria set forth in subsection B.2 above, and may approve the proposed plan, deny the proposed plan or approve the proposed plan subject to modifications being made.

Approval of a preliminary development plan which has been the subject of a valid protest shall require the affirmative vote of seven (7) or more members of the Governing Body.

5. If a valid protest is not filed against a preliminary development plan approved by the Planning Commission within 14 days of said approval, the Planning Commission's approval becomes final and the applicant may proceed with submission of final development plans to the Planning Commission.
6. Once a preliminary development plan has been approved for a non-residential use in a residential district, changes in the preliminary development plan may be made only after approval of a revised preliminary development plan. Substantial or significant changes to the preliminary development plan, or any change that results in a change to the boundary of the preliminary development plan, shall require a public hearing before the Planning Commission with notice to surrounding property owners as required by Section 18.140.080.

C. Plans in MXD districts.

Following the close of the public hearing (if required), the Governing Body, Planning Commission or Director of Planning and Development Services, shall approve amendments to the MXD plans and manuals upon a determination that the following criteria have been satisfied:

1. The plan conforms to the applicable MXD regulations and any other adopted plans and policies.
2. The plan complies with the criteria set forth in Section 18.140.180 C – Consideration of site plans.
3. The landscaping and screening is provided as set forth in Chapter 18.450 and the MXD Design Standards.
4. All submission requirements have been met.

(History: Ord. ZRR-2829, §2, 2009; ZRR-2698, §1, 2007; ZRR-2590, §3, 2005; ZRR-2454, §5, 2003; ZRR-2345, §3, 2002; ZRR-2156, §1, 99; ZRR-2015 §11,97; ZRR-1725; ZRR-1637)

18.140.210 Final development plans -- contents and submission requirements

A. Five copies of the final development plan shall be submitted in support of the application. The final development plan shall contain the following information:

1. A small key map indicating the location of the property within the City.
2. A site plan including the following:
 - a. Finished grades or contours for the entire site at two-foot contour intervals.
 - b. All existing and proposed adjacent public street right-of-way with centerline location.
 - c. All existing and proposed adjacent public street and public drive locations, widths, curb cuts and radii.
 - d. Location, width and limits of all existing and proposed sidewalks.
 - e. Location, size and radii of all existing and proposed median breaks and turning lanes.
 - f. Distance between all buildings, between buildings and property lines and between all parking areas and property lines.
 - g. Location of all required building and parking set-backs.
 - h. Location, dimensions, number of stories and area in square feet of all proposed buildings.
 - i. Area of land on site plan in square feet or acres.
 - j. Limits, location, size and material to be used in all proposed retaining walls.
 - k. Location and dimensions of all driveways, parking lots, parking stalls, aisles, loading and service areas and docks.
 - l. Location, height, candle power and type of outside lighting fixtures for buildings and parking lots.
 - m. Location, size, type of material and message of all proposed monument or detached signs.
 - n. Pertinent peripheral information to include adjacent developments, alignment and location of public and private driveways and streets, medians, public and semi-public easements.

2. A copy of all covenants and restrictions applicable to the development, if required by the terms of the preliminary development plan.
3. Evidence of the establishment of the agency for the ownership and maintenance of any common open space and all assurances of the financial and administrative ability of such agency required pursuant to approval of the preliminary development plan, if required by the terms of the approved preliminary development plan.
4. Evidence of satisfaction of any stipulations of the preliminary development plan approval which were conditions precedent to consideration of the final development plan.
5. Proof of filing of the statement required by Section 18.140.230.
6. Assurances of adequate public facilities as required by Section 18.100.070.
(History: Ord. ZRR-2675 §5, 2008; ZRR-2343 §24, 2002; ZRR-1725; ZRR-1637)

18.140.220 Consideration of final development plans

- A. Prior to consideration of any final development plan, City staff shall determine whether dedication of right-of-way will be required pursuant to the provisions of Chapter 18.400.
- B. Plans for planned zoning districts.
 1. Final development plans which contain no modifications or additions from the approved preliminary development plan shall be approved by the Planning Commission if the Commission determines that the landscaping and screening plan is adequate and that all other submission requirements have been satisfied.
 2. A final development plan which contains modifications from the approved preliminary development plan, but is in substantial compliance with the preliminary plan, may be approved by the Planning Commission without a public hearing, provided that the Commission determines that the landscaping and screening plan is adequate and that all other submission requirements have been satisfied. For purposes of this Section, lack of "substantial compliance" shall have the same meaning as "substantial or significant changes" as set forth in Section 18.140.200(A) 3. Any determination made by the Planning Commission under this subsection shall be appealable to the Governing Body by the applicant within 15 days of the date of the Planning Commission determination.
 3. In the event of a determination that the proposed final development plan is not in substantial compliance with the approved preliminary development plan, the application may not be considered except at a public hearing, following publication notice and notice to surrounding property owners as provided in Sections 18.140.070 and 18.140.080, respectively. Following the public hearing, the Planning Commission shall recommend approval or denial of the proposed final development plan to the Governing Body, specifying the reasons for its recommendation. If the Planning Commission fails to make a recommendation

on the proposed final development plan, the Planning Commission shall be deemed to have made a recommendation of denial. Following receipt of the Planning Commission recommendation, the Governing Body may approve the proposed final development plan by the affirmative vote of seven (7) or more members. Failure to obtain the necessary votes for approval shall constitute denial. Provided, however, that consideration of a proposed final development plan which has been determined to be not in substantial compliance with the approved preliminary development plan shall also be subject to the protest provisions contained in Section 18.140.150.

- C. Plans for non-residential uses in residential districts.
1. Final development plans for non-residential uses in residential districts shall conform to the approved preliminary development plan for such uses. Final plans shall be approved by the Planning Commission upon its determination that the proposed final plan conforms to the approved preliminary plan and that all other submission requirements have been satisfied. In the event of denial of a final development plan by the Planning Commission, the applicant may appeal such determination to the Governing Body by filing a notice of appeal with the City Clerk within 30 days following the Planning Commission's decision. Upon appeal, the Governing Body may reverse the decision of the Planning Commission if it determines that the proposed final plan conforms to the approved preliminary plan and that all other submission requirements have been satisfied. In the event of denial of the final development plan by the Planning Commission or the Governing Body, the applicant may either submit a new final plan which conforms to the approved preliminary plan or may file an application for a new preliminary development plan.
 2. Final development plans for non-residential uses in residential districts may be combined with the preliminary development plan provided that all information required by both Section 18.140.210 and Section 18.140.190 is submitted with the plan. Where a combined preliminary and final development plan is submitted, it shall be considered in accordance with the provisions of Section 18.140.200(B).
- D. Revisions to approved final development plans which are insignificant in nature may be approved administratively by the Director of Planning and Development Services. Provided, however, that in no event may revisions to approved final development plans be approved administratively if the proposed revised final plan contains "substantial or significant changes" as defined in Section 18.140.200(A) 3.
- E. Approval of Mixed Use Final Development Plans. After approval of the Mixed Use preliminary plan all Mixed Use developments requiring a building permit, site development permit or sign permit, may be approved administratively by the Director of Planning and Development Services subject to meeting the approved plans and project design manual. Applications which have been denied by the Director of Planning and Development Services, may appeal the Director's decision to the Planning Commission, provided written notice is provided to the Director within 14 days following the

Director's decision. In the event an application is appealed to the Planning Commission, the procedure outlined in Section 18.140.490(A) 1-5 shall be followed.

(History: Ord. ZRR-2829 §3, 2009; ZRR-2454 §6, 2003; ZRR-2015 §12, 97; ZRR-1725; ZRR-1637)

18.140.230 Recording of development plans for planned zoning districts

A. Following the approval of a rezoning to a planned district, a statement shall be recorded with the Register of Deeds acknowledging that a preliminary development plan has been approved for the property. The statement shall be recorded in accordance with the forms and procedures established by the City and shall contain the following information:

1. A legal description of the property.
2. A specification of the nature of the plan by identifying the zoning districts which apply to the property and the rezoning case number established by the rezoning ordinance.
3. A statement that the restrictions on development established by the preliminary development plan and the rezoning ordinance shall be binding upon all successors and assigns unless amended in conformance with the procedures set forth in the City's Unified Development Ordinance.

B. Following the approval of a final development plan, a statement acknowledging that a final development plan has been approved for the property shall be filed with the Register of Deeds. The statement shall be recorded in accordance with the forms and procedures established by the City and shall contain the following information:

1. A legal description of the property.
2. A statement that the restrictions on development and the responsibility for continuing maintenance and compliance with the final development plan shall be binding upon all successors and assigns unless the plan is amended in conformance with the procedures set forth in the City's Unified Development Ordinance.

(History: Ord. ZRR-1725; ZRR-1637)

18.140.240 Abandonment of final development plan

In the event that a plan or a section thereof is given final approval and thereafter the landowner shall abandon said plan or the section thereof and shall so notify the City in writing, or in the event the landowner shall fail to commence the planned development within 18 months after final approval has been granted, then in either event such final approval shall terminate and shall be deemed null and void unless such time period as extended by the Planning Commission upon written application by the landowner. Whenever a final plan or section thereof has been abandoned as provided in this Section, no development shall take place on the property until a new final development plan has been approved.

(History: Ord. ZRR-1725; ZRR-1637)

18.140.250 Preliminary plats -- contents and submission requirements

- A. Seven copies of the preliminary plat shall be submitted in support of the application. The plat shall contain the following information:
1. North arrow and scale.
 2. Legal description.
 3. The proposed name of the subdivision and the names of adjacent subdivisions.
 4. The boundary lines of the tract with approximate dimensions.
 5. The general pattern and sizes of proposed lots and tracts.
 6. The general location, width and alignment of existing and proposed streets, alleys and sidewalks.
 7. Conceptual locations, types and sizes of all storm drainage conveyances, detention and treatment facilities.
 8. All platted or existing streets and property lines or land adjacent for a distance of not less than 400 feet.
 9. Topography of the area contained in the plat shown by two-foot or five-foot contour intervals.
 10. Approximate gradients of proposed streets within the plat.
 11. Description of any existing streets or roads which abut, touch upon or extend through the subdivision. The description shall include types and widths of existing surfaces, right-of-way widths, and dimensions of any bridges or culvert.
 12. Location of the 100-year floodplain and special flood hazard areas.
 13. The proposed use of land, whether for single-family, multi-family, commercial, industrial, parks, schools, etc.
 14. Indication of the ground floor area classification for residential subdivisions.
 15. Name and address of landowner.
 16. Name and address of architect, landscape architect, planner, engineer, surveyor or other person involved in the preparation of the plat.
 17. Date of preparation of the plat.
 18. Signature block for appropriate City officials.

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B. The following items shall be submitted in support of an application for preliminary plat approval:

1. All studies as may reasonably be required by the Director of Planning and Development Services pursuant to Section 18.140.040.
2. Assurances of adequate public facilities as required by Section 18.100.070.
3. For residential subdivisions in Districts R-1, R-1A and R-2, a master fence/screening plan as required by Section 18.460.220.
4. A current title report (less than 90 days old) together with legible copies of all pertinent exception documents; or a copy of a current American Land Title Association (ALTA) survey; or both as directed by the City.

(History: Ord. ZRR-2675 §6, 2008; ZRR-2343 §25, 2002; ZRR-2218; ZRR-1725; ZRR-1637; ZRR-1409; ZRR-1343; ZRR-942; ZRR-901; ZRR-772; ZRR-413)

18.140.260 Consideration of preliminary plats

A. Consideration of preliminary plats shall be at a public hearing, following notice to surrounding property owners as provided in Section 18.140.080.

B. The Planning Commission shall approve the preliminary plat if it finds that the following criteria are satisfied:

1. The proposed preliminary plat conforms to the requirements of Chapter 18.460, the applicable zoning district regulations and any other applicable provisions of the Code, subject only to acceptable rule exceptions.
2. The subdivision represents an overall development pattern that is consistent with the Master Plan and the Official Street Map.
3. The plat contains a sound, well-conceived parcel and land subdivision layout which is consistent with good land planning and site engineering design principles.
4. The spacing and design of proposed curb cuts and intersection locations is consistent with good traffic engineering design and public safety considerations.
5. All submission requirements have been satisfied.

C. The decision of the Planning Commission to approve or deny the proposed preliminary plat shall be final. Approval of a preliminary plat shall require the affirmative vote of six (6) or more members of the Planning Commission.

(History: Ord. ZRR-2454 §7, 2003; ZRR-1725; ZRR-1637)

18.140.270 Final plats -- contents and submission requirements

- A. Final plats shall be drawn to a scale of one inch to 100 feet, or at such other scale acceptable to Director of Planning and Development Services. Seven copies of the final plat shall be submitted in support of the application. The final plat shall contain the following information:
1. North arrow and scale.
 2. Legal description.
 3. The name of the subdivision and adjacent subdivisions.
 4. A system of lot and block numbers in orderly sequence.
 5. The names of streets which shall conform to the existing pattern.
 6. A boundary survey of third order surveying accuracy (maximum closure error one in 5,000) with bearings and distances referring to section or fractional section corners or other baseline shown on the plat and readily reproducible on the ground.
 7. The dimensions, in feet and decimals of feet, of setback lines along front and side streets and the location and dimension of all necessary easements, including, but not limited to, those specified in Section 18.460.235.
 8. Certification of dedication of all streets, highways and other rights-of-way or parcels for public park or other public use, signed by the owners and all other parties who have a mortgage or lien interest in the property.
 9. A statement on the plat concerning utility easements as follows:
An easement or license to enter upon, locate, construct, use and maintain or authorize the location, construction or maintenance and use of conduits, water, gas, sewer pipes, poles, wires, drainage facilities, irrigation systems, ducts and cables, and similar facilities, upon, over and under these areas outlined and designated on this plat as "Utility Easement" or "U/E" is hereby granted to the City with subordinate use of the same by other governmental entities and public utilities as may be authorized by state law to use such easement for said purposes. Utility easements shall be kept clear of obstructions that impair the strength or interfere with the use and/or maintenance of public utilities located within the easement.
 10. A statement on the plat concerning drainage easements as follows:
An easement or license to enter upon, locate, construct, use and maintain or authorize the location, construction, maintenance or use of conduits, surface drainage facilities, subsurface drainage facilities, and similar facilities, upon, over and through those areas outlined and designated on this plat as "Drainage Easement" or "D/E" is hereby granted to the City. Drainage easements shall be kept clear of obstructions that impair the strength or interfere with the use and/or maintenance of storm drainage facilities.

11. A statement on the plat concerning prior easement rights as follows:
The undersigned proprietor of said property shown on this plat does hereby dedicate for public use and public ways and thoroughfares, all parcels and parts of land indicated on said plat as streets, terraces, places, roads, drives, lanes, parkways, avenues and alleys not heretofore dedicated. Where prior easement rights have been granted to any person, utility or corporation on said parts of the land so dedicated, and any pipes, lines, poles and wires, conduits, ducts or cables heretofore installed thereupon and therein are required to be relocated, in accordance with proposed improvements as now set forth, the undersigned proprietor hereby absolves and agrees to indemnify the City from any expense incident to the relocation of any such existing utility installations within said prior easement.
 12. Location and elevations of the 100-year floodplain for all lots thereby affected shall be shown and shall include calculations.
 13. Tracts or easements designating location of fencing/screening for R-1, R-1A and R-2 subdivisions adjacent to thoroughfares or super-collectors, unless there is a separate tract designated as a hike/bike trail, consistent with the approved preliminary plat.
 14. Certification by a registered land surveyor to the effect that the plat represents a survey made by him or her.
 15. Name and address of landowner.
 16. Name and address of the land surveyor preparing the plat.
 17. Date of preparation of the plat.
 18. Signature block for appropriate City officials.
- B. The following items shall be submitted in support of the application for final plat approval:
1. Documentation assuring permanent responsibility for the maintenance of the fence/screening tracts or easements.
 2. Assurances of adequate public facilities as required by Section 18.100.070. Where development on septic tanks has been approved, the results of septic tank percolation tests performed by a licensed engineer or competent professional testing company shall be submitted. If such tests indicate that the public health, safety and general welfare will be adversely impacted, the applicant shall submit a second study which indicates what measures or alternative sanitary waste treatment will take place. In any event, the Planning Commission may deny the final plat or portion thereof if adequate measures cannot be provided to safely handle sanitary waste with the use of septic tanks on each lot.

3. Upon request by the City, a current title report (less than 90 days old) together with legible copies of all pertinent exception documents, or a copy of a current American Land Title Association (ALTA) survey, or both.
4. Calculation documents containing the following data: coordinates of the plat boundary; square feet of each lot, tract and right-of-way; and the unadjusted error of closure of the field traverse that established the plat.

(History: Ord. ZRR-2843 §1, 2010; ZRR-2748 §1, 2008; ZRR-2698 §2, 2007; ZRR-2343 §26, 2002; ZRR-2219; ZRR-1725; ZRR-1637)

18.140.280 Consideration of final plats

A. Prior to consideration of any final plat, City staff shall determine whether dedication of right-of-way will be required pursuant to the provisions of Chapter 18.400.

B. Final plats shall be approved by the Planning Commission if it determines that:

1. The final plat substantially conforms to the approved preliminary plat and rule exceptions granted thereto.
2. The plat conforms to all applicable requirements of the Code, subject only to approved rule exceptions.
3. All submission requirements have been satisfied.

Approval of a final plat shall require the affirmative vote of six (6) or more members of the Planning Commission.

C. Following approval of the final plat by the Planning Commission, the final plat shall be submitted to the Governing Body for review of land proposed to be dedicated for public purposes. The Governing Body shall approve or disapprove the dedication of land for public purposes within 30 days after the first meeting of the Governing Body following the date of the submission of the plat to the City Clerk. The Governing Body may defer action for an additional 30 days for the purpose of allowing for modifications to comply with the requirements established by the Governing Body. No additional filing fees shall be assessed during that period. If the Governing Body defers or disapproves any such dedication, it shall advise the Planning Commission of the reasons therefor. No plat shall be filed with the Register of Deeds unless such plat bears the endorsement that the land dedicated to public purposes has been approved by the Governing Body.

D. Upon final approval by the Planning Commission and/or the acceptance by the City Council of dedications, the final plat shall be submitted in a digital format approved by the Director of Planning and Development Services. The digital version of the final plat shall contain as a minimum the requirements set forth in Section 18.140.270. Any final plat not submitted in a digital format will be converted by the City and the cost will be charged to the applicant prior to recording the plat.

- E. Final plats shall be recorded with the Register of Deeds within 18 months following Governing Body approval of land dedicated to public purposes. Final plats which are not recorded within said time period shall be deemed null and void.

(History: Ord. ZRR-2454 §8, 2003; ZRR-2015 §13, 97; ZRR-1725; ZRR-1637)

18.140.290 Applications for lot splits

Applications for lot splits shall be accompanied by a survey showing the new lots to be created, together with legal descriptions of each new lot.

(History: Ord. ZRR-1725; ZRR-1637)

18.140.300 Consideration of lot splits

The Director of Planning and Development Services shall approve applications for lot splits if it is determined that the lot has not been previously split, that the new lots so created conform to the requirements of this ordinance, and that adequate street rights-of-way and easements exist to serve the properties. The Director of Planning and Development Services may require the dedication of additional street rights-of-way or easements as a condition precedent to issuance of buildings permits for the new lots where such dedications are reasonably related to the development of the properties. All applications for lot splits shall be acted upon by the Director of Planning and Development Services within 30 days after receipt of a complete application therefor. Denial of an application for a lot split by the Director of Planning and Development Services may be appealed to the Planning Commission, which shall act on the appeal within 30 days following the filing thereof. All decisions of the Planning Commission shall be final.

(History: Ord. ZRR-2343 §27, 2002; ZRR-1725; ZRR-1637; ZRR-1343)

18.140.310 Applications for vacation of streets or reservations

Where an application for the vacation of any street, alley, utility easement or other public reservation by ordinance is not made by the owners of lands adjoining on both sides of the street, alley or public reservation to be vacated, the application shall be accompanied by affidavits of all such owners not joining in the application indicating their consent to the vacation. Copies of the application shall be filed in both the office of the City Clerk and the office of the Director of Planning and Development Services. The application shall be accompanied by a legal description and survey or such other drawing acceptable to the Director of Planning and Development Services depicting the street, alley or public reservation sought to be vacated and the properties and property ownerships surrounding said street, alley or public reservation.

(History: Ord. ZRR-2343 §28, 2002; ZRR-1725; ZRR-1637)

18.140.320 Consideration of vacations

- A. Applications to vacate a street, alley, utility easement or other public reservation by ordinance may only be considered at a public hearing following notice to surrounding property owners as provided in Section 18.140.080 and publication notice as hereinafter provided. Notice shall be published for two consecutive weeks in an official City newspaper. The notice shall state that an application for vacation has been filed in the office of the City Clerk, describing the property fully, and that a hearing thereon before the Governing Body will be held on a date certain after the completion of such

publication notice, naming the day on which the hearing will be held, and that at such time and place all persons interested can appear and be heard concerning the application.

- B. The Governing Body or the Director of Planning and Development Services may determine that it would be advisable to obtain the recommendation of Planning Commission concerning a vacation application prior to the public hearing before the Governing Body. In that event, the Planning Commission shall hold its own public hearing on the application following publication notice and notice to surrounding property owners in accordance with the provisions of Sections 18.140.070 and 18.140.080, respectively. At the conclusion of any such hearing, the Planning Commission shall submit its recommendation on the application to the Governing Body.
- C. At the time designated in the publication notice for its hearing, the Governing Body shall proceed to hear the application, or may adjourn the hearing from time to time to some day and hour certain, as deemed necessary, and which adjournment shall be noted upon the record of the proceedings thereof. At the hearing, the Governing Body shall hear such testimony as may be presented or required in order to fully understand the true nature of the application and the propriety of granting the same.
- D. The Governing Body shall approve the application if it determines from the evidence that:
 - 1. Due and legal notice has been given by publication as required herein.
 - 2. No private rights will be injured or endangered by the vacation.
 - 3. The public will suffer no loss or inconvenience thereby and that in justice to the applicant or applicants the application should be granted.
- E. An application shall not be granted if, at the time of or before the hearing, a written objection thereto is filed with the Governing Body by any owner or adjoining owner who would be a proper party to the application, but has not joined therein.

(History: Ord. ZRR-2343 §29, 2002; ZRR-1725; ZRR-1637)

18.140.330 Applications for appeals of administrative decisions

An application for appeal from a decision of the Director of Planning and Development Services, the Code Administrator, or any other officer administering the provisions of this ordinance, which shall constitute a notice of appeal, shall be filed with the Director of Planning and Development Services within 30 days of the date of the decision by the officer administering this ordinance which is being appealed. A copy of the notice of appeal shall be served on the person whose decision is being appealed. The officer whose decision is being appealed shall thereafter transmit to the secretary of the Board of Zoning Appeals all the papers constituting the record upon which the action appealed from was taken.

(History: Ord. ZRR-2343 §30, 2002; ZRR-1725; ZRR-1637)

18.140.340 Consideration of appeals

- A. Appeals from the decision of any official administering the provisions of this ordinance shall be filed with the Secretary of the Board of Zoning Appeals within 30 days from the date of the decision by the officer whose decision is being appealed. A copy of the notice of appeal shall also be served upon the officer whose decision is being appealed. Thereafter, the officer whose decision is being appealed shall prepare and transmit to the Secretary of the Board of Zoning Appeals a complete record of all proceedings relating to the appeal.
- B. Consideration of appeals by the Board of Zoning Appeals shall be at a public hearing, following publication notice as provided by Section 18.140.070.
(History: Ord. ZRR-1725; ZRR-1637)

18.140.350 Consideration of variances

- A. The Board of Zoning Appeals may grant a variance from the specific terms of this ordinance which would not be contrary to the public interest and where, owing to special conditions, a literal enforcement of the provisions of this ordinance would result in unnecessary hardship for the applicant, and provided that the spirit of this ordinance shall be observed, the public safety and welfare secured and substantial justice done of the applicant. Provided, however, that the Board shall not have jurisdiction to grant a variance for property zoned under a planned zoning district or downtown zoning district classification.
- B. An application for a variance may only be granted upon a finding by the Board that all of the following conditions have been met:
 - 1. That the variance requested arises from a condition which is unique to the property in question, is not ordinarily found in the same zoning district, and is not created by an action or actions of the landowner or the applicant.
 - 2. That the granting of the variance will not adversely affect the rights of adjacent landowners or residents.
 - 3. That the strict application of the provisions of this ordinance would constitute unnecessary hardship upon the landowner represented in the application.
 - 4. That the variance desired will not adversely affect the public health, safety, morals, order, convenience, prosperity or general welfare.
 - 5. That granting the variance will not be opposed to the general spirit and intent of this ordinance.
- C. Variances shall only be considered after a public hearing has been held, following publication notice and notice to surrounding property owners as provided by Sections 18.140.070 and 18.140.080, respectively. A copy of the publication notice shall also be

mailed to the applicant and to the Planning Commission. Proof of mailing shall be filed under oath by the applicant with the Secretary of the Board of Zoning Appeals prior to the hearing.

(History: Ord. ZRR-2856 §2, 2010; ZRR-2343 §31, 2002; ZRR-1725; ZRR-1637)

18.140.360 Applications for nonconforming situations permits

An application for a nonconforming situations permit shall be accompanied by a sketch plan, in such detail as may be reasonably required by the Director of Planning and Development Services, depicting the proposed nonconformity and its relationship with surrounding properties.

(History: Ord. ZRR-2343 §32, 2002; ZRR-1725; ZRR-1637)

18.140.370 Applications for vested development rights permits

An application for a vested development rights permit shall be accompanied by such other information as may reasonably be required by the Director of Planning and Development Services.

(History: Ord. ZRR-2343 §33, 2002; ZRR-1725; ZRR-1637)

18.140.380 Consideration of nonconforming situations permits and vested development rights permits

Nonconforming situations permits and vested development rights permits shall be considered by the permit-issuing authority in accordance with the provisions of Chapter 18.410. The permit-issuing authority may, in its discretion, elect to conduct a public hearing, following publication notice and/or notice to surrounding property owners as provided by Sections 18.140.070 and 18.140.080, respectively, prior to consideration of any such permit.

(History: Ord. ZRR-1725; ZRR-1637)

18.140.390 Consideration of dedication requirements appeals

Any person required to dedicate street right-of-way or other land for public purposes as a condition to approval of any permit or application may appeal such requirement to the Governing Body within 15 days of the imposition of such condition. On appeal, the burden will be on the appellant to establish the lack of an essential nexus between the dedication requirement and any public purpose sought to be achieved through such requirement, or lack of rough proportionality between the dedication requirement and the traffic demands or safety concerns created by the development.

(History: Ord. ZRR-2015 §14, 97; ZRR-1725; ZRR-1637)

18.140.400 Conditional approvals

In approving any application, the approving authority may stipulate that the approval is subject to compliance with certain specified conditions including, but not limited to, limitations on permitted uses, time of performance requirements, limitation on hours of operation, participation in transportation systems management programs, participation in improvement districts or other programs for financing public facilities, dedication of rights-of-way, etc.

(History: Ord. ZRR-2015 §15, 97; ZRR-1725; ZRR-1637)

18.140.410 Written findings

Unless otherwise specifically provided in this ordinance, written findings are not required for a final decision on any application. Provided, however, that any decision may be expressly made subject to the subsequent adoption of written findings and, in such cases, the decision shall not be considered final until such findings are adopted. Provided further, that where an appeal of any quasi-judicial decision has been filed in the District Court of Johnson County pursuant to K.S.A. 12-760 or K.S.A. 60-2101(d) in cases where written findings have not been adopted, written findings shall be adopted by the approving authority within 45 days of service of the appeal on the City and thereafter shall be certified to the District Court as part of the administrative record. The 45-day time period for adoption and certification of findings may be extended with the permission of the District Court.

(History: Ord. ZRR-1725; ZRR-1637)

18.140.420 Final decision where ordinance required

In the case of approval of a zoning text amendment, rezoning, special use permit or other application where adoption of an ordinance is required, the decision approving the application shall not be deemed to be final until the ordinance has been published in an official City newspaper. Except as otherwise provided in Section 18.140.160, in all other cases, the decision shall be deemed final as of the date that the approving authority votes to approve or deny the application.

(History: Ord. ZRR-1725; ZRR-1637)

18.140.430 Appeals of final decisions

Except where this ordinance provides for an appeal to another quasi-judicial or administrative body, any person, official or agency aggrieved by a final decision on an application provided for in this ordinance desiring to appeal said decision shall file the appeal in the District Court of Johnson County within 30 days of the making of the decision.

(History: Ord. ZRR-1725; ZRR-1637; ZRR-413 §17.24)

18.140.440 Review of applications by Downtown Development Review Board

Repealed.

(History: Ord. ZRR-2343 §68, 2002; ZRR-2005 §3, 97; ZRR-1725; ZRR-1637)

18.140.450 Filing fees

Filing fees for all applications shall be established by resolution of the Governing Body. Filing fees may be reviewed on an annual basis and revised as necessary by adoption of a new resolution. Copies of the current resolution establishing filing fees shall be on file in the offices of the City Clerk and the Director of Planning and Development Services.

(History: Ord. ZRR-2343 §34, 2002; ZRR-1725; ZRR-1637; ZRR-835; ZRR-413 §17.24)

18.140.460 Limitation on successive rezoning applications by landowner

- A. No application for rezoning by a landowner or a landowner's agent shall be accepted if any application for substantially the same property has been filed and advertised for public hearing within the preceding 6 months.

- B. For purposes of subsection A, the preceding 6-month period shall be determined as follows:
1. If there was final action (either approval or denial) on the prior application, the 6-month period shall run from the date of such action.
 2. If the prior application was withdrawn after being advertised for public hearing, the 6-month period shall run from the date the application was withdrawn.
- C. The Director of Planning and Development Services shall determine if an application concerns "substantially the same property" as a prior application. The landowner may appeal any such determination to the Planning Commission.
- D. The Governing Body may waive the limitation in this section for good cause shown. (History: Ord. ZRR-2343 §35, 2002; ZRR-1725; ZRR-1637)

18.140.470 Consideration of Residential Day Care Permits

Repealed.

(History: Ord. ZRR-2903 §3, 2011; ZRR-2454 §9, 2003; ZRR-2343 §36, 2002; ZRR-1725; ZRR-1693)

18.140.480 Downtown development plans – Contents and submission requirements

Applications for downtown development plans may only be submitted for property that is zoned to a downtown zoning district. Downtown development plans shall include the information listed in 18.140.210 to the extent that it is pertinent to the application.

(History: Ord. ZRR-2343 §37, 2002)

18.140.490 Consideration of downtown development plans

- A. All development that includes at least 5,000 square feet of new floor area, shall comply with the following procedure:
1. Notices to surrounding property owners shall be provided as outlined in 18.140.080.
 2. Public hearing required at the Planning Commission.
 3. Planning Commission approval required.
 4. Action by the Planning Commission on a downtown development plan may be appealed to the Governing Body by the applicant by providing written notice to the Director of Planning and Development Services within 14 days following the Planning Commission's decision. The Planning Commission shall approve the application by a majority vote of the members present and voting at the meeting. Approval of the application will allow for processing for the issuance of a building or site development permit.

5. In the event of approval of a downtown development plan by the Planning Commission, such approval may be protested by the owners of 20% of the total area, excepting public streets and ways, located within 200 feet of the boundaries of the property subject to the application. Such protest shall be filed within 14 days following the Planning Commission's decision. The provisions of subsection C of Section 18.140.150 regarding verification and determining the validity of the protest shall be applicable to protests under this Section. If a valid protest is filed, the application for downtown development plan approval shall be reviewed by the Governing Body. The Governing Body shall apply the criteria set forth in subsection C below, and may approve the proposed plan, deny the proposed plan or approve the proposed plan subject to modifications being made. Approval of a downtown development plan which has been the subject of a valid protest shall require a majority vote of those present and voting.

- B. All development requiring a building permit, site development permit, or sign permit, where improvements to building(s) or site(s) do not include at least 5,000 square feet of new floor area may be approved administratively by the Director of Planning and Development Services. Applications that have been denied by the Director of Planning and Development Services, may appeal the Director's decision to the Planning Commission, provided written notice is provided to the Director within 14 days following the Director's decision. In the event an application is appealed to the Planning Commission, the procedure outlined in 18.140.490(A) 1-5 shall be followed.

- C. The Planning Commission, Governing Body, or Director of Planning and Development Services, shall approve downtown development plans upon a determination that the following criteria have been satisfied:
 1. The plan conforms to the applicable zoning district regulations, the Downtown Overland Park Master Plan, Downtown Overland Park Design Guidelines, and any other adopted plans and policies.
 2. The plan complies with the criteria set forth in Section 18.140.180(C) – Consideration of site plans.
 3. The landscaping and screening is provided as set forth in Chapter 18.450.
 4. All submission requirements have been met.

- D. Revisions to an approved downtown development plan may be approved administratively by the Director of Planning and Development Services. Provided, however, that in no event shall revisions to approved downtown development plans be approved administratively if the revisions require modification or removal of conditions or stipulations approved by the Planning Commission or Governing Body, or involve cumulative increases in the total floor area of all buildings or building additions of more than 5,000 square feet.

(History: Ord. ZRR-2454 §10, 2003; ZRR-2431 §1, 2003; ZRR-2420 §20, 2003; ZRR-2343 §38, 2002)

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