

Chapter 2 Review Authority

Section 2.1 General

(1) Purpose

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

(2) Conformity with Development Regulations

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

Section 2.2 Responsibility of Property Owner and/or Applicant

(1) It is the responsibility of an applicant to provide accurate and complete information and plans to comply with the requirements of this Code and all applicable laws and regulations. The City of Blanco is not responsible for the accuracy of information or plans provided to the City for its review or approval.

(2) The City or its representatives may inspect any development activity to enforce the provisions of this Code. By submitting an application to the City, the applicant consents to entry upon the site by the City or its representatives during regular business hours for the purpose of making reasonable inspection to verify information provided by the applicant and to verify that work is being performed in accordance with the approved plans and permits and the requirements of this Code.

(3) The use of the following term in this Code refers to the person, entity, or agent thereof who may apply for an approval or a permit or another decision of the City under the Code. All such terms shall be considered interchangeable. The terms include the following: owner, owner's agent, landowner, property owner, applicant, developer, and subdivider.

Section 2.3 Administrative Officials and Review Entities

(1) City Council (Council)

(a) General

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

(b) Powers and Duties

The City Council (Council) has the following powers and duties:

i. Appointments and Removal

The City Council is responsible for appointing and removing any member of the Planning and Zoning Commission, Board of Adjustment, and Historic Preservation Commission. Appointments and Removals will be made on the recommendation of the Mayor and a vote of approval by the City Council. Any Commission or Board may recommend appointment or removal of any member to the City Council.

ii. The City Council has responsibility for hearing and taking final action in the following procedures described in this Code.

1. Comprehensive Plan Amendment
2. Unified Development Code Text Amendment
3. Annexation
4. Zoning Map Amendment
5. Historic District Designation
6. Special Use Permit
7. Final Plat
8. Development Agreement
9. Variances from Chapter 5: Site Development
10. Dedication of land and community
11. Any other specific procedure or legislative action that requires City Council action as specified in this Code or required by state or federal law.

(c) City Council Final Action

The Council will review the application, any underlying Advisory Board (such as the Planning & Zoning Commission) recommendations, as well as the City Staff's report, conduct a hearing in accordance with the Council's established procedures and state law, and take final action on the application.

(d) Criteria for Approval

The Council will approve an application only once determined that:

- i. The application is complete and the information contained within the application is sufficient and has been rendered in good faith to allow adequate review and final action; and
- ii. The application meets the specific criteria for procedures provided in Chapter 3.

(e) Appeals

A person aggrieved by a final action on a Council procedure may appeal to a competent court of record.

(2) Planning and Zoning Commission

(a) General

- i. The regulations and restrictions of the Planning and Zoning Commission for the City of Blanco will be pursuant to the provisions of applicable statutory requirements of the State of Texas.
- ii. No requirement or procedure of the Planning and Zoning Commission action may govern if it conflicts with specific provisions of this Code.

(b) Powers and Duties

- i. The Planning and Zoning Commission has the powers and duties of a Planning and Zoning Commission in accordance with Texas Local Government Code Section 211.007 and Section 371.042, provided, however, that it serves only in an advisory capacity to the City Council.
- ii. The Planning and Zoning Commission's authority extends to and includes review and recommendation of the following:
 - 1. Comprehensive Plan Amendment
 - 2. Unified Development Code Text Amendment
 - 3. Zoning Map Amendment
 - 4. Historic District Designation
 - 5. Special Use Permit
 - 6. Concept Plan
 - 7. Preliminary Plat
 - 8. Final Plat
 - 9. Development Agreement
 - 10. Variance Request
 - 11. Dedication of land and community facilities

(c) Membership and Voting

The Planning and Zoning Commission (also known as the "P&Z") will be formed and conduct all activities in accordance with this Code and other applicable City

Code requirements, the ordinance creating the Commission, and any adopted By-Laws that have been approved by City Council. The Planning and Zoning Commission will consist of seven (7) members. Each member shall serve a term of two (2) years. The Chair shall be appointed from the members by City Council. The Planning and Zoning Commission shall choose its own Vice-Chair. All members, including the Chair, shall be entitled to one (1) vote upon each question.

(d) Planning and Zoning Commission Review Process

The Planning and Zoning Commission review process will be required for any permit application that requires review and recommendations from the Planning and Zoning Commission, as described in this Code.

- i. Initiation of a Planning and Zoning Commission process may be made upon application by the property owner of the affected property or its authorized agent.
- ii. An application must be made in a format consistent with requirements determined by the City in accordance with this Code. Applications must include materials determined necessary by the Commission. Information regarding the format requirements and submittal materials required for the application shall be delineated by the City and available to Applicants either in this Code or by inquiring with the City Secretary. Incomplete submissions will not be heard by the Planning and Zoning Commission.

(e) Planning and Zoning Commission Final Action

The Planning and Zoning Commission will serve as an Advisory Body to the City Council. The Planning and Zoning Commission will have no authority for final action.

(f) Criteria for Recommendation

An application will not be recommended for approval until the Commission determines that:

- i. The application is complete and the information contained within the application is sufficient and correct so as to allow adequate review and a decision on a recommendation by the appropriate review authority.
- ii. The application conforms to the requirements of this Code and any applicable state law.
- iii. The application conforms to the Unified Development Code and any other standards set forth in this Code:

1. The City's current and future streets, sidewalks, alleys, parks, playgrounds, and public utility facilities; and
 2. The extension of the City or the extension, improvement, or widening of its roads, taking into account access to and extension of sewer and water mains and the instrumentalities of public utilities.
 3. Any subdivision design and improvement standards adopted by the City pursuant to Texas Local Government Code Section 212.044, governing plats and subdivision of land within the City's jurisdiction to promote the health, safety, morals, or general welfare of the City and the safe, orderly, and healthful development of the City.
- iv. The tract of land subject to the application is adequately served by public improvements and infrastructure or will be adequately served upon completion or required improvements.

(3) Board of Adjustment (BOA or Board)

(a) General

The regulations and restrictions of the Board of Adjustment (BOA) for the City of Blanco will be pursuant to the provisions of applicable statutory requirements the State of Texas. No BOA action may govern if in conflict with specific provisions of this Code.

(b) Powers and Duties

- i. The BOA has the powers and duties of a BOA in accordance with the Texas Local Government Code Section 211.008.
- ii. The BOA's jurisdiction extends to and includes the following final actions:
 1. Appeal of an Administrative Decision
 2. Nonconforming Use
 3. Variances from Chapter 4: Zoning

(c) Membership and By-Laws

The BOA will be constituted and conduct all activities in accordance with the Code and all other applicable Codes, and any adopted By-Laws approved by City Council. The City Council of the City of Blanco will act as the BOA until such time as a separate BOA has been created.

(d) BOA Review Process

The BOA review process will be required for any permit or application that requires final action from the BOA, as described in this Code.

- i. Initiation of a BOA process may be made upon:
 1. Application by the property owner of the affected property or its authorized agent.
 2. An administrative exception requested by the City Engineer.
 3. Appeal of an administrative decision may be initiated by any person aggrieved by the administrative decision, in compliance with Section 211.010 of the Texas Local Government Code.
- ii. Applications must be made in a format consistent with requirements determined by the City and contained within this Code. Applications must include all materials determined necessary by the City and set forth within this Code. Information regarding format requirements and submittal materials required for the application will be made available by the City Staff in advance of any application.
- iii. Appeal of an administrative decision must be made to the BOA in a format acceptable to the BOA.
- iv. Completeness Determination. Upon submission of an application, the City Staff will determine whether the application is complete, as described in Chapter 3.
- v. Appeals of administrative decisions will be forwarded to the BOA regardless of completeness. The BOA will determine whether the appeal is complete.
- vi. Staff Review. Once a procedure has been initiated and the application has been deemed as complete, the City Staff will review the application, considering any applicable criteria for approval and prepare a report for the BOA.
- vii. The City Staff may establish procedures for administrative review necessary to ensure compliance with this Code and state law.
- viii. The City Staff's report may include a recommendation for final action.

(e) BOA Final Action

The BOA will review the application, the City Staff's report, conduct a hearing in accordance with the BOA's established procedures and state law, and take final action on the application. In accordance with Texas Local Government Code Section 211.009, the concurring vote of seventy-five percent (75%) of the members of the board are necessary to:

- i. Reverse an order, requirement, decision, or determination of an administrative official;
- ii. Decide in favor of an applicant on a matter on which the board is required to pass under a zoning ordinance; or
- iii. Authorize a variation from the terms of the zoning ordinance.

(f) Criteria for Approval

The Board of Adjustment may authorize a Zoning Variance from the requirements of the zoning provisions of this Unified Development Code if the Variance from the terms of the zoning provisions is not contrary to the public interest and, due to special conditions, a literal enforcement of the requirements would result in unnecessary hardship, so the spirit of this Code is preserved, and substantial justice is done. No Zoning Variance shall be granted unless the BOA finds all of the following:

- i. **Extraordinary conditions:** That there are extraordinary or special conditions affecting the land involved such that strict application of the provisions of this Unified Development Code will deprive the applicant of the reasonable use of their land. For example, a Zoning Variance might be justified because of topographic or other special conditions unique to the property and development involved, while it would not be justified due to inconvenience or financial disadvantage.
- ii. **No Substantial Detriment:** That the granting of the Zoning Variance will not be detrimental to the public health, safety, or welfare or injurious to other property in the area or to the City in administering this Code.
- iii. **Other Property:** That the conditions that create the need for the Zoning Variance do not generally apply to other property in the vicinity.
- iv. **Applicant's Actions:** That the conditions that create the need for the Zoning Variance are not the result of the applicant's own actions.
- v. **Comprehensive Plan:** That the granting of the Zoning Variance would not substantially conflict with the Comprehensive Plan and the purposes of this Code.
- vi. **Utilization:** That because of the conditions that create the need for the Zoning Variance, the application of this Code to the particular piece of property would effectively prohibit or unreasonably restrict the utilization of the property.
- vii. **Insufficient Findings:** The following types of possible findings do not constitute sufficient grounds for granting a Zoning Variance:

1. That the property cannot be used for its highest and best use.
2. That there is a financial or economic hardship.
3. That there is a self-created hardship by the property owner or their agent.
4. That the development objectives of the property owner are or will be frustrated.

viii. **Profitability Not to Be Considered:** The fact that the property may be utilized more profitably should a Zoning Variance be granted may not be considered grounds for a Zoning Variance.

(g) Appeals

A person aggrieved by a final action on a BOA procedure may appeal to a competent court of record within ten (10) days of the final action (see Texas Local Government Code, Section 211.011).

- i. Failure to appeal within ten (10) days shall cause the action to become final to become final. The action will be abated upon request of either party mediation if appealed within ten (10) days.
- ii. Prior to filing an appeal with a competent court of record, any party to an appeal may request that alternative resolution of the dispute is attempted.

(4) Historic Preservation Commission (HPC)

(a) General regulations and restrictions of the Historic Preservation Commission (HPC) for the City of Blanco shall be pursuant to the provisions of applicable statutory requirements of the State of Texas.

(b) Powers and Duties

- i. The HPC shall be responsible for hearing and making recommendations to the Planning and Zoning Commission.
 1. Historic District Designation
 2. Certificate of Historic Design Compliance
- ii. Additional Duties

The HPC has the following additional duties:

1. To act and assist the City in formulating design guidelines and other supplemental materials relevant to historic preservation or design review.
2. To render advice and guidance, upon request of the property owner, its authorized agent, or occupant, on new construction or

- the restoration, alteration or maintenance of any historic resource or other building within the District; and
3. To perform any other functions requested by the City Council

(c) Membership and By-Laws

The HPC will be constituted and conduct all activities in accordance with this Code and any by-laws approved by City Council. The Historic Preservation Commission will consist of Six (6) members. Each member shall serve a term of two (2) years. The Chair shall be appointed from the members by City Council. All members, including the Chair, shall be entitled to one (1) vote upon each question.

(d) HPC Review Process

- i. The HPC review process will be required for any permit or application for a property located within a Historic District, as described in this Code.
- ii. Initiation of an HPC review process may be made upon application by the property owner of the affected property or its authorized agent, or the occupant, to the City Secretary.
- iii. Upon submission of an application, the City Secretary will determine whether the application is complete, as described in Chapter 3.
 1. Application must be submitted in a format consistent with requirements determined by the City.
 2. Applications must include all materials required by the City. Format requirements and submittal materials required for the application will be available on the City website or at City Hall, during its normal hours of business.
- iv. Once a procedure has been initiated and the application deemed complete, the appropriate City Staff will review the application, considering any applicable criteria for approval and then prepare a report to the HPC. The City Staff may establish procedures for administrative review necessary to facilitate the most efficient determination of their completeness and processing them to the HPC.

(e) HPC Final Action.

The HPC will review the application and the Staff's report, conduct a hearing in accordance with the HPC's established procedures and state law, and make recommendations to the Planning and Zoning Commission and City Council on the application. An application before the HPC will be considered recommended for approval by a simple majority.

(f) Criteria for Recommendation.

The application must be complete and contain all information and forms listed as necessary by the City in this section to allow for adequate review. Specific criteria for granting a certificate of design compliance are provide Chapter 3.

(g) Appeal

- i. Appeal to Planning and Zoning Commission. An applicant for a permit or application for property located within a Historic District dissatisfied with the action of the HPC relating to the issuance or denial of a permit or application shall have the right to appeal to the Planning and Zoning Commission within thirty (30) days after receipt of notification of such action. The Planning and Zoning Commission shall conduct a hearing within thirty (30) days of receipt of a written letter of appeal. The Planning and Zoning Commission shall give notice to the applicant by mail. The Planning and Zoning Commission shall make its decision within thirty (30) days of the hearing.
- ii. Appeal to City Council. An applicant for a permit or application for a property located within a Historic District dissatisfied with the action of the Planning and Zoning Commission relating to the issuance or denial of a permit or application shall have the right to appeal to the City Council within thirty (30) days after receipt of notification of such action. The City Council shall conduct a hearing within thirty (30) days of receipt of a written letter of appeal. The City Council shall give notice to the applicant by mail. The City Council shall make its decision within thirty (30) days of the hearing.

(5) City Staff

(a) General

- i. The administrative official for the purposes of this Code shall be the City Secretary, or any other City employee designated to be so. The City Council may designate any assistants, deputies, consultants, and department heads insofar as they may be charged by the City Staff and the provisions of this chapter with duties and responsibilities referenced in this Chapter and Chapter 3.
- ii. The City Staff, and those members of City Staff deemed most appropriate, shall ordinarily administer the provisions of this Code.
- iii. The City Staff shall serve as staff to the Planning and Zoning Commission, Board of Adjustment (BOA), Historic Preservation Commission, and the City Council except where otherwise provided by this Chapter; provided, however, the City Staff may not be charged with the responsibility to record the official minutes of Planning and Zoning Commission, Board of Adjustment (BOA), or the Historic Preservation Commission.

(b) Powers and Duties

The City Staff has the following powers and duties:

i. Action

The City Staff is responsible for taking final action on the following procedures described in this Code and according to the specific criteria for each procedure as described in the Code.

1. Administrative Plat Review
2. Written Interpretation of UDC
3. Certificate of Historic Design Compliance
4. Administrative Exception
5. Temporary Use Permit
6. Building Permit
7. Certificate of Occupancy
8. Sign Permit

ii. Review and Report

The City Staff may review and make a report for recommendation to the Historic Preservation Commission, BOA, Planning and Zoning Commission, or City Council, as required pursuant to the Code, on the following procedures:

1. Comprehensive Plan Amendment
2. Unified Development Code Text Amendment
3. Annexation
4. Zoning Map Amendment
5. Historic District Designation
6. Special Use Permit
7. Concept Plan
8. Final Plat
9. Development Agreement
10. Variance Request (all variance requests including those that go to City Council and Board of Adjustment)

ii. Additional Duties

The City Staff shall have the following additional Duties and Rights:

1. To comply with any other duty or responsibility clearly assigned to the City Staff elsewhere in the Code;
2. To follow all provisions of this Code;
3. To meet all potential applicants in pre-application conferences as described in this Code;
4. To act and serve as staff for each review body designated by this Code;

5. To render reasonable guidance, upon reasonable request of any property owner, or its agent, or occupant on development, or new construction or the restoration, alteration or maintenance of any historic resource or other building within the City; and
6. To provide notice of hearings as required by state law and this Code.

(c) Administrator Review Process

- i. The City Staff shall comply with any specific procedures described in this Code.
- ii. The City Staff may develop administrative rules or additional procedures to clarify implementation of this Code, provided that such rules or procedures are set out and approved by the City Council prior to their implementation or enforcement, and provided further those additional procedures do not violate any other provisions of this Code.
- iii. The City Staff will develop administrative procedures for application requirements for all procedures described within or developed pursuant to this Code. Such requirements must be sufficient to permit the staff to effectively review the application and for the final approving authority to render an informed decision.
 1. Application requirements must be consistent with state law.
 2. The City staff may waive application requirements when appropriate but may not require additional submission requirements after an application has been determined to be complete.
- iv. Whenever there appears to be an uncertainty, vagueness, or conflict in the terms of the Code, the City, in consultation with City staff, the City Engineer, or City Attorney, as may be appropriate, shall make every effort to interpret the Code in such a way that it fulfills the goals of Comprehensive Plan and the UDC. The interpretation given by the City Staff shall be final unless Applicant has new information to introduce in an Appeal that could materially affect the City's interpretation as it applies to their Application.

(d) Administrator Final Action

The Administrator will review the application and take final action on the application.

(e) Criteria for Approval

The Administrator will approve an application only once determined that:

- i. The application is complete and the information contained within the application is sufficient and correct enough to allow adequate review and final action; and
- ii. The application meets the specific criteria for procedures provided in Chapter 3.

(f) Appeals

A person aggrieved by a final action on an Administrative procedure may appeal to the BOA within ten (10) days of the final action

(6) City Engineer

(a) General

- i. The City Engineer must be a registered professional engineer, licensed by the State of Texas and competent in the design and review of land development and urban public works. The City Staff will appoint a City Engineer to function as described in this Code.
- ii. The City Engineer is an advisor to the City Staff. As such, the City Engineer's powers are delegated by the City Staff, and in the case of conflict, the City Staff's decisions will prevail. This does not allow the City Staff to make decisions that require the certification of a registered professional engineer, only that the authority delegated to the City Engineer stems from the City Staff and can be revoked in the case of conflict.

(b) Powers and Duties

i. Final Action

The City Engineer is responsible for taking final action on the following procedure described in this Code, subject to the specific criteria for the procedure as described the Code:

1. Approval of Drainage Plans
2. Approval of Water Distribution Plans and Water Quality Controls
3. Approval of Wastewater Plans
4. Approval of Electric, Telephone and Telecommunications Plans
5. Approval of Street Plans

ii. Review and Report

The City Engineer will review and make either a report or recommendation to the City Staff and Planning and Zoning Commission on the following procedures, subject to the terms and conditions set forth for such procedures in this Code:

1. Concept Plan and Final Plat Review
2. Administrative Plat Review
3. Building Permit
4. Certificate of Occupancy

(c) Compliance with Rules and Procedures

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

Section 2.4 Summary of Review Authority

Table 3.1 summarizes the decision-making authority of each review body for the City of Blanco (outlined above in Chapter 2 and further described in Chapter 3). A review authority with decision-making authority for a procedure is considered the Final Action Authority for that procedure.