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## **Article 4 – Specific Application and Processing Requirements**

### **Section 19.37 – Application Processing**

#### **Section 19.37.1 Initiation of Application**

**Initiation by Owner.** An application for plat approval or a development permit may be initiated only by an owner of an interest in the land subject to the application, or the owner's designated agent. The application shall contain an affidavit of ownership to be signed by the owner of interest. If the applicant is a designated agent, the application shall include a notarized statement from the property owner authorizing the agent to file the application on the owner's behalf.

#### **Section 19.37.2 Application Completeness and Expiration**

- (a) **Applicability.** The following procedures shall apply to any application that is required by the City and is submitted in accordance with this Chapter.
- (b) **Determination of Completeness.** Every required application shall be subject to a determination of completeness by the responsible official for processing the application.
- (1) No required application shall be accepted by the responsible official for processing unless it is accompanied by all documents required by and prepared in accordance with the requirements of this Chapter.
  - (2) A determination of completeness shall not constitute a determination of compliance with the substantive requirements of this Chapter.
  - (3) A determination of completeness shall be made by the responsible official in writing to the applicant no later than the fifth (5<sup>th</sup>) business day, unless otherwise specified, after the date that the required application is submitted to the responsible official.
    - a. The applicant shall be notified within five (5) business days, unless otherwise specified, of the determination of completeness.
    - b. If the required application is determined to be complete, the application shall be determined to be submitted as of the date of the submission and processed as prescribed by this Chapter.
    - c. If the required application is determined to be incomplete, the notification shall specify the documents or other information needed to complete the application and shall state the date the application will expire (see Subsection (d) below) if the documents or other information are not provided by the applicant or their consultants.

- d. A letter of notification of incompleteness shall be given to the applicant within 5 business days of receipt of initial submittal, and shall include a notice that the application must be completed within 45 dates of the date of the letter.
  - e. If no letter of notification of incompleteness is given to the applicant within 5 business days of receipt of initial submittal, the application shall be determined to be submitted as of the date of the submission and processed as prescribed by this Chapter.
- (c) **Re-Submittal after Notification of Incompleteness.** If the required application is re-submitted after a notification of incompleteness within the time allotted in subsection (d), the application shall be processed upon receipt of the re-submittal. No additional determination of completeness shall be made thereafter. However, to the extent that the information or documents submitted is not sufficient to enable the decision-maker to apply the criteria for approval, the application may be denied on such grounds.
- (d) **Expiration of Application.**
- (1) An application shall expire on the forty-fifth (45<sup>th</sup>) day after the date the application is submitted if:
    - a. The applicant fails to provide documents or other information necessary to comply with the City's requirements relating to the required application;
    - b. The City has provided to the applicant, not later than the fifth (5<sup>th</sup>) business day after the date the application is submitted, unless otherwise specified, written notice that specifies the necessary documents or other information, and the date the application will expire if the documents or other information is not provided; and
    - c. The applicant fails to provide the specified documents or other information within the time provided in the notification.
  - (2) If the required application is not completed by the forty-fifth (45<sup>th</sup>) day after the application is submitted to the responsible official, the required application will be deemed to have expired and it will be returned to the applicant together with any accompanying information.

### Section 19.37.3 Reserved

### Section 19.37.4 Official Application Date

The time period established by State law or this Chapter for a decision approving or denying a plat application shall commence on the date a complete application including the filing fee is accepted by the City. The official application date is the date an application is determined to be complete by the responsible official in the manner prescribed by Section 19.37.2.

### Section 19.37.5 Pre-Application Conference and Vested Rights Waiver

- (a) **Request, Optional.** Prior to the official filing of an application, the applicant(s) may request a pre-application conference with the responsible official in order to become familiar with the City's regulations and the processes.
- (b) **Vested Rights Waiver, Required.**
  - (1) No pre-application conference shall commence or be held unless and until the property owner, or applicant as an authorized agent of the property owner, signs a waiver stating that no vested rights shall accrue from any discussion that occurs at the conference.
  - (2) If the property owner does not sign such waiver, no such conference shall be held, and the property owner or his/her representatives may proceed with his/her application submittal as he/she so chooses.
  - (3) A copy of the vested rights waiver form shall be available in the office of the responsible official.

### Section 19.37.6 Application Contents

- (a) **Application Forms Generally.** The City is hereby authorized to prepare application forms that include information requirements, checklists, drawing sizes, applicant contact information, and any other relevant information, which shall be available in the DSC.
- (b) **Information for All Applications.** All applications shall contain the following information:
  - (1) Identification of property owner and authorized agent, if any;
  - (2) Description of the property and the nature of the development that is the subject of the application;
  - (3) Identification of all zoning classifications (inside the City only) or development agreements for the property;
  - (4) Identification of all pending legislative applications for the property;
  - (5) Identification of decisions on all quasi-judicial or administrative applications for the property that remain in effect;
  - (6) Identification of all accompanying applications;
  - (7) Identification of all pending or accompanying requests for relief;
  - (8) Demonstration of compliance with prior approved permits on the subject property.
  - (9) All requests for Alternative Subdivision Design Approval.
- (c) All application forms are available in the City's Planning Division office and on the City's website.

### Section 19.37.7 Application Fees

Every application shall be accompanied by the prescribed fees set forth in the fee schedule prepared and adopted by the City Council. The prescribed fee shall not be refundable and shall be submitted no later than the date an application is determined to be complete. The fee schedule may be amended from time to time by resolution of the City Council.

### Section 19.37.8 Modification of Applications

The applicant may modify any complete application following its filing and prior to the expiration of the period during which the City is required to act on the application.

- (1) If the modification is for revisions requested by the City, and the modification is received at least five (5) business days prior to the time scheduled for decision on the application, the application shall be decided within the period for decision prescribed by this Chapter.
- (2) In all other instances (e.g., when the applicant chooses to submit a revised application on his own accord), submittal of a modified application shall constitute a new application and any action extend the time for deciding the application for a period equal to the time specified in this Chapter, commencing on the date the modified application is officially submitted. Provided however, if a waiver of the time for decision is first required (the terms of the approved waiver shall govern the period within which the City must act on the application).

### Section 19.37.9 Action by Responsible Official

- (a) **Circulate and Compile Comments.** Following the determination that an application is complete (Section 19.37.2), the responsible official shall circulate the application to all other administrative officials and departments whose review is required for a decision on the application and shall compile the comments and recommendations of the officials.
- (b) **Decision Rendered, If Applicable.** The responsible official shall render a decision in the time prescribed for the applicable application, if the official is the decision-maker for the application.
- (c) **Forward Application and Provide Notification.** In cases where the responsible official is not the decision-maker, the responsible official shall forward the application for review to any advisory board/commission and the final decision-maker, and shall prepare a report to such board or commission, or to the City Council, as the case may be, including the compilation of any comments and recommendations by other administrative officials. The responsible official also shall prepare required notices

and schedule the application for decision within the time and in the manner required by this Chapter.

### **Section 19.37.10 Exemption Determination**

- (a) For any application for a development permit for which exemptions are listed, an exemption from the requirement to apply for such permit or approval shall be determined in the following manner:
  - (1) The application for exemption must be submitted on a form supplied by the responsible official, must be accompanied by the review fee set by the City Council, and must include all of the following information:
    - a. Name, address, and telephone number of the property owner and the applicant.
    - b. A brief description of the activity or development for which exemption is sought;
    - c. A scale drawing depicting the boundaries of the site, the location of existing improvements on the site, and the location of the proposed development activities on the site.
    - d. Information establishing the basis for the exemption.
  - (2) The responsible official shall notify the applicant of the decision. If the responsible official denies the application for exemption, the official shall require that an application for the development permit or approval be prepared in accordance with this Code.
- (b) An exemption is a separate and distinct consideration that is differentiated from an Alternative Subdivision Design plan, exception and/or a waiver or application.
- (c) The following sections within this Chapter contain exemptions:
  - (1) Section 19.1.3 - Exemptions
  - (2) Section 19.20 – Parkland Dedication, Exemptions
  - (3) Other sections within this ordinance contain exemptions and the criteria for approval.

### **Section 19.37.11 Action by the City Plan Commission**

### **Section 19.37.12 Decision**

The decision-maker for the application shall approve, approve with conditions or deny the application within the time prescribed by this Chapter and applicable state laws regarding same.

### **Section 19.37.13 Conditions**

- (a) The initial or final decision-maker may attach such conditions to the approval of an application as are reasonably necessary to assure compliance with applicable requirements of this Chapter.

### **Section 19.37.14-Certification Regarding Compliance with Plat Requirements.**

- (a) Pursuant to this section, the certificate of compliance shall be issued by the Deputy Director - Planning or City Manager designee within five working days of the recording of the subdivision with the county clerk. The certificate of compliance shall be in the form approved and on file in the Planning Department.
- (b) Platting Determination Application. On the application of an owner of land, a purchaser of real property under a contract for deed, executory contract, or other executory conveyance or an entity that provides utility service, the Deputy Director - Planning shall make the following determinations regarding the owner's land or the land in which the entity or governing body is interested that is located within the corporate limits or extraterritorial jurisdiction: whether a subdivision is required under this title for the land; and if a plat is required, whether it has been prepared and whether it has been reviewed and approved by the City Plan Commission or Deputy Director - Planning or City Manager designee, as applicable.
- (c) Upon the final approval of a subdivision by the City Plan Commission, or the approval of a minor plat by the Deputy Director - Planning or City Manager designee, and the recording of the subdivision with the County Clerk, the Deputy Director - Planning or City Manager designee shall endorse the approved final subdivision with a certificate of compliance stating that the subdivision has been reviewed and approved by the city.
- (d) In cases where the City Plan Commission or other final approving authority fails to act on a final subdivision application within the thirty-day time period as provided in this Chapter, the Deputy Director - Planning or City Manager designee upon a written request by the subdivider, and after the recording of the subdivision with the county clerk, shall issue a certificate of compliance stating the date the subdivision was submitted and that the city plan commission failed to act on the final subdivision application within the specified time period.
- (e) A platting determination application shall be on a form available in the Planning Department, and shall identify the land that is the subject of the request. All applications for a platting determination shall be made in person in the office of the Deputy Director - Planning or City Manager designee.
- (f) If the Deputy Director - Planning or City Manager designee determines that a subdivision is not required, a written certification of that determination shall be issued to the requesting party.

- (g) If the Deputy Director - Planning or City Manager designee determines that a subdivision is required and that the subdivision has been prepared and has been reviewed and approved by the City Plan Commission, or Deputy Director - Planning or City Manager designee where administrative approval is authorized, the Deputy Director - Planning or City Manager designee shall issue to the requesting party a written certification of that determination. Where the Deputy Director - Planning or City Manager designee determines that a subdivision is required and that a subdivision has not been prepared, reviewed and approved, a written certification of that determination shall be made.
- (h) The Deputy Director - Planning or City Manager designee shall make a determination within five working days after the date the application is received and shall issue the platting determination certificate, whether approval or disapproval, within five working days after the date the determination is made. A platting determination certificate shall be in the form approved and available in the Planning Department.
- (i) Fee - A platting determination application shall be accompanied with the appropriate processing fee as established by the City Council. A fee shall also required for requests for copies of certificates of compliance which have already been issued on a property. No fee shall be assessed on a certificate of compliance which has been issued to a subdivider as part of the recording of a subdivision plat as provided for in this Section.

## **Section 19.38 – Notice Requirements**

### **Section 19.38.1 Published Notice for Replats**

Whenever published notice of a public hearing for a replat approval before the City Plan Commission is required under state law, or this Chapter, the responsible official shall cause notice to be published in a newspaper of general circulation in the City before the fifteenth (15<sup>th</sup>) calendar day before the date set for the required hearing. The notice shall set forth the date, time, place and purpose of the hearing, and identification of the subject property, where the decision concerns an individual tract or parcel of land.

### **Section 19.38.2 Personal Notice for Replats**

- (a) Whenever personal notice of a Replat public hearing is required by state law or this Chapter before the City Plan Commission, the responsible official shall cause notice to be sent by regular mail before the tenth (10<sup>th</sup>) calendar day before the hearing date to the following:
- (1) Each owner of real property located within the original subdivision within two hundred feet (200') of the exterior boundary of the property in question.
  - (2) The applicant and/or property owner, and
  - (3) If the matter to be considered is an appeal, to the appellant.
- (b) The notice shall set forth the name of the applicant, the time, place and purpose of the hearing, identification of the subject property, and if the matter to be considered is an appeal, the name of the appellant.
- (1) Notice shall be sent to each owner indicated on the most recently approved municipal tax roll for land inside the City limits, and, when required by state law, on the most recently approved El Paso County tax roll for land in the extraterritorial jurisdiction. For recently annexed land that is not included on the most recently approved municipal or El Paso County tax roll, notice may be given by publication.
  - (2) Notice shall be considered served by depositing the notice, properly addressed and first class postage prepaid, in the United States mail.

### **Section 19.38.3 Reserved**

### **Section 19.38.4 Notification Following Decision**

Within five (5) business days of the date by a responsible official's or the City Plan Commission determination on an application, written notification of the action shall be mailed to the applicant, stating the action taken. Record of the CPC notification shall be filed with the Executive Secretary of the City Plan Commission on the date of notification.

### **Section 19.38.5 Notification of Appeal or Revocation**

Whenever an appeal is taken from a final decision on a plat or a replat application following a public hearing, or whenever the City is to consider revocation of an approval of a plat, development permit or replat which was obtained following a public hearing, personal notice of the appeal or revocation proceeding shall be provided in the manner prescribed by Section 19.38.2.

## **Section 19.39 – Public Hearings**

### **Section 19.39.1 Setting of the Hearing**

When the responsible official determines that an application is complete and that a public hearing is required by this Chapter, the official shall schedule a public hearing with the City Plan Commission, select a place and a time certain for the hearing, and shall cause notice of such hearing to be prepared and made in accordance with this Article. The time set for the hearing shall conform to the time periods required by this Article.

### **Section 19.39.2 Conduct of Hearing**

Any person may appear at the public hearing and submit evidence, either individually or as a representative of an organization. Each person who appears at a public hearing shall state his or her name, address, and if appearing on behalf of an organization, state the name and mailing address of the organization for the record.

### **Section 19.39.3 Record of Proceedings**

The body conducting any required hearing under this Ordinance shall record the proceedings by any appropriate means.

### **Section 19.39.4 Continuance of Proceedings**

The body conducting any required hearing under this Ordinance may, on its own motion or at the request of any person, for good cause, continue the hearing to a reasonable fixed date, time and place. No additional notice shall be required if a hearing is held open and continued in this manner. If a public hearing is closed, no further public testimony shall be taken without a new public hearing to be noticed as required by law.

## **Section 19.40 – Post-Decision Procedures**

### **Section 19.40.1 Amendments and Revisions to Approval**

Unless another method is expressly provided by this Chapter, any request to amend or revise an approved application shall be considered a new application, which must be decided in accordance with the procedures governing the original application and the standards in effect at the time such new application is submitted to the City, unless the project has “vested” its rights in accordance with this ordinance and state statute.

## **Section 19.41 – Expiration, Extension, and Reinstatement**

### **Section 19.41.1 Time of Expiration**

- (a) Unless otherwise expressly provided by this Chapter, an approved plat application shall automatically expire on the second (2<sup>nd</sup>) anniversary of the approval date of the application, and shall become null and void, and all activities under the permit thereafter shall be deemed in violation of this Code, if:
- (1) The applicant fails to satisfy any condition that was imposed by this Code or as part of the approval of the application or that was made under the terms of any development agreement, within the time limits established for satisfaction of such condition or term, or
  - (2) The applicant fails to submit a subsequent complete application required by this Chapter within the time so required.
  - (3) If no time limit for satisfaction of conditions is specified in the decision on the application, the time shall be presumed to be two (2) years from the date the application was approved, except as provided in Section 19.41.6.
- (b) Except as provided in Section 19.41.6, or unless a different date is determined pursuant to a vested rights petition under Article 5, an application approved prior to the effective date of this Chapter shall expire in accordance with the terms of the regulations in effect at the time the application was submitted.

### **Section 19.41.2 Effect of Expiration**

Upon the expiration of an approved application, all previously approved applications for the same project shall also expire on the expiration date prescribed in Section 19.41.1 above if the filing of an application was required to avoid expiration for the previously approved application(s), except as provided in Section 19.41.1. Thereafter, a new application for each application that has been deemed to have expired under this section must be approved subject to regulations in effect at the time the new application is submitted.

### **Section 19.41.3 Extension Procedures**

- (a) Unless a different time is expressly provided for a specific procedure by this Chapter, the approving authority for the type of original application may grant an initial extension of the time for expiration of the application for a period not to exceed one (1) year from the date of the expiration of the application, provided that a request for extension is made in writing at least thirty (30) business days before the approved application expires. Every request for extension shall include a statement of the reasons why the expiration date should be extended.
- (b) A second (2<sup>nd</sup>) extension of the expiration date of an officially submitted, complete application may be granted for a period not to exceed one (1) additional year. The extension application must be in writing. Such an extension may be granted by the

approving authority for the type of original application. The decision-maker may grant a request for a second extension upon demonstration that circumstances beyond the control of the applicant have resulted in the permit holder's inability to perform the tasks necessary to prevent the permit from expiring before the expiration date.

- (c) In granting a first extension, the approving authority may impose such conditions as are needed to assure that the land will be developed in a timely fashion and that the public interest is served. In granting a subsequent extension request, the approving authority may require that one or more newly adopted development standards be applied to the proposed development, provided, however, that the project has not "vested" its rights in accordance with this ordinance and state statute.

#### **Section 19.41.4 Reinstatement**

- (a) Unless otherwise provided by this Chapter, an applicant may request reinstatement of an expired application by filing a written request with the approving authority within thirty (30) business days of the date of expiration. The request for reinstatement shall include a statement of the reasons why the application should be reinstated and extended. A request for reinstatement shall be processed and decided in the manner provided for an extension of an expiration period for more than one (1) year. The expiration date shall not be extended for more than two (2) years from the date a complete application was officially submitted.
- (b) A reinstatement of an expired application is wholly discretionary, and the approving authority, in determining whether or not to grant reinstatement, shall consider any changes in development conditions in the area, new public health, safety and welfare concerns and regulations, and the application thereof to development of the land

#### **Section 19.41.5 Effect of Decision on Extension or Reinstatement**

The granting of an extension or reinstatement request for a permit also extends or reinstates any other permits otherwise deemed expired under Section 19.41.2. The denial of an extension or reinstatement results in the immediate lapse of the permit and any other permits deemed expired under Section 19.41.2. Thereafter, the applicant shall file a new application for a permit or permits before undertaking any activity authorized by the lapsed permit.

#### **Section 19.41.6 Expiration for Projects Commenced On or After September 1, 2005**

- (a) Notwithstanding any other provision of this Chapter, for any approved application for which no expiration date was in effect on September 1, 2005, an expiration date two

- (2) years following the date of approval of the permit shall apply, unless the holder of the permit files a petition before such date for a vested rights determination pursuant to Article 5 of this Chapter, alleging that progress has been made toward completion of the project for which the application subject to expiration was submitted. If a vested rights petition is timely submitted, the City Council shall determine the expiration date of the permit in deciding the petition.
- (b) Notwithstanding any other provision of this Chapter, once a permit has expired under subsection (a), all previously approved applications for the same land also shall expire no later than five (5) years from the date of filing of the first application for the project for which the expired application was submitted, unless the holder of such permit(s) files a petition before such date for a vested rights determination pursuant to Article 5 of this Chapter, alleging that progress has been made toward completion of the project for which the applications subject to expiration were submitted. If a vested rights petition is timely submitted, the City Council shall determine the expiration date of the previously approved permits in deciding the petition.
- (c) Progress toward completion of a project shall mean that any of the following events have occurred within relevant time periods:
- (1) An application for a Final Plat or plan has been submitted to the city, and remains in effect at the time the vested rights petition was submitted;
  - (2) A good faith attempt is made to file an application with the City to continue the project;
  - (3) Costs have been incurred by applicant for developing the project, including without limitation, costs associated with roadway, utility, and other infrastructure facilities designed to serve, in whole or in part, the project (but exclusive of land acquisition) in the aggregate amount of five percent of the most recent appraised market value of the real property on which the project is located;
  - (4) Fiscal Security is posted with the city to ensure performance of an obligation, and remains in effect at the time the vested rights petition was submitted; or
  - (5) Utility connection fees or other fees for the project have been paid and have not been refunded.

## **Section 19.42 – Enforcement, Penalty and Revocation of Permits**

### **Section 19.42.1 Enforcement Activities**

Employees of the Development Services Department, Building Permits & Inspections or Planning Division and other enforcing officers, as defined, are authorized to issue municipal court citations for violations of this article and to bring to the attention of the city attorney, and any other appropriate authority, any violations or lack of compliance with these regulations. Any department, agency, employee or enforcement officer of the city having information regarding an alleged violation to this Chapter, shall report that information to the chief enforcement officer or department designated by the city manager to assist in the enforcement of these requirements.

### **Section 19.42.2 Right to Enter**

The authorized official shall have the right to enter upon any premises at any reasonable time for the purpose of making inspections of buildings or premises that may be necessary to carry out the duties in the enforcement of this Chapter. Submittal of any application that authorizes construction of structures or improvements shall be construed as a grant of authority to the responsible official to enter on land subject to the application for purposes of enforcing the approved permit.

### **Section 19.42.3 General Remedies**

If the land is used or developed or if any building or structure is erected or constructed, in violation of this Chapter or any application approved hereunder, in addition to other remedies, the City may institute any appropriate action or proceedings to prevent or abate such activity. Appropriate action or proceedings include termination of utility services (water, gas, electric); revocation of permits, licenses, or bonds; and institution of legal action in a court of competent jurisdiction.

### **Section 19.42.4 Stop Work Orders**

- (a) Whenever any construction or development activity is being done contrary to any term, condition or requirements of an approved application and/or this Chapter, the enforcing officer may order the work stopped by notice in writing, served on the property owner or authorized agent. Notice shall be given before the order shall be effective, except when the order should be effective immediately to protect and preserve the public health, safety, or general welfare. Any person thereafter shall cease and desist from further development or construction material to the alleged noncompliance, until corrected by compliance and authorized by the enforcing officer

- to proceed with the work. This prohibition shall extend throughout any appeal period.
- (b) The owner or authorized agent may appeal the stop work order to the authorized official by giving written notice. The City Plan Commission shall meet within fifteen calendar days after the date the completed application for appeal is received by the secretary.
  - (c) The City Plan Commission shall reach a decision without unreasonable or unnecessary delay. A copy of the decision shall be delivered by certified mail or personal delivery to the applicant. The decision of the City Plan Commission shall be final but may be appealed to a court of competent jurisdiction.
  - (d) The enforcement officer may require the placement of temporary erosion control, drainage protection or other measures by the owner or appellant in order to protect the site and the community resources during the appeal period.
  - (e) The Application for each appeal must be signed and be accompanied by payment of a nonrefundable application fee established by appropriate resolution of the City Council

#### **Section 19.42.5 Court Actions**

- (a) The City Attorney is authorized to prosecute violations of this Chapter in the appropriate court where jurisdiction lies for the action.
- (b) In prosecutions for violations of this Chapter, it shall not be necessary to allege or prove a culpable mental state, as said requirement is hereby waived.

#### **Section 19.42.6 Civil Court Actions**

The City Attorney is authorized to file and prosecute an action at law or in equity, where permitted under the laws of Texas, in a court of competent jurisdiction to enforce the provisions of this Chapter. The initiation of one form of enforcement action by the City Attorney will not preclude the City Attorney from initiating any other form of enforcement action.

#### **Section 19.42.7 Fines and Penalties**

- (a) Violations of provisions of this Chapter or failure to comply with any of its requirements shall constitute a misdemeanor and punished by a fine not to exceed two thousand dollars. Any person who violates this Chapter or fails to comply with any of its requirements shall upon conviction thereof be fined in accordance with Section 19.44 and the City Code. An offense under this title is a Class C misdemeanor.
- (b) Each calendar day such violation continues shall be considered a separate offense.

- (c) The owner or owners of any building or premises or part thereof, where anything in violation of this Chapter shall be placed or shall exist, any architect, builder, contractor, agent, persons or corporation employed in connection therewith, and who may have assisted in the commission of any such violation, shall be guilty of a separate offense and upon conviction shall be fined as herein provided. This subsection does not apply to enforcement of a regulation in the City's extraterritorial jurisdiction.
- (d) Civil Enforcement. Nothing herein contained shall prevent the City from taking any other lawful action necessary to prevent or remedy any violation. Appropriate actions and proceedings may be taken by the city in law or in equity to prevent any violation of these regulations, to prevent unlawful construction, to recover damages, to restrain, correct or abate a violation and to prevent illegal occupancy of a building structure or premises. These remedies shall be in addition to the penalties described in this section
- (e) It is further the intent and declared purpose of this Chapter that no offense committed, and no liability, penalty, or forfeiture, either civil or criminal, incurred prior to the time that the previous regulations were repealed and this Chapter adopted shall be discharged or affected by such repeal, but prosecutions and suits for such offenses, liabilities, penalties, or forfeitures may be instituted, and causes presently in process may be prosecuted in all respects as if such previous regulations had not been repealed.

### **Section 19.42.8 Review of Prior Plat Approval**

- (a) If an authorized official determines that there are reasonable grounds for revocation of an approved preliminary or final plat application, which plat has not been filed of record the City may initiate a review and ask for corrections to the plat or revoke the approval of a preliminary or final plat. Circumstances that warrant review of an approved application shall include the following:
  - (1) A material mistake was made in approving the application;
  - (2) Approval of the application was procured on the basis of material misrepresentations or fraud on the part of the applicant;
  - (3) Development activities being undertaken on the land subject to the development permit are not in conformity with terms of the approved application;
  - (4) The use authorized by the permit is in violation of a condition of approval of the approved application;
- (b) All review and recommendations for changes or corrections, or actions seeking to revoke a preliminary or final plat which has not been filed of record shall be conducted at a public hearing before the City Plan Commission. The applicant and any interested parties shall be given notice of the hearing in the manner provided in this Chapter, Section 19.38. The public hearing shall be conducted in accordance with the procedures described in this Chapter, Section 19.39

- (c) Action where Plat has been filed of record. Where an authorized official determines that there are reasonable grounds for revocation of a plat which has been filed of record, staff shall consult on the matter with legal counsel for enforcement.
- (d) In rendering its decision whether to request revisions to or revoke the approved plat, the City Plan Commission shall determine whether the Preliminary or final plat complies with the terms, conditions and requirements of this Chapter. The Commission may revoke the application, affirm it, or affirm it with attached conditions that assure that the terms; conditions and requirements of this Chapter shall be met.
- (e) Following a decision to require corrections or changes to a previously approved plat, or a decision to revoke a plat, and pending any appeal, it shall be unlawful to undertake or perform any activity that was previously authorized by the approved application without applying for and obtaining approval of a new application. Appeal from a decision to require corrections or changes to an approved plat, or to revoke the approved plat application shall be to the City Council.

#### **Section 19.42.9 Exemption**

This Section does not apply to zoning applications or building permits issued under separate ordinance or provision of the City Code.

## **Section 19.43 – Text Amendments**

### **Section 19.43.1 Amendments to this Chapter**

The City Council may from time to time amend, supplement, or change the text of this Chapter by a majority vote of its members, unless a different vote is otherwise required by this Chapter, the City Charter, or other law. A request for an amendment to this Code shall not be considered an application for a plat approval or permit.

### **Section 19.43.2 Hearing and Notice**

The City Council shall adopt text amendments to the ordinance in the same manner as the original ordinance was adopted.

### **Section 19.43.3 Recommendation of Advisory Board/Commission**

Where required by this Chapter, the City Charter, or other law, the City Council shall first consider the recommendation of the City Plan Commission, together with the recommendations of any other advisory board/commission prescribed by this Code, concerning the proposed text amendment

### **Section 19.43.4 Initiation of Text Amendments**

Unless otherwise limited by this Chapter, a petition for amending the text of this Chapter may be initiated by the City Council; the City Plan Commission; a board; commission or advisory board/commission; an ad hoc advisory board/commission appointed by the City Council; a responsible official designated in this Code; any citizen or owner of land within the City limits; or any citizen or owner of land within the City's extraterritorial jurisdiction (for a regulation that applies to the ETJ).

- (1) Except for amendments initiated by the City Council, the petition to amend the text of this Chapter shall state with particularity the nature of the amendment and the reason for the amendment.
- (2) A petition for a text amendment may be submitted in conjunction with an application, approval of which depends on approval of the amendment, but shall in every such instance be decided prior to any action by the City on the application.
- (3) The City Council may establish rules governing times for submission and consideration of text amendments and fees.