

Article Two – General Provisions

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Unified Development Code Ordinances and Amendments

- Ordinance No. 1746 - [Adopted New Unified Development Code \(UDC\)](#)
- Ordinance No. 1761 - [Amended to Rename Preliminary Plats to Preliminary Site Evaluations in Sections 2.02 - Authority and 2.03 - Jurisdiction](#)

Section 2.01 - Policy and Purpose

These regulations are adopted for the following purposes:

- A. To protect and provide for the public health, safety, morals, and general welfare of the city.
- B. To guide the future growth and development of the city in accordance with the Comprehensive Plan.
- C. To ensure safety from fire, flood, and other dangers, and to prevent overcrowding of the land and undue congestion of population.
- D. To guide public and private development in order to provide adequate and efficient transportation, water, sewerage, drainage, and other public requirements and facilities.
- E. To provide for the circulation of traffic and pedestrians required for the beneficial use of land and buildings and to avoid congestion throughout the city.
- F. To establish reasonable standards of design and procedures for platting and replatting to further the orderly layout and use of land, and to ensure proper legal descriptions and monumenting of platted land.
- G. To ensure that adequate public facilities and services are available and will have sufficient capacity to serve the proposed subdivision or addition and that the community will be required to bear no more than its fair share of the cost of providing the facilities and services. Fair share will be based on impact analyses.
- H. To prevent the pollution of streams and ponds; to ensure the adequacy of drainage facilities; to safeguard the water table; and to encourage the wise use and management of natural resources and enhance the stability and beauty of the community and the value of the land.
- I. To provide for open spaces through the most efficient design and layout of the land.
- J. To protect the natural resources that contribute to noise reduction, air quality, glare reduction, and promote the natural ecological, environmental, and aesthetic qualities of the City.
- K. To remedy the problems associated with inappropriately platted lands, including premature subdivision, incomplete subdivision, and scattered subdivision.

Section 2.02 - Authority

- A. The City Council is the final authority in approving changes or variances to this Code except in instances specifically described otherwise, in accordance with State law.
- B. The Planning and Zoning Commission of the City of Keller is vested with the authority to review, approve, conditionally approve certain applications for the platting or subdivision of land, including Preliminary Site Evaluations, Minor Subdivision Final Plats, Major Subdivision Final Plats, Amended Plats, Replats, and Vacations of Plats as specifically noted in various sections of this Code. *(Amended by Ord. No. 1761 on October 6, 2015)*
- C. The City Manager or his/her designee is vested with the approval of Minor Subdivision Final Plats, Amended Plats, and some Site Plans as specifically noted in various sections of this Code.

Section 2.03 - Jurisdiction

- A. The Keller Development Code shall be applicable to the filing of plats and the subdivision of land, as that term is defined herein and in [Texas Local Government Code](#), and to related development requirements within the corporate city limits of the City of Keller as they may be from time to time adjusted by annexation or de-annexation and within all the areas of the Extraterritorial Jurisdiction (ETJ) of the City of Keller as that area may exist from time to time as provided by [Chapter 42, Texas Local Government Code](#). The City shall have all remedies and rights provided by said Chapter 212 with regard to the control and approval of subdivisions and plats both within the City and within its extraterritorial jurisdiction.

- B. Land in the City's Extraterritorial Jurisdiction (ETJ) is subject to platting, as provided by state law. The approval of a Preliminary Site Evaluation, Minor, or Major Subdivision Final Plat does not constitute approval of land use. Properties incorporated subsequent to platting are subject to City's zoning authority. *(Amended by Ord. No. 1761 on October 6, 2015)*

Section 2.04 - Interpretation

A. Interpretation

In their interpretation and application, the provisions of these regulations shall be held to be the minimum requirements for the promotion of the public health, morals, safety, and general welfare. These regulations shall be construed broadly to promote the purposes for which they are adopted.

B. Conflict with Other Laws

These regulations are not intended to interfere with, abrogate, or annul any other ordinance, rule or regulation, statute or other provision of law except as provided in these regulations. Where any provision of these regulations imposes restrictions different from those imposed by any other provision of these regulations, or other provision of law, the provision which is more restrictive or imposes higher standards shall control.

C. Conflict with Other Regulations

When the provisions of this Development Code are inconsistent with one another or when the provisions of this Development Code conflict with provisions found in other adopted ordinances or regulations, the more restrictive provision shall govern.

D. Conflict with Private Agreements

These regulations are not intended to abrogate, annul, or otherwise interfere with any easement, covenant, or any other private agreement or legal relationship, provided that when the provisions of this Code impose a greater restriction than imposed by such private agreement, the provisions of this Code shall control.

Section 2.05 - Superceding Regulations

All applications for approval of plats and site plans, pending on the effective date of these regulations and which have not lapsed, shall be reviewed based on regulations in effect immediately preceding the date of adoption of these regulations.

Section 2.06 - Amendments to Text of the Unified Development Code

This section sets out the required review and approval procedures for amendments to the text of this Code.

A. Initiation of Application

An amendment to the text of this Development Code may be proposed by any individual, the Planning and Zoning Commission, the City Council, or any department head with responsibility for reviewing development applications. Please note that, pursuant to the City Charter, this process does not preclude an amendment to the text of this Development Code proposed by initiative or referendum.

1. Amendments Initiated by City Council – The Mayor or two Council Members may direct the City Manager in writing to place a potential amendment on an agenda for a discussion at a regular City Council meeting, special meeting, or work session. If, after discussion, Council decides to further pursue the amendment, the amendment process for consideration will be as per Subsections 2.06.B., 2.06.C., and 2.06.D. below.
2. Amendments Initiated by Planning and Zoning Commission – The Chairman or two Commission Members may direct the Director of Community Development in writing to place a potential amendment on an agenda for a discussion at a regular Planning and Zoning Commission meeting, special meeting, or work session. The Commission, after discussion, may recommend by majority vote to forward to the City Council to discuss the potential amendment per Subsection 2.06.A. above, and provided Council concurs with the Commission recommendation, the amendment process for consideration will be as per Subsections 2.06.B., 2.06.C., and 2.06.D. below.
3. Amendments Initiated by Individuals – An individual desiring to amend the text of this Development Code shall make their request known at the “Persons to be Heard” section of a Planning and Zoning Commission meeting. After hearing the petition from an individual, the Commission could initiate consideration of the potential amendment pursuant to Subsections 2.06.A.2. above.
4. Amendments Initiated by Staff – A department head desiring to amend the text of this Development Code may place the item on an agenda for discussion at a regular meeting, special meeting or work session of the City Council or the Planning and Zoning Commission. After hearing the petition from the department head, the Council or the Commission could initiate consideration of the potential amendment pursuant to Subsections 2.06.A.1. or 2.06.A.2. above.

B. Review and Report - City Manager or his/her designee

At the direction of City Council, the City Manager or his/her designee shall prepare a staff report that reviews the proposed amendment in light of the Comprehensive Plan, the general requirements of this Code. The City Manager or his/her designee shall forward the report to the Planning and Zoning Commission for their review and consideration.

C. Review and Recommendation - Planning and Zoning Commission

The Planning and Zoning Commission shall hold a public hearing on the proposed amendment. At the close of the public hearing, the Planning and Zoning Commission shall recommend approval, modified approval, or denial of the amendment, and transmit a written summary of its action and proceedings to the City Council. The recommendation of the Planning and Zoning Commission shall contain a statement describing the nature and effect of the proposed amendment and explaining:

1. Whether such change is consistent with the intent and purpose of this Development Code.
2. The areas that are most likely to be directly affected by the amendment and in what way they will be affected.

3. Whether the proposed amendment is made necessary because of changed or changing social values, new planning concepts, or other social or economic conditions in the areas and zoning districts affected.

D. Review and Action - City Council

The City Council shall hold a public hearing on the proposed Development Code amendment. The City Council shall act to approve, approve with modifications, or deny the proposed amendment.

Section 2.07 - Procedures for Variances from the Regulations of the Code

The Planning and Zoning Commission and City Council may authorize a variance or deviation from these regulations when special conditions exist that prevent strict compliance of this Code. In granting a variance, the Planning and Zoning Commission and City Council shall prescribe only conditions that it deems necessary or desirable to the public interest and making the findings herein below required.

A. Development-Related Variance Process

1. Development-related variances that include exceptions to the Design and Improvement regulations in [Article Five](#) and to the Development Standards within [Article Eight](#), if allowed within the guidelines, may be requested. Such variances shall be noted on Plats and Site Plans, where applicable. Where the Planning and Zoning Commission and City Council finds that hardship or practical difficulties will result, it may approve the requested exceptions, provided that the exceptions will not have the effect of nullifying the intent and purpose of these regulations. In approving variances, the Planning and Zoning Commission and City Council may require conditions and stipulations that will, in its judgment, substantially secure the objectives of the City's standards and regulations. Variances will not be granted to relieve a self-created or personal hardship, and they will not be granted based solely on economic gain or loss. The application shall include all pertinent information and supporting documents (see [Article Nine - Variance to the UDC Application for requirements](#)). An additional fee is required for applications requesting variances (see [Article Nine - Fees](#)).
2. The Planning and Zoning Commission and City Council shall take into account the nature of the proposed use of land involved and existing uses of the land in the vicinity, the number of persons who will reside or work in the proposed subdivision, and the probable effect of such variance upon traffic conditions and upon the public health, safety, convenience, and welfare in the vicinity. No variance shall be granted unless the Planning and Zoning Commission and City Council finds:
 - a. That there are special circumstances or conditions affecting the land involved such that the strict application of the provisions of this Code would deprive the applicant of the reasonable use of his land.
 - b. That the granting of the variance will not be detrimental to the public health, safety or welfare, or injurious to other properties in the area.
 - c. That the granting of the variance will not have the effect of preventing the orderly subdivision of other lands in the area in accordance with the provisions of this Code.
 - d. That the granting of the variance will not constitute a violation of any other valid ordinance of the City of Keller.
 - e. That strict compliance with the regulations, and/or that the purpose of the regulations will be served to a greater extent by the alternative proposal.

B. Zoning Board of Adjustment Variance Process

The Zoning Board of Adjustment (ZBA) may grant variances and special exceptions to the specific requirements of the Zoning section as outlined within this Code. The Zoning Board of Adjustment may not grant variances to the requirements within the Zoning section if a Zoning Change, Site Plan, or Plat is required for a project. By State law, for approval of a Zoning Board of Adjustment variance, the applicant must demonstrate hardship other than economic. Applicants must submit an application form (see [Article Nine - Zoning Board of Adjustment \(ZBA\) Application](#)), written description of the hardship created and the proposed solution, and a scale drawing of the property and requested variance. Four affirmative votes of the Zoning Board of Adjustment membership are required to approve a

variance or exception, and the decision of the Zoning Board of Adjustment is final. The Zoning Board of Adjustment variance process and guidelines are further explained in the Zoning section of this Code (see [Section 8.02 \(C\) of Article Eight](#)).

Section 2.08 - Severability

If any section or part of any section, paragraph, or clause of this Code is declared invalid or unconstitutional for any reason, such declaration shall not be held to invalidate or impair the validity, force, or effect of any other section or sections, part of section, paragraph, or clause of this Code.

Section 2.09 - Saving Provision

These regulations shall not be construed as abating any action now pending under, or by virtue of, prior existing subdivision regulations, or as discontinuing, abating, modifying, or altering any penalty accruing or about to accrue, or as affecting the liability of any person, firm, or corporation, or as waiving any right of the City under any section or provision existing at the time of adoption of these regulations, or as vacating or annulling any rights obtained by any person, firm, or corporation, by lawful action of the City except as shall be expressly provided for in these regulations.

Section 2.10 - Enforcement, Violations, and Penalties

- A. Compliance with these regulations is the sole responsibility of the applicant/land owner/developer and any inadvertent error on the part of the City does not invalidate the provisions of this Code.

- B. Violations and Penalties

Any person who violates any of these regulations for lands within the corporate boundaries of the City shall be subject to a fine of not more than \$2,000.00 per day per violation, pursuant to the [Texas Local Government Code](#).

- C. Civil Enforcement

Appropriate civil actions and proceedings may be maintained in law or in equity to prevent unlawful construction, to recover damages, to impose additional penalties, to restrain, correct, or abate a violation of these regulations, whether such violation occurs with respect to lands within the corporate boundaries of the City or within the City's Extraterritorial Jurisdiction (ETJ). These remedies shall be in addition to the penalties described above.