

and/or mitigate the violation, or to secure a Variance to address the violation.

- 1.4.8. Parkland Dedication shall not be required within the Downtown area. For New Community Plans meeting the Civic Space requirements will fulfill the Parkland Dedication requirements.

1.5. WARRANTS AND VARIANCES

- 1.5.1. There shall be two types of deviation from the requirements of this Code: Warrants and Variances.

- 1.5.2. A Warrant is a ruling that would permit a practice that is not consistent with a specific provision of this Code but is justified by the provisions of Section 1.3 Intent. The Planning and Zoning Commission (P&Z) shall have the authority to approve or disapprove a request for a Warrant pursuant to regulations established with the exception of requests that are specifically designated for final approval by the City Council. A warrant subject to the review of the P&Z shall require a public hearing and personal notice of the public hearing be sent to property owners within 200 feet of the subject property. Personal notice shall be sent by regular mail before the tenth day before the hearing date.

- 1.5.3. The City Council shall hold a public hearing and finally decide all Warrant requests as a negotiated agreement for heights of 6 or 7 stories after review and a recommendation has been made by the P&Z.

- 1.5.4. The City Council shall hold a public hearing and finally decide all Warrant requests as a negotiated agreement for purpose built student housing after review and a recommendation has been made by the P&Z. A Warrant request for purpose built student housing shall not become effective except by the favorable vote of three-fourths of all members of the City Council when the P&Z recommends denial of the request.

a. Conditions for a Warrant for purpose built student housing are as follows:

- i. Any residential dwelling lease that is executed and effective before the issuance of a certificate of occupancy by the City enabling the tenant to occupy the premises shall include a late delivery provision providing as follows:

“In the event the Leased Premises are unavailable for occupancy on or before the commencement date of this Lease, Landlord shall offer Tenant the choice of: 1) accepting temporary safe, decent and sanitary housing, provided by Landlord, at an alternate location within the City of San Marcos or within a seven mile radius of the Leased Premises, with Tenant remaining bound by the terms of the Lease; or 2) terminating the Lease with no financial penalty and with full reimbursement to Tenant of all deposits and pre-paid items within 10 days.”

- ii. Before execution of any such lease, Applicant or Applicant’s successor or assignee operating the Purpose Built Student Housing allowed by a Conditional Use Permit shall, first, provide a copy of its form lease to the City for review and written approval consistent with this paragraph.
- iii. In the event of a late delivery, the Applicant or Applicant’s successor or assignee operating the Purpose Built Student Housing allowed by a Conditional Use Permit shall, first, provide a copy of any correspondence communicating information about the late delivery and/or the student’s options for temporary housing

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to the City for review and written approval.

- 1.5.5. A Variance is any ruling on a deviation other than a Warrant. Variances shall be granted only in accordance with the State of Texas Statutes, Chapter 211 of the Local Government Code, as amended.
- 1.5.6. The request for a Warrant or Variance shall not subject the entire application to public hearing, but only that portion necessary to rule on the specific issue requiring the relief.
- 1.5.7. The following standards shall not be available for Warrants:
 - a. The maximum dimensions for traffic lanes.
 - b. The required provision of Rear Alleys.
 - c. The Base Residential Densities.

1.6. INCENTIVES

- 1.6.1. Applications that are not subject to mandatory provisions of the Code shall be eligible to utilize the following incentives by right:
 - a. Applications under this code shall receive priority review status by the DRC, Planning and Zoning Commission, Zoning Board of Adjustment and the City Council ahead of applications that were eligible to use this code but elected not to do so
 - b. Applications under this code shall be processed with priority over those under the LDC, including those with prior filling dates.
 - i. The City shall waive the traffic impact analysis for all projects filled under this code.
 - c. Reserved for additional Incentives.