

## CHAPTER 2. DEVELOPMENT PROCEDURES

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Update as necessary

**TABLE 2.1 DEVELOPMENT APPLICATIONS, DECISION AUTHORITY, AND NOTICE REQUIREMENTS TABLE**

Approval Process			Review and Approval Authority						Notice			
	Citation	Responsible Official	Staff	Historic Preservation Commission	Neighborhood Presentation	Zoning Board of Adjustments	Planning Commission	City Council	Application Notice	Published Notice	Personal Notice	Posted Notice
Legislative												
City Initiated Comprehensive Plan Map Amendment	Section 2.4.2.1	P	R		PM		R/PH/PM	D/PH/PH/PM	Y	Y	N	N
Comprehensive Plan Map Amendment	Section 2.4.2.1	P	R		PM		R/PH/PM	D/PH/PH/PM	Y	Y	Y*	Y*
LDC Text Amendment	Section 2.4.1.1	P	R				R/PH	D/PH/PM	Y	Y	N	N
City Initiated Zoning Map Amendment	Section 2.5.1.1	P	R		PM		R/PH	D/PH/PM	Y	Y	Y*	N
Zoning Map Amendment (Rezoning)	Section 2.5.1.1	P	R		PM		R/PH	D/PH/PM*	Y	Y	Y*	Y*
Development Agreement	Section 2.4.3.1	P	R					D/PH/PM		Y	N	N
Establishment of Historic Landmarks and Districts	Section 2.5.3.1	P	R	R/PH			R/PH	D/PH	Y	Y	Y	Y
Quasi-Judicial												
Conditional Use Permit	Section 2.8.3.1	P	R				D/PH	A		N	Y	N
Conditional Use Permit – Alcohol		P	R				D/PH	A		N	Y*	Y*
Conditional Use Permit – Council Approved	Section 2.8.3.1	P	R				R/PH	D/PH		N	Y	N
Conditional Use Permit – Purpose Built Student Housing		P	R				R/PH	D/PH		N	Y*	Y*
Subdivision Concept Plat	Section 3.2.1.1	P	R				D/PM			N	N	N
Preliminary Subdivision or Development Plat	Section 3.2.2.1	P	R				D/PM			N	N	N
Final Subdivision or Development Plat	Section 3.2.3.1	P	R				D/PM			N	N	N

**LEGEND**

RESPONSIBLE OFFICIAL		ACTION		MEETING TYPE			
P	Planning Director	R	Review/ Recommend	PM	Public Meeting	Y	Required
E	Engineering Director	D	Decision	PM*	May require Initial Authorization	Y*	Required 17 days notice
B	Building Official	A	Appeal	PH	Public Hearing	N	Not Required

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Approval Process			Review and Approval Authority							Notice			
	Citation	Responsible Official	Staff	Historic Preservation Commission	Neighborhood Presentation	Zoning Board of Adjustments	Planning Commission	City Council	Application Notice	Published Notice	Personal Notice	Posted Notice	
Replat without Vacation	Section 3.3.2.1	P	R				D/PH			Y	Section 3.3.3.1	N	
Certificate of Appropriateness	Section 2.5.5.1	P	R	D/PH		A				N	Y	N	
Qualified Watershed Protection Plan	Section 2.6.1.1	E	R				D/PH	A		N	Y	N	
Variance	Section 2.8.2.1	P	R			D/PH				N	Y	N	
Alternative Compliance	Section 2.8.4.1	P	R				R/PH	A		N	Y	N	
Alternative Compliance - Council Approved	Section 2.8.4.1	P	R				R/PH	D/PH		N	Y	N	
Change in status of nonconforming uses or structures	Section 1.5.1.9	P	R			D/PH				N	Y	N	
ADMINISTRATIVE													
Site Permit	Section 2.7.1.1	P	D				A			N	N	N	
Minor or Amending Plat	Section 3.2.4.1	P	D							N	N	N	
Public Improvement Construction Plan	Section 3.4.1.1	E	D				A			N	N	N	
Watershed Protection Plan I or II	Section 2.6.1.1	E	D				A			N	N	N	
Construction Permit	Section 2.7.3.1	B	D							N	N	N	
Transportation Impact Assessment	Section 3.5.2.7	E	D				A			N	N	N	
Floodplain Permit	Section 2.7.3.1	E	D				A			N	N	N	
Regulating Plan	Section 2.5.5.1	P	D				A			N	N	N	
Administrative Adjustment	Section 2.8.5.1	P	D				A			N	N	N	

**LEGEND**

RESPONSIBLE OFFICIAL		ACTION		MEETING TYPE			
P	Planning Director	R	Review/ Recommend	PM	Public Meeting	Y	Required
E	Engineering Director	D	Decision	PH	Public Hearing	N	Not Required
B	Building Official	A	Appeal				

dates for certain permits or approvals unless otherwise specified in the conditions of approval.

1. The approval period for a development permit or application begins on the date that the final decision is made unless otherwise specified in this Development Code.

**B. Effect of Expiration.** Upon the expiration of a quasi-judicial or administrative development permit, all previously approved quasi-judicial or administrative permits for the same land also shall expire on the expiration date if:

1. The expired permit is subordinate to such previously approved permits and,
2. The filing of an application for or approval of the expired permit was required to avoid expiration for the previously approved permit or permits.

**C.** Thereafter, a new application for each permit deemed expired under this Section must be approved subject to regulations in effect at the time the new application is accepted for filing.

**D. Extension of Approval Period.** The Responsible Official or the approving body for the development permit may grant a single extension of an approval period for a period of time as set forth in Section 2.3.5.3. An extension shall be granted by the final decision maker provided all of the following are met:

1. All requests for extensions shall be submitted to the Responsible Official in writing prior to the expiration period;
2. Unconstructed portions of the approved permit conform to all ordinances, laws, City policies and provisions of the Comprehensive Plan and other City Council adopted plans in effect at the time of the requested extension.

(Ord. No. 2019-45, 12-17-19)

**E.** If the extension is denied, the applicant may submit a new application, subject to the fees, standards, and regulations in effect at the time of submittal, for the same project.

**F. Effect of Decision on Extension.** The granting of an extension request for a permit also extends any other permits otherwise deemed expired under Section 2.3.5.1(b). The denial of an extension results in the immediate lapse of the permit and any other permits deemed expired under Section 2.3.5.1(b).

Thereafter, the permit holder shall file a new application for a permit or permits before undertaking any activity authorized by the expired permit.

### Section 2.3.5.2 Expiration of Application To Be Decided By City Council Following Recommendation of Planning and Zoning Commission.

**A.** A development application for which the city council is the final decision-maker, and that is subject to a recommendation from the planning and zoning commission, shall automatically expire if not considered by the city council within two years after the date of the commission's recommendation if postponement of the city council's consideration is at the request of the applicant.

### Section 2.3.5.3 Expiration and Extension Times

**TABLE 2.2 PERMIT EXPIRATIONS AND EXTENSIONS**

PERMIT OR APPLICATION TYPE	SEC.	EXPIRATION	EXTENSION
Regulating Plan	Section 2.5.5.1	5YR	2YR
Concept Plat	Section 3.2.1.1	5YR	2YR
All Other Plats	Section 3.2.2.1, 3.2.3.1, 3.2.4.1, 3.3.1.1, 3.3.2.1, 3.3.4.1	2YR	2YR
Administrative Certificate of Appropriateness	Section 2.5.6.1	1YR/2YR	1YR/2YR
Certificate of Appropriateness	Section 2.5.5.1	1YR	1YR
Utility Extension	Section 2.4.4.1	2YR	1YR
Watershed Protection Plan	Section 2.6.1.1	2YR	2YR
Alternative Compliance	Section 2.8.4.1	1YR	90D
Site Permit	Section 2.7.1.1	2YR	90D
Public Improvement Construction Plan	Section 3.4.1.1	2YR	90D

(Ord. No. 2019-45, 12-17-19)

Update to reflect 1YR/2YR for CofA and update to reflect accurate section references for both CofA

Amended: September 1, 2020 San Marcos Development Code

#### D. Determination of Intensity

- For the purpose of determining a less intense zoning classification under subsections B.3 and C.2, the following Table 2.3 shall determine intensity of zoning districts in the order listed with Character District 1 (CD-1) being the least intense and Heavy Industrial (HI) being the most intense. Future Development (FD) is a default zoning classification available only upon annexation and may not be recommended or approved as a less intense zoning district in connection with an initial request for a more intense zonign district classification.

**TABLE 2.3 DETERMINATION OF INTENSITY**

Character District 1	CD-1
Character District 2	CD-2
Single Family Rural	SF-R
Single Family 6	SF-6
Single Family 4.5	SF-4.5
Character District 2.5	CD-2.5
Manufactured Home	MH
Neighborhood Density 3	ND-3
Character District 3	CD-3
Neighborhood Density 3.2	ND-3.2
Neighborhood Density3.5	ND-3.5
Neighborhood Density 4	ND-4
Character District 4	CH-4
Neighborhood Commercial	N-CM
Character District 5	CD-5
Character District 5 Downtown	CD-5D
Employment Center	EC
Heavy Commercial	HC
Light Industrial	LI
Heavy Industrial	HI

(Ord. No. 2020-60, 9-1-2020)

#### Section 2.5.1.4Criteria for Approval

- In making a determination regarding a requested zoning change, the Planning and Zoning Commission and the City Council may consider the following factors:

- Whether the proposed zoning map amendment implements the policies of the adopted Comprehensive Plan and preferred scenario map;
- Whether the proposed zoning map amendment is consistent with any adopted small area plan or neighborhood character study for the area;
- Whether the proposed zoning map amendment implements the policies of any applicable plan adopted by City Council;
- Whether the proposed zoning map amendment is consistent with any applicable development agreement in effect;
- Whether the uses permitted by the proposed change in zoning district classification and the standards applicable to such uses shall be appropriate in the immediate area of the land to be reclassified;
- Whether the proposed zoning will reinforce the existing or planned character of the area;
- Whether the site is appropriate for the development allowed in the proposed district;
- Whether there are substantial reasons why the property cannot be used according to the existing zoning;
- Whether there is a need for the proposed use at the proposed location;
- Whether the City and other service providers will be able to provide sufficient public facilities and services including schools, roads, recreation facilities, wastewater treatment, water supply and stormwater facilities, public safety, and emergency services, while maintaining sufficient levels of service to existing development;
- Whether the proposed rezoning will have a significant adverse impact on property in the vicinity of the subject property;
- For requests to a Neighborhood Density District, whether the proposed amendment complies with the compatibility of uses and density in Section 4.1.2.5.

Update to reflect prior change from Employment Center to Commercial

### Section 2.5.5.3 Approval Process

#### A. Responsible Official Action

1. The Responsible Official shall review the application for a certificate of appropriateness in accordance with the criteria in Section 2.5.5.4 and provide a report and recommendation to the Historic Preservation Commission.
2. The responsible official shall schedule a public hearing and prepare personal notice before the public hearing in accordance with Section 2.3.2.1.

#### B. Historic Preservation Commission Action

1. The Historic Preservation Commission shall conduct a public hearing concerning the application in accordance with Section 2.3.3.1
2. The Historic Preservation Commission shall approve, approve with conditions or deny the application for a certificate of appropriateness after consideration of the request during the public hearing.
3. If the Historic Preservation Commission determines that a certificate of appropriateness should not be issued, or should be issued subject to conditions, it shall place upon its records the reasons for its determination.
4. The Historic Preservation Commission shall render its decision on the request within forty-five (45) days of the date the application is deemed complete and adequate for review, subject to the supplemental options available under Section 2.5.5.3(c).

### Section 2.5.5.4 Criteria for Approval

The following criteria shall be used to determine whether the application for a certificate of appropriateness shall be approved, conditionally approved or denied:

- A. Consideration of the effect of the activity on historical, architectural or cultural character of the Historic District or Historic Landmark;
- B. For Historic Districts, compliance with the Historic District regulations;

- C. Whether the property owner would suffer extreme hardship, not including loss of profit, unless the certificate of appropriateness is issued; and
- D. The construction and repair standards and guidelines cited in Section 4.5.2.1.

### Section 2.5.5.5 Appeals

**A. General Procedure.** An applicant or other interested person within the four-hundred foot (400') personal notification area may appeal a final decision of the Historic Preservation Commission on an application for a certificate of appropriateness to the Zoning Board of Adjustments within ten days of the Historic Preservation Commission's action on the application, except for appeals pertaining to property owned by the City of San Marcos. Appeals pertaining to property owned by the City of San Marcos shall be made to the City Council within ten days of the Historic Preservation Commission's action on the application. The appellate body shall decide the appeal in accordance with Section 2.8.1.1.

**B. Supplemental Procedure.** In considering the appeal, the appellate body shall:

1. Review the record of the proceeding from which an appeal is sought;
2. Receive an overview of the case from the Responsible Official, including previous recommendations from city staff and the decision of the Historic Preservation Commission;
3. Hear arguments from the party appealing the decision of the Historic Preservation Commission; and
4. Remand the matter back to the Historic Preservation Commission when relevant testimony and newly-acquired evidence is presented that was not previously presented at the time of the hearing before the Historic Preservation Commission.

Change to 60 days

# CHAPTER 3. SUBDIVISIONS

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- B. Applicability.** This Article 10 shall apply under the platting procedures of Section 3.1.1.1 or the issuance of site development permits under Section 2.7.1.1 for areas inside the city limits and the City's ETJ.
- C.** The Responsible Official for parkland dedication and development is the Director of Parks and Recreation.
- D. Exceptions.** Parkland dedication requirements shall not apply:
  1. To the subdivision of commercial, industrial or other non-residential lots;
  2. Where such lots were previously subject to parkland dedication requirements; or
  3. To the Downtown or Midtown Intensity Zones on the Preferred Scenario Map where fewer than 30 residential units are constructed or added.

### Section 3.10.1.2 Parkland Dedication

- A. General Calculation of Required Land.** The calculation of required parkland in accordance with the findings in Section 3.10.1.1A is calculated based on the number of units added through approval of a subdivision or site permit under Sec. Section 3.1.1.1 or Section 2.7.1.1 and is calculated according to the table and formula below:

**TABLE 3.3 CALCULATION OF POPULATION**

DEVELOPMENT TYPE	POPULATION
Single Family Detached, Attached, Duplex, or Manufactured Home	2.7 persons per unit
Multi-Family	2.1 persons per unit
Purpose Built Student Housing	1 person per bedroom or 2.1 persons per unit whichever is greater

#### CALCULATION OF ACREAGE

$$5.7 \text{ ACRES} * (\text{POPULATION} / 1,000)$$

- B. Land Required in the Downtown and Midtown Intensity Zones.** Residential or mixed use developments with 30 or more dwelling units shall provide a minimum of five percent (5%) of the site or lot as plazas that are either privately held and open to the public or dedicated as parkland.

(Ord. No. 2019-45, 12-17-19)

Remove City Dedication requirement

- C. Parkland and Open Space Dedication.** Land proposed for dedication as public parkland or open space shall be reviewed by the Responsible Official and may be accepted by the parks board based on the findings in Sec. Section 3.10.1.1A and the criteria identified in Section 3.10.1.2D.
- D. Criteria for Parkland and Open Space.** The Parks Board should consider the following criteria when accepting land for parks or open space.
  1. A minimum of fifty percent (50%) of the proposed land is determined by the parks board as acceptable for use as an area of active recreation. Active recreation sites do not typically include the following:
    - a. Drainage ditches;
    - b. Detention ponds;
    - c. Power lines easements;
    - d. Slopes greater than fifteen percent (15%);
    - e. Floodway; and
    - f. All other areas that are determined by the Parks Board as insufficient for active recreation based on the nature or size of the land proposed for dedication.
  2. A minimum of 50% of the parkland required under this ordinance shall be dedicated to the City of San Marcos as a neighborhood or regional park under Section 3.10.2.1. The remaining 50% may be owned and managed by one of the entities under Section 3.10.1.6.
  3. All parkland and open space dedication shall be consistent with the goals, objectives and policies of the City's adopted parks plan (as amended).
  4. The dedicated parkland conforms with the intent, specifications, typical features and parking requirements of one of the identified park types in Section 3.10.2.1.
- E. Park Access.** Parkland shall be easily accessible for the public and open to public view so as to benefit area residents, enhance the visual character of the City, protect public safety, and minimize conflicts with adjacent land uses. Public park access shall meet the following requirements:



1. Access shall be required based on the access requirements of each park type identified in Section 3.10.2.1.
2. Access requirements shall be calculated based on the boundary of a parkland lot located adjacent to a parkway, boulevard, avenue, street or park road.

#### Section 3.10.1.3 Fee in Lieu of Dedication.

- A. A cash fee for the purchase of off-site parkland may be paid in lieu of all or part of the dedication of on-site parkland in accordance with the criteria below.
- B. The cash fee in lieu of parkland dedication shall be based on the following formula:

##### PARKLAND COST FACTOR X NUMBER OF PARKLAND ACRES

- C. "Parkland Cost Factor" is based on the average purchase price to the City for acquiring an acre of parkland.
- D. All fees in lieu of dedication shall be paid prior to the recordation of the final plat or prior to the issuance of a site permit where a plat is not required.
- E. Fees in lieu of dedication may be accepted if one of the following conditions apply:
  1. If requested by the subdivider and reviewed by the Responsible Official, the Parks Board may allow the option of the payment of a fee over the dedication of land within the subdivision; or
  2. Upon review and recommendation of the Responsible Official, the Parks Board determines that there is no land suitable for dedication based on the criteria in Section 3.10.1.2D.
  3. The total amount of the fee-in-lieu is less than \$50,000 and the Responsible Official makes a determination based on the Parks Master Plan and the findings in Section 3.10.1.1A that dedication is not desired in this location.

#### Section 3.10.1.4 Parkland Development Fee

- A. Except as provided in Section 3.10.1.1D, the developer shall bear a proportional cost of parkland improvements required for a neighborhood park.

- B. The parkland development fee is set by City Council and is based on the current construction costs of a neighborhood park as demonstrated in the calculation methodology below and the findings in Section 3.10.1.1.

- C. **Development Offsets.** The developer's cost to provide park facilities shall offset the requirement for a parkland development fee.

1. The following improvements in a park may be credited towards parkland development:
  - a. Typical facilities listed in Section 3.10.2.1.
  - b. Site grading and preparation.
  - c. Landscaping.
  - d. One half the cost of adjacent perimeter roads in excess of 50% of the parkland lot boundary.
  - e. LID or green infrastructure facilities located within the development that qualify as an amenity under Section 7.2.4.1.

2. Parkland development shall be approved as part of a public improvement construction plan in accordance with Section 3.4.1.1 prior to the approval of the final plat and shall meet city park construction requirements.

3. Prior to the City's acceptance of the parkland improvements, the subdivider shall deliver a warranty deed to the City conveying fee simple title of all parkland or open space shown on the final plat.

- D. Parkland development fee:

1. For purposes of determining the development fee under Section 3.10.1.4:

$$\text{PARK DEVELOPMENT COST PER UNIT} = \frac{\text{PARK DEVELOPMENT COST FACTOR}}{\text{PARK FACILITIES LEVEL OF SERVICE}}$$

2. Where:

- a. "Park development cost factor" is determined by the City Council based on the average cost of developing an acre of parkland

- b. "Park facilities level-of-service" is:

$$\frac{\text{CITY POPULATION}}{\text{NUMBER OF DEVELOPED PARKS}}$$

- c. Where “City Population” is determined by the city on an annual basis and “Number of Developed Parks” is the total number of parks developed with a recreational amenity or trail, as determined by the parks director prior to adoption of the annual fee ordinance by the City Council.

**E. Permit Required for Park Site Manipulation.** No individual, partnership, firm, or corporation shall deepen, widen, fill, reroute or change the course or location of any existing ditch, channel, stream or drainage way proposed for a parkland or open space without first obtaining a permit approved by the Responsible Official and any other agency having jurisdiction.

**F. Parkland and Open Space Improvements.** Parkland and open space improvements shall be consistent with the intended use of the parkland or open space and the overall goals, policies and objectives of the City, as stated in the Comprehensive Master Plan and the Parks Master Plan

#### Section 3.10.1.5 Fee Payment and Expenditure

**A. Parkland Benefit Areas.** The City shall establish a separate parkland and open space account. The funds in the account shall be earmarked solely for the acquisition or development of parkland in accordance with Section 3.10.2.1 either in the same parkland benefit area in which the subdivision is located, or for regional parks and open space that will benefit all of the citizens of the City. The City shall expend cash contributions within ten years of the date any such contribution is made.

#### Section 3.10.1.6 Ownership and Management

- A. Ownership.** Required parkland and any other common open space or area must be owned and maintained by one of the following entities:
1. **City of San Marcos.** Publicly dedicated parkland shall be owned and maintained by the City of San Marcos.
  2. **Land Conservancy or Land Trust.** A bona fide land conservancy or land trust with legal authority as determined by the City Attorney may own the open space. The responsibility for maintaining the open space and any facilities may be borne by a land conservancy or land trust.

**3. Homeowners’ Association.** A homeowners’ association representing residents of the development may own the open space. The homeowners’ association must have lien authority to ensure the collection of dues from all members. The responsibility for maintaining the open space and any facilities is borne by the homeowners’ association.

**4. Public Easement.** Privately held open space shall be made permanently open to the public through an easement dedicated to the public and approved by the City Attorney.

**B. Conveyance.** The conveyance of parkland or other common open space shall be in accordance with the following:

1. Parkland or open space shall be conveyed to the City, land conservancy or homeowners’ association in fee simple without any encumbrances except drainage, greenway and utility easements. Title to the real property shall be conveyed upon the recordation of the plat.

2. Parkland or open space shall be designated on the final plat and included in a separate lot, or multiple lots and include the following:

- a. A statement on the plat indicating the conveyance or dedication of parkland or open space; and
- b. The acreage of the land included in the dedication.

**C. Dissolution.** If the homeowner’s association is dissolved, the open space may be offered to another entity who shall be responsible for the maintenance and upkeep of the open space. If no other offer is accepted, the open space shall be offered to the City and if accepted, deeded to the City.

Create new section to address denial at Parks Board (appeal process)