

**CITY OF AMARILLO, TEXAS  
CODE OF ORDINANCES**

**CHAPTER 4-10 - ZONING**



**ARTICLE V. - PROCEDURES  
PUBLIC REVIEW DRAFT  
10-12-2020**

**ARTICLE V. - PROCEDURES..... 3**

**DIVISION 1. - GENERAL PROVISIONS ..... 3**

    Sec. 4-10-235. - General procedural requirements and authority..... 3

    Sec. 4-10-236. - Completeness review..... 4

    Sec. 4-10-237. - Pre-application conference. .... 5

    Sec. 4-10-238. - Notice provisions..... 7

    Sec. 4-10-239. - Public hearings. .... 8

    Sec. 4-10-240. - *Reserved.* ..... 9

    Sec. 4-10-241. - *Reserved.* ..... 9

    Sec. 4-10-242. - *Reserved.* ..... 9

    Sec. 4-10-243. - *Reserved.* ..... 9

    Sec. 4-10-244. - *Reserved.* ..... 9

**DIVISION 2. - SPECIFIC PROCEDURES ..... 10**

    Sec. 4-10-245. - Summary of procedures..... 10

    Sec. 4-10-246. - Landscaping and Irrigation Plan..... 11

    Sec. 4-10-247. - Site Plans..... 12

    Sec. 4-10-248. - Comprehensive Plan amendments. .... 18

    Sec. 4-10-249. - Text Amendments..... 21

    Sec. 4-10-250. - Rezoning..... 24

    Sec. 4-10-251. - Specific Use Permits..... 31

    Sec. 4-10-252. - Certificates of Appropriateness..... 36

    Sec. 4-10-253. - Historic Preservation Overlay (HP-O) District designation process..... 43

    Sec. 4-10-254. - Historic Landmarks (H-L) designation process..... 46

    Sec. 4-10-255. - Certificates of Occupancy and Compliance..... 48

    Sec. 4-10-256. - Appeals of administrative and UDHPC decisions..... 51

    Sec. 4-10-257. - Special Exceptions..... 53

    Sec. 4-10-258. - Variances..... 55

    Sec. 4-10-259. - *Reserved.* ..... 59

    Sec. 4-10-260. - *Reserved.* ..... 59

    Sec. 4-10-261. - *Reserved.* ..... 59

    Sec. 4-10-262. - *Reserved.* ..... 59

    Sec. 4-10-263. - *Reserved.* ..... 59

    Sec. 4-10-264. - *Reserved.* ..... 59

## ARTICLE V. - PROCEDURES

### DIVISION 1. - GENERAL PROVISIONS

#### Sec. 4-10-235. - General procedural requirements and authority.

(a) This Article establishes the procedures to process Applications that are filed under this Chapter. These include:

(1) **Legislative** decisions, including Specific Use Permits, Rezoning, and amendments to this Zoning Ordinance and the Comprehensive Plan. These involve a new policy or rule, or a change in land development policy.

(2) **Quasi-Judicial** decisions, including Special Exceptions and Variances. These proceedings require a weighing of the evidence, a balancing of the equities, an application of rules, regulations, and ordinances to facts, and a resolution of specific issues. These also involve a public hearing and the exercise of discretion by the Zoning Board of Adjustment.

(3) **Administrative** decisions, such as Site Plans and Certificates of Occupancy and Compliance. These apply the Zoning Ordinance or conditions of a legislative or quasi-judicial decision to a specific project that is either clearly defined in the Zoning Ordinance, or that has already obtained all necessary legislative and quasi-judicial approvals. Because these involve the application of non-discretionary rules to specific projects, these decisions are made by City of Amarillo staff without a public hearing.

(b) This Article sets up rules for procedures, such as pre-application, notices, and public hearings. It then describes the process for specific land use decisions. The procedures generally share a common workflow and description, as follows:

**Table 4-10-235.1 - Procedure Workflows**

Element	Meaning
<b>Purpose</b>	Explains the reasons for a particular procedure.
<b>Applicability</b>	The type of Development or situation that is subject to the process.
<b>Initiation</b>	This is how the Applicant begins the process, including which department or official receives the Application.
<b>Completeness</b>	This is how the City of Amarillo determines that the Application has sufficient information to be processed.
<b>Notice</b>	This describes the type of notice, and how it is provided.
<b>Approval Process</b>	This states who approves the Application, and the type of proceeding that leads to the decision.

**Table 4-10-235.1 - Procedure Workflows**

<b>Approval Criteria</b>	These are any standards that apply to the Application. All Applications are subject to this Chapter and Zoning District regulations.
<b>Reapplication</b>	If an Application is denied, some processes have a waiting period before that type of Application can be re-filed for the property.
<b>Appeals</b>	This provides a way to review an Application that is denied, or that have conditions the Applicant disagrees with.
<b>Scope of Approval</b>	This states the activities that the Application authorizes. For example, some approvals send the Applicant to the next step in the overall process, while others authorize construction or Use.
<b>Recordkeeping</b>	Some procedures have specific requirements for maintaining records of Applications and actions, which are included in this Article. City record retention policies govern other recordkeeping requirements.

(c) The City may not require, as a condition of development approval, that the developer bear a portion of the costs of public facilities by the making of dedications, the payment of monies, or payment of construction costs in excess of amounts required to offset the proposed development’s roughly proportionate impact on public facilities.

**Sec. 4-10-236. - Completeness review.**

(a) **Generally.**

(1) Applications filed under this Chapter must include the information required by Article XI, *Submittal Requirements*.

(2) All Applications shall be made on forms prepared by the City and available from the Planning & Development Services Department. The Application form itself shall not be altered in any way.

(3) All Applications shall be accompanied by payment of the required fee, as specified in Article XI, *Submittal Requirements*.

(d) **When Applications Deemed Complete.**

(1) The City will not process incomplete Applications.

(2) An Application is not complete until the Applicant submits all required items (see Article XI, *Submittal Requirements*).

(3) When Applications are filed, the Planning Director will review them for completeness. A time period required by this Chapter to process an Application does not

commence until the Planning Director determines that the Application is properly submitted and the Applicant has corrected any deficiencies in the Application. Review for completeness of Application forms is solely to determine whether preliminary information required for submission with the Application is sufficient to allow further processing. It does not constitute a decision as to whether an Application complies with this Chapter.

(4) The Planning Director will determine whether the Application is complete and will transmit the determination to the Applicant within 10 business days of the application filing date.<sup>1</sup>

a. If the Director determines that the Application is not complete, the Director will specify those parts of the Application that are incomplete and will indicate how they can be made complete, including a list and description of the information needed to complete the Application.

b. The Director and the Review and Decision-Making Bodies are not obligated to further review the Application until the required information is provided.

c. If the Applicant fails to provide the required information within 45 days of the application filing date,<sup>2</sup> then the Application is expired.

**(e) Application and Submission Deadlines.**

(1) The Planning Director or the Review and Decision-Making Bodies may provide submission deadlines for materials required in support of any Application provided for in this Chapter.

(2) Compliance with those deadlines is required to have the Application placed on an agenda to be heard by the Review or Decision-Making Body.

**Sec. 4-10-237. - Pre-application conference.**

**(a) Applicability.**

(1) Pre-application conferences are required for all of the following types of Applications:

---

<sup>1</sup> Consistent with Texas LGC Chapter 245, Sec. 245.002(e). Note the Subdivision Ordinance requires the completeness review to be completed within two days of Application submittal (Sec. 4-6-10).

<sup>2</sup> Consistent with Texas LGC Chapter 245, Sec. 245.002(e).

- a. Site Plans,
- b. Rezoning to a Planned District, and
- c. Specific Use Permits.

(3) The Planning Director may waive the pre-application conference requirement upon finding the Applicant has sufficient familiarity with the approval process that a pre-application conference would not serve a valid purpose.

(4) An Applicant may request a pre-application conference for any other type of Application required by this Chapter.

**(f) Timing.**

(1) The pre-application conference should occur at least 10 days before the Application is filed.

(2) Prior to the scheduled pre-application conference, the Applicant may submit to the Planning Director a copy of plans and information relevant to the Application.

**(g) Conference contents.**

(1) The pre-application conference is for informational purposes, and no formal decisions are made.

(2) The Applicant shall provide a brief overview of the project, including proposed location, Uses, Densities, project layout, design features, and other information relevant to the Application.

(3) The Planning Director will provide information and comments at the pre-application conference, but will not take formal action on the Application. In addition to providing verbal information, the Director department may provide a pre-application conference checklist.

(4) The Applicant's and Planning Director's comments are for purposes of information, but are not binding on either the City or the Applicant.

(5) A submittal item may be waived as part of this review if determined to be unnecessary, already known, or needed at a future stage.

(6) The pre-application conference may include the following:

- a. Discussion of the extent to which the proposed Application conforms to Chapter 4-10, other applicable provisions of the code of ordinances, and other applicable regulations;
- b. A discussion of technical studies, plans, and other information deemed relevant to the specific Application request;
- c. A discussion regarding possible modifications to the Application, if warranted;
- d. Discussion of the anticipated level of citizen interest;
- e. Identification of public hearing or meeting requirements, if applicable; and
- f. A discussion of the general project consistency with the Comprehensive Plan.

(7) The Planning Director may request input on the proposed application from other City departments, state agencies, utility providers, and other reviewing agencies.

(h) **Documentation.** The Planning Director may record in writing (paper or electronic) any pertinent information concerning the proposed Application, as described by the Applicant, as well as a brief record of written or verbal guidance provided by City staff or other reviewing agencies.

**Sec. 4-10-238. - Notice provisions.**

(a) **Generally.**

(1) This Section establishes various requirements for public notice.

(2) **Table 4-10-238.1**, along with subsection (b), describes the various types of notice and its contents. More specific notice requirements are located in each procedural section.

Table 4-10-238.1 – Type & Description of Notice	
Type of Notice	Description
<b>Publication</b>	Notice is placed in a newspaper of general circulation in the city.
<b>Mail</b>	The Director will mail the notices. Regular mail is sufficient, unless certified mail is required by a specific process or state law. Notices are mailed to the Property Owner(s) listed in the City or county tax records.

**Table 4-10-238.1 – Type & Description of Notice**

**Electronic Transmission<sup>3</sup>**

The City may communicate with the Applicant or persons requesting notice by electronic transmission. Electronic transmission may include email, or communication through social media, or online notification procedures established by the Director.

(i) **Required Information.** Notice shall include the following information, unless the process includes a different requirement:

(1) A brief summary of the proposed ordinance or Application;

(2) Time, date, and place of the public hearing or meeting;

(3) The type of land Use or Development decision that is being considered including, for Rezonings, the current and proposed Zoning District classifications;

(4) A telephone point of contact within the Department;

(5) The Department’s website address (URL); and

(6) The address or location of the subject Lot(s).

(j) **Failure to Provide Notice.** The failure of the City of Amarillo to provide any notice not otherwise required under state law does not affect the validity of any action undertaken pursuant to this Chapter, and no person may challenge an action for lack of notice where the City has complied with the applicable state law governing notice.

**Sec. 4-10-239. - Public hearings.**

(a) **Purpose.** A public hearing gives interested parties an opportunity to be heard.

(b) **Public input and recordkeeping.** If an Application requires a public hearing:

(1) The Review and Decision-Making Bodies will allow the Applicant and all other interested parties a reasonable and fair opportunity to be heard, present evidence relevant to the Application, and rebut evidence presented by others.

---

<sup>3</sup> *The requirement for Electronic Notice is new, and is proposed to apply to Comprehensive Plan Amendments, Text Amendments, Rezonings, SUPs, Appeals, Special Exceptions, and Variances. As currently drafted, Electronic Notice is only required to the Applicant.*



(2) The Review and Decision-Making Bodies will make an accurate written summary of the proceedings.

(c) **Rules of procedure for public hearings.** The City Council, Planning and Zoning Commission, and Zoning Board of Adjustment may adopt rules of procedure for public hearings by resolution or bylaws.

(d) **Continuance of a public hearing.** If an Application that is subject to a public hearing is continued or otherwise carried over to a subsequent date and the public hearing is opened, then the public hearing does not conclude until the date on which the hearing is formally closed. No additional notices are required if the public hearing is continued.

*Sec. 4-10-240. - Reserved.*

*Sec. 4-10-241. - Reserved.*

*Sec. 4-10-242. - Reserved.*

*Sec. 4-10-243. - Reserved.*

*Sec. 4-10-244. - Reserved.*

**DIVISION 2. - SPECIFIC PROCEDURES**

**Sec. 4-10-245. - Summary of procedures.**

(a) The procedures established in this Division are summarized in **Table 4-10-245.1.**

(b) The approval process for all legislative and quasi-judicial procedures begins with review by City staff. Staff typically provides a written and/or oral report to the Review and Decision-Making Bodies. This report includes the recommendations or actions of other Review and Decision-Making Bodies that have considered an Application or proposal.

<b>Table 4-10-245.1 - Summary of Procedures</b>									
<b>Procedure</b>	<b>Review, Decision-Making, &amp; Appeal Bodies</b>						<b>Notices</b>		
	<b>Staff</b>	<b>DRC</b>	<b>UDHPC</b>	<b>PZC</b>	<b>CC</b>	<b>ZBA</b>	<b>Publication</b>	<b>Mail</b>	<b>Electronic</b>
Landscaping and Irrigation Plans	D					A			
Site Plans	D	R		A					
Comprehensive Plan Amendments	R			R	D		●		●
Text Amendments	R			R	D		●		●
Rezoning	R		R <sup>1</sup>	R	D		●	●	●
Specific Use Permits	R		R <sup>1</sup>	R	D		●	●	●
Certificates of Appropriateness	R/D		D			A			
HP-O District Designation Process	R		R	R	D		●	●	
H-L Designation Process	R		R	R	D				
Certificates of Occupancy & Compliance	D					A			
Appeals	R					D	●	●	●
Special Exceptions	R		R <sup>1</sup>			D	●	●	●
Variances	R		R <sup>1</sup>			D	●	●	●

**Key:** Staff = Planning and Development Department staff or the Building Official, as applicable, who may seek input from staff in other City departments or other agencies as needed | DRC = Development Review Committee | UDHPC = Urban Design & Historic Preservation Commission | PZC = Planning & Zoning Commission | CC = City Council | ZBA = Zoning Board of Adjustment | R = Review Body | D = Decision-Making Body | A = Appeal Body

<sup>1</sup>Only for applications involving a Lot or Lots where a COA is required.

**Sec. 4-10-246. - Landscaping and Irrigation Plan.**

- (a) **Purpose.** The purpose of a Landscaping and Irrigation Plan is to verify compliance with the provisions of Article IV, Division 3, *Landscaping & Screening*.
- (b) **Applicability.** Landscaping and Irrigation Plans are required for all Non-Residential and Multiple-Family land Uses that are subject to the provisions of Article IV, Division 3, *Landscaping & Screening*.
- (c) **Initiation.** An Application for approval of a Landscaping and Irrigation Plan:
- (1) Is filed with the Planning and Development Services Department and
  - (2) May be submitted concurrently with a Site Plan Application (see [Sec. 4-10-247](#)).
- (d) **Completeness.** See [Sec. 4-10-236](#), *Completeness review*.
- (e) **Notice.** Notice of the Application is not required.
- (f) **Approval Process.**
- (1) **Consideration of Application.** The Department shall review an Application for a Landscaping and Irrigation Plan when it is complete.
  - (2) **Time to act upon Application.**
    - a. Unless otherwise provided for the specific Use or situation, the Department shall approve the Landscaping and Irrigation Plan with or without conditions or disapprove it within 45 days<sup>4</sup> of receipt of the complete Application.
    - b. If no decision is made by the Department within the 45-day period, the Landscaping and Irrigation Plan is considered approved.
  - (3) **Determination in writing.** The Department shall state the approval (and any conditions, if applicable) or reasons for disapproval in writing.
  - (4) **Requests for additional information.** Before acting on an Application for a Landscaping and Irrigation Plan, the Department may require the Applicant to furnish further

---

<sup>4</sup> Texas Local Government Code Chapter 245, Section 245.002(e) allows a regulatory agency to provide that applications expire on or after the 45<sup>th</sup> day after application filing.

relevant information necessary to enable the Department to comply with the standards for approving an Application specified in subsection (g), below.

(g) **Approval Criteria.** A Landscaping and Irrigation Plan must:

(1) Achieve at least 25 points in the landscape point system established in [Sec. 4-10-163](#), *Landscaping point system*; and

(2) Demonstrate compliance with the requirements in Article IV, Division 3, *Landscaping & Screening*; or

(3) Propose alternative compliance standards in accordance with [Sec. 4-10-164](#), *Alternative compliance*.

(h) **Reapplication.** There are no limits on refileing a withdrawn or disapproved Landscaping and Irrigation Plan Application.

(i) **Appeals.** Action on a Landscaping and Irrigation Plan is appealable to the Zoning Board of Adjustment in accordance with [Sec. 4-10-256](#), *Appeals of administrative decisions*.

(j) **Scope of Approval.**

(1) Approved Landscaping and Irrigation Plan Applications are valid for two years from the date of approval.<sup>5</sup>

(2) Approval of a Landscaping and Irrigation Plan authorizes the Applicant to submit an Application for a paving permit or a building permit.

#### **Sec. 4-10-247. - Site Plans.**

(a) **Purpose.**

(1) The purpose of a Site Plan is to ensure that a Development project is in compliance with all applicable City ordinances and guidelines prior to commencement of construction.

(2) The Site Plan review and approval process is intended to promote, among other items, the efficient and harmonious use of land, safe and efficient vehicular and pedestrian circulation, parking and loading, lighting, screening, and landscaping.

---

<sup>5</sup> Consistent with [Texas LGC Chapter 245, Sec. 245.004\(1\)](#).

(b) **Applicability.**

(1) Approval of a Site Plan is required prior to:

a. The Development of any new Use or Structure, except single-family detached (excluding manufactured home parks), Townhouse, or Duplex dwellings within the city limits; and

b. Any change in Use, when the new Use is subject to Use regulations (see Article III, *Use Regulations*); and

c. Any new or modified Off-Street Parking Space, except those associated with the Uses listed in (b)(1)a., above.<sup>6</sup>

(2) Accessory Uses are exempt if the Accessory Use is incidental to an established development and results in:

a. No change in Use, and

b. No increase in traffic or is used only for storage and/or warehousing.

(3) A Proposed Development Plan (see Article XI, *Submittal Requirements*) approved as part of a Planned District or Specific Use Permit shall be considered a Site Plan approval.

(c) **Initiation.** An Application for approval of a Site Plan:

(1) Is filed with the Planning and Development Services Department, and

(2) Shall be submitted prior to or concurrently with a building permit Application, and

(3) May be submitted concurrently with a Landscaping and Irrigation Plan Application (see [Sec. 4-10-246](#)).

(d) **Completeness.** See [Sec. 4-10-236](#), *Completeness review*.

(e) **Notice.** Notice of the Application is not required, unless specifically required for the Use or situation by this Chapter.

---

<sup>6</sup> *Sec. 4-10-247(b)(1)b. and c. clarify/expand the applicability of Site Plans.*

(f) **Approval Process.**

(1) A Site Plan is reviewed and approved, approved with conditions, or disapproved by the Planning and Development Services Director following a review and recommendation by the Development Review Committee (DRC).

(2) The DRC shall meet within 10 working days after submission of a complete Site Plan Application to review such Application for compliance with this Chapter and other applicable City ordinances.

(3) Before reviewing a Site Plan Application, the DRC may require the Applicant to furnish further relevant information necessary to enable the DRC to comply with the standards for approving an Application specified in subsection (g), below.

(4) After completing its review of a Site Plan and determining that a recommendation for approval is the appropriate action, the DRC shall return the Site Plan and all pertinent data, together with a written list of conditions that the Site Plan shall meet as part of such recommendation (if applicable), to the Planning Director or his designee.

(5) The Applicant shall then submit, to the Planning Director, one hard copy and one digital copy of the revised Site Plan with all conditions and modifications shown or attached.

(6) Before the Site Plan is officially approved, the Planning Director shall review the Site Plan to ensure compliance with the conditions imposed by the DRC to ensure compliance with City regulations. If the Planning Director approves the Site Plan, the Site Plan shall then be dated for recording by the Planning Director.

(7) The Planning Director may approve issuance of permits following Site Plan approval when it is deemed that the required corrections to the Site Plan are minor in nature.

(g) **Approval Criteria.**

(1) The Planning Director and DRC shall review the Site Plan for compliance with all applicable City ordinances with respect to the following:

a. The plan's compliance with applicable provisions of the Zoning Ordinance and other applicable ordinances including, but not limited to:

1. Article II, *Zoning Districts*;

2. Article III, *Use Regulations* (if applicable); and
3. Article IV, *Development Standards*.

b. The relationship of the Development to adjacent uses in terms of compatibility, access, Setbacks, and any other possible negative impacts;

c. The provision of a safe and efficient vehicular and pedestrian circulation system (driveways, etc.);

d. The design and location of off-street parking and loading facilities to ensure that all such spaces are usable and are safely and conveniently arranged;

e. The sufficient width and suitable grade and location of Streets designed to accommodate prospective traffic and to provide access for fire-fighting and emergency equipment to Buildings;

f. The coordination and alignment of Streets so as to arrange a safe transportation system based on applicable transportation related codes, sound engineering principles, and consistent with the City's adopted plans, including the Comprehensive Plan and any transportation plans, as amended;

g. The use of landscaping and fencing to provide adequate screening to shield lights, noise, movement, or activities from adjacent properties where required;

h. Exterior lighting to ensure safe movement and for security purposes, which shall be arranged so as to minimize glare and reflection upon adjacent properties;

i. Protection and conservation of water courses and areas that are subject to flooding;

j. The adequacy of water, drainage, sewerage facilities, solid waste disposal, and other utilities necessary for essential services to residents and occupants;

k. The discharge of pollutants off-site by water, air, or other means; and

l. Obtaining a Certificate of Appropriateness when required by the Downtown Urban Design Overlay District or Historic Preservation Overlay District or for an Historic Landmark (see [Sec. 4-10-252](#), *Certificates of Appropriateness*).

(2) When a Site Plan Application includes two or more Lots proposed for Development as a single, unified site, all Building Setback, landscaping, and screening requirements apply only to the exterior Lot Lines of the unified Development site and not to internal Lot Lines within the unified site.

(h) **Reapplication.** There is no limit on refiling a withdrawn or disapproved Site Plan Application.

(i) **Appeals.** Action on a Site Plan is appealable to the Planning and Zoning Commission in accordance with the procedure below:

(1) The Applicant must file a written notice of appeal in the office of the Planning Director no later than 10 calendar days after the date of the Planning Director's decision on the Application.

(2) The notice of appeal shall set forth in clear and concise fashion the basis for the appeal.

(3) The Planning and Zoning Commission shall consider the appeal at a public meeting no later than 30 calendar days after the date upon which the notice of appeal was filed.

(4) The Planning and Zoning Commission shall determine final approval or denial of a Site Plan Application that is appealed.

(j) **Scope of Approval.** Approval of a Site Plan Application is considered authorization to proceed with Application for a building permit for the Lot(s).

**(1) Validity and lapse of Site Plan approval.**

a. An approved Site Plan Application is valid for a period of two years. An application for a building permit must be submitted within the two-year period for the Site Plan to remain valid.

b. Construction codes in effect at the time of Site Plan approval shall apply to the Site Plan regardless of any intervening amendments to construction codes, except as provided by law.

**(2) Extension & reinstatement procedure.**



a. Prior to the lapse of approval for a Site Plan, the Applicant may petition the Planning Director (in writing) to extend the Site Plan approval.

b. If no petition for extension of Site Plan approval is submitted and granted, then the Site Plan shall be deemed to have expired and shall become null and void. Any new request for Site Plan approval shall be submitted with a new Application form, with a new filing fee, and with new plans and materials in accordance with the procedures set forth in this Section.

**(3) Minor revisions/amendments to an approved Site Plan.**

a. It is recognized that final architectural and engineering design may necessitate minor changes in the approved Site Plan. In such cases, the Planning Director has the authority to approve minor modifications to an approved Site Plan. Such minor modifications shall be shown on an amended Site Plan.

b. For a revision/amendment to be considered minor, the changes shall not cause any of the following circumstances to occur:

1. A change in the character of the development;
2. An increase in the ratio of the Gross Floor Areas in Structures to the area of any Lot;
3. An increase in the intensity of Use;
4. A reduction in the originally approved separations between Buildings;
5. An increase in the potential for safety problems related to vehicular and pedestrian circulation;
6. An increase in the external effects on adjacent property;
7. A reduction in the originally approved Setbacks from Lot lines;
8. An increase in ground coverage by Structures;
9. A reduction in the ratio of off-street parking space to Gross Floor Area in the Structures; and

10. Any change to an approved Sign(s).

(4) **Major revisions/amendments to an approved Site Plan.** In the event of revisions that cause any one or more of the circumstances listed in paragraph (3), above, to occur, a new Site Plan must be submitted, reviewed, and approved by the DRC and the Planning Director.

**Sec. 4-10-248. - Comprehensive Plan amendments.<sup>7</sup>**

(a) **Purpose.** This Section describes how the City makes changes to the Comprehensive Plan. For example, an applicant may use this procedure to ask the City to change the future land use category designated in the Future Land Use and Character Map for a specific Lot.

(b) **Applicability.** This Section applies to any Application to amend the Comprehensive Plan, including amendments to the Future Land Use and Character Map.

(c) **Initiation.**

(1) The process to amend any part of the adopted Comprehensive Plan may be initiated by:

- a. The City Council, by adoption of a motion;
- b. The Planning and Zoning Commission, by adoption of a motion; or
- c. Recommendation of the Planning and Development Services Department.

(2) The process to amend the Comprehensive Plan Future Land Use Map may be initiated by any of the agencies specified in paragraph (1), above, or by any property owner in the City of Amarillo.

a. A property owner may only request a change in the Future Land Use Map designation of their Lot(s).

---

<sup>7</sup> This procedure is not addressed in the current Zoning Ordinance. Texas LGC Chapter 213 gives cities authority to determine its Comprehensive Plan amendment procedure and notice requirements. The only requirement is that the City hold a public hearing and the Planning Commission or Planning Department reviews the request. For this reason, the proposed procedure largely follows that required for Rezoning.

b. When a property owner submits an Comprehensive Plan Amendment Application, the property owner shall concurrently submit a Rezoning Application (see [Sec. 4-10-250](#)) for consistency with the proposed Future Land Use Map amendment.

(3) An Application for a Comprehensive Plan Amendment is filed with the Planning and Development Services Department.

(d) **Completeness.** See [Sec. 4-10-236](#), *Completeness review*.

(e) **Notice.** The notice specified in [Table 4-10-243.1](#) is required for a Comprehensive Plan Amendment Application.

Table 4-10-243.1 – Required Notice for Comprehensive Plan Adoption and Amendments			
Type	Required?	To Whom?	When?
Publication	Yes	--	<ul style="list-style-type: none"> <li>At least 16 days<sup>8</sup> prior to the Planning and Zoning Commission public hearing</li> <li>At least 16 days prior to each City Council public hearing (if applicable)</li> </ul>
Mail	No	--	--
Electronic Transmission	Yes	Applicant	At least 10 days prior to each public hearing

(f) **Approval Process.**

(1) **Planning and Zoning Commission.** The Planning and Zoning Commission shall conduct a public hearing and provide a recommendation for approval, approval with modifications, or disapproval of the proposed amendment.

a. If the Planning and Zoning Commission recommends approval of a Comprehensive Plan Amendment Application, the Application shall be automatically forwarded to the City Council for public hearings and action.

b. If the Planning and Zoning Commission recommends disapproval, the Application shall not be processed further and shall not be forwarded to the City Council for public hearing, unless:

<sup>8</sup> Revised for statutory compliance. *Texas LGC Chapter 211, Sec. 211.006(a)* says: “Before the 15th day before the date of the hearing, notice of the time and place of the hearing must be published...” [emphasis added].

1. The Applicant files a written appeal in accordance with subsection (h) below; or
2. The Application was initiated by the City.

**(2) City Council.**

a. The City Council shall conduct two public hearings on the proposed Comprehensive Plan Amendment Application.

b. Following the second public hearing, the City Council shall approve, approve with modifications, or disapprove the proposed amendment. If approved or approved with modifications, the City Council shall adopt the amendment by resolution.

c. The City Council may continue the public hearing for up to 60 days after the date of the second public hearing for further study prior to taking final action on the Comprehensive Plan Amendment Application.

d. In rendering its decision, the City Council shall consider, but is not bound by, the recommendation of the Planning and Zoning Commission.

(g) **Approval Criteria.** In considering any Comprehensive Plan Amendment Application, the Planning and Zoning Commission and City Council shall consider the following criteria:

(1) Whether the proposed amendment is consistent with other policies and recommendations in the Comprehensive Plan; and

(2) Whether the proposed amendment is consistent with other adopted City plans and policies, and

(3) Whether the amendment is consistent with sound planning principles, and

(4) Any other factors the Committee, Commission, or Council deem appropriate.

(h) **Reapplication.** There are no limits on refileing a withdrawn or disapproved Comprehensive Plan Amendment Application.

(i) **Appeal of Planning and Zoning Commission recommendation for disapproval of a Comprehensive Plan Amendment Application.**

a. The Applicant shall submit a written appeal to the Planning and Development Services Department requesting that the Comprehensive Plan Amendment Application proceed to the City Council for a public hearing and action.

b. The Applicant must submit the appeal within 10 days after the date the Planning and Zoning Commission votes to recommend disapproval of the Comprehensive Plan Amendment Application.

1. If the appeal is filed by noon of the day following the Planning and Zoning Commission meeting, the Application shall be processed for consideration by the City Council at its next regularly scheduled meeting. No additional Application fees are required.

2. If the appeal is filed after noon of the day following the Planning and Zoning Commission meeting, the Application shall require new publication and mailing of notices and scheduling to the City Council at a later date. The Applicant shall be subject to the Application fee specified in Article XI, *Submittal Requirements*.

(j) **Scope of Approval.** A Comprehensive Plan Amendment is a formal change in City policy. It does not authorize or require specific actions as a result.

**Sec. 4-10-249. - Text Amendments.**

(a) **Purpose.** This Section describes how the City makes changes to the text of this Zoning Ordinance.

(b) **Applicability.** This Section applies to any proposal to amend the text of the Zoning Ordinance (Chapter 4-10).

(c) **Initiation.** The process to amend the text of the Zoning Ordinance may be initiated by:

- a. The City Council, by adoption of a motion; or
- b. The Planning and Zoning Commission, by adoption of a motion; or
- c. Recommendation of the Planning and Development Services Department.

(d) **Notice.** The notice required by **Table 4-10-249.1** applies to any Text Amendment.

Table 4-10-249.1 – Required Notice for Zoning Ordinance Text Amendments			
Type of Notice	Required?	To Whom?	When?



<b>Table 4-10-249.1 – Required Notice for Zoning Ordinance Text Amendments</b>			
<b>Publication</b>	Yes	--	At least 16 days prior to the Planning and Zoning Commission public hearing
<b>Mail</b>	No	--	--
<b>Electronic Transmission</b>	No		

(e) **Approval Process.**

(1) **Urban Design and Historic Preservation Commission.** If the Text Amendment pertains to the D-O or HP-O Districts or Historic Landmarks, the Planning Director may request a recommendation on the Text Amendment from the UDHPC at its next regularly scheduled meeting.

(2) **Planning and Zoning Commission.**

a. The Planning and Zoning Commission shall conduct a public hearing at a regularly scheduled meeting and provide a recommendation to City Council for approval, approval with modifications, or disapproval of the proposed Text Amendment.

b. The Planning and Zoning Commission may continue the public hearing for up to 30 days for further study prior to making its final recommendation.

c. If the Planning and Zoning Commission recommends approval of a Text Amendment, the Text Amendment shall be automatically forwarded to the City Council for public hearings and action.

d. If the Planning and Zoning Commission recommends disapproval, the Text Amendment shall not be processed further and shall not be forwarded to the City Council for public hearing.

(3) **City Council.**

a. The City Council shall conduct two public hearings on the proposed Text Amendment. Following the second public hearing, the City Council shall approve or disapprove the Text Amendment.

b. The City Council may continue the public hearing for up to 60 days after the date of the second public hearing for further study prior to taking final action on the Text Amendment.

c. In rendering its decision, the City Council shall consider, but is not bound by, the recommendation of the Planning and Zoning Commission.

d. If the City Council receives a valid protest petition in accordance with paragraph (4), below, approval of the Text Amendment requires a favorable vote by at least three-fourths of all Council members.<sup>9</sup>

**(4) Protest Petitions.**

a. Prior to final City Council action on a Text Amendment, affected Property Owners may submit written protest petitions against the proposed Text Amendment.

b. The protest petition(s) must be filed with and verified by the City Secretary at least 3 business days prior to the advertised date of the City Council public hearing on the proposed Text Amendment.

c. The protest petition(s) must bear the original signatures of the owners of at least 20% of either:

1. The area of the Lots or land covered by the proposed Text Amendment; or

2. The area of the Lots or land immediately adjoining the area covered by the proposed Text Amendment and extending 200 feet from that area.

d. The area of Streets and Alleys is included in computing the percentage of land area under paragraph (3)c.<sup>10</sup>

e. In addition to the signatures required above, the protest petition must include:

1. A description of the Text Amendment at issue;

2. A description of the area of Lots owned by the protesting parties that is either covered by the proposed Text Amendment or located within 200 feet of the area covered by the proposed Text Amendment;

---

<sup>9</sup> Revised for statutory compliance. Current *Sec. 4-10-23(c)(3)* says “three-fourths of the members of the City Council present and voting” [emphasis added]. Texas LGC *Chapter 211, Sec. 211.006* requires “the affirmative vote of at least three-fourths of all members of the governing body.”

<sup>10</sup> Consistent with Texas LGC *Chapter 211, Sec. 211.006(e)*.

3. The names of all persons protesting the proposed Text Amendment;  
and

4. The mailing addresses of all persons signing the protest.

(f) **Approval Criteria.**

(1) An amendment to the text of this Chapter is approved at the City Council’s legislative discretion, and subject to any applicable requirements of state or federal law.

(2) Pursuant to Texas LGC Section 211.004, the Text Amendment shall be consistent with the Amarillo Comprehensive Plan.

(g) **Reapplication.** There is no limit on refiling a withdrawn or disapproved Text Amendment.

(h) **Scope of Approval.** Approval of a Text Amendment does not authorize Development. Any Development that occurs after the Text Amendment is adopted is subject to all applicable requirements of this Chapter, as revised by the Text Amendment.

**Sec. 4-10-250. - Rezoning.**

(a) **Purpose.** This Section provides a way to change the official Zoning Map. Zoning Map changes can occur as the result of a change in the Comprehensive Plan, changes in local conditions, or other factors. Rezoning usually are requested by Property Owners to provide a suitable framework for Development.

(b) **Applicability.** This Section applies to any Application to amend the Zoning Map (a “Rezoning”).

(c) **Initiation.**

(1) A Rezoning may be initiated by:

- a. The City Council, by adoption of a motion; or
- b. The Planning and Zoning Commission, by adoption of a motion; or
- c. Recommendation of the Planning and Development Services Department; or



d. Petition by the Owner of the affected property or the Owner’s agent.

(2) A Rezoning Application is filed with the Planning and Development Services Department.

(3) A pre-application conference is required if the Application proposes rezoning to a Planned District (see Sec. 4-10-237, Pre-application conferences).

(d) **Completeness.** See Sec. 4-10-236, Completeness review.

(e) **Notice.** The notice required by **Table 4-10-250.1** applies to any Rezoning Application.

Table 4-10-250.1 – Required Notice for Rezoning			
Type of Notice	Required?	To Whom?	When?
<b>Publication</b>	Yes	--	<ul style="list-style-type: none"> <li>At least 16 days<sup>11</sup> prior to the Planning and Zoning Commission public hearing</li> <li>At least 16 days prior to each City Council public hearing (if applicable)</li> </ul>
<b>Mail</b>	Yes	<ul style="list-style-type: none"> <li>All owners of property located within 200 feet of the Lot(s) subject to the rezoning application</li> <li>For proposed rezonings to or from the E, R-1, R-2, MD, MF, or MH District, each school district in which the property proposed for rezoning is located<sup>12</sup></li> </ul>	<ul style="list-style-type: none"> <li>At least 10 days prior to the Planning and Zoning Commission public hearing</li> </ul>
<b>Electronic Transmission</b>	Yes	Applicant	At least 10 days prior to each public hearing

(f) **Approval Process.**

(1) **Urban Design and Historic Preservation Commission.** If the Rezoning Application pertains to an HP-O District or any Lot(s) where a COA is required, the Planning Director may

<sup>11</sup> Revised for statutory compliance. Texas LGC Chapter 211, Sec. 211.006(a) says: “Before the 15th day before the date of the hearing, notice of the time and place of the hearing must be published...” [emphasis added].

<sup>12</sup> This new notice requirement was added to Texas LGC Chapter 211, Sec. 211.007(c-1) in 2013.

request a recommendation on the Rezoning Application from the UDHPC at its next regularly scheduled meeting.

**(2) Planning and Zoning Commission.**

a. The Planning and Zoning Commission shall conduct a public hearing at a regularly scheduled meeting and provide a recommendation to City Council for approval or disapproval of the proposed Rezoning Application. If the proposed Zoning District is a Planned District (see [Table 4-10-11.1, Zoning Districts](#)), the Commission also may recommend approval with conditions.

b. The Planning and Zoning Commission may continue the public hearing for up to 30 days for further study prior to making its final recommendation.

c. If the Planning and Zoning Commission recommends approval of a Rezoning Application, the Application shall be automatically forwarded to the City Council for public hearings and action.

d. If the Planning and Zoning Commission recommends disapproval, the Application shall not be processed further and shall not be forwarded to the City Council for public hearing, unless:

1. The Applicant files a written appeal in accordance with [subsection \(i\)](#) below; or
2. The Application was initiated by the City.

**(3) City Council.**

a. The City Council shall conduct two public hearings on the proposed Rezoning Application. Following the second public hearing, the City Council shall approve or disapprove the Rezoning Application. If the proposed Zoning District is a planned district (see [Table 4-10-11.1, Zoning Districts](#)), the Council also may approve the Application with conditions.

b. The City Council may continue the public hearing for up to 60 days after the date of the second public hearing for further study prior to taking final action on the Rezoning Application.

c. In rendering its decision, the City Council shall consider, but is not bound by, the recommendation of the Planning and Zoning Commission.

d. If the City Council receives a valid protest petition in accordance with paragraph (4), below, approval or approval with conditions of the Rezoning Application requires a favorable vote by at least three-fourths of all Council members.<sup>13</sup>

**(4) Protest Petitions.**

a. Prior to final City Council action on a Rezoning Application, affected Property Owners may submit written protest petitions against the proposed Rezoning.

b. The protest petition(s) must be filed with and verified by the City Secretary at least 3 business days prior to the advertised date of the City Council public hearing on the proposed Rezoning Application.

c. The protest petition(s) must bear the original signatures of the owners of at least 20% of either:

1. The area of the Lots or land covered by the proposed Rezoning; or

2. The area of the Lots or land immediately adjoining the area covered by the proposed Rezoning and extending 200 feet from that area.

d. The area of Streets and Alleys is included in computing the percentage of land area under paragraph (3)c.<sup>14</sup>

e. In addition to the signatures required above, the protest petition must include:

1. A description of the zoning case at issue;

2. A description of the area of Lots owned by the protesting parties that is either covered by the proposed change or located within 200 feet of the area covered by the proposed change;

3. The names of all persons protesting the proposed change in Zoning District classification or boundary; and

---

<sup>13</sup> Revised for statutory compliance. Current Sec. 4-10-23(c)(3) says “three-fourths of the members of the City Council present and voting” [emphasis added]. Texas LGC Chapter 211, Sec. 211.006 requires “the affirmative vote of at least three-fourths of all members of the governing body.”

<sup>14</sup> This is consistent with Texas LGC Chapter 211, Sec. 211.006(e).

4. The mailing addresses of all persons signing the protest.

(g) **Approval Criteria.**

(1) **Criteria.** In considering any Rezoning Application, the Planning and Zoning Commission and the City Council shall consider the criteria stated below, to the extent they are pertinent to the particular Application:

- a. Whether the proposal conforms to the Comprehensive Plan and any other recognized plans, studies, or policies normally utilized by the City in making land use decisions;
- b. The character of the neighborhood including, but not limited to:
  1. Land use,
  2. Zoning,
  3. Density (residential),
  4. Floor area (non-residential),
  5. Height,
  6. Structural mass,
  7. Siting, and
  8. Open space;
- c. The Zoning Districts and uses of nearby Lots, and the extent to which the proposed Zoning District is in harmony with those Zoning Districts and Uses.
- d. Whether the Uses allowed by the proposed Zoning District are appropriate in the proposed location; and
- e. The length of time the Lot has remained vacant as zoned;
- f. The amount of vacant land currently classified for similar Development in the vicinity and elsewhere in the city, and any special circumstances that may make a substantial part of such vacant land unavailable for development;

- g. The extent to which approval of the Application would detrimentally affect nearby Lots;
- h. The extent to which Development under the proposed District would substantially harm the value of nearby Lots;
- i. The extent to which the proposed District would adversely affect the capacity or safety of that portion of the Street network influenced by the Use, or present parking problems in the vicinity of the Lot(s).
- j. The extent to which the proposed Use would create excessive air pollution, water pollution, noise pollution, or other environmental harm;
- k. The economic impact of the proposed Use on the community;
- l. The gain, if any, to the public health, safety, and welfare due to denial of the Application as compared to the hardship imposed upon the Owner, if any, as a result of denial of the Application;
- m. The recommendation of professional staff; and
- n. Any other factors that may be relevant to a particular Application.

(2) **Conditions.** If the proposed Zoning District is a Planned District (see Table 4-10-11.1, *Zoning Districts*), the City Council also may approve the Application with conditions.

(h) **Reapplication.** When a Rezoning Application is withdrawn by the Applicant, disapproved by the Planning and Zoning Commission, or disapproved by the City Council, a new Rezoning Application that includes the same Lot(s) or any portion thereof shall not be submitted for at least four months from the date of that action unless:

(1) The original Rezoning Application requested a base Zoning District and the new Rezoning Application requests a Planned District (see [Table 4-10-11.1, Zoning Districts](#)); or

(2) The new Rezoning Application proposes a more restrictive Zoning District than the District proposed in the original Rezoning Application. The hierarchy of Zoning Districts is specified in [Table 4-10-250.2](#).

**Table 4-10-250.2 - Hierarchy of Zoning Districts**

Most Restrictive → Least Restrictive

A, E, R-1, R-2, MH, MD, MF, NS, O, GR, CB, LC, HC, I-1, I-2

**(i) Appeal of Planning and Zoning Commission recommendation for disapproval of a Rezoning Application.**

(1) The Applicant shall submit a written appeal to the Planning and Development Services Department requesting that the Rezoning Application proceed to the City Council for public hearing and action.

(2) The Applicant must submit the appeal within 10 days after the date the Planning and Zoning Commission votes to recommend disapproval of the Rezoning Application.

a. If the appeal is filed by noon of the day following the Planning and Zoning Commission meeting, the Application shall be processed for consideration by the City Council at its next regularly scheduled meeting. No additional Application fees are required.

b. If the appeal is filed after noon of the day following the Planning and Zoning Commission meeting, the Application shall require new publication and mailing of notices and scheduling to the City Council at a later date. The Applicant shall be subject to the Application fee specified in Article XI, *Submittal Requirements*.

**(j) Scope of Approval.**

(1) An approved Rezoning Application does not authorize Development. Any Development that occurs after approval of the Rezoning Application requires additional approval, which may include Site Plan or subdivision plat approval, if applicable, and building permits and Certificates of Occupancy and Compliance.

(2) If the proposed Zoning District is a Planned District (see [Table 4-10-11.1](#), *Zoning Districts*), the site plan approved in conjunction with the rezoning application serves as the Site Plan required by [Sec. 4-10-247](#), *Site Plans*.

(3) If the proposed Zoning District is a Planned District and the City Council approves the Application subject to conditions, the Applicant shall comply with all such conditions prior to the issuance of a Certificate of Occupancy and Compliance.

**Sec. 4-10-251. - Specific Use Permits.**

(a) **Purpose.** Some land Uses, Buildings, or Structures are not appropriate under all circumstances in a given Zoning District, but may be appropriate if adequate precautions are taken to assure compatibility with surrounding Uses, public need, and the city as a whole. This Section allows those uses by granting a Specific Use Permit, subject to procedures that are similar to Rezoning.

(b) **Applicability.** This Section applies to

(1) The Development of any Use, and associated Building(s) or Structure(s), that is designated as a Specific Use in Article II, **Sec. 4-10-82**, *Schedule of use*.

(c) **Initiation.**

(1) A Specific Use Permit Application may be filed by the Property Owner or the Owner’s agent.

(2) A Specific Use Permit Application is filed with the Planning and Development Services Department.

(3) An Applicant may combine a Specific Use Permit Application and a Rezoning Application, and the City may process both Applications concurrently. However, if the Specific Use is not allowed in the Zoning District that applies to the Lot(s) when the Applications are filed, the City will not approve the Specific Use Permit unless it also approves the proposed Rezoning.<sup>15</sup>

(4) A pre-application conference is required (see Sec. 4-10-237, *Pre-application conference*).

(d) **Completeness.** See Sec. 4-10-236, *Completeness review*.

(e) **Notice.** The notice required by **Table 4-10-251.1** applies to any Specific Use Permit Application.

**Table 4-10-251.1 – Required Notice for Specific Use Permits<sup>16</sup>**

Type of Notice	Required?	To Whom?	When?
----------------	-----------	----------	-------

<sup>15</sup> This is a new provision that streamlines the approval process when a proposed Development requires both a Rezoning and a Specific Use Permit.

<sup>16</sup> These notice requirements are consistent with those required for a Rezoning (see Sec. 4-10-250).

**Table 4-10-251.1 – Required Notice for Specific Use Permits<sup>16</sup>**

<b>Publication</b>	Yes	--	<ul style="list-style-type: none"> <li>• At least 16 days prior to the Planning and Zoning Commission public hearing</li> <li>• At least 16 days prior to each City Council public hearing (if applicable)</li> </ul>
<b>Mail</b>	Yes	<ul style="list-style-type: none"> <li>• All owners of property located within 200 feet of the Lot(s) subject to the rezoning application</li> <li>• For proposed rezonings to or from the E, R-1, R-2, MD, MF, or MH District, each school district in which the property proposed for rezoning is located</li> </ul>	<ul style="list-style-type: none"> <li>• At least 10 days prior to the Planning and Zoning Commission public hearing</li> </ul>
<b>Electronic Transmission</b>	Yes	Applicant	At least 10 days prior to each public hearing

**(f) Approval Process.**

**(1) Urban Design and Historic Preservation Commission.** If the Specific Use Permit Application pertains to an HP-O District or any lot(s) where a COA is required, the Planning Director may request a recommendation on the Specific Use Permit Application from the UDHPC at its next regularly scheduled meeting.

**(2) Planning and Zoning Commission.**

a. The Planning and Zoning Commission shall conduct a public hearing at a regularly scheduled meeting and provide a recommendation to City Council for approval, approval with conditions, or disapproval of the Specific Use Permit Application.

b. The Planning and Zoning Commission may continue the public hearing for up to 30 days for further study prior to making its final recommendation.

c. If the Planning and Zoning Commission recommends approval of a Specific Use Permit Application, the Application shall be automatically forwarded to the City Council for public hearings and action.

d. If the Planning and Zoning Commission recommends disapproval, the Application shall not be processed further and shall not be forwarded to the City Council for



public hearing, unless the Applicant files a written appeal in accordance with subsection (h) below.

**(3) City Council.**

a. The City Council shall conduct two public hearings on the Specific Use Permit Application. Following the second public hearing, the City Council shall approve, approve with conditions, or disapprove the Specific Use Permit Application.

b. The City Council may continue the public hearing for up to 60 days after the date of the second public hearing for further study prior to taking final action on the Specific Use Permit Application.

c. In rendering its decision, the City Council shall consider, but is not bound by, the recommendation of the Planning and Zoning Commission.

d. If the City Council receives a valid protest petition in accordance with paragraph (4), below, approval or approval with conditions of the Specific Use Permit Application requires a favorable vote by at least three-fourths of all Council members.

**(4) Protest petitions.**

a. Prior to final City Council action on a Specific Use Permit Application, affected Property Owners may submit written protest petitions against the proposed Specific Use Permit.

b. The protest petition(s) must be filed with and verified by the City Secretary at least 3 business days prior to the advertised date of the City Council public hearing on the Specific Use Permit Application.

c. The protest petition(s) must bear the original signatures of the owners of at least 20% of the area of the Lots or land immediately adjoining the area covered by the proposed Specific Use Permit and extending 200 feet from that area.

d. The area of Streets and Alleys is included in computing the percentage of land area under paragraph (4)c.

e. In addition to the signatures required above, the protest petition must include:

1. A description of the zoning case at issue;

2. A description of the area of Lots owned by the protesting parties that is located within 200 feet of the area covered by the proposed Specific Use Permit;
3. The names of all persons protesting the proposed Specific Use Permit; and
4. The mailing addresses of all persons signing the protest.

**(g) Approval Criteria.**

(1) **Criteria.** The approval criteria that apply to Rezoning Applications also apply to Specific Use Permit Applications (see [Sec. 4-10-250](#)).

(2) **Conditions.** In approving a Specific Use Permit Application, the City Council may, in the interest of public welfare and to ensure compliance with the purposes of this Chapter, establish additional conditions for operation, location, arrangement, and construction of the Use.

a. The City Council may impose additional development standards and safeguards as the conditions and locations indicate important to the welfare and protection of adjacent property from excessive noise, vibration, dust, dirt, smoke, fumes, gas, odor, explosion, glare, offensive view, or other undesirable or hazardous conditions.

b. In considering a Specific Use Permit for any use in an O, NS, GR, or any Residential Zoning District, special consideration shall be given to possible undesirable characteristics of the Use such as outside activities, storage of vehicles, equipment or materials, location and visual effects of loading areas, and Building type and appearance inconsistent with the zoning district.

**(h) Reapplication.**

(1) When a Specific Use Permit Application is withdrawn by the Applicant, disapproved by the Planning and Zoning Commission, or disapproved by the City Council, a new Specific Use Permit Application that includes the same Lot(s) or any portion thereof shall not be submitted for at least four months from the date of that action.

(2) An Application for a different Specific Use Permit request may be submitted at any time. In addition, a new Application reflecting major modifications and/or revisions to the withdrawn or denied Specific Use Permit Application may be submitted at any time.

**(i) Appeal of Planning and Zoning Commission recommendation for disapproval of a Specific Use Permit Application.**

(1) The Applicant shall submit a written appeal to the Planning and Development Services Department requesting that the Specific Use Permit Application proceed to the City Council for public hearing and action.

(2) The Applicant must submit the appeal within 10 days after the date the Planning and Zoning Commission votes to recommend disapproval of the Specific Use Permit Application.

a. If the appeal is filed by noon of the day following the Planning and Zoning Commission meeting, the Application shall be processed for consideration by the City Council at its next regularly scheduled meeting. No additional Application fees are required.

b. If the appeal is filed after noon of the day following the Planning and Zoning Commission meeting, the Application shall require new publication and mailing of notices and scheduling to the City Council at a later date. The Applicant shall be subject to the Application fee specified in Article XI, *Submittal Requirements*.

**(j) Scope of Approval.**

(1) An approved Specific Use Permit Application does not authorize Development. Any Development that occurs after approval of a Specific Use Permit Application requires additional approval, which may include subdivision plat approval, if applicable, and building permits and Certificates of Occupancy and Compliance.

(2) The site plan approved in conjunction with a Specific Use Permit Application serves as the Site Plan required by [Sec. 4-10-247](#), *Site Plans*.

(3) If the City Council approves the Specific Use Permit Application subject to conditions, the Applicant shall comply with all such conditions prior to the issuance of a Certificate of Occupancy and Compliance.

(4) Approval of a Specific Use Permit Application is valid in perpetuity and runs with the land, not the Property Owner.

(5) Changes to an approved Specific Use Permit Application, including changes to the boundary of a Specific Use Permit area, require compliance with the procedure specified in this Section.

**(k) Recordkeeping.**

(1) The first Specific Use Permit granted shall be shown on the Zoning Map as S-1 and each subsequent Specific Use Permit granted shall be given the next numerical number.

(2) The Planning Director shall maintain a register of all Specific Use Permits granted, which shall contain the site plan, a copy of the ordinance granting the Specific Use Permit, and all other information concerning the Specific Use Permit.

(3) The area or areas granted Specific Use Permits are set forth on the Zoning Map.

**Sec. 4-10-252. - Certificates of Appropriateness.**

(a) **Purpose.** The Certificate of Appropriateness (COA) process is necessary to ensure that proposed changes to the City's built environment:

(1) Are consistent with the existing historical, archaeological, architectural, and cultural fabric of the City; and

(2) Will create Development that is consistent with the scale, exterior texture, and building materials of nearby Structures.

(b) **Applicability.**

(1) **Required.** A COA is required as a prerequisite condition for the issuance of a building permit or demolition permit for any property that is:

- a. Within the Downtown Urban Design Overlay District (D-O);
- b. A Contributing Structure within the Historic Preservation Overlay (HP-O); or
- c. Designated as a Historic Landmark (H-L).

(2) **Exemptions.** A COA is not required for:

- a. Noncontributing Structures within an HP-O;
- b. A Contributing Structure within an HP-O or an H-L that is in need of ordinary maintenance and repair or for the alteration, rehabilitation, restoration, or construction of the following:

1. Reroofing with in-kind materials with no change to the Structure, shape, or pitch of the roof;
2. An alteration that is obscured from view from the Street by the original Structure and not merely obscured by fencing, landscaping, or other obstructions that are not permanent;
3. Gutters, downspouts, storm windows and doors, window screens, screen doors, temporary emergency weatherization features such as plywood coverings over windows, porch ceiling fans, light fixtures, HVAC units, landscaping;
4. Fences;
5. Removal of burglar bars, satellite dishes, antennae, solar panels, free-standing signs, and accessibility ramps and lifts;
6. Installation of solar panels, antennae, satellite dishes, or other roof equipment installed on the rear half of the roof; and installation of free-standing signs; and
7. Painting non-masonry surfaces and repainting previously painted masonry surfaces; or

c. Any structure within the D-O that does not require approval of a COA per subsection (f).

(c) **Initiation.** An Application for approval of a COA:

(1) Is filed by the Property Owner or the Owner's agent;

(2) Is filed with the Planning and Development Services Department; and

(3) May be submitted concurrently with a:

a. Building permit Application (See Chapter 4-1, *Permit and Inspection Fees*). The approval of the COA, however, must occur prior to the approval of the building permit; or

b. Demolition permit Application (See Sec. 4-3-6, *Demolition of and Moving Buildings*). The approval of the COA, however, must occur prior to the approval of the demolition permit.

(4) A pre-application conference is not required (see Sec. 4-10-237, *Pre-application conference*).

(d) **Completeness.** See Sec. 4-10-236, *Completeness review*.

(e) **Notice.** Notice of the Application is not required.

(f) **Approval Process.**

(1) **Administrative approval for D-O, H-L and HP-O compliance.** The Planning Director is authorized to review and act on a COA for D-OH-L and/or HP-O Compliance for any of the following:

- a. Signage;
- b. Landscaping;
- c. Street lighting;
- d. Sidewalk construction (including trees and furnishings);
- e. Temporary construction facilities;
- f. Buildings that are completely restored to their original state;
- g. Changes to civic space that is open to the public; or

h. Material changes in the exterior appearance of any existing Historic Landmark or any Contributing Structure in an HP-O District by addition, alteration, or reconstruction that are consistent with the U.S. Secretary of the Interior Standards or the specific regulations and/or guidelines created to govern the HP-O District or an H-L, as applicable.

(2) **Urban Design and Historic Preservation Commission (UDHPC) approval for D-O compliance.** The UDHPC is authorized to review and act on a COA for the any of the following:

- a. Construction of a new Building (excluding Accessory Buildings);

- b. Major modifications of Buildings, defined as any existing Building that is altered by increasing the existing footprint by 50% or more, either by a single expansion or by the cumulative effect of a series of expansions;
- c. Projects that increase by 50 linear feet or more, a Building's façade that fronts, or is adjacent to public right-of-way;
- d. Construction of new parking lots or the expansion of existing parking lots in area by 50% or more; or
- e. Any project that has been referred to the UDHPC by the Planning Director.

**(3) Urban Design and Historic Preservation Commission (UDHPC) approval for HP-O or H-L compliance.** A COA issued by the UDHPC shall be required prior to starting work on any Contributing Structure within the HP-O or any H-L when any of the following:

- a. New construction in an HP-O District;
- b. Material changes in the exterior appearance of any existing Contributing Structure by addition, alteration, or reconstruction that are inconsistent with the U.S. Secretary of the Interior Standards or the specific regulations and/or guidelines created to govern the HP-O District or an H-L, as applicable;
- c. Prior to the issuance of a permit by the Building Official to demolish or move any Structure (See Sec. 4-3-6, *Demolition of and Moving Buildings*) that has been recognized by the City as either a Contributing Structure within an HP-O or having a medium or high priority status per a City historic survey. (See [Sec. 4-10-248\(f\)](#), *Historic Resource Surveys*); or
- d. Any project that has been referred to the UDHPC by the Planning Director.

**(4) Building demolition or moving process.**

- a. Except in cases of imminent danger to public safety, health, or welfare, none of the following types of Buildings shall be either demolished or moved unless a period of 60 days has passed since the submittal of a complete COA Application, pursuant to Sec. 4-3-6, *Demolition of and moving buildings*:
  - 1. Any Building or Structure designated to be a Contributing Structure within an HP-O District; or

2. Any Building or Structure designated to be an H-L by the City regardless of its location within the City.

b. During the 60-day stay on demolition described above, the City has the opportunity to discuss the feasibility of emergency measures to either stabilize the Building in such a manner where demolition might not be necessary and/or to secure the area surrounding the Structure in such a manner to ensure there is no injury to the public or surrounding properties.

(g) **Approval Criteria.**

(1) Regardless of whether the COA is approved administratively or by the UDHPC to achieve compliance with either the HP-O, D-O, or H-L standards, all decisions made to approve a COA shall be guided by the appropriate Secretary of the Interior's standards and any standards and/or guidelines that are drafted to be specific to either a particular Zoning District or an H-L.

(2) **Standards to demolish or move a Building.** The UDHPC shall deny an Application to either demolish or move a Building that is either a Contributing Structure within the HP-O or designated as an H-L unless it makes the following findings:

a. For a request to replace a Structure with a new Structure:

1. The new Structure is more appropriate and compatible with the HP-O where it is located than the Structure to be demolished and removed; and

2. The Owner has the financial ability and intent to build the new Structure. The UDHPC must first approve a COA for the new Structure before it may consider the request for demolition or removal.

b. For a request to remove or demolish a Structure that has no economically viable use:

1. The Structure is incapable of earning a reasonable economic return (a reasonable economic return does not have to be the most profitable return possible);

2. The Structure cannot be adapted for any other Use that would result in a reasonable economic return; and

3. The Owner has failed during a period of the last two years to find a developer, financier, or purchaser that will enable the Owner to realize a reasonable economic return, despite reasonable efforts to do so.



c. For a request to demolish or remove a Structure that poses an imminent threat to public safety, health, or welfare:

1. The Structure is a documented major and imminent threat to public safety, health or welfare;
2. The demolition or removal is required to alleviate the threat to public safety, health, or welfare; and
3. There is a no reasonable way, other than demolition or removal, to eliminate the threat in a timely manner.

(h) **Reapplication.** There is no limit on refiling a withdrawn or disapproved COA Application.

(i) **Appeals.**

(1) Decisions by either the Planning Director or the UDHPC may be appealed as provided in this Section for any decisions involving a proposed COA.

(2) The Applicant may appeal any decision of the Planning Director to the UDHPC.

(3) The Applicant may appeal any decision of the UDHPC to the Zoning Board of Adjustment.

(4) The Applicant has no later than 10 days following the date of formal notification by either the Planning Director or UDHPC to appeal a decision by either body.

(j) **Scope of Approval.**

(1) All COAs are valid for one year after the date of approval.

(2) Approval of a COA Application is considered authorization to proceed with Application for a building permit for the site. No Certificate of Occupancy and Compliance shall be issued until all construction and Development conforms to the COA and associated plans, as approved by the City.

(k) **Claim of Economic Hardship.** Properties that are either Contributing Structures within an HP-O or designated as an H-L may file a claim of economic hardship provided the following:

(1) After receiving written notification from either the Planning Director or the UDHPC of a denial of a COA for demolition or moving (See **subsection (f)(4)**, *Building Demolition or Moving Process*, and **subsection (g)(2)**, *Standards to Demolish or Move a Building*), or a violation of the duty to preserve and repair (See **Sec. 4-10-72(d)**, *Duty to Preserve and Repair*), an Applicant may commence the economic hardship process.

(2) No building permit shall be issued unless the UDHPC makes a finding that an economic hardship does in fact exist.

(3) When a claim of economic hardship is made due to the effect of this Chapter, the Owner must prove that:

- a. The property is incapable of earning a reasonable return, regardless of whether that return represents the most profitable return possible;
- b. The property cannot be adapted for any other Use, whether by the current Owner or by a purchaser, that would result in a reasonable return; and
- c. Efforts to find a purchaser interested in acquiring the property and preserving it have failed. These efforts must include consulting in good faith with the UDHPC, local preservation groups, and any interested parties in a diligent effort to seek an alternative that will result in Preservation of the property. Such efforts must be shown to the UDHPC prior to the granting of any claim of economic hardship.

(4) An application for an economic hardship claim requires that the Owner submit the following:

- a. Photographs and a written description depicting the current condition of the Structure;
- b. The assessed value of the Structure and property according to the two most recent tax assessments;
- c. The amount of real estate taxes on the Structure and property for the previous two years;
- d. The current fair market value of the Structure and property as determined by an independent licensed appraiser;

- e. All appraisals obtained by the Owner and prospective purchasers within the previous two years in connection with the potential or actual purchase, financing, or ownership of the Structure and property;
- f. All listings of the Structure and property for sale or rent within the previous two years, prices asked, and offers received;
- g. A profit and loss statement for the property and Structure containing the annual gross income for the previous two years and itemized expenses (including operating and maintenance costs);
- h. All capital expenditures during the current ownership; and
- i. A restoration study of the Structure, performed by a licensed architect or engineer. This study should analyze feasibility - structurally and financially - of Restoration and/or adaptive reuse of the structure.

**Sec. 4-10-253. - Historic Preservation Overlay (HP-O) District designation process.**

**(a) Designation Procedure.**

(1) The following persons may initiate an Application for an HP-O District:

- a. Urban Design and Historic Preservation Commission (UDHPC);
- b. City Council;
- c. Planning Director or designee (also referred to as Historic Preservation Officer); or
- d. Any person owning property within an area eligible for designation as an HP-O District as determined by the City's Historic Resource Surveys. See Sec. 4-10-248(f), *Historic Resource Surveys*.

(2) The Applicant requesting such designation shall complete an Application form that shall contain:

- a. The signature of the Applicant or the Applicant's authorized agent; and
- b. Signatures of at least 51 percent of the Property Owners within the proposed HP-O District consenting to the designation of an HP-O.

(5) The City Council and UDHPC are exempt from the 51 percent ownership requirement when either body serves to initiate the Application.

(6) Written public notice concerning any meeting to adopt an HP-O shall be given to any Property Owner who owns property within the proposed HP-O District.

(7) The UDHPC shall review and provide a recommendation for approval, approval with conditions, or disapproval of a proposed HP-O District.

a. If the UDHPC recommends approval or approval with conditions of a proposed HP-O District, the Application shall be automatically forwarded to the Planning and Zoning Commission for public hearings and action in accordance with [Sec. 4-10-250](#), *Rezoning*.

b. If the UDHPC recommends disapproval, the Application shall not be processed further and shall not be forwarded to the Planning and Zoning Commission for public hearing, unless the Applicant files a written appeal in accordance with the following:

1. The Applicant shall submit a written appeal to the Planning and Development Services Department requesting that the HP-O District Rezoning Application proceed to the Planning and Zoning Commission for public hearing and action.

2. The Applicant must submit the appeal within 10 days after the date the UDHPC votes to recommend disapproval of the HP-O District Rezoning Application.

3. If the appeal is filed by noon of the day following the UDHPC meeting, the Application shall be processed for consideration by the Planning and Zoning Commission at its next regularly scheduled meeting. No additional Application fees are required.

4. If the appeal is filed after noon of the day following the UDHPC meeting, the Application shall require new publication and mailing of notices and scheduling to the Planning and Zoning Commission at a later date. The Applicant shall be subject to the Application fee specified in Article XI, *Submittal Requirements*.

(b) **Benefit to Receiving Designation.** See Chapter 14-2, Article IV, *HP-O and Historical Landmark Tax Incentive Program*.

(c) **Criteria for Historic Preservation Overlay (HP-O) District Designation.** In evaluating a proposed Historic Preservation Overlay (HP-O) District, the Review and Decision-Making Bodies shall consider the following elements, one or more of which may be found sufficient for designation:

(1) Character, interest, or value as part of the development, heritage, or cultural characteristics of the City of Amarillo, Potter County, Randall County, State of Texas, or United States;

(2) A significant number of Structures within the proposed district are worthy of recognition as a recorded Texas Historic Landmark, National Historic Landmark, or entry in the National Register of Historic Places;

(3) Association with events that have made significant contributions to the broad patterns of local, regional, state, or national history;

(4) Association with the lives of people significant to the history of Amarillo, the Panhandle region of Texas, the State of Texas, or the United States;

(5) Distinctive characteristics of a period or method of construction, or architecture, representative of, or rare survivors of, the work of a master designer, builder, or craftsman;

(6) Retention of elements that have yielded, or may be likely to yield, important information about local, regional, State of Texas, or national prehistory or history;

(7) Retention of interim physical alterations that themselves form an important part of the history of the proposed District;

(8) Representative of an established and familiar visual feature of a neighborhood, community, or the City of Amarillo;

(9) Retention of historic integrity, meaning that the property possesses several, and usually most of the following aspects of integrity:

- a. Location;
- b. Design;
- c. Setting;
- d. Materials;
- e. Workmanship;
- f. Feeling; or

g. Association.

(10) Likelihood of Buildings within the District either continuing their historical Use or their potential adaptation for new Uses without the need for major intervention that could seriously damage historic character and integrity of the proposed District;

(11) Likelihood of preserving Structures within the proposed District with significant architectural value or that are associated with a historic person or event even though the Building or Structure is no longer in its original location;

(12) Opportunity to preserve a District that is:

a. Accurately executed in a suitable environment and presented in a dignified manner as part of a Restoration master plan and when no other Building or Structure with the same association has survived;

b. Primarily commemorative in intent but reflects an age, design, tradition, or symbolic value that has invested it with its own historical significance; or

c. Of exceptional importance although this significance was achieved within the last 50 years.

(13) Designation by a survey that has been authorized and adopted by the UDHPC as an area within the City which contains a significant number of Buildings deemed as a Contributing Structure to a defined District within the City.

**Sec. 4-10-254. - Historic Landmarks (H-L) designation process.**

(a) **Designation and Notice Procedure.**<sup>17</sup> See Texas Local Government Code, Chapter 211, Sec. 211.0165, *Designation of Historic Landmark*.

(b) **Benefit to Receiving Designation.** See Chapter 14-2, Article IV, *HP-O and Historical Landmark Tax Incentive Program*.

(c) **Criteria for Historic Landmark Designation.** In evaluating a proposed Historic Landmark (H-L), the UDHPC shall consider the following elements, one or more of which may be found sufficient for designation:

---

<sup>17</sup> This statute requires the Property Owner to consent to the designation or the designation to be approved by a three-fourths vote of the governing body and the zoning, planning, or historical commission.

(1) Character, interest, or value as part of the development, heritage, or cultural characteristics of the City of Amarillo, Potter County, Randall County, State of Texas, or United States;

(2) Recognition as a recorded Texas Historic Landmark, National Historic Landmark, or entry in the National Register of Historic Places;

(3) Association with events that have made significant contributions to the broad patterns of local, regional, state, or national history;

(4) Association with the lives of people significant to the history of Amarillo, the Panhandle region of Texas, the State of Texas, or the United States;

(5) Distinctive characteristics of a period or method of construction, or architecture, representative of, or a rare survivor of, the work of a master designer, builder, or craftsman;

(6) Retention of elements that have yielded, or may be likely to yield, important information about local, regional, State of Texas, or national prehistory or history;

(7) Retention of interim physical alterations that themselves form an important part of the building's history;

(8) Representative of an established and familiar visual feature of a neighborhood, community, or the City of Amarillo;

(9) Retention of historic integrity, meaning that the property possesses several, and usually most of the following aspects of integrity:

- a. Location;
- b. Design;
- c. Setting;
- d. Materials;
- e. Workmanship;
- f. Feeling; or

g. Association.

(10) Likelihood of the continuation of a building's historical Use or its potential adaptation for new Uses without the need for major intervention that could seriously damage its historic character and integrity;

(11) Likelihood of preserving a Building or Structure with significant architectural value or is the surviving Structure most importantly associated with a historic person or event even though the Building or Structure is no longer in its original location;

(12) Opportunity to preserve a:

a. Reconstructed Building that was accurately executed in a suitable environment and presented in a dignified manner as part of a restoration master plan and when no other Building or Structure with the same association has survived;

b. Property that is primarily commemorative in intent but reflects an age, design, tradition, or symbolic value that has invested it with its own historical significance; or

c. Property that is of exceptional importance although this significance was achieved within the last 50 years.

(13) Designation by a survey that has been authorized and adopted by the UDHPC as a place of historical, cultural, or architectural importance and significance.

**Sec. 4-10-255. - Certificates of Occupancy and Compliance.**

(a) **Purpose.** The Certificate of Occupancy and Compliance procedure provides for the review of Buildings and Structures constructed at the end of the permitting process or Uses that occupy existing Buildings and Structures. This ensures that the proposed Use complies with the zoning regulations, and that the Use and Development complies with the provisions of this Chapter and other City ordinances, as well as any conditions of approval established at earlier stages of the approval process.

(b) **Applicability.** A Certificate of Occupancy and Compliance is required for:

(1) The occupancy of any new or existing Building or Structure, and

(2) Any change in the Use of a Lot, Building, or Structure, including a Nonconforming Building or Structure.



(c) **Initiation.** An Application for Certificate of Occupancy and Compliance:

(1) Is filed with the Building Official; and

(2) For construction projects, shall be submitted concurrently with a building permit Application; and

(3) For a change in Use, may be submitted concurrently with a Site Plan Application (see [Sec. 4-10-247, Site Plans.](#)).

(d) **Completeness.** See [Sec. 4-10-236, Completeness review.](#)

(e) **Notice.** Notice of the Application is not required.

(f) **Approval Process.** Following a inspection of the premises, the Building Official shall issue the Certificate of Occupancy and Compliance within 10 days after the completion of the erection, alteration, or conversion of the Building, Structure, or Use.

(g) **Approval Criteria.**

(1) The Building Official shall process the Application for a Certificate of Occupancy and Compliance as provided in the Building Code.

(2) The Building Official shall approve the Certificate of Occupancy and Compliance if the construction or change in Use is in complete conformity with:

a. The provisions of this Chapter, the Building Code, and other applicable City ordinances; and

b. Any conditions of any currently applicable and unexpired Site Plan, COA, Site Plan, Specific Use Permit, Rezoning, Special Exception, Variance, or Appeal that apply to the Lot (“conditions of approval”).

(3) In the event that the Building Official finds that a condition of approval has not been met, a stop work order may be issued.

a. The contractor or developer shall correct those items that are not in compliance with a condition of approval before construction may resume.

b. In the event that the Structure has been completed, a Certificate of Occupancy and Compliance may not be issued by the Building Official until the conditions of approval have been fulfilled.<sup>18</sup>

c. All action required in order to bring a Structure into compliance with the conditions of approval shall be at the builder's or contractor's expense.

(4) A Certificate of Occupancy and Compliance shall state that the Building or Use of a Building or Lot complies with all the building or health laws and ordinances and with the provisions of this Chapter.

(h) **Reapplication.** There is no limit on refileing a withdrawn or disapproved Certificate of Occupancy and Compliance Application.

(i) **Appeals.** Action on a Certificate of Occupancy and Compliance Application is appealable to the Zoning Board of Adjustment in accordance with Sec. 4-10-256, Appeals.

(j) **Scope of Approval.**

(1) A Certificate of Occupancy and Compliance authorizes the occupancy of a Building or Structure as shown in the approved Application.

(2) Following issuance of the Certificate of Occupancy and Compliance, it is the continuing duty of the Owner and occupant of the Lot, or their successors or assigns in interest, to maintain compliance with the approved Site Plan and any amendments thereto. Failure to maintain compliance constitutes a violation of the Zoning Ordinance.

(k) **Recordkeeping.**

(1) The Building Official shall maintain record of all Certificates of Occupancy and Compliance.

(2) Copies shall be furnished on request to any person having a proprietary or tenancy interest in the Lot or Building affected.

---

<sup>18</sup> Note current text in Sec. 4-10-230 (Site Plans) states that a Certificate of Occupancy and Compliance cannot be issued until the conditions of approval have been “substantially fulfilled.” Further Sec. 4-10-230 states “All action required in order to bring a Structure into substantial compliance with the conditions of approval. There are no criteria as to what constitutes “substantial fulfillment” so these provisions were revised to require full compliance.

**Sec. 4-10-256. – Appeals of administrative and UDHPC decisions.**

(a) **Purpose.** This Section provides a process for Applicants to request the review and correction of decisions by administrative officials that they believe are in error.

(b) **Applicability.** This Section applies to any Appeal of any order, requirement, decision, or determination made by an administrative official in the enforcement of this Chapter.

(c) **Initiation.**

(1) An Appeal may be filed by any person aggrieved or by any officer, department, board, or bureau of the City affected by any decision of an administrative official.

(2) An Appeal is filed with the Building Official within 20 days<sup>19</sup> of the date the administrative official took the action that is the subject of the Appeal.

(3) A pre-application conference is not required.

(d) **Stays.** An Appeal stays all proceedings in furtherance of the action appealed from, unless the Building Official certifies in writing to the Board after the Appeal is filed that, by reason of facts stated in the certification, a stay would cause imminent peril to life or property. In such case, proceedings shall not be stayed otherwise by a restraining order which may be granted by the Board or by a court of record on application and notice to the Building Official and on due cause shown.

(e) **Completeness.** See [Sec. 4-10-236](#), *Completeness review*.

(f) **Notice.** The notice required by [Table 4-10-256.1](#) applies to any Appeal.

**Table 4-10-256.1 – Notice Required for Appeals**

Type	Required?	To Whom?	When?
Publication	Yes	--	Published at least 16 days prior to the public hearing
Mail	No	--	--
Electronic Transmission	Yes	Applicant	At least 10 days prior to the public hearing

(g) **Approval Process.**

<sup>19</sup> Revised for compliance with Texas LGC Sec. 211.010(b).

(1) Prior to the public hearing, the administrative official whose action is the subject of the Appeal shall prepare and transmit to the secretary of the Board a complete record of all proceedings related to the administrative official's order, requirement, decision, or determination.

(2) If the Appeal pertains to any Lot(s) located in the A-O District, the Building Official shall request a recommendation on the Appeal from the Director of Aviation prior to consideration of the Appeal by the Zoning Board of Adjustment.

(3) Appeals are considered by the Zoning Board of Adjustment at a public hearing, which requires notice in accordance with subsection (f), above.

(4) After the public hearing, the Zoning Board of Adjustment may:

- a. Reverse the decision in whole or in part;
- b. Affirm the decision in whole or in part;
- c. Modify the order, requirement, decision, or determination;
- d. Attach appropriate conditions to its decision;
- e. Issue or direct the issuance of a permit; and

f. Defer action on the Appeal pending receipt of additional information, (see Article XI, *Submittal Requirements*).

(5) The concurring vote of at least four members of the Board is necessary to reverse any order, requirement, decision, or determination of an administrative official.

(6) The Board shall act on the Appeal not later than the 60th day after the date the Appeal is filed.<sup>20</sup>

(h) **Approval Criteria.** The Board may approve the Appeal if the decision subject to the Appeal:

- (1) Is the result of an incorrect interpretation of this Chapter; or

---

<sup>20</sup> This is consistent with Texas LGC Sec. 211.010(d).

(2) Would violate Texas or federal statutes; or

(3) Would violate the Applicant's state or federal constitutional rights.

(i) **Reapplication.** There is no limit on subsequent Appeals. However, findings of fact from prior Appeals for the same Application that were not reversed by a higher tribunal (such as on appeal to a court with subject matter jurisdiction) are binding on successive Appeals.

(j) **Appeals.** Zoning Board of Adjustment actions may be appealed in accordance with Texas Local Government Code Sec. 211.011.

(k) **Scope of Approval.** Approval of an Appeal does not authorize Development. Any Development that occurs after the Appeal is subject to all applicable requirements of this Chapter, as amended by the Zoning Board of Adjustment's decision (if applicable).

#### **Sec. 4-10-257. - Special Exceptions.**

(a) **Purpose.**

(1) This Section provides a process by which Applicants can request modification of certain zoning standards in the manner described in subsection (b).

(2) A Special Exception is similar to a Variance, but does not require a finding of a hardship and applies only to Nonconforming Structures, Off-Street Parking Space requirements, and Downtown Amarillo Urban Design Standards (DAUDS).

(b) **Applicability.**<sup>21</sup> This Section applies to any Application for a Special Exception from any of the following requirements of this Chapter:

(1) **Sec. 4-10-191**, *Off-street parking schedules*; to reduce or increase the number of required Off-Street Parking Spaces by up to 25% when the Applicant clearly demonstrates the proposed Use or Development warrants more or fewer Off-Street Parking Spaces than otherwise required; and

(2) **Sec. 4-10-274**(b), *Nonconforming Structures*; to allow the restoration of a damaged Nonconforming Structure where the cost to repair exceeds 50 percent of its Structural Value.

---

<sup>21</sup> *The provision for Special Exceptions to off-street loading requirements is not carried forward since the Parking regulations do not require off-street loading. The provision for Special Exceptions from the DAUDS is not carried forward since the UDHPC already has the ability to vary the standards.*

(c) **Initiation.**

(1) A Special Exception Application may be filed by the Property Owner or the Owner’s agent.

(2) A Special Exception Application is filed with the Building Official.

(3) A pre-application conference is not required.

(d) **Completeness.** See Sec. 4-10-236, *Completeness review*.

(e) **Notice.** The notice required by **Table 4-10-257.1** applies to any Special Exception Application.

<b>Table 4-10-257.1 – Notice Required for Special Exception Applications</b>			
<b>Type</b>	<b>Required?</b>	<b>To Whom?</b>	<b>When?</b>
<b>Publication</b>	Yes	--	Published at least 16 days prior to the public hearing
<b>Mail</b>	Yes	All owners of real property lying within 200 ft of the property subject to the Application	Mailed at least 10 days prior to the public hearing
<b>Electronic Transmission</b>	Yes	Applicant	At least 10 days prior to the public hearing

(f) **Approval Process.**

(1) If the Special Exception Application pertains to any Lot(s) where a COA is required, the Building Official may request a recommendation on the Special Exception Application from the UDHPC at its next regularly scheduled meeting (prior to consideration of the Application by the Zoning Board of Adjustment).

(2) Special Exception Applications are considered by the Zoning Board of Adjustment at a public hearing, which requires notice in accordance with **subsection (e)**, above.

(3) After the public hearing, the Zoning Board of Adjustment may:

- a. Approve the Special Exception Application;

b. Approve the Special Exception Application with any conditions needed or stipulated by the Applicant to comply with the approval criteria in **subsection (g)**, below;

c. Disapprove the Special Exception Application; or

d. Defer action on the Special Exception Application pending receipt of additional information (see Article XI, *Submittal Requirements*).

(4) The concurring vote of four members of the Board is required to decide in favor of a Special Exception Application.

(5) The Board shall act on the Special Exception Application not later than the 60th day after the date the Application is filed.<sup>22</sup>

(g) **Approval Criteria.** The ZBA may approve a Special Exception Application if it determines the Special Exception Application is:

(1) Compatible with neighboring land Uses and the character of the surrounding neighborhood; and

(2) Consistent with the general purpose and intent of the Zoning Ordinance.

(h) **Reapplication.** When a Special Exception Application is disapproved by the Board, or when a Special Exception Application is withdrawn by the Applicant prior to action by the Board, the Board shall not consider another Special Exception Application for all or any portion of the same Lot for at least four months from the date of the disapproval.

(i) **Appeals.** Zoning Board of Adjustment actions may be appealed in accordance with Texas Local Government Code Sec. 211.011.

(j) **Scope of Approval.** If the Special Exception Application is approved or approved with conditions, the Applicant may apply for any permits or approvals required for Development or establishment of the Use, as provided in this Chapter.

#### **Sec. 4-10-258. - Variances.**

(a) **Purpose.** This Section establishes a procedure to avoid hardships that could result from the application of this Chapter.

---

<sup>22</sup> This is consistent with *Texas LGC Chapter 211, Sec. 211.010(d)*.

(b) **Applicability.** This Section applies to any Application for a Variance from the requirements of this Chapter related to:

- (1) Height;
- (2) Yard;
- (3) Lot Area;
- (4) Lot Coverage; or
- (5) Required number of Off-Street Parking Spaces.

(c) **Initiation.**

- (1) A Variance Application may be filed by the Property Owner or the Owner’s agent.
- (2) A Variance Application is filed with the Building Official.
- (3) A pre-application conference is not required.

(d) **Completeness.** See Sec. 4-10-236, *Completeness review*.

(e) **Notice.** The notice required by **Table 4-10-258.1** applies to any Variance Application.

Table 4-10-258.1 – Notice Required for Variance Applications			
Type	Required?	To Whom?	When?
Publication	Yes	--	Published at least 16 days prior to the public hearing
Mail	Yes	All owners of real property lying within 200 ft of the property subject to the Application	Mailed at least 10 days prior to the public hearing
Electronic Transmission	Yes	Applicant	At least 10 days prior to the public hearing

(f) **Approval Process.**



(1) If the Variance Application pertains to any Lot(s) located in the A-O District, the Building Official shall request a recommendation on the Variance Application from the Director of Aviation prior to consideration of the Application by the Zoning Board of Adjustment.

(2) If the Variance Application pertains to any Lot(s) where a COA is required, the Building Official may request a recommendation on the Variance Application from the UDHPC at its next regularly scheduled meeting (prior to consideration of the Application by the Zoning Board of Adjustment).

(3) Variance Applications are considered by the Zoning Board of Adjustment at a public hearing, which requires notice in accordance with (d), above.

(4) After the public hearing, the Zoning Board of Adjustment may:

- a. Approve the Variance Application;
- b. Approve the Variance Application with any conditions needed or stipulated by the Applicant to comply with the approval criteria in **subsection (g)**, below;
- c. Disapprove the Variance Application; or
- d. Defer action on the Variance Application pending receipt of additional information (see **Article XI**, *Submittal Requirements*).

(5) The concurring vote of at least four members of the Board is required to decide in favor of a Variance Application.

(6) The Board shall act on the Application not later than the 60th day after the date the Application is filed.<sup>23</sup>

**(g) Approval Criteria.**

(1) The Zoning Board of Adjustment shall only authorize a Variance where, owing to special conditions, a literal enforcement of the provisions of this Chapter will result in unnecessary hardship.

---

<sup>23</sup> This is consistent with *Texas LGC Chapter 211, Sec. 211.010(d)*.

(2) In authorizing a Variance, the Board shall find and show in its minutes such facts and/or special conditions by which the Application satisfies each of the following conditions:

a. Special circumstances exist on the subject Lot relating to its size, area, topography, location, or surrounding conditions that:

1. Do not apply generally to the other Lots in the same area and the same Zoning District, or

2. Do apply generally to the other Lots in the same area and the same Zoning District, but a substantial proportion of the other Lots in the same area and Zoning District are legally enjoying the conditions that the Application requests. This subdivision 2. does not apply to Lots within the Downtown Overlay District; and

b. That the granting of the Variance on the specific property will not adversely affect the land use pattern of the area as outlined by the land use section of the Comprehensive Plan, or where applicable the Downtown Amarillo Urban Design Standards, and will not adversely affect any other feature of the Comprehensive Plan or DAUDS; and

c. That the Variance, if authorized, will be of no material detriment to the public safety or welfare; or injury to the use, enjoyment or value of the property in the vicinity; and

d. Authorization of the Variance will not be contrary to the public interest; and

e. The spirit of this Chapter shall be observed and substantial justice done.

(3) The Zoning Board of Adjustment shall not authorize a Variance where it will operate to relieve the Applicant of a condition or circumstance that:

a. Is not inherent in the Lot itself, but rather is the result of the Use or Development of the Lot; or

b. Was caused by the division of land after the effective date of the ordinance from which this Chapter is derived, where such division of land caused the Lot to be unusable for any reasonable Development under the existing regulations; or

c. Was otherwise self-imposed by the present or a previous Owner; or

d. Is based solely upon the intent to make the Lot more profitable or to reduce expense to the Owner.

(h) **Reapplication.** When a Variance Application is disapproved by the Board, or when a Variance Application is withdrawn by the Applicant prior to action by the Board, the Board shall not consider another Variance Application for all or any portion of the same Lot for at least four months from the date of the disapproval.

(i) **Appeals.** Zoning Board of Adjustment actions may be appealed in accordance with Texas Local Government Code Sec. 211.011.

(j) **Scope of Approval.** If the Variance Application is approved or approved with conditions, the Applicant may apply for any permits or approvals required for Development or establishment of the Use, as provided in this Chapter.

*Sec. 4-10-259. - Reserved.*

*Sec. 4-10-260. - Reserved.*

*Sec. 4-10-261. - Reserved.*

*Sec. 4-10-262. - Reserved.*

*Sec. 4-10-263. - Reserved.*

*Sec. 4-10-264. - Reserved.*