Article 1

GENERAL PROVISIONS AND PROCEDURES

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ARTICLE 1: GENERAL PROVISIONS AND PROCEDURES

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ARTICLE 1: GENERAL PROVISIONS AND PROCEDURES

SECTION 1 - SHORT TITLE

1.1.1 Chapter 28 of the City of Grand Prairie Code of Ordinances shall be known and may be cited as the Unified Development Code of the City of Grand Prairie, or simply as the Unified Development Code, U.D.C., or as referenced in this document as the "code".

SECTION 2 - AUTHORITY

1.2.1 The Unified Development Code is adopted pursuant to the powers granted to the City and subject to any limitations imposed by the Constitution and laws of the State of Texas and the charter of the City of Grand Prairie.

SECTION 3 - JURISDICTION

1.3.1 The provisions of this Unified Development Code apply generally to all property within the corporate limits of the City of Grand Prairie and to the lands subject to its zoning jurisdiction as conferred by State law other than on property owned by the City of Grand Prairie and activities sponsored by the City pursuant to Section 1-15 of the Code of Ordinances of the City. Those provisions pertaining to the subdivision of land, and those regulations adopted for the primary purpose of protecting water quality or to afford flood protection, apply to all property within the city's corporate boundaries and to all property within its extraterritorial jurisdiction (E.T.J.), as established by Texas Local Government Code Chapter 42, Chapter 211.013, and Chapter 212. References to jurisdictions or the applicability of specific development regulations appearing elsewhere in this Unified Development Code take precedence over this jurisdictional statement in the event of a conflicting interpretation.

SECTION 4 - PURPOSES

1.4.1 The Unified Development Code is adopted for the following purposes:

A. To protect, promote, improve and provide for the public health, safety, and general welfare of the citizens of the City of Grand Prairie;

B. To ensure the safe, orderly and efficient development and expansion of the City of Grand Prairie, in accordance with and pursuant to its Comprehensive Plan;

C. To conserve, develop, protect and utilize natural resources, in keeping with the public interest;

D. To prevent the overcrowding of land and avoid undue concentration or diffusion of population or land uses;

E. To protect and preserve places and areas of historical, cultural or architectural importance and significance to the community;

F. To protect and conserve the value of land throughout the city and the value of buildings and improvements upon the land, and to minimize the conflicts among the uses of land and buildings;

G. To provide for open spaces through the most efficient design and layout of the land;

H. To prevent the pollution of air and water, to assure the adequacy of drainage facilities, to safeguard water resources and to preserve the integrity and aesthetic quality of the community;

I. To lessen congestion in the streets and provide convenient, safe and efficient circulation for vehicular and pedestrian traffic;

J. To facilitate the adequate and efficient provision of transportation, water, wastewater, schools, parks, public safety and recreational facilities, and other public facilities and services; and

K. To treat in one unified text those areas of regulation more typically dealt with in separate ordinances such as, but not exclusively, the zoning ordinance, the subdivision rules and regulations, the fence ordinance, the mobile home ordinance, etc.

SECTION 5 - EFFECTIVE DATE AND APPLICABILITY

1.5.1 The Unified Development Code takes effect upon adoption by the City Council. Upon that date and thereafter, the provisions of this Code supersede all other development regulations governing the development of land within the City. All development applications and proposals filed on or after the effective date of this ordinance, whether for new developments or for add-ons or expansions of existing developments, shall be processed in accordance with the standards and requirements and pursuant to the procedures herein established, except insofar as such applications are governed by development regulations adopted prior to the effective date of the Unified Development Code.

SECTION 6 - APPLICABILITY OF EXISTING REGULATIONS

1.6.1 All existing unexpired, valid building permits, plats, and technically reviewed site plans, which were complete and duly filed prior to enactment of the Unified Development Code in accordance with development regulations in effect prior to adoption of these regulations, shall be processed under procedures therein established, and shall be evaluated and approved or disapproved under the standards and requirements contained in such regulations, notwithstanding the adoption of the Unified Development Code. (Those plats that were complete and duly filed prior to adoption of this Code shall only be exempt from meeting any new lot width, depth, or square footage requirements.) Those site plans which were technically reviewed and approved by the Planning and Zoning Commission and/or the City Council prior to the adoption of this Code shall be exempt from meeting any new requirements for two years after the adoption of this Code provided a building permit for the improvements has been applied for prior to the expiration of two (2) years after the adoption of this Code.

SECTION 7 - RELATIONSHIP TO COMPREHENSIVE PLAN AND THOROUGHFARE PLAN

1.7.1 The Unified Development Code is intended to implement the policies and objectives contained in the Comprehensive Plan and Thoroughfare Plan for the City and to affect the City's plan for provision of public facilities and services within city limits and within the City's extraterritorial jurisdiction. If a zoning or rezoning request differs from what the Comprehensive Plan or Thoroughfare Plan recommends for that area, (Article 211.004, Title 7, *Local Government Code*) staff will advise applicant of this and will request applicant to submit a written letter. This letter will request staff to prepare and process the necessary exception or amendment to the Plan. Staff will process this request concurrently with the (re)zoning case at no additional cost to the applicant.

SECTION 8 - COMPLIANCE WITH CODE REQUIRED

1.8.1 All development of land within the incorporated boundaries of the City of Grand Prairie or its extraterritorial jurisdiction as applicable, shall conform to the requirements of the Unified Development Code, and no person may use, occupy, sell or develop land, buildings or other structures, or authorize or permit the use, occupancy, sale or development of land, buildings or other structures under his/her control, except in accordance with all applicable provisions of this Code. Within the City of Grand Prairie's extraterritorial jurisdiction, no person may sell or develop land, or authorize or permit the sale or development of land, except in accordance with all applicable provisions of this Code.

SECTION 9 - SEVERABILITY

1.9.1 All sections, paragraphs, sentences, clauses, and phrases of this ordinance are severable, and if any such section, paragraph, sentence, clause or phrase is declared unconstitutional or otherwise invalid in any court of competent jurisdiction in a valid judgment or decree, such unconstitutionality or invalidity shall not cause any remaining section, paragraph, sentence, clause, or phrase of this ordinance to fail or become inoperative.

SECTION 10 - COMPUTATION OF TIME

1.10.1 Unless otherwise specifically provided, the time within which an act is to be done shall be computed by excluding the first and including the last day. If the last day is a Saturday, a Sunday or a legal holiday as observed by the City of Grand Prairie, that day shall be excluded. Whenever a person has the right, or is required to perform some act within the prescribed period, after the service of a notice or other paper upon him and the notice or paper is served by mail, three calendar days shall be added to the prescribed time, unless otherwise specifically provided.

SECTION 11 - GENERAL PROCEDURES

1.11.1 Initiation of Administrative Procedures

All platting, zoning and site plan requests to be considered by the Planning and Zoning Commission and/or the City Council, and matters to be considered by the Zoning Board of Adjustments and Appeals shall be initiated by filing an application with the Director of Planning or designee. The application required by this section shall be on forms supplied by the City of Grand Prairie, and shall be available in the offices of the Planning Department. All requests for building permits shall be initiated by the filing of an application with the Chief Building Official or designee. The application required by this section shall be on forms supplied by the City of Grand Prairie, and shall be available in the offices of the Building Inspections Department.

1.11.2 Submittal and Acceptance

No application shall be processed until such application is complete and the fee established in this Code or the Code of Ordinances of the City of Grand Prairie for processing the application has been paid.

1.11.3 Authority to Initiate a Request

All platting, zoning and site plan requests, and/or requests to amend the Comprehensive Plan or the Thoroughfare Plan may be initiated by an owner, the owner's authorized representative, or an authorized representative of a buyer or potential buyer of the affected property or his/her authorized representative who files the required application and pays the appropriate fee for the request, or the City Council may direct the City Manager to initiate such a request on behalf of the City.

1.11.3.1 Amendments to the text of the Unified Development Code shall be initiated only by action of the City Council directing the City Manager to initiate such a request on be-half of the City or by the City Manager's own initiative.

1.11.3.2 Matters to be considered by the Zoning Board of Adjustments and Appeals may be initiated by the owner of the affected property or their authorized representative or any aggrieved party who files the required application and pays the appropriate fee, or by any person aggrieved by an administrative officer with authority over any matter appeal able to the Zoning Board of Adjustments and Appeals per **Section 7** of this Article, or by an officer, department or appropriate board of the City.

1.11.4 Application Withdrawal

1.11.4.1 Any request for withdrawal of an application must be submitted in writing to the Director of Planning or designee, or Chief Building Official or designee, whichever is applicable.

1.11.4.2 Once an application for a platting, zoning, or site plan request to be considered by the Planning and Zoning Commission and/or City Council, or a matter going before the Zoning Board of Adjustments and Appeals has been published in a newspaper or notifications of public hearing, if any, have been mailed, such request for withdrawal must be placed on the public hearing agenda and acted upon by the applicable body.

1.11.4.3 Application fees are not refundable except in cases in which the Director of Planning or designee determines that an application was accepted in error, or the fee paid exceeded

the amount due under the provision of this Code or the Code of Ordinances of the City of Grand Prairie, in which case the amount of the overpayment may be refunded to the applicant.

1.11.5 Public Hearing - Planning and Zoning Commission

1.11.5.1 The Planning and Zoning Commission shall conduct a public hearing and make recommendations to the City Council on the following matters:

A. Text Amendments to the Unified Development Code.

B. Zoning Changes and Map Amendments, including reclassifications of the zoning designations on land, specific use permits, and planned developments.

C. Site Plans for development within a planned development zoning district or associated with a specific use permit.

D. Amendments to the Comprehensive Plan.

E. Amendments to the Thoroughfare Plan.

F. Replats, when such public hearing is required by the provisions of Local Government Code Section 212.

1.11.5.2 Notice of Public Hearings Before the Planning and Zoning Commission

Whenever a public hearing is held regarding a zoning change and/or map amendment or a site plan for development within a planned development, written notice of such public hearing shall be placed in the United States mail by the Director of Planning or designee no later than ten (10) calendar days before the date of the public hearing addressed to:

A. The applicant and owner of the property involved in the request, as shown on the currently adopted tax rolls of the City of Grand Prairie; and

B. The owner as shown on the currently adopted tax roll of the City of Grand Prairie of any and all property located within three hundred (300) feet of the subject property.

1.11.5.3 In addition to **Subsection 1.11.5.2**, further notice of a public hearing regarding a zoning change and/or map amendment, or a site plan for development within a planned development shall be advertised in a newspaper of general circulation in the City no later than ten (10) calendar days prior to the date of the pubic hearing.

1.11.5.4 Whenever a public hearing is held regarding a text amendment to the Unified Development Code, an amendment to the Comprehensive Plan, or an amendment to the Thoroughfare Plan, notice of said public hearing shall be advertised in a newspaper of general circulation in the City no later than ten (10) calendar days prior to the date of the public hearing.

1.11.5.5 Whenever a public hearing is held regarding a replat, as required by the provisions of Local Government Code Section 212, notice shall be provided and said public hearing shall be advertised in accordance with the provisions of Local Government Code Section 212.

1.11.5.6 Posting of Signs on Property

A. Where a zoning change or map amendment is requested for a piece of property, the applicant for such request shall post signs, provided by the City, which provide notification and information concerning the proposed change or amendment on the subject property.

B. Signs must be posted along the property's entire street frontage so as to be clearly visible from the street.

C. A minimum of two (2) signs shall be located at approximately equal intervals along each street frontage if the frontage is less than 400 feet.

D. A minimum of three (3) signs shall be placed at approximately equal intervals along each street frontage if the frontage is four hundred (400) feet or more.

E. Additional signs shall be placed at the direction of the Director of Planning or designee.

F. It shall be the responsibility of the applicant to post the signs on the property not less than ten (10) calendar days prior to the date set for the public hearing before the Planning and Zoning Commission.

G. The signs must be maintained and shall remain erected on the property until final action is taken on the request by either the Planning and Zoning Commission or the City Council.

H. Within ten (10) calendar days after the final action on the request by either the Planning and Zoning Commission or the City Council, the signs shall be removed by the applicant.

I. Failure to post and maintain the signs on the property by the applicant as prescribed in **Subsections 1.11.5.6(F)** and **1.11.5.6(G)** in this Setion shall result in tabling the application to a future specified date.

1.11.5.7 Public Hearing Postponement, Recess, and Continuations

A. A public hearing for which notice has been given may be postponed by announcing the postponement at or after the time and place the hearing is scheduled to begin.

B. A public hearing may be recessed and continued any time after the hearing has commenced.

C. If a postponement or continuance of a public hearing is to a specific date and time no later than 60 days from the first or most recent hearing, the announcement of the postponement of continuance at the public hearing in which the applications has been postponed or continued by the Planning and Zoning Commission shall be sufficient notice and no additional notice is required.

D. Postponed or continued public hearings shall be presumed to be held in the same location, unless a different location for the hearing is announced at the time of the postponement or continuance.

E. In the event that any request or amendment being considered by the Planning and Zoning Commission, whether or not a public hearing is involved, is continued at the request of the applicant more than one (1) time, and additional fee shall be required as established in **Article 22 *"Fee Schedule"*** of this Code.

F. If the applicant is not present at said meeting of the Planning and Zoning Commission whereby the request cannot be considered, then the aforementioned additional fees shall also be required accordingly.

1.11.5.8 Conduct of Public Hearing

Subject to the Chairman's inherent authority to conduct the meetings of the Planning and Zoning Commission, the public hearing shall generally be conducted as follows:

A. Report by the Director of Planning or designee;

B. Presentation by the applicant;

C. Testimony by parties supporting the application;

D. Testimony by parties in opposition to the application;

E. Rebuttal by the applicant;

F. Closure of the public hearing.

1.11.5.9 Commission Recommendation

Upon the closure of the public hearing, the Planning and Zoning Commission shall make a recommendation to the City Council on the subject application. The Planning and Zoning commission may recommend:

A. That the request or amendment be approved or enacted; or

B. That the request or amendment be approved or enacted as modified to a more restrictive classification or subject to appropriate conditions as permitted by law; or

C. That the request of amendment be denied. If six (6) or more members of the Planning and Zoning Commission recommends denial of a request or amendment, such request or amendment shall be deemed to have been denied without any action by the City Council unless the applicant for said request or amendment files in writing a request that said request or amendment be forwarded to the City Council for consideration, and pays an additional fee as established in **Article 22 "*Fee Schedule*"** of this Code. Said written request for forwarding the request or amendment to the City Council must be filed with the Director of Planning or designee within ten (10) calendar days of the vote of the Planning and Zoning Commission. Should the applicant not request that the request or amendment be forwarded to the City Council within ten (10) calendar days, the recommendation of denial by the Planning and Zoning Commission shall be deemed final, and shall be considered a denial without prejudice.

D. The Director of Planning or designee shall forward the report and the Commission's recommendation on all proposed applications and amendments to the City Council unless otherwise provided in this Code.

1.11.6 Public Hearing - City Council

1.11.6.1 The City Council shall conduct a public hearing and make determinations on the following matters:

A. Text Amendments to the Unified Development Code.

B. Zoning Changes and Map Amendments, including reclassifications of the zoning designations on land, specific use permits, and planned developments.

C. Site plans for development within a planned development zoning district or associated with a specific use permit.

D. Amendments to the Comprehensive Plan.

E. Amendments to the Thoroughfare Plan.

1.11.6.2 Notice of Public Hearings Before the City Council

Whenever a public hearing is held regarding a zoning change and/or map amendment, or a site plan for development within a planned development notice of said public hearing shall be advertised in a newspaper of general circulation in the City no later than fifteen (15) calendar days prior to the date of the public hearing. Whenever a public hearing is held regarding a text amendment to the Unified Development Code, an amendment to the Comprehensive Plan, or an amendment to the Thoroughfare Plan, notice of said public hearing shall be advertised in a newspaper of general circulation in the City no later than fifteen (15) calendar days prior to the date of the public hearing.

1.11.6.3 Conduct of Public Hearing

Subject to the Mayor's inherent authority to conduct the meetings of the City Council, the public hearing shall generally be conducted as follows:

A. Report by the Director of Planning or designee of the recommendation of the Planning and Zoning Commission;

B. Presentation by the applicant;

C. Testimony by parties supporting the application;

D. Testimony by parties in opposition to the application;

E. Rebuttal by the applicant;

F. Closure of the public hearing.

1.11.6.4 City Council Approval or Denial

Following the closure of the public hearing, the City Council may take the following actions:

A. The City Council may approve the request or amendment either as requested, or in the form of a more restrictive district, and subject to such appropriate conditions as are allowed by law. Such approval of any request for a text amendment to the Unified Development code or a zoning change and map amendment shall be granted only if the Council determines that the request or amendment is consistent with the Comprehensive Plan and the purposes of the Unified Development Code. In the event the request or amendment concerns a text amendment to the Unified Development Code or a zoning change and map amendment, the Council shall enact an ordinance amending the Unified Development Code or amending the official Zoning Map, whichever is applicable.

B. The City Council may deny the request or amendment with prejudice. If a request or amendment is denied with prejudice, a new application may be submitted for the same lot or tract of land, or any portion thereof, within one year only if the new request is for a more restrictive or less intense use or development. Unless the new proposal is more restrictive or less intense than the previously denied proposal, then no other application pertaining to a change of zoning and map amendment may be submitted on the same lot or tract of land, or any portion thereof for a period of one (1) year from the date of its denial by the City Council. If a request or amendment is denied by City Council without an indication of “with” or “without” prejudice, then the action shall be considered to be “denied with prejudice”. Further, a failed motion for approval shall be considered to be “denied with prejudice” unless followed by a subsequent motion to deny the request or amendment “without prejudice.”

C. The City Council may deny the request or amendment without prejudice, in which case an application for a change in zoning and map amendment other than that which was requested on the original application may be filed at the applicant's discretion.

D. A proposal to rezone a tract or parcel of land which has been previously denied without prejudice by the City Council may be resubmitted within one year only if there is an actual change in conditions relating to zoning principles of the tract or parcel of land or the property surrounding it. In that event, the applicant must submit to the Director of Planning, in writing, a resume describing such changed conditions. The Director of Planning shall investigate the property or cause such an investigation to be made and shall report to the Planning and Zoning Commission whether or not such changed conditions exist. Upon hearing said report, the Planning and Zoning Commission shall either grant or deny the request to re-file the proposal for rezoning.

1.11.6.5 Protest of Proposed Change in Zoning

A. State Requirements:

Property owners adjacent to and within a radius of two hundred (200) feet of a property for which a change in zoning is being considered have the right to file a written protest against the request. The land area of this two hundred (200) feet radius includes streets, alleys and other public right-of-way.

Whenever such written protest is signed by the owners of twenty (20) percent or more of the area of the lots or land included in such zoning change, or of the lots or land immediately adjoining the same and within the above mentioned two hundred (200) feet radius, such change in zoning shall not become effective except by a favorable vote of three-fourths (3/4) of all the members of the City Council.

Failure by an applicant to receive a favorable vote of 3/4 of all members of the City Council in a case where there is a written protest signed by the owners of twenty (20) percent or more of the area of the lots or land included in such zoning change, or of the lots or land immediately adjoining the same and within the above mentioned two hundred (200) feet radius, shall be treated as a denial pursuant to **Section 1.11.6.4.B** or **1.11.6.4.C** of this Code as applicable.

For purposes of determining representation on said written protest, the written protest of any one owner of land owned by two or more persons shall be presumed to be the protest of all owners.

1.11.7 Zoning Board of Adjustments and Appeals

1.11.7.1 Creation/Function

There is hereby created a Zoning Board of Adjustments and Appeals, which shall have the authority and jurisdiction and shall operate under the procedures established by Article 1011g *Vernon's Annotated Civil Statutes* and by this Unified Development Code.

1.11.7.2 Adoption of Rules; Meetings; Records

A. The Board may adopt rules to govern its proceeding, provided that, however, such rules are not inconsistent with the terms of this Code, and may administer oaths and compel the attendance of witnesses.

B. All meetings of the Board shall be open to the public.

C. The Board shall keep minutes of its proceeding, showing the vote of each member upon each question, or, if absent or failing to vote, indicate such fact and keep records of its examination and other official actions, all of which shall be immediately filed in the offices of the board and kept as a public record.

1.11.7.3 Jurisdiction

In addition to the authority and power or Article 211.008 et seq of the *Local Government Code* and this Unified Development Code, as amended, the Zoning Board of Adjustments and Appeals may act as a recommending body to the City Council and Planning and Zoning Commission related to matters within their jurisdiction when in its judgment, the public convenience and welfare will be substantially served and the appropriate use of the neighboring property will not be substantially or permanently injured the Zoning Board of Adjustments and Appeals may, in specific cases, after public notice and public hearing, and subject to appropriate conditions and safeguards authorize the following special exceptions to the regulations herein established.

A. Permit the expansion or enlargement of a building occupied by nonconforming use on the lot or tract occupied by such building provided such reconstruction does not prevent the return of such property to a conforming use. Upon review of the facts, the Board may establish a specific period of time for the occupancy to revert to a conforming use.

B. Permit such modifications of the height, yard, area, and lot coverage regulations as may be necessary to secure appropriate development of a parcel of land which differs from other parcels in the district by being of such restricted area, shape, or slope that it cannot be appropriately developed without such modification.

C. Require the discontinuance of non-conforming uses of land or structures under any plan whereby the full value of the structure and facilities can be amortized within a definite period of time, taking into consideration the general character of the neighborhood and the necessity for all property to conform to the regulations of this Code.

1. All actions to discontinue a non-conforming use of land or structure

shall be taken with due regard for the property rights of the persons affected when considered in the light of the public welfare and the character of the area surrounding the designated non-conforming use and the conservation and preservation of property.

2. The Board shall from time to time on its own motion or upon cause presented by interested property owners inquire into the existence, continuation or maintenance of any non-conforming use within the City.

D. Permit the construction, reconstruction, enlargement or addition of a structure occupied by or for a use, normally ancillary to a single family residential use, when such single family residential use or structure, including manufactured housing and mobile homes, is legally nonconforming, provided, however, such construction, reconstruction, enlargement or addition does not prevent the return of such property to a conforming use.

E. The Board is not authorized to permit or approve any request that would be in violation of any other ordinances or City regulations that would prohibit such improvement or construction to be made.

F. Consider an appeal from any person aggrieved by a decision of any administrative officer with authority over any matter regulated by this Unified Development Code or by any officer, department, board or division of the City affected by any decision of the administrative officer. Such appeal shall be taken, within fifteen (15) calendar days after the decision has been rendered by the administrative officer, by filing with the officer from whom the appeal is taken and with Zoning Board of Adjustments and Appeals a notice of appeal specifying the grounds therefore, tendering with such notice the amount in accordance with the fee schedule established in **Article 22 *"Fee Schedule"*** of this Code.

The officer from whom the appeal is taken shall forthwith transmit to the Board all the papers constituting the record upon which the action appealed from was taken.

An appeal shall stay all proceedings of the action appealed from unless the officer from whom the appeal is taken certifies to the Board, after the notice of appeal shall have been filed with such officer that by reason of facts stated in the certificate, that a stay would, in such officer's opinion, cause imminent peril to life or property. In such case, proceedings shall not be stayed otherwise than by restraining order which may be granted by the board or by a court of record on application, and notice to the officer from whom the appeal is taken of due cause shown.

G. To authorize the reconstruction, occupancy or replacement of a non-conforming structure, or a structure containing a non-conforming use, where such structure has been damaged by fire or other causes to the extent of more than fifty (50) percent of the replacement cost of the structure on the date of the damage.

Such action by the Zoning Board of Adjustments and Appeals shall have due regard for the property rights of the person or persons affected, and shall be considered in regard to the public welfare, character of the area surrounding such structure, and the conservation, preservation and protection of property.

H. To authorize the enlargement, expansion or repair of a nonconforming structure in excess of fifty (50) percent of its current value. In such instance, current value shall be established at the time of application for a hearing before the Board. If such expansion or enlargement is approved by the Board, all provisions of the district in which such structure is located shall apply to the new construction on the lot or parcel.

I. To authorize a change of use from one non-conforming use to another non-conforming use, provided that such change is to a use of the same or more restricted classification. In the event that a non-conforming use is changed to a nonconforming use of a higher or more restrictive classification, the building or structure containing such non-conforming use shall not later be reverted to the former lower or less restricted classification. The Board may establish a specific period of time for the conversion of the occupancy to a conforming use.

J. To authorize the occupancy of an abandoned nonconforming structure. Such action by the Board shall have due regard for the property rights of the person or persons affected, and shall be considered in regard to the public welfare and safety, character or the area surrounding such structure, and the conservation, preservation and protection of property.

1.11.7.4 Criteria for Granting Variances and Exceptions

The Zoning Board of Adjustments and Appeals, pursuant to the powers conferred upon it by State law, the Code of Ordinances of the City and **Article 2 "*Authority*"** of his Unified Development Code may grant variances and exceptions to the provisions of this Unified Development Code, which fall under this Article upon finding that:

A. Such variance or exception will not substantially or permanently injure the appropriate use of adjacent property in the same district; and

B. Such variance or exception will not adversely affect the health, safety or general welfare of the public; and

C. Such variance or exception will not be contrary to the public interest; and such variance or exception will not authorize the operation of a use other than those uses specifically authorized for the district in which the property for which the variance is sought is located; and

D. Such variance or exception will be in harmony with the spirit and purpose of this ordinance; and

E. Such variance or exception will not alter the essential character of the district in

which is located the property for which the variance is sought; and

F. Such variance or exception will not substantially weaken the general purposes of the zoning regulations established for the district in which the property is located; and

G. The plight of the owner of the property for which the variance or exception is ought is due to unique circumstances existing on the property, including but not limited to the area, shape or slope, and the unique circumstances were not created by the owner of the property and are not merely financial, and are not due to or the result of general conditions in the district in which the property is located; and

H. The variance or exception is not a self-created hardship.

1.11.7.5 Public Hearings - Zoning Board of Adjustments and Appeals

A. The Zoning Board of Adjustments and Appeals shall fix a reasonable time for the hearing of a request for a variance or exception or an appeal, give the public notice thereof, as well as due notice to the parties in interest, and decide the same within a reasonable time.

B. Notices for public hearings before the Zoning Board of Adjustments and Appeals shall be mailed no later than ten (10) days before the date of the hearing to:

1. The applicant and owner; and

2. The owner of any property located within three hundred (300) feet of the subject property; and

3. If the matter to be considered at the public hearing is an appeal, all parties to the appeal, including aggrieved parties.

C. Notice of a public hearing before the Zoning Board of Adjustments and Appeals shall be advertised in a paper of general circulation no later than ten (10) calendar days before the date of the hearing.

D. Notices required under this section shall conform to the requirements of **Article 1, *"General Provisions and Procedures"*, 1.11.10 *"Notice Provisions"*** of this Unified Development Code.

1.11.7.6 Conduct of Public Hearing

Subject to the Chairman's inherent authority to conduct the meetings of the Zoning Board of Adjustments and Appeals, the public hearing shall generally be conducted as follows:

A. Report by the Director of Planning or designee;

B. Presentation by the party bringing the appeal (any party may appear in person or by attorney or agent);

C. Testimony by parties supporting the appeal;

D. Testimony by parties opposing the appeal;

E. Rebuttal by the party bringing the appeal;

F. Closure of public hearing.

1.11.7.7 Actions of the Board

In exercising its powers, the Board may, in conformity with the provisions of Chapter 211 of the Texas Local Government Code, V.T.C.A., and including Section 211.009 as amended, revise or reform, wholly or partly, or may modify the order, requirement, decisions, or determination appealed from and make such order, requirement, decisions, or determination as ought be made, and shall have all the powers of the officer from whom the appeal is taken including the power to impose reasonable conditions to be complied with by the applicant.

Each case before the Board must be heard by at least seven (7) members. The concurring vote of seven (7) members of the Board shall be necessary to revise any order, requirements, decision or determination of any such administrative official, or to decide in favor of the applicant on any matter upon which it is required to pass under this Ordinance or to affect any variance in said ordinance.

A. Any special exceptions authorized by the Board, either under the provisions of this Code, or under the authority granted to the Board under the statutes of the State, shall authorize the issuance of a building permit or a certificate of occupancy or other relief as the case may be for a period of ninety (90) days from the date of the favorable action on the part of the Board, unless said Board in its minutes shall, at the same time, grant a longer period.

B. If a building permit or certificate of occupancy shall not have been applied for or issued within a ninety (90) day period or as the Board may specifically grant, the special exceptions shall be deemed waived; and all rights there under terminated.

C. Such termination and waiver shall be without prejudice to a subsequent appeal to said Board in accordance with the rules, and regulations regarding appeals.

1.11.7.8 Appeals on Same Matter

No appeal to the Zoning Board of Adjustments and Appeals shall be allowed concerning the same matter prior to the expiration of six (6) months from a ruling of the Board on any

appeal to such body unless other rulings on the same or similar subject matter have, within such six-month period, been altered or changed by ruling of the Board, in which case such change of circumstances shall permit the allowance of an appeal, but shall in no way have force in law to compel the Board after a hearing to grant such subsequent appeal, but such appeal shall be considered on its merits as in all other cases. Cases on the same matter may be considered if the substance is changed to such an extent as to constitute a new request.

1.11.7.9 Effective Date

A decision on a variance shall be effective upon approval by the Board.

1.11.7.10 Appeal from Board

Any person aggrieved by any decision of the Zoning Board of Adjustments and Appeals or any taxpayer or any officer, department, or board of the municipality, may present to a court of record, a petition, duly verified, setting forth that such decision is illegal, in whole or in part, specifying the grounds of such illegality. Such petition shall be presented to the court within ten (10) days after the filing of the decision complained of in the office of the board, and not thereafter.

1.11.8 Building Advisory Boards

1.11.8.1 All decisions made by the Chief Building Official or designee are subject to appeal to the Building Advisory and Appeals Boards having jurisdiction over the case.

1.11.8.2 Applications

The owner or their designee may submit an application for a variance which may be granted only by the Building Advisory and Appeals Boards to the Chief Building Official or designee or to the Code Compliance Division. A single application may include requests for variances from more than one regulation applicable to the same site, under the same board's jurisdiction.

1.11.8.3 Staff Report

The Chief Building Official or designee, shall review the variance application and prepare a report to be heard by the appropriate Board.

1.11.8.4 Notices

The Building Board, Mechanical Board, and Electrical Board, as applicable, shall hold a public hearing on each application for a variance. Notice of a public hearing on a variance shall be advertised in a newspaper of general circulation in the City no later than ten (10) calendar days before the date of the hearing.

1.11.8.5 Approval or Denial

The Building Board, Mechanical Board, and Electrical Board, as appropriate, shall take action on the application for variance no later than the next scheduled meeting after the public hearing is closed. A variance may be granted for a limited time period.

1.11.9 Airport Board of Adjustments

1.11.9.1 Any person aggrieved, or taxpayer affected, by any decisions of the Planning Department and/or Building Inspections Department made in its administration of the Airport Zoning Regulations adopted under this Unified Development Code, or any governing body of political subdivision, or any Joint Zoning Board, which is of the opinion that a decision of such Planning Department is an improper application of Airport Zoning Regulations of concern to such governing body or board, may appeal to the Board of Adjustment authorized to hear and decide appeals from the decisions of such Planning Department.

1.11.9.2 All appeals taken under this Section must be taken within a reasonable time as provided by the rules of the Board of Adjustment, by filing with the Planning Department and with the Board of Adjustment all the papers constituting the record upon which the action appealed from was taken.

1.11.9.3 An appeal shall stay all proceedings in furtherance of the action appealed from, unless the Planning Department certifies to the Board of Adjustment, after the notice of appeal has been filed with it, that by reason of the facts stated in the certificate a stay would, in its opinion, cause imminent peril to life or property. In such case, proceedings shall not be stayed except by or of the Board of Adjustment on notice to the Planning Department and on due cause shown.

1.11.9.4 The Board of Adjustment shall fix a reasonable time for hearing of the appeal, give public notice to parties in interest and decide the same within a reasonable time. Upon the hearing any party may appear in person or by agent or by attorney.

1.11.9.5 The Board of Adjustment may, in conformity with the provisions of these regulations reverse or affirm, wholly or partly, or modify, the order requirement, decision, or determination as ought to be made, and to that end shall have all the powers of the Planning Department.

1.11.9.6 The Board of Adjustment shall make written findings of fact and conclusions of law, giving the facts upon which it acted and its legal conclusions from such facts in reversing, or affirming, or modifying any order, requirement, decision or determination which comes before it under the provisions of these regulations.

1.11.9.7 The concurring vote of four (4) members of the Board of Adjustment shall be necessary to reverse any order, requirement, decisions, or determination of the Planning Department or to decide in favor of the applicant on any matter upon which it is required to pass under these regulations or to effect any variation in these regulations.

1.11.10 Notice Provisions

1.11.10.1 A notice which is mailed shall be deemed to have been given on the date the letter is

deposited, properly addressed and postage paid, in a depository of the U.S. Postal Service. Notice by certified mail, return receipt requested, is required only where specified. Notice by hand delivery may be substituted for notice by mail if the addressee provides a receipt of delivery.

1.11.10.2 A notice which is published shall be deemed to have been given on the date such notice is published in any edition of a newspaper of general circulation in the City.

1.11.10.3 A notice mailed to an applicant shall be deemed to have been given if mailed to the owner or agent at the address shown on the application, or as indicated on a written change of address form filed with the Director of Planning or designee.

1.11.10.4 A notice mailed to an owner of real property shall be deemed to have been given if mailed to the owner shown on the ownership records maintained for real estate tax purposes as provided by the tax appraisal district responsible for maintaining such records.

1.11.11 Petitioned Annexations

1.11.11.1 Request for Annexation

In addition to all powers of annexation granted to the City of Grand Prairie, the City Council, upon request submitted to the Department of Planning by an owner of property within the extraterritorial jurisdiction of the City of Grand Prairie, may consider said property for annexation.

1.11.11.2 Fees

Reference **Article 22 "*Fee Schedule*"** for fees related to annexations requests.

1.11.12 Procedure in Planning and Zoning Cases/Additional Information Submitted

1.11.12.1 New matters or evidence not presented to the Planning and Zoning Commission shall not be heard or considered by the City Council in its public hearings related to amendments to the zoning ordinance and maps to the City.

1.11.12.2 In the event new evidence develops between the date of the hearing by the Planning and Zoning Commission and the hearing of the City Council on any zoning change, or if for any other valid reason a person wishes to present evidence to the City Council which had not been presented to the Planning and Zoning Commission, the City Council shall refer the case back to the Planning and Zoning Commission for further hearings to consider the new evidence.

1.11.12.3 Nothing contained herein shall be construed to prohibit anyone from speaking in the public hearing related to changes in zoning.