

# Chapter 1

## General Provisions

Rev. 05/04/2010

### Section 1.1 Title

This document shall be known and may be cited as the Land Development Code of the City of Colleyville, Texas.

### Section 1.2 Applicability

The provisions of this Land Development Code shall apply to all lots, parcels of land, rights-of-way, buildings and structures located within the Corporate Limits of the City of Colleyville.

### Section 1.3 Authorization for Adoption of This Land Development Code

The regulations contained in the various chapters of this Land Development Code have been adopted upon approval of an ordinance, after public hearing, by the City Council of the City of Colleyville in accordance with the authority described within each chapter and the following:

1. *Chapter 51 – General Powers of Municipalities of the Texas Local Government Code*, which authorizes a municipality to adopt ordinances, rules, or police regulations that are for the good government, peace, or the trade and commerce of the municipality; and.
2. *The Home Rule Charter of the City of Colleyville*, which authorizes the City Council to exercise all powers granted to municipalities by the Constitution or the laws of the State of Texas.

### Section 1.4 Purpose of the Land Development Code

The purpose of this Land Development Code is to promote the health, safety, and general welfare of the community and to:

1. combine zoning, subdivision and other regulations into a single document that can be used for development of property and public facilities in Colleyville, Texas;
2. establish reasonable standards of design and procedures for subdivisions in order to further the orderly layout and use of land, and to ensure proper legal descriptions of subdivided land;
3. provide that the cost of improvements which primarily benefit the tract of land being developed be borne by the owners or developers of the tract and that the cost of improvements which primarily benefit the entire community be borne by the community as a whole; and
4. avoid overlapping, conflicting or inconsistent regulations found in land use control systems consisting of separate zoning, subdivision, and other ordinances.

### Section 1.5 Purpose of This Chapter

The purpose of this Chapter is to:

1. establish rules, regulations and procedures for the administration of this Land Development Code and to establish the process for amending this Code;

2. establish regulations which describe the process for considering waivers, variances and appeals regarding this Land Development Code; and
3. establish specific boards and commissions responsible for considering requests for a waiver or variance from a regulation or to hear an appeal of a decision of an Administrative Official authorized to enforce and administer this Land Development Code.

## **Section 1.6 Administration and Enforcement**

The provisions of the Land Development Code shall be administered, interpreted and enforced by the City Manager, his designee, or by the administrator designated within this Code.

## **Section 1.7 Fees**

The schedule of fees and charges associated with application filing, processing, plan review, or any other fee required by provisions of this Land Development Code, shall be established by the City Council. Furthermore, until all applicable fees, charges and expenses have been paid in full, no action shall be taken on any application or appeal authorized by this Land Development Code. Fees required by this Land Development Code shall not be refundable, except where a specific provision provides for refunding.

## **Section 1.8 Compliance Required**

All land, buildings, structures or appurtenances thereon located within the City which are hereafter occupied, used, erected, altered or converted shall be used, placed and erected in conformance with the regulations prescribed herein. In their interpretation and application, the provisions of these regulations shall be construed to be the minimum requirements for the promotion of the public health, safety, convenience, comfort, morals and general welfare. Land used in meeting the requirements of this Land Development Code with respect to a particular use or building shall not be used to meet the requirements for any other use or building. No approval, authorization to proceed, or issuance of any certificate or permit shall be construed as an approval of a violation of the provisions of this document or of other ordinances of the City of Colleyville. Certificates presuming to give authority to violate or cancel the provisions of this document or of other ordinances of the jurisdiction shall be void.

## **Section 1.9 Certificate of Occupancy Required**

### **1.9.A CERTIFICATE REQUIRED PRIOR TO OCCUPANCY**

No building, or portion thereof, or parcel of land shall be occupied or used until a certificate of occupancy has been issued by the City. Furthermore, no non-residential building, or portion thereof, or parcel of land shall change in use or occupancy until a certificate of occupancy has been issued by the City. A current certificate of occupancy is required on all land, buildings, or portions thereof except non-habitable accessory buildings. Failure to comply with this provision may result in the issuance of a citation and/or constitute basis for denial of or disconnection from City utilities or to require a franchised utility company to do likewise.

### **1.9.B CONNECTION TO UTILITIES**

No connection to the City utility systems shall be allowed unless and until a certificate of occupancy has been issued by the City Inspector. However, temporary connection of utilities for a specified duration may be authorized by the City Inspector for the purpose of clean up, construction or other such purposes.

**1.9.C RECORDS**

The Building Inspection Office shall maintain a record of all buildings or parcels of land for which a Certificate of Occupancy has been issued.

**1.9.D CERTIFICATE OF OCCUPANCY APPLICATION**

Application for a certificate of occupancy shall be made to the Building Inspection Office. No application for a certificate of occupancy shall be approved which does not, at a minimum, contain the following information: business name, business address, business phone number, type of proposed use, business owner, business owner's address, business owner's phone number and emergency phone number, applicant's driver's license number, applicant's date of birth, and applicant's signature.

**1.9.E DISPLAY AND STATUS OF CERTIFICATE OF OCCUPANCY**

1. All non-residential occupancies shall display a certificate of occupancy on the site and in a conspicuous place.
2. The holder of a certificate of occupancy for a non-residential occupancy is required to notify the Building Inspection Office of any change of address, name changes, or other pertinent information listed on the certificate of occupancy application.

**Section 1.10 Project Under Construction at Time of Code Adoption**

Nothing herein contained shall require any change in the plans, construction or designated use of a building actually under construction within the city on the effective date of this document and which entire building shall be completed within one (1) year from the effective date of the document or which building shall be maintained under continuous construction even though not completed within one (1) year. Nothing herein contained shall require any change in plan, construction or designated use of a building for which a building permit has been heretofore issued while such permit is valid and provided the building shall have been started within 180 days of the date of issuance of the permit and which entire building shall be maintained under continuous construction even though not completed within one (1) year.

**Section 1.11 Compliance Required for Building Permits & Utility Services**

No building or structure may be erected, constructed or installed on any lot, tract or parcel of land and public utilities shall not be extended or connected to a building or structure unless the lot, tract or parcel of land is in compliance with the provisions and requirements of this Land Development Code and all applicable Building Permits and authorizations to proceed are first obtained.

**Section 1.12 Waivers and Appeals - Generally**

Any person seeking approval of a development as required by this Land Development Code may request a waiver of or a variance from a requirement contained in this Code, or appeal a decision of an Administrative Official by submitting a request using the procedures described in this Chapter. Due to the unique arrangement and statutory organization of this Land Development Code, provisions for waivers, variances and appeals of administrative decisions vary from chapter to chapter. The following table shows the approval authority for waiver, variance and appeal requests for the specific chapters of this Land Development Code.

Approval Authority for Waiver, Variance and Appeal Requests					
Chapter Title	City Council	P & Z Commission	ZBA	Sign Board	Staff
Chapter 2 – Definitions	N/A	N/A	See Section 1.16	N/A	N/A
Chapter 3 – Land Use	N/A	N/A	See Section 1.16	N/A	N/A
Chapter 4 – Landscaping & Buffering	N/A	N/A	N/A	N/A	See Section 4.6
Chapter 5 – Tree Preservation	N/A	See Section 1.14	N/A	N/A	N/A
Chapter 6 – Building Design	N/A	See Section 1.14	N/A	N/A	N/A
Chapter 7 – Sign Regulations	N/A	N/A	N/A	See Section 1.15	N/A
Chapter 8 – Platting Procedures (except perimeter streets)	See Section 1.13	See Section 1.14 & 7.2	N/A	N/A	N/A
Perimeter streets	See Section 1.13	N/A	N/A	N/A	N/A
Chapter 9 – Subdivision Design & Required Facilities	See Section 1.13	N/A	N/A	N/A	N/A
Chapter 10 – Private Streets & Entrance Gates	See Section 1.13	N/A	N/A	N/A	N/A
Chapter 11 – Park Land Dedication	See Section 1.13	N/A	N/A	N/A	N/A
Chapter 12 – Erosion Control	See Section 1.13	N/A	N/A	N/A	N/A
Chapter 13 – Impact Fees	See Section 1.13	N/A	N/A	N/A	N/A
Chapter 14 – Engineering Design	See Section 1.13	N/A	N/A	N/A	N/A
Chapter 15 – Public Works Construction Details	See Section 1.13	N/A	N/A	N/A	N/A

Note to table above: N/A – Not Authorized

**Section 1.13 Waivers and Appeals – City Council**

Where specifically provided for in this Land Development Code, the City Council shall have the authority to consider requests for a waiver or to hear and decide an appeal from an administrative decision on a regulation. The City Council may approve, disapprove or modify such a request provided that such approval or modification will not be detrimental to the public safety, health, or welfare or injurious to other property. The applicant shall provide information to support a claim that there are extraordinary hardships or practical difficulties which may result from strict compliance with the regulation or that the public interest may be better served by an alternative proposal.

**Section 1.14 Waivers and Appeals – Planning and Zoning Commission**

Where specifically provided for in this Land Development Code, the Planning and Zoning Commission shall have the authority to consider a waiver or to hear and decide an appeal from an administrative decision on a regulation. The Planning and Zoning Commission may approve, disapprove or modify such a request provided that such approval or modification will not be detrimental to the public safety, health, or welfare or injurious to other property. The applicant shall provide information to support a claim that there are extraordinary hardships or practical difficulties which may result from strict compliance with the regulation or that the public interest may be better served by an alternative proposal.

**Section 1.15 Waivers and Appeals – Sign Board of Appeals**

Note: Section 1.15 replaced in its entirety. (Ord. 0-03-1414 / 09-02-2003)

- A. Creation of Sign Board of Appeals – There is hereby created a Sign Board of Appeals consisting of five (5) members and two (2) alternate members, each to be appointed by the Council for a two year term, or until a successor is appointed. Three members of the Board and one (1) alternate member shall be selected in even numbered years and two members and one (1) alternate member in odd numbered years. In the event of a vacancy, the Council shall appoint a member to serve for the unexpired term. Alternate Board members shall serve in the absence of regular members. The Sign Board of Appeals shall consist of the same members and officers as the Zoning Board of Adjustment.
- B. Authority of the Sign Board of Appeals – The Sign Board of Appeals shall have the authority to hear and decide on requests for a variance from the requirements contained in *Chapter 7 – Sign Regulations* of this Land Development Code. The Sign Board of Appeals shall also have the authority to hear and decide an appeal of an administrative decision on a regulation contained in *Chapter 7 – Sign Regulations* of this Land Development Code. The authority established under this paragraph shall be applicable to a definition contained in *Chapter 2 – Definitions* of this Land Development Code required for the administration and enforcement of the provisions of *Chapter 7 – Sign Regulations*.
- C. Quorum and Organization – Four members of the Sign Board of Appeals shall constitute a quorum. In the event of the absence of the Chairman and Vice-Chairman, the four members constituting the quorum shall elect for that meeting a member to preside as Acting Chairman and to assume all duties of the Chairman.
- D. Meetings, Hearings and Rules of Procedures – The Board shall adopt rules of procedure for the conduct of its meetings. Meetings shall be held at the call of the Chairman or at such times as the Board may determine. All meetings and hearings shall be open to the public and shall be conducted in accordance with the procedure set forth in these regulations and the rules of procedure adopted by the Sign Board of Appeals. Such rules of procedure may be amended by the Sign Board of Appeals membership. The minutes of the meetings shall be recorded, showing the vote of each member upon the question, and shall be made a matter of public record. The concurring vote of four members of the Board shall be necessary to render a decision on any matter before the Board. The Sign Board of Appeals shall meet monthly, provided there has been an appeal or request for variance filed with the Building Official on or before the last date to receive applications prior to the scheduled meeting date. The Building Official shall publish a calendar establishing such final application dates.
- E. Variance – A person may request a variance from a requirement contained in *Chapter 7 – Sign Regulations* by filing said request with the building official. A request for a variance shall be accompanied by a non-refundable filing fee. The filing fee shall be established by separate ordinance by the City Council. A request for variance shall be referred for consideration to the Sign Board of Appeals. In considering a request for a variance, the Sign Board of Appeals shall consider, among other things, the degree of variance, the reason for the variance requested, the location of the variance request, the duration of the requested variance, the effect on public safety, the protection of neighborhood property, the degree of hardship or injustice involved, and the effects of the variance on the general plan of regulation of signs within the City.
- F. Fees – No action shall be taken on any application submitted to the Sign Board of Appeals until all applicable fees have been paid in full. No refund of any application fee shall be made after the request has been advertised and scheduled for consideration by the Board.
- G. Public Hearing and Written Notification – No action to approve or deny any application shall be taken until the Board has held a public hearing and received comment, and only after written notice of the public hearing of the date, time and place where the variance request is to be considered has been sent to the owners of real property lying within two hundred (200) feet of the property where the application is being considered. Such notice shall be given to each property owner as listed on the last approved tax roll not less than fifteen (15) days before the date set for hearing by depositing letters properly addressed and postage paid in the United States Post Office.

- H. Appeal to City Council – The decision by the Sign Board of Appeals shall be final, unless the applicant submits a written notice of appeal within ten (10) days from the date of the action by the Board. The enforcement official shall re-notify all property owners lying within two hundred (200) feet of the area being considered and place the applicant's appeal request on the next available agenda for consideration by the City Council.

## **Section 1.16 Variances & Appeals – Zoning Board of Adjustment**

The Zoning Board of Adjustment shall have the authority to consider requests for a variance of a zoning regulation or to hear an appeal from an administrative decision on a regulation in *Chapter 3 – Land Use Regulations; Chapter 4 – Landscaping and Buffering; and Chapter 6 – Building Design (except for requests regarding tree mitigation requests which are considered by the Planning and Zoning Commission)*. The Zoning Board of Adjustment shall additionally have the authority to consider requests for an interpretation of any regulation or definition contained in this Land Development Code. The rules and procedures contained in this section shall be applicable to such request.

### **1.16.A ZONING BOARD OF ADJUSTMENT ESTABLISHED**

A Zoning Board of Adjustment is hereby established, which shall consist of five (5) members and two (2) alternates, each to be appointed for a two (2) year alternate term by the City Council. All vacancies occurring on the Zoning Board of Adjustment shall be filled by appointment by the City Council. Each year after a new term begins members shall elect a Chairman and Vice-Chairman, a new term beginning at the first meeting in October. Members of the Zoning Board of Adjustment may be removed from office by the City Council for cause upon written charges and after a public hearing. Vacancies shall be filled by resolution of the City Council for the unexpired term of the member affected. The City Council shall appoint two (2) alternate Board members to serve in the absence of regular members.

### **1.16.B PROCEEDINGS**

The Zoning Board of Adjustment shall adopt rules necessary to the conduct of its affairs and in keeping with the provisions of this ordinance. Meetings shall be held at the call of the Chairman or Vice-Chairman and at such other times as the Board may determine. The Chairman, or in his absence the Acting Chairman, may administer oaths and compel the attendance of witnesses. All meetings shall be open to the public.

Said Board shall keep minutes of its proceedings, showing the vote of each member upon each question, or if absent or failing to vote indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be made a matter of public record and be immediately filed in the office of the City and maintained by the person acting as City Secretary.

### **1.16.C HEARINGS; APPEALS; NOTICE**

Appeals to the Zoning Board of Adjustment concerning interpretation or administration of a regulation may be taken by any person aggrieved or by any officer, agency, department or commission of the governing body of the City affected by any decision of the Administrative Official. Such appeals shall be taken within a reasonable time, not to exceed fifteen (15) days or such lesser period as may be provided by the rules of the Board, by filing with the Administrative Official on behalf of the Zoning Board of Adjustment a notice of appeal specifying the grounds thereof. The Administrative Official shall forthwith transmit to the Board all papers constituting the record upon which the action appealed from was taken.

The Board shall fix a reasonable time for the hearing of an appeal, give public notice thereof as well as written notice to the parties in interest, and decide the same within a reasonable time. At the hearing, any party may appear in person or by an agent or attorney.

### **1.16.D STAY OF PROCEEDINGS**

An appeal stays all proceedings in furtherance of the action appealed from, unless the Administrative Official from whom the appeal is taken certifies to the Zoning Board of Adjustment after the notice of appeal is filed with him that, by reason of facts stated in the certificate, a stay would, in his opinion, cause imminent peril to life and property. In such case, proceedings shall not be stayed other than by a court of record on application, on notice to the Administrative Official from whom the appeal is taken and on due cause shown.

#### **1.16.E      JURISDICTION OF ZBA**

When in its judgment the public convenience and welfare will be substantially served, the Board of Adjustment may issue appropriate orders to the Administrative Official to guard against future error; and to promulgate appropriate procedure in addition to that under which the Administrative Official already operates. When the appropriate use of the neighboring property will not be substantially or permanently injured, the Board of Adjustment may in specific cases, after public notice and public hearing, (subject to appropriate conditions and safeguards and in accordance with Section 211.009, Local Government Code, V.T.C.A.), authorize the following variances and special exceptions to the regulations herein established and take action relative to the continuance or discontinuance of a nonconforming use. Thus, the Board has jurisdiction to:

1. Hear and decide appeals where it is alleged there is error on any order, requirement, decision or determination made by the Administrative Official in the enforcement of this code.
2. Interpret the intent of the Zoning District Map where uncertainty exists because the physical features, on the ground vary from those on the Zoning District Map and none of the rules set forth in *Chapter 3 – Land Use, Section 3.5.C - "Rules For interpretation of District Boundaries"* apply.
3. Approve the use of a lot or lots in a residential district contiguous to (even if separated by a street or alley) an apartment, office, retail, commercial or industrial district for off-street parking of passenger vehicles subject to such standards and safeguards as are appropriate for the protection of adjacent residential uses.
4. Initiate on its motion or cause presented by interested property owners an action to bring about the discontinuance of a nonconforming use in accordance with the following:
  - a. Require the discontinuance of a nonconforming use under any plan whereby full value of the structure 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 ordinance.
5. Permit the change of occupancy of a nonconforming use to another nonconforming use in accordance with the provisions of *Chapter 3 – Land Use* of this Land Development Code.
6. Permit the enlargement of a nonconforming use in accordance with the provisions of *Chapter 3 Land Use* of this Land Development Code.
7. Permit the reconstruction of a nonconforming structure or building on the lot or tract occupied by such building, provided such reconstruction does not, in the judgment of the Board, prevent the return of such property to a conforming use or increase the nonconformity of a nonconforming structure and provided that such actions conform to the non-conforming provisions of *Chapter 3 – Land Use* of this Land Development Code.
8. Require the vacation and demolition of a nonconforming structure, which is deemed to be obsolete, dilapidated or substandard.
9. Vary the provisions and conditions required for the development of off-street parking facilities when such variations are found to be in the interest of the area and necessary to secure reasonable parking use of a specific parcel of land.

10. Permit such variance of the front yard, side yard, rear yard, lot width, lot depth, coverage, minimum sidewalk or setback standards, off-street parking or off-street loading or visibility obstruction regulations where the literal enforcement of the provisions of this ordinance would result in an unnecessary hardship, and where such variance is necessary to permit a specific parcel of land which differs from other parcels of land in the same district by being of such restricted area, shape or slope that it cannot be developed in a manner commensurate with the development permitted upon other parcels of land in the same district. A modification of the standards established by this ordinance shall not be granted to relieve a self-created or personal hardship, nor for financial reason only, nor shall such modification be granted to permit any person a privilege in developing a parcel of land not permitted by this ordinance to other parcels of land in the district.
11. Permit such variances of fence heights when in the opinion of the Board such fence will not adversely affect neighboring property.

#### **1.16.F SPECIAL EXCEPTIONS; CONDITIONS GOVERNING APPLICATIONS; PROCEDURES**

A special exception shall not be granted by the Board of Adjustment unless and until:

1. A written application for a special exception is submitted indicating the section of this ordinance under which the special exception is sought and stating the grounds on which it is required.
2. Notice shall be given at least fifteen (15) days in advance of public hearing. The owner of the property for which special exception is sought or his agent shall be notified by certified mail. Notice of such hearings shall be posted at the City Hall; and one time in the official publication of the City, stating the time, place and nature of such hearing, at least fifteen (15) days prior to the public hearing. All property owners within two hundred (200) feet of the property shall be notified by mail not less than fifteen (15) days prior to the date of the public hearing.
3. The public hearing shall be held. Any party may appear in person, or by an agent or attorney.
4. The Zoning Board of Adjustment shall make a finding that it is empowered to grant the special exception, and that the granting of the special exception will not adversely affect the public interest.
5. In granting a special exception, the Zoning Board of Adjustment may also prescribe a time limit for which the special exception may continue. Failure to comply with this requirement stipulated by the Board shall void the special exception permit issued.
6. Violation of any reasonable provisions, conditions and safeguards that are made a part of the terms under which the special exception permit granted shall be deemed in violation of this ordinance and punishable under the penalty section of this Land Development Code.

#### **1.16.G VARIANCES; CONDITIONS GOVERNING APPLICATIONS; PROCEDURES**

The Zoning Board of Adjustment may authorize upon appeal in specific cases such variance from the terms of this ordinance as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this ordinance would result in unnecessary hardship. A variance from the terms of this ordinance shall not be granted by the Zoning Board of Adjustment unless and until:

1. A written application for a variance is submitted demonstrating:
  - a. That special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings in the same district;
  - b. That literal interpretation of the provisions of this ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this ordinance;

- c. That the special conditions and circumstances do not result from the actions of the applicant;
  - d. That granting the variance requested will not confer on the applicant any special privilege that is denied by this ordinance to other lands, structures, or buildings in the same district;
  - e. No nonconforming use of neighboring lands, structures, or buildings in the same district, and no permitted or nonconforming use of lands, structures, or buildings in other districts shall be considered grounds for the issuance of a variance.
2. Notice shall be given at least fifteen (15) days in advance of public hearing. The owner of the property for which requested variance is sought or his agent shall be notified by certified mail. Notice of such hearings shall be posted at the City Hall; and one time in the official publication of the City, stating the time, place and nature of such hearing, at least fifteen (15) days prior to the public hearing. All property owners within two hundred (200) feet of the property shall be notified by mail not less than fifteen (15) days prior to the date of the public hearing.
  3. The public hearing shall be held. Any party may appear in person, or by an agent or by attorney.
  4. The Zoning Board of Adjustment shall make findings that the applicant has met the requirements of paragraph 1 above.
  5. The Board shall further make a finding that the reasons set forth in the application justify the granting of the variance, and that the variance is the minimum variance that will make possible the reasonable use of the land, building, or structure.
  6. The Zoning Board of Adjustment shall further make a finding that the granting of the variance will be in harmony with the general purpose and intent of this ordinance, and will not be injurious to the neighborhood, or otherwise detrimental to the public welfare.

In granting any variance, the Zoning Board of Adjustment may prescribe appropriate conditions and safeguards in conformity with this ordinance. Violation of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this ordinance and punishable under the penalty section of this Land Development Code.

Under no circumstances shall the Board grant a variance to allow a use not otherwise permissible under this section in the district involved, or any use expressly or by implication prohibited by the terms of this ordinance in said district.

#### **1.16.H DECISION OF ZONING BOARD OF ADJUSTMENT**

The concurring vote of four members of the Board shall be necessary to reverse any order, requirement, decision, or determination of the Administrative Official, or to decide in favor of the applicant on any matter upon which it is required to pass under this Land Development Code, or to effect any variation in the application of this ordinance.

#### **1.16.I APPEAL PROCEDURES - ZBA**

1. Any person or persons, or any board, taxpayer, department, commission or agency of the City aggrieved by any decision of the Zoning Board of Adjustment may seek review by a court of record of such decision, and under the time limit specified in Section 211.011, Local Government Code, V.T.C.A. If no appeal has been taken from the Zoning Board of Adjustment ruling within the time limit specified under the above mentioned Article, the Board's ruling shall be final.
2. It is the intent of this ordinance that all questions of interpretation and enforcement shall be first presented to the Administrative Official, and that such questions shall be presented to the Zoning Board of Adjustment only on appeal from the decision of the Administrative Official, and that recourse from the decisions of the Zoning Board of Adjustment shall be to the courts as provided by law.

3. It is further the intent of this ordinance that the duties of the City Council in connection with this section shall not include hearing and deciding questions of interpretation and enforcement that may arise. Under this ordinance the City Council shall have only the duties of considering and adopting or rejecting proposed amendments, or the repeal of this ordinance, as provided by law.
4. Conditions: The Board or City Council, as may apply, is empowered to impose upon any variance or special exception any condition reasonably necessary to protect the public interest and community welfare.

## Section 1.17 Reserved

## Section 1.18 Amending the Land Development Code

The regulations and restrictions imposed by this Land Development Code and the districts and boundaries created by the Official Zoning Map may be amended from time to time using the procedures provided in this section.

### **1.18.A AMENDING A SUBDIVISION PLAT REGULATION**

A subdivision plat regulation as contained in Chapters 8, 9, 10, 11, 12, 14 & 15 of this Land Development Code, may be amended upon adoption of an ordinance approved by the City Council after public hearing. Notice of said public hearing to be given in a newspaper having general circulation in the city not less than ten (10) days prior to the hearing. The City Council may request the recommendation of the Planning and Zoning Commission on any proposed amendment to a plat regulation. Said amendment shall be additionally subject to the standard rules, regulations and procedural requirements established in *Chapter 212 – Local Government Code* and *Article VI – Charter of the City of Colleyville*.

### **1.18.B AMENDING A ZONING REGULATION OR THE OFFICIAL ZONING MAP**

The City Council may from time to time amend, supplement, change, modify or repeal the regulations and restrictions imposed in *Chapter 1 – General Provisions*; *Chapter 2 – Definitions*; or *Chapter 3 – Land Use*, of this Land Development Code, and the districts and boundaries described on the Official Zoning Map, using the procedures described in this section. Such amendment shall additionally be subject to the rules and procedures in *Chapter 211 – Local Government Code*, and *Article VI of the Charter of the City of Colleyville*.

1. Zoning Regulation Amendments – Any person or corporation may petition the City Council for a change or amendment to the provisions of these regulations; or the Planning and Zoning Commission or City Council may, on its own motion, initiate study and proposal for changes or amendments to a zoning regulation in the public interest.
2. Zoning District Boundary Changes – Any person or corporation having a proprietary interest in a parcel of land may request a change in zoning on such property; or the Planning and Zoning Commission or City Council may, on its own motion, initiate proceedings to consider a change in zoning on a parcel of land. All requests for a change in zoning shall be submitted, together with the required fee, to the Administrative Official, which officer shall cause notices to be sent and the request placed on the Planning and Zoning Commission agenda. Only one application for a zoning change will be considered at any one time on a parcel of land. No additional rezoning application on a parcel of land will be considered until final action of any pending application has been completed, subject to the time limits imposed elsewhere in these regulations.
3. Fees – Until all applicable fees, charges, expenses and delinquent city, county, and school taxes have been paid in full, no action shall be taken on any zoning application. No refund of any

- application fee shall be made after the request has been scheduled for consideration by the Commission.
4. Commission Public Hearing and Written Notification - Before making report of an application for a planned development, special use permit, or proposed amendment to a zoning regulation or zoning district boundary, the Planning and Zoning Commission shall hold a public hearing and receive comment in accordance with the following:
    - a. No less than ten (10) days notice of the time, place and nature of the public hearing shall be published in publication having general circulation in the city of Colleyville.
    - b. When a proposed change affects a specific tract of land, written notice of the public hearing shall be sent to all owners of real property lying within two hundred (200) feet of the area being considered. Such notice to be given to each property owner as listed on the last approved tax roll not less than ten (10) days before the day set for hearing by depositing letters properly addressed and postage paid in the United States Post Office. The applicant will be sent notice by certified mail.
      - i. Alcohol and Package Store SUP Requests – When a rezoning application includes a provision for a Special Use Permit for the sale of alcoholic beverages or a package store, the written notification of the public hearing stated in the preceding paragraph shall be sent to all owners of real property lying within five hundred (500) feet of the area being considered. The land area within 200 feet of the proposed Special Use Permit shall be used to calculate whether a protest against the request would require a super-majority vote of the City Council to approve the Special Use Permit. (Ord. O-03-1399 / 04-15-2003).
  5. Sign Posting - The Administrative Official is directed to cause a sign to be placed upon the property clearly visible to passersby, which states that the property is the subject of a rezoning application (or words of like intent). The sign shall be posted at least ten (10) days prior to the hearing and shall remain posted until the hearing. Failure to perform this particular notice provision shall, however, in no way prevent the Planning and Zoning Commission from hearing the application and disposing of the issues involved on the hearing date.
  6. Report of Commission – After a public hearing, the Planning and Zoning Commission shall vote on the proposal and report its recommendation to the City Council. The proposal, as recommended by the Commission, shall be placed on the next available City Council agenda, provided proper notice has been given.
    - a. *Amended Proposals:* The Planning and Zoning Commission may consider a request from the applicant to amend the proposal without additional notification of adjacent property owners, provided that the amended request is determined by the Commission as being more restrictive than the initial request and the boundary or content of the amended request is not expanded.
    - b. *Notice of Appeal:* Denial of the proposal by the Planning and Zoning Commission shall be final, unless the applicant submits a written notice of appeal within ten (10) days from the date of the action by the Commission. The Administrative Official shall re-notify all property owners lying within two hundred (200) feet of the area being considered and place the applicant's rezoning request on the next available agenda for consideration by the City Council.
    - c. *Failure to Act Provision:* Failure by the Commission to act on an amendment within sixty (60) days of the first date of public hearing shall be considered a recommendation for denial of the amendment.
  7. City Council Public Hearing and Newspaper Notice - A zoning regulation or a zoning district boundary may be amended by the City Council upon adoption of an ordinance, but no amendment shall be made without public hearing before the City Council. No less than fifteen

(15) days notice of the time, place and nature of such hearing shall be published in publication having general circulation in the City of Colleyville. No amendment to a regulation or to a district boundary shall be considered by the City Council until a report of the proposed amendment has been made by the Planning and Zoning Commission. Unless denied by the Planning and Zoning Commission, every rezoning request receiving final approval of the Commission shall be forwarded to the City Council for consideration, unless the applicant has requested the proposal be withdrawn. The City Council may refer any amended rezoning request back to the Planning and Zoning Commission for further study and recommendation.

8. Special City Council Voting Requirements - No change of which the Planning and Zoning Commission has recommended denial or in case of a protest against such change, signed by the owners of twenty (20) percent or more of either the area of lots or land included in such proposed change, or lots or land immediately adjoining same and extending two hundred (200) feet therefrom, filed with the City Secretary, shall be passed except by a favorable vote of three-fourths (3/4) of all members of the City Council. In computing the percentage of land area, the area of streets and alleys shall be included in the computation.
9. Withdrawal – Any proposal or application that is withdrawn by the applicant before a vote is considered by the City Council shall not be subject to the time limit for submittal of a new application.
10. Time Limit for Re-submittal - No one shall request a zoning change on the same parcel of property more often than once every twelve (12) months. However, a request for a change of zoning of a parcel of property to a different zoning classification than that previously requested may be filed as frequently as desired.
11. Submittal Requirements for Zoning District Change - Every petition for a zoning district change shall be accompanied by supporting documents of the area petitioned for a zone change. In general the petitioners shall submit a drawing and supporting documents as follows:
  - a. Scale - No smaller than 1" = 100'
  - b. Zoning and use of adjacent property
  - c. Vicinity Map - showing location of the land within the community
  - d. Physical features - The location of existing streets, water courses, railroads, etc., on and adjacent to the subject property
  - e. 100-year flood plain limits within the subject property
  - f. Legal description (metes and bounds) of the total site area proposed for rezoning, development, or special use permit to be included on the Zoning Exhibit and submitted on a separate letter or legal size single page.
12. Special Application Requirements - Site Plan and Supporting Documents Required - Every petition for a zoning district change to R-D, R-MF, MH, C-PO, CN, C-C and M-L and all Special Use Permit requests shall additionally be accompanied by a site plan and supporting documents of the area petitioned for a zone change. The purpose of the site plan is to illustrate the logical arrangement of the elements on the land and to show relationships of elements to each other.

The petitioner is encouraged to meet with the appropriate city staff member in an informal work session to ascertain the exact extent of plans and documents required, if any, prior to the City initiating the advertisement for public hearing on the petition.

The general type and extent of site plans and supporting documents which may be required of the petitioner include, but are not necessarily limited to:

- a. Site Plan, meeting all of the requirements of a "Preliminary Plat" as described in the City's subdivision regulations, except that topographic and drainage map information provisions may be waived by the reviewing body when the inclusion of such data would not materially contribute to the necessary evaluation of the project petition. Additional site plan drawing information which the reviewing body may require include:
  1. Existing and proposed zoning district classifications and boundaries;
  2. General outline of extensive tree cover areas;
  3. Drainage ways and 100-year flood plain limits;
  4. Proposed treatment for screening the perimeter of the land embraced by the petition, including screening of internal separations of land use where required;
  5. Proposed internal non-vehicular circulation linkages, such as: pedestrian paths and hike trails; bike trails; and equestrian bridle paths, where applicable, including their interrelationships with vehicular circulation systems and proposed handling of points of conflict;
  6. A graphic illustration showing the location of proposed buildings, driveways and all physical elements and a tabular summary schedule indicating:
    - a) The gross acreage and percent of each type of zoning category proposed;
    - b) The gross acreage and percent of each type of land use proposed, with streets and open space categories listed separately, and residential uses further stratified as to type, i.e., single family, two-family, multifamily, townhouse, etc., including the total gross project acreage;
    - c) The gross residential density of each type of residential land use proposed, expressed in dwelling units per acre; and based on net residential land use plus one-half of any abutting street, only;
    - d) The quantitative number of dwelling units proposed for each residential dwelling type, i.e., single family, two-family, etc.;
    - e) Proposed maximum lot coverage by building types (i.e., one-family, multifamily, commercial, office, industrial, etc.) expressed in terms of percent or floor area ratio of the lot or site.
- b. Architectural Drawings, such as elevations, concept sketches or renderings depicting building types and other significant proposed improvements including the treatment and use of open spaces, etc., where the submission of such drawings would more clearly portray the nature and character of the applicant's land use and development proposals.
- c. Written Documents, in narrative form on 8-1/2" X 11" sheets, including:
  1. Statement(s) on planning objectives to be achieved in the land use/development proposal, including a narrative description of the character of the proposed development and rationale behind the assumptions and choices made by the applicant, including use and ownership of open spaces, etc.
  2. Legal description of the total site area proposed for rezoning, development or special use permit.
  3. A development schedule, if any, indicating the approximate date(s) when construction of the proposed development, and subsequent stages or phases can be expected to begin and be completed, to the best of the applicant's knowledge and belief.

4. A statement as to the present and proposed ownership of the site or parcels thereof embraced by the application.
  5. Statement(s) as to how and when the applicant proposes to provide water and sewer to the development.
  6. Signature(s) and title(s) of the applicant(s) and preparer(s) of the written documents certifying the information presented in all of the plans and supporting documents reflect a reasonably accurate portrayal of the general nature, character and feasibility of the applicant's proposals. All signatures will be dated.
13. Traffic Impact Analysis - When a proposed development is projected to generate more than 1000 vehicle trips per day, a traffic impact analysis shall be required with the rezoning request. The traffic impact analysis shall be prepared in accordance with the requirements of the Director of Public Services. The purpose of the traffic impact analysis is to determine the need for traffic mitigation measures which may include, but are not limited to, dedication of additional right-of-way, construction of turning lanes, or construction of traffic control facilities.

#### **1.18.C      RESERVED**

#### **1.18.D      AMENDING ALL OTHER REGULATIONS**

A regulation contained in any of the other Chapters of this Land Development Code that have not been previously mentioned may be amended upon adoption of an ordinance approved by the City Council after public hearing. Notice of said public hearing to be given in a newspaper having general circulation in the city not less than ten (10) days prior to the hearing. The City Council may request the recommendation of the Planning and Zoning Commission on any proposed amendment. Amendments shall be additionally subject to the standard rules, regulations and procedural requirements established in *Chapter 51 – Local Government Code* and *Article VI of the Charter of the City of Colleyville*.

### **Section 1.19 Violations and Penalties**

Any person, firm or corporation violating any of the provisions of this Land Development Code shall be guilty of a misdemeanor and upon conviction thereof shall be fined in a sum not to exceed two thousand dollars (\$2,000.00), unless a lesser fine is provided for in the section of the Code so violated. Each and every day such violation continues shall constitute a separate offense and shall be punishable as such.

The owner or tenant of any building, structure, premises, or part thereof, and any architect, builder, contractor, engineer, planner, agent, or other person who commits, participates in, assists in, or maintains such violation may each be found guilty of a separate offense and suffer the penalties herein provided.

### **Section 1.20 Relationship to Other Laws and Restrictions**

It is not intended by this Land Development Code to interfere with or abrogate or annul any other resolution or rule, regulation or permit, previously adopted or issued or which shall be adopted or issued, not in conflict with any of the provisions contained herein; nor is it intended by this Land Development Code to interfere with or abrogate or annul any easements, covenants or other agreements between parties; provided, however, that where this Land Development Code imposes a greater restriction upon land, buildings, or structures than is imposed by other ordinances, covenants, restrictions or agreements, then the provisions of this Code shall govern. If other ordinances are more strict than this Code, then the more strict provisions shall prevail.

**Section 1.21 Repeal of Conflicting Ordinances**

All ordinances or parts of ordinances in conflict herewith are repealed to the extent of the conflict only.

**Section 1.22 Severability Clause**

It is hereby declared to be the intention of the City Council of the City of Colleyville, that the sections, paragraphs, sentences, clauses and phrases of this Code are severable, and if any phrase, clause, sentence, paragraph, or section of this Code shall be declared unconstitutional, such unconstitutionality or invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of this Code since the same would have been enacted by the City Council without the incorporation in this Code of any such unconstitutional or invalid phrase, clause, sentence, paragraph or section.

**Section 1.23 Amendments to This Chapter**

Reserved for listing of amendments to this Chapter.

<b>Ord. Number</b>	<b>Date</b>	<b>Subject</b>
O-03-1399	04/15/2003	500 foot notification for alcohol SUP requests
O-03-1414	09/02/2003	Sign Board of Appeals authority
O-10-1750	05-04-2010	Addition of Package Store SUP Requirements