

City of Bandera
Planning and Zoning Commission Manual

Adopted April 5, 2018

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Bylaws

ARTICLE 1. NAME AND PURPOSE

1.1 Name

City of Bandera Planning and Zoning Commission (“Commission”).

1.2 Purpose

- a. The Commission is established to exercise the powers and duties of a zoning commission as permitted by law, including Local Government Code Chapter 211, the City’s adopted development codes and the City of Bandera Code of Ordinances, as amended.
- b. The Commission is established to exercise the powers and duties of a planning commission as permitted by law, including Local Government Code Chapter 212 the City’s adopted development codes and the City of Bandera Code of Ordinances, as amended.

ARTICLE 2. MEMBERSHIP

2.1 Number of Members

The Commission will be comprised of five (5) Members.

2.2 Eligibility

All of the five Members shall reside in the corporate City limits or own a business or real property within the corporate City limits, with at least three of the Members residing within the City limits. The Commission shall be broadly representative as a whole, and whenever possible, Members shall be drawn from different residential areas, occupations, professions and interest groups.

2.3 Appointment of Commission Members

Members of the Commission shall be appointed by City Council and in accordance with the City of Bandera Code of Ordinances.

2.4 Terms of Office

Terms of office shall be in accordance with the City of Bandera Code of Ordinances.

2.5 Vacancies

Vacancies that occur during a term shall be filled as soon as reasonably possible and in the same manner as a regular appointment. If possible, the Member shall continue to serve until the vacancy is filled. An appointment to fill a vacated term is not included as a term of the purpose of counting consecutive terms.

2.6 Compensation and Expenditure of Funds

Members shall serve without compensation. The Commission and its Members have no authority to expend funds or to incur or make obligation on behalf of the City unless expressly authorized and approved by the City Council. Members may be reimbursed for expenses authorized and approved by the City Council and by the Commission.

2.7 Compliance with City Policy

Members will comply with City Ordinances, Rules and Policies applicable to the Commission and the Members, including but not limited to any ethics standards and standards for City Boards and Commissions.

2.8 Removal

Removal of Members shall be by a majority vote of City Council, for any reason or for no reason, in accordance with applicable state statutes.

ARTICLE 3. COMMISSION OFFICERS

3.1 Officers

The Board of Officers are Chairman and Vice-Chairman. The Officers are selected by the Commission through a majority vote of the Members.

3.2 Terms of Office for Commission Officers

Commission Officers serve for a term of two years. In the event of a vacancy in the office of Chairman, the Vice-Chairman shall serve as Chairman unless and until the Commission votes to select a replacement Chairman. Vacancies in offices shall be filled by a majority vote of the Commission at the next regularly scheduled meeting, or as soon as is reasonably practicable for the unexpired term. If possible, a Commission Officer shall continue to serve until the vacancy is filled.

3.3 Duties

- a. The Chairman presides at Commission meetings. The Chairman shall generally manage the business of the Commission and shall perform the duties delegated to that office.
- b. The Vice-Chairman shall perform the duties delegated to the Vice-Chairman by the Commission. The Vice-Chairman presides at Commission meetings in the Chairman's absence. The Vice-Chairman shall perform the duties of the Chairman in the Chairman's absence or disability.

ARTICLE 4. MEETINGS

4.1 Time and Date of Regular Meeting

The Commission shall meet once a month on the same week of the month, the same day of the week, at the same time and at the same place.

4.2 Agenda

Items may be placed on the agenda by the Chairman, the City Administrator or their designee, or at the request of a Member. The party (or individual) requesting the agenda item will be responsible for presenting the item at the meeting. Items included on the agenda must be submitted to the City Secretary no later than one week before the Commission meeting at which the agenda item will be considered. Agenda packets will be provided to the Members in advance of the scheduled Commission meeting, Agenda packets will contain the posted agenda, agenda item material and written minutes of the previous meeting.

4.3 Special Meetings

Special meetings may be called by the Chairman or by request of two (2) Members.

4.4 Quorum

A quorum shall consist of a majority of the Members. A quorum is required for the Commission to convene a meeting and to conduct business at a meeting.

4.5 Call to Order

Commission meetings will be called to order by the Chairman, or if absent, the Vice-Chairman..

4.6 Conduct of Meeting

Commission meetings will be conducted in accordance with these Bylaws and with the rules and procedures that apply to the City Council, as applicable to the Commission.

4.7 Voting

Each Member shall vote on all agenda items, except in matters involving a conflict of interest, substantial financial interest or substantial economic interest under state law; ethics standards adopted by City Council; or other applicable Laws, Rules and Policies. In such instances the Member shall make the required disclosure and shall refrain from participating in both the discussion and vote on the matter. The Member may choose to remain at the dais during the discussion and vote. Unless provided by law, if a quorum is present, an agenda item must be approved by a majority of the Commission Members present at the meeting.

4.8 Minutes

A recording, or written minutes, shall be made of all open sessions of Commission meetings. The City Secretary is the custodian of all Commission records and documents.

4.9 Attendance

Members are required to attend Commission meetings and be prepared to discuss items on the agenda. A Member shall notify the Chairman and the City Secretary if the Member is unable to attend a meeting. Excessive absenteeism will be subject to action by City Council and may result in the Member being removed from the Commission. Excessive absenteeism means a failure to attend at least 75% of regularly scheduled meetings, including Commission and Subcommittee meetings.

4.10 Public Participation

In accordance with City policy, the public is welcome and invited to attend Commission meetings and to speak on any item on the agenda. A person wishing to address the Commission must sign up to speak in accordance with the policy of the Council concerning participation and general public comment at public meetings. Sign-up sheets will be available and should be submitted to the Chairman prior to the start of the meeting. If any written materials are to be provided to the Commission, a copy shall also be provided to the City Secretary for inclusion in the minutes of the meeting. Speakers shall be allowed a maximum of three minutes to speak but may take up to six minutes if another individual who signs up to speak yields their time to the speaker. A person who disrupts the meeting may be asked to leave and be removed.

4.11 Open Meetings

Public notice of Commission meetings shall be provided in accordance with the provisions of the Texas Open Meetings Act. All Commission meetings and deliberations shall be open to the public, except for properly noticed closed session meetings, and shall be conducted in accordance with the provisions of the Texas Open Meetings Act.

4.12 Closed Meetings

The Chairman may conduct closed meetings as allowed by law, on properly noticed closed session matters. A recording or certified agenda shall be made of all closed sessions of Commission meetings.

ARTICLE 5. REPORTS TO CITY COUNCIL

The Commission shall meet with City Council, as requested, to determine how the Commission may best serve and assist City Council. City Council shall hear reports from the Commission at regularly scheduled Council meetings.

ARTICLE 6. SUBCOMMITTEES

6.1 Formation

When deemed necessary by a majority of the Commission, Subcommittees may be formed for specific projects related to Commission matters. Subcommittees comprised of non-Members may only be formed with the prior consent and confirmation of the City Council.

6.2 Expenditure of Funds

No Subcommittee, or member of a Subcommittee, has the authority to expend funds or to incur an obligation on behalf of the City or the Commission.

ARTICLE 7. BYLAWS AMENDMENTS

These Bylaws may be amended by majority vote of the Commission Members at any regular meeting of the Commission. The Commission’s proposed amendments to the Bylaws are not effective until approved by City Council. City Council may also choose to amend these Bylaws by majority vote at any regular meeting of the Council.

ARTICLE 8. SEVERABILITY

If any Bylaw provision is held to be invalid, illegal or unenforceable in any respect, that provision shall not affect any other provision and the Bylaws shall be construed as if the provision were not included.

Approved and adopted at a meeting of the City Council held on the 5th day of April 2018.

ATTEST:

THE CITY OF BANDERA

Jill Shelton, City Secretary

Suzanne Schauman, Mayor

Policies and Procedures

Powers and Duties of a P&Z Commission

Planning and Zoning Commissions in Texas serve two primary responsibilities:

1. The rezoning of land within the city's incorporated area or boundary
2. The approval of plats (the combination and division of land parcels)

These responsibilities are governed mainly by two chapters in the Texas Local Government Code:

1. Local Government Code Chapter 211 grants zoning authority to municipalities (cities) and provides the guidelines and rules for zoning in cities
2. Local Government Code Chapter 212 governs the municipal (city) regulation of subdivisions and property development

Zoning

Zoning is "...for the purpose of promoting the public health, safety, morals, or general welfare and protecting and preserving places and areas of historical, cultural, or architectural importance and significance." – Texas LGC Chapter 211 Sec. 211.001

Bandera City Council may regulate through zoning:

1. The height, number of stories, and size of buildings and other structures
2. The percentage of a lot that may be occupied by a building or buildings
3. The size of yards, courts, and other open spaces
4. Population density
5. The location and use of buildings, other structures, and land for business, industrial, residential, or other purposes
6. The pumping, extraction, and use of groundwater by persons other than retail public utilities for the purpose of preventing the use or contact with groundwater that presents an actual or potential threat to human health.
7. If the City has designated places and areas of historical, cultural, or architectural importance and significance, City Council may regulate construction, reconstruction, alteration, or demolition of buildings and other structures within the designated places and areas.

Texas law requires that zoning regulations must be adopted in accordance with a Comprehensive Plan. That Plan and the zoning regulations to put the plan into action must be designed to:

1. Lessen congestion in the streets
2. Secure safety from fire, panic, and other dangers
3. Promote health and the general welfare
4. Provide adequate light and air
5. Prevent the overcrowding of land
6. Avoid undue concentration of population
7. Facilitate the adequate provision of transportation, water, sewers, schools, parks, and other public requirements.

City Council may divide the City into districts of a number, shape, and size the Council considers best for carrying out the Comprehensive Plan. Within each district, the Council may regulate the erection, construction, reconstruction, alteration, repair, or use of buildings, other structures, or land. Zoning regulations must be uniform for each class or kind of building in a district, but the regulations may vary from district to district. The regulations shall be adopted with reasonable consideration, among other things, for the character of each district and its peculiar suitability for particular uses, with a view of conserving the value of buildings and encouraging the most appropriate use of land in the City.

City Council shall establish procedures for adopting and enforcing the regulations and boundaries. A regulation or boundary is not effective until after a public hearing on the matter at which parties in interest and citizens have an opportunity to be heard. Before the 15th day before the date of the hearing, notice of the time and place of the hearing must be published in an official newspaper or a newspaper of general circulation in the municipality. The City must also inform property owners within 200 feet of the parcel proposed to be rezoned or the proposed change. City Council may not adopt the proposed change until after the 30th day after the date the notice is given. If a proposed change to a regulation or boundary is protested, the proposed change must receive, in order to take effect, the affirmative vote of at least three-fourths of all members of the City Council. The protest must be written and signed by the owners of at least 20 percent of either: (1) the area of the lots or land covered by the proposed change; or (2) the area of the lots or land immediately adjoining the area covered by the proposed change and extending 200 feet from that area. In computing the percentage of land area, the area of streets and alleys shall be included. City Council by ordinance may provide that the affirmative vote of at least three-fourths of all its members is required to overrule a recommendation of the Bandera Planning and Zoning commission that a proposed change to a regulation or boundary be denied.

The Bandera Planning and Zoning Commission has been appointed by City Council to carry out the responsibilities that have been delegated to them by Council. The Planning and Zoning Commission shall recommend boundaries for the zoning districts and appropriate zoning regulations for each district. The zoning commission shall make a preliminary report and hold public hearings on that report before submitting a final report to City Council. City Council may not hold a public hearing until it receives the final report of the zoning commission unless the Council by ordinance provides that a public hearing is to be held, after the required notice, jointly with a public hearing required to be held by the zoning commission. In either case, the City Council may not take action on the matter until it receives the final report of the zoning commission. Before the 10th day before the hearing date, written notice of each public hearing before the zoning commission on a proposed change in a zoning classification shall be sent to each owner, as indicated by the most recently approved municipal tax roll, of real property within 200 feet of the property on which the change in classification is proposed. The notice may be served by its deposit in the municipality, properly addressed with postage paid, in the United States mail. If the property within 200 feet of the property on which the change is proposed is located in territory annexed to the municipality and is not included on the most recently approved municipal tax roll, the notice shall be given in the same manner. Before the 10th day before the hearing date, written notice of each public hearing before the zoning commission on a proposed change in a zoning classification affecting residential or multifamily zoning shall be sent to each school district in which the property for which the change in classification is proposed is located. The notice may be served by its deposit in the municipality, properly addressed with postage paid, in the United States mail.

Subdivision Plat Approval

After a public hearing on the matter, City Council may adopt rules governing plats and subdivisions of land within the City's jurisdiction to promote the health, safety, morals, or general welfare of the municipality and the safe, orderly, and healthful development of the City.

To determine whether specific divisions of land are required to be platted, the City may define and classify the divisions. The City need not require platting for every division of land and may require the filing of a development plat instead.

The City of Bandera Planning and Zoning Commission is responsible for approving plats. The Bandera City Council by ordinance may require their approval in addition to that of the P&Z. City Council may delegate to one or more officers or employees of the City or of a utility owned or operated by the City the ability to approve:

1. Amending of plats described below
2. Minor plats or replats involving four or fewer lots fronting on an existing street and not requiring the creation of any new street or the extension of municipal facilities
3. A replat that does not require the creation of any new street or the extension of municipal facilities

The designated person or persons may, for any reason, elect to present the plat for approval to the Planning and Zoning Commission. The person or persons shall not disapprove the plat and shall be required to refer any plat which the person or persons refuse to approve to the Planning and Zoning Commission within the time period specified for approval.

A person desiring approval of a plat must apply to and file a copy of the plat with the Planning and Zoning commission, which shall act on a plat within 30 days after the date the plat is filed. A plat is considered approved unless it is disapproved within that period. If an ordinance requires that a plat be approved by City Council in addition to the Planning and Zoning Commission, City Council shall act on the plat within 30 days after the date the plat is approved by the Planning and Zoning Commission or is considered approved by the inaction of the commission. A plat is considered approved by City Council unless it is disapproved within that period. If a plat receives final approval, the final approving authority shall endorse the plat with a certificate indicating the approval. The certificate must be signed by the authority's presiding officer and attested by the City Secretary, or by a majority of the members of the authority. If the Planning and Zoning Commission (or City Council if required by Ordinance) fails to act on a plat within the prescribed period, they shall issue a certificate stating the date the plat was filed and that they failed to act on the plat within the period. The certificate is effective in place of the endorsement. The Planning and Zoning Commission shall maintain a record of each application made to it and the action taken on it. On request of an owner of an affected tract, the Planning and Zoning Commission shall certify the reasons for the action taken on an application.

The Planning and Zoning Commission shall approve a plat if:

1. It conforms to the general plan of the municipality and its current and future streets, alleys, parks, playgrounds, and public utility facilities
2. It conforms to the general plan for the extension of the municipality and its roads, streets, and public highways within the municipality and in its extraterritorial jurisdiction, taking into account access to and extension of sewer and water mains and the instrumentalities of public utilities
3. A bond, if applicable, is filed with the municipality

4. It conforms to any rules adopted, however, the municipal authority responsible for approving plats may not approve a plat unless the plat and other documents have been prepared as required.

If a person submits a plat for the subdivision of a tract of land for which the source of the water supply intended for the subdivision is groundwater under that land, the Planning and Zoning Commission may require the plat application to have attached to it a statement that it is prepared by an engineer licensed to practice in this state or a geoscientist licensed to practice in this state, and certifies that adequate groundwater is available for the subdivision.

The approval of a plat is not considered an acceptance of any proposed dedication and does not impose on the City of Bandera any duty regarding the maintenance or improvement of any dedicated parts until the appropriate municipal authorities make an actual appropriation of the dedicated parts by entry, use, or improvement. The disapproval of a plat is considered a refusal by the City of the offered dedication indicated on the plat.

Land is considered to be within the jurisdiction of the City of Bandera if the land is located within the limits of the City. On the approval of a plat by the Planning and Zoning Commission, they shall issue to the person applying for the approval a certificate stating that the plat has been reviewed and approved by them. On the written request of an owner of land, a purchaser of real property under a contract for deed, executory contract, or other executory conveyance, an entity that provides utility service, or City Council, the Planning and Zoning Commission shall make the following determinations regarding the owner's land or the land in which the entity or City Council is interested that is located within the jurisdiction of the City whether a plat is required for the land, and if a plat is required, whether it has been prepared and whether it has been reviewed and approved by the Planning and Zoning Commission. The request must identify the land that is the subject of the request. If the Planning and Zoning Commission determines that a plat is not required, they shall issue to the requesting party a written certification of that determination. If the Planning and Zoning Commission determines that a plat is required and that the plat has been prepared and has been reviewed and approved by them, they shall issue to the requesting party a written certification of that determination. The Planning and Zoning Commission shall make its determination within 20 days after the date it receives the request and shall issue the certificate, if appropriate, within 10 days after the date the determination is made. If both the Planning and Zoning Commission and the City Council have authority to approve plats, only one of those entities need make the determinations and issue the certificates required. The Planning and Zoning Commission may adopt rules it considers necessary to administer its functions under this section. The City Council may delegate, in writing, the ability to perform any of the responsibilities under this section to one or more persons. A binding decision of the person or persons under this subsection is appealable to the Planning and Zoning Commission.

An entity may not serve or connect any land with water, sewer, electricity, gas, or other utility service unless the entity has been presented with or otherwise holds a plat certificate applicable to the land. The prohibition applies only to:

1. A municipality and officials of a municipality that provides water, sewer, electricity, gas, or other utility service;
2. A municipally owned or municipally operated utility that provides any of those services;
3. A public utility that provides any of those services;
4. A water supply or sewer service corporation organized and operating under Chapter 67, Water Code, that provides any of those services;
5. A county that provides any of those services; and

6. A special district or authority created by or under state law that provides any of those services.

An entity may serve or connect land with water, sewer, electricity, gas, or other utility service regardless of whether the entity is presented with or otherwise holds a certificate applicable to the land if the land is covered by an approved development plat or under an ordinance or rule relating to the development plat, or if the land was first served or connected with service by an entity described above before September 1, 1987.

The proprietors of the tract covered by a plat may vacate the plat at any time before any lot in the plat is sold. The plat is vacated when a signed, acknowledged instrument declaring the plat vacated is approved and recorded in the manner prescribed for the original plat. If lots in the plat have been sold, the plat, or any part of the plat, may be vacated on the application of all the owners of lots in the plat with approval obtained in the manner prescribed for the original plat. The county clerk shall write legibly on the vacated plat the word "Vacated" and shall enter on the plat a reference to the volume and page at which the vacating instrument is recorded. On the execution and recording of the vacating instrument, the vacated plat has no effect.

A replat of a subdivision or part of a subdivision may be recorded and is controlling over the preceding plat without vacation of that plat if the replat is signed and acknowledged by only the owners of the property being replatted; is approved, after a public hearing on the matter at which parties in interest and citizens have an opportunity to be heard, by the municipal authority responsible for approving plats; and does not attempt to amend or remove any covenants or restrictions.

A replat of a part of a subdivision may be recorded and is controlling over the preceding plat without vacation of that plat if the replat is signed and acknowledged by only the owners of the property being replatted; and involves only property of less than one acre that fronts an existing street; and that is owned and used by a nonprofit corporation established to assist children in at-risk situations through volunteer and individualized attention. An existing covenant or restriction for property that is replatted under this section does not have to be amended or removed if the covenant or restriction was recorded more than 50 years before the date of the replat; and the replatted property has been continuously used by the nonprofit corporation for at least 10 years before the date of the replat. In addition, a replat without vacation of the preceding plat must conform to the following requirements if:

1. During the preceding five years, any of the area to be replatted was limited by an interim or permanent zoning classification to residential use for not more than two residential units per lot
2. Any lot in the preceding plat was limited by deed restrictions to residential use for not more than two residential units per lot.

Notice of the hearing required shall be given before the 15th day before the date of the hearing by publication in an official newspaper or a newspaper of general circulation in the county in which the municipality is located, and by written notice, with a copy of this statement attached:

“If the proposed replat requires a variance and is protested in accordance with this subsection, the proposed replat must receive, in order to be approved, the affirmative vote of at least three-fourths of the members present of the municipal planning commission or governing body, or both. For a legal protest, written instruments signed by the owners of at least 20 percent of the area of the lots or land immediately adjoining the area covered by the proposed replat and extending 200 feet from that area, but within the original subdivision, must be filed with the

municipal planning commission or governing body, or both, prior to the close of the public hearing.”

The notice must be forwarded by the municipal authority responsible for approving plats to the owners of lots that are in the original subdivision and that are within 200 feet of the lots to be replatted, as indicated on the most recently approved municipal tax roll or in the case of a subdivision within the extraterritorial jurisdiction, the most recently approved county tax roll of the property upon which the replat is requested. The written notice may be delivered by depositing the notice, properly addressed with postage prepaid, in a post office or postal depository within the boundaries of the municipality.

In computing the percentage of land area referenced in the notice, the area of streets and alleys shall be included. Compliance is not required for approval of a replat of part of a preceding plat if the area to be replatted was designated or reserved for other than single or duplex family residential use by notation on the last legally recorded plat or in the legally recorded restrictions applicable to the plat.

The Planning and Zoning Commission may approve and issue an amending plat, which may be recorded and is controlling over the preceding plat without vacation of that plat, if the amending plat is signed by the applicants only and is solely for one or more of the following purposes:

1. To correct an error in a course or distance shown on the preceding plat
2. To add a course or distance that was omitted on the preceding plat
3. To correct an error in a real property description shown on the preceding plat
4. To indicate monuments set after the death, disability, or retirement from practice of the engineer or surveyor responsible for setting monuments
5. To show the location or character of a monument that has been changed in location or character or that is shown incorrectly as to location or character on the preceding plat
6. To correct any other type of scrivener or clerical error or omission previously approved by the municipal authority responsible for approving plats, including lot numbers, acreage, street names, and identification of adjacent recorded plats
7. To correct an error in courses and distances of lot lines between two adjacent lots if:
 - a. both lot owners join in the application for amending the plat;
 - b. neither lot is abolished;
 - c. the amendment does not attempt to remove recorded covenants or restrictions; and
 - d. the amendment does not have a material adverse effect on the property rights of the other owners in the plat;
 - e. to relocate a lot line to eliminate an inadvertent encroachment of a building or other improvement on a lot line or easement;
 - f. to relocate one or more lot lines between one or more adjacent lots if:
 - a. the owners of all those lots join in the application for amending the plat;
 - b. the amendment does not attempt to remove recorded covenants or restrictions; and
 - c. the amendment does not increase the number of lots;
8. To make necessary changes to the preceding plat to create six or fewer lots in the subdivision or a part of the subdivision covered by the preceding plat if:
 - a. the changes do not affect applicable zoning and other regulations of the municipality;
 - b. the changes do not attempt to amend or remove any covenants or restrictions; and
 - c. the area covered by the changes is located in an area that the municipal planning commission or other appropriate governing body of the municipality has approved, after a public hearing, as a residential improvement area; or

9. to replat one or more lots fronting on an existing street if:
 - a. the owners of all those lots join in the application for amending the plat;
 - b. the amendment does not attempt to remove recorded covenants or restrictions;
 - c. the amendment does not increase the number of lots; and
 - d. the amendment does not create or require the creation of a new street or make necessary the extension of municipal facilities.

Notice, a hearing, and the approval of other lot owners are not required for the approval and issuance of an amending plat.

Comprehensive Land Use Plan Amendments

The City of Bandera has a draft of a Comprehensive Land Use Plan that covers many aspects of the community. This document should be viewed as a living document, one that is changed and updated as the community's needs and priorities change. One of the Bandera Planning and Zoning Commission's responsibilities is to recommend amendments to the Comprehensive Land Use Plan to City Council for adoption. The process to do this is much like the zoning and platting process: P&Z holds a hearing, takes input from the community and from any affected landowners, then provides a report to City Council, which will then vote on P&Z's recommendations. Both the P&Z vote and the City Council vote are simple majority votes on Comprehensive Land Use Plan Amendments.

Recommendations to City Council

Unless an ordinance specifies that the Planning and Zoning Commission has the final vote on an issue, all issues before the Planning and Zoning Commission, an appointed body, must be sent to City Council, an elected body, for final approval. Recommendations are required to be in the form of a written report. This report can be a single paragraph or several pages, depending on the issue at hand. The report needs to have a clear recommendation from P&Z on the issue, along with a tally of their votes for, against and abstaining or not present.

Texas Local Government Code Chapter 211 specifies that a three-fourths ($\frac{3}{4}$) majority vote by Council is required to override a recommendation by the Planning and Zoning Commission.

Zoning Change Process Chart

Plat Approval Process Chart

Appeals to Board of Adjustment (City Council)

Bandera City Council, in appropriate cases and subject to appropriate conditions and safeguards, serves as the Board of Adjustment to make special exceptions to the terms of the zoning ordinance that are consistent with the general purpose and intent of the ordinance and in accordance with any applicable rules contained in the ordinance. City Council, by charter or ordinance, may provide for the appointment of alternate board members to serve in the absence of one or more regular members when requested to do so by the mayor or city administrator. An alternate member serves for the same period as a regular member but is subject to removal in the same manner as a member of the Planning and Zoning Commission. A vacancy among the alternate members is filled in the same manner as a vacancy among the Planning and Zoning Commission regular members. Each case before the Board of Adjustment must be heard by at least 75 percent of the members. The Board by majority vote shall adopt rules in accordance with applicable ordinances. Meetings of the Board are held at the call of the presiding officer and at other times as determined by the Board. The presiding officer or acting presiding officer may administer oaths and compel the attendance of witnesses. All meetings of the Board shall be open to the public. The Board shall keep minutes of its proceedings that indicate the vote of each member on each question or the fact that a member is absent or fails to vote. The board shall keep records of its examinations and other official actions. The minutes and records shall be filed immediately in the board's office and are public records.

City Council may:

1. Hear and decide an appeal that alleges error in an order, requirement, decision, or determination made by an administrative official in the enforcement of this subchapter or an ordinance
2. Hear and decide special exceptions to the terms of a zoning ordinance when the ordinance requires the board to do so
3. Authorize in specific cases a variance from the terms of a zoning ordinance if the variance is not contrary to the public interest and, due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship, and so that the spirit of the ordinance is observed and substantial justice is done
4. Hear and decide other matters authorized by ordinance

In exercising its authority as a Board of Adjustment, City Council may reverse or affirm, in whole or in part, or modify the administrative official's order, requirement, decision, or determination from which an appeal is taken and make the correct order, requirement, decision, or determination, and for that purpose the board has the same authority as the administrative official. The concurring vote of 75 percent of the members of the Board is necessary to:

1. Reverse an order, requirement, decision, or determination of an administrative official
2. Decide in favor of an applicant on a matter on which the board is required to pass under a zoning ordinance
3. Authorize a variation from the terms of a zoning ordinance

The following persons may appeal to the Board of Adjustment a decision made by an administrative official:

1. A person aggrieved by the decision
2. Any officer, department, board, or bureau of the municipality affected by the decision

The appellant must file with the Board and the official from whom the appeal is taken a notice of appeal specifying the grounds for the appeal. The appeal must be filed within a reasonable time as determined by the rules of the Board. On receiving the notice, the official from whom the appeal is taken shall immediately transmit to the Board all the papers constituting the record of the action that is appealed. An appeal stays all proceedings in furtherance of the action that is appealed unless the official from whom the appeal is taken certifies in writing to the Board facts supporting the official's opinion that a stay would cause imminent peril to life or property. In that case, the proceedings may be stayed only by a restraining order granted by the board or a court of record on application, after notice to the official, if due cause is shown. The Board shall set a reasonable time for the appeal hearing and shall give public notice of the hearing and due notice to the parties in interest. A party may appear at the appeal hearing in person or by agent or attorney. The Board shall decide the appeal within a reasonable time. A member of the governing body of the municipality who serves on the Board of Adjustment may not bring an appeal.

Any of the following persons may present to a district court, county court, or county court at law a verified petition stating that the decision of the board of adjustment is illegal in whole or in part and specifying the grounds of the illegality:

1. A person aggrieved by a decision of the Board
2. A taxpayer
3. An officer, department, board, or bureau of the municipality

The petition must be presented within 10 days after the date the decision is filed in the Board's office. On the presentation of the petition, the court may grant a writ of certiorari directed to the Board to review the Board's decision. The writ must indicate the time by which the board's return must be made and served on the petitioner's attorney, which must be after 10 days and may be extended by the court. Granting of the writ does not stay the proceedings on the decision under appeal, but on application and after notice to the Board the court may grant a restraining order if due cause is shown. The Board's return must be verified and must concisely state any pertinent and material facts that show the grounds of the decision under appeal. The Board is not required to return the original documents on which the board acted but may return certified or sworn copies of the documents or parts of the documents as required by the writ. If at the hearing the court determines that testimony is necessary for the proper disposition of the matter, it may take evidence or appoint a referee to take evidence as directed. The referee shall report the evidence to the court with the referee's findings of fact and conclusions of law. The referee's report constitutes a part of the proceedings on which the court shall make its decision. The court may reverse or affirm, in whole or in part, or modify the decision that is appealed. Costs may not be assessed against the Board unless the court determines that the Board acted with gross negligence, in bad faith, or with malice in making its decision. The court may not apply a different standard of review to a decision of a board of adjustment that is composed of members of the governing body of the municipality than is applied to a decision of a board of adjustment that does not contain members of the governing body of a municipality.

P&Z Commission Membership and Responsibilities

Qualifications of a P&Z member

To serve on the City of Bandera Planning and Zoning Commission, you must be qualified for appointment to the Commission, and you have to be appointed by the Bandera City Council by majority vote. To qualify for appointment, you must be a resident of the City of Bandera or own a business or real property within the City, and preference will be given to persons who can demonstrate experience or knowledge related to the duties and responsibilities of the P&Z Commission as delegated to them by City Council.

Resident of City

To serve on P&Z, you must reside in either the City Limits of the City of Bandera or own a business or real property within the City. The City Limits are shown on the City's zoning map. If you are unsure if your residence, business or property qualify you to serve, please contact the City of Bandera and be prepared to provide your address. You must also be a US citizen, be at least 18 years of age, not a convicted felon who is currently incarcerated, on parole or on probation, and you must not have been declared mentally incompetent in a court of law.

Desired professions

Preference will be given to persons who can demonstrate prior experience in the following areas:

Real Estate	Public Works	Facilities Management
Law	Surveying	Planning Commission
Architecture	Construction	Zoning Commission
Planning	Public Office	Historic Preservation
Engineering	City Management	Land Management

Prior experience is not required to serve and will be one of several considerations evaluated by City Council when they appoint P&Z members.

Appointed Official Training

Elected and appointed officials in Texas are required to complete training on Open Meetings (Texas Local Government Code Chapter 551) and Open Records (Texas Local Government Code Chapter 552) requirements. Each training takes approximately one hour, is free, and can be done online via the Texas Attorney General's website at <https://www.texasattorneygeneral.gov/og/open-government-training>. Once you complete the training and receive the certificate, you can submit the certificate to the Bandera City Secretary.

Appendix to Comprehensive Plan

Platting Authority in the City's ETJ

City Council by ordinance may extend to the extraterritorial jurisdiction of the City of Bandera the application of those municipal ordinances and other municipal ordinances relating to access to public roads or the pumping, extraction, and use of groundwater by persons other than retail public utilities for the purpose of preventing the use or contact with groundwater that presents an actual or potential threat to human health. However, unless otherwise authorized by state law, in its extraterritorial jurisdiction a municipality shall not regulate:

1. The use of any building or property for business, industrial, residential, or other purposes
2. The bulk, height, or number of buildings constructed on a particular tract of land
3. The size of a building that can be constructed on a particular tract of land, including without limitation any restriction on the ratio of building floor space to the land square footage
4. The number of residential units that can be built per acre of land
5. The size, type, or method of construction of a water or wastewater facility that can be constructed to serve a developed tract of land if the facility meets the minimum standards established for water or wastewater facilities by state and federal regulatory entities

The owner of a tract of land located within the limits or in the extraterritorial jurisdiction of a municipality who divides the tract in two or more parts to lay out a subdivision of the tract, including an addition to a municipality, to lay out suburban, building, or other lots, or to lay out streets, alleys, squares, parks, or other parts of the tract intended to be dedicated to public use or for the use of purchasers or owners of lots fronting on or adjacent to the streets, alleys, squares, parks, or other parts must have a plat of the subdivision prepared. A division of a tract under this subsection includes a division regardless of whether it is made by using a metes and bounds description in a deed of conveyance or in a contract for a deed, by using a contract of sale or other executory contract to convey, or by using any other method. A division of land under this subsection does not include a division of land into parts greater than five acres, where each part has access and no public improvement is being dedicated. To be recorded, the plat must:

1. Describe the subdivision by metes and bounds
2. Locate the subdivision with respect to a corner of the survey or tract or an original corner of the original survey of which it is a part
3. State the dimensions of the subdivision and of each street, alley, square, park, or other part of the tract intended to be dedicated to public use or for the use of purchasers or owners of lots fronting on or adjacent to the street, alley, square, park, or other part
4. The owner or proprietor of the tract or the owner's or proprietor's agent must acknowledge the plat in the manner required for the acknowledgment of deeds.
5. The plat must be filed and recorded with the county clerk of the county in which the tract is located.
6. The plat is subject to the filing and recording provisions of Section 12.002, Property Code.

Historic Districts and Local Preservation Ordinances

Historic Preservation happens at the local level, that is, individual cities determine what they deem to be of historic and cultural importance for their community. The United States Secretary of the Interior gives guidelines for preservation on their website at: <https://www.nps.gov/tps/standards.htm>. You can find the guidelines, standards and recommendations for how to preserve, restore and rehabilitate historic sites and structures.

Although the standards for historic preservation are set at the federal level, historic districts that have regulations for what can and cannot be done to the included properties are only established by cities, not by the federal or state government. Local districts and landmarks can be recognized for their importance at the state and federal levels, but the rules governing them are made by local zoning ordinances.

Process to designate an Historic District (zoning)

If a city wishes to designate a local historic district, it is a zoning change that is in the form of a zoning overlay. That is, there will be the base zoning (residential, business, commercial, etc.) then there will be an additional set of requirements that are defined in the historic district zoning overlay. That overlay usually adds an “-HD” suffix to the base zoning of the parcels in the historic district.

Texas law allows cities to establish areas of historical, cultural, or architectural importance and significance to regulate construction, reconstruction, alteration, or demolition of buildings and other structures within the designated places and areas.

Since this is a zoning issue, the zoning process must be followed. The Planning and Zoning Commission defines the boundaries of a district, determines the rules for it, notifies the public and affected property owners, holds a public hearing, then votes and provides a report to City Council. City Council then considers the report and votes.

It is important to note that historic districts must be contiguous and must be consistent in their boundaries. It is not an advisable practice to single out properties for inclusion or disinclusion that are still part of a neighborhood or intact district. If some of the property owners in the district are opposed to the historic district designation, they may be heard and protest the zoning change during the public hearing, and their opposition may be taken into consideration by both P&Z and City Council. They cannot, however, have their property singled out to be removed from the district.

Once a local designated historic district is established, the rules governing the properties in the district are effective just like any other zoning change, with the exception that historic zoning overlays often have more specific requirements for approval of building permits, demolition permits and other changes to buildings.

Process to designate a local landmark (zoning)

A local landmark is a single property that is recognized as having special historic or cultural importance to the community all on its own. It may be part of a designated historic district or it may stand alone. In the interest of protecting landmarks, designating local landmarks is one of the few cases that a single property can receive a special designation without it being a case of “spot zoning”, which is not allowed by law. A local

landmark can be designated as its own historic district, or it can be designated as a landmark with its own zoning requirements. The Planning & Zoning Commission has the option to provide incentives or special financial assistance to designated landmark property owners as long as they meet the requirements for an historic landmark, which should be based on the Secretary of the Interior's Standards.

Applications & Checklists

Planning & Zoning Commission Appointment Application

Zoning Change Application

Plat Application

Plat Checklist

Appendices

Local Government Code Chapter 211

Local Government Code Chapter 212

City of Bandera Comprehensive Plan