

Fair Oaks Ranch Proposed UDC Amendments - Summary of Changes

Topic # 1 - Administration: Conformance to TXLGC – timeline, processing, consistency, legal recommendations, clarifications, errors, incomplete and missing information.

	Sections of the Current UDC (2019)	Proposed Change This list reflects the changes made to the UDC adopted in 2019	Reason	Topic	Other Topics Affected
Chapter 1					
1	Section 1.4 (2)	Added the sentence - The City also extends to its ETJ its authority to regulate signage as adopted under LGC chapters 216, 245 and 43.	Legal input - revise to include affirmative statement of other regulations in the ETJ.	Administration	
2	Section 1.5 (2)	Removed ETJ reference.	Legal input - delete this reference and the non-conforming use language as it is in reference to zoning regulation which the City may not regulate in the ETJ.	Administration	
3	Section 1.8 (3)	1.8 (3) in the clean version. Added - "...as provided for in that section." Deleted "...as long as the situation that resulted in the nonconformity under the previous Zoning Ordinance still exists."	Legal input - minor revisions to ensure compliance with state law.	Administration	Zoning
4	Section 1.9	Removed the sentence - "The Planning and Zoning Commission will refer the Code Amendment Request to the City Council with recommendations for amendments to the Code." Replaced with - "The proposed amendments will be heard at a joint public hearing of the Planning and Zoning Commission and the City Council, after any individual notice requirements in Local Government Code § 211.006 and 21.007, as amended have been complied with."	Legal input - new case law impacts individual notice requirements. See City of Austin v. Acuna, No. 14-20-00356-CV, 2022 WL 805953 (Tex. App. Mar. 17, 2022) for reference	Administration	
5	Section 1.9	Added - "The proposed amendments will be heard at a joint public hearing of the Planning and Zoning Commission and the City Council, after any individual notice requirements in Local Government Code § 211.006 and 21.007, as amended have been complied with."	Legal input - new case law impacts individual notice requirements. See City of Austin v. Acuna, No. 14-20-00356-CV, 2022 WL 805953 (Tex. App. Mar. 17, 2022) for reference	Administration	
Chapter 2					
6	Section 2.3 (1)	Subsection b. Removed - "...provided that such rules or procedures are approved by the City Council prior to their implementation or enforcement, and provided further..."	P & Z input - discussed by P & Z that administrative rules and procedures do not need approval from City Council.	Administration	
7	Section 2.3 (3)	Subsection a. Removed - "The Commission will ... regulations." Moved - "The regulations ... and the Charter." as new Subsection a.	Updated to be in conformance with State of Texas and the City's Home Rule Charter Section	Administration	
8	Section 2.3 (3)	Subsection g. Replaced - "Until the Commission has been given final action authority by the City Council, appeals will be made to City Council" to "Appeals to Planning and Zoning Commission action, as applicable, will be made to City Council".	Legal input - revised to address current authority. May cause confusion with reference to a future event that may not be authorized.	Administration	
Chapter 3					
9	Section 3.2	Added - "...and references applicable fees established by City Council".	Legal input - Insert additional language to make it clear that City Council establishes fees & the manual will reference the established fees.	Administration	

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10	Sections 3.2, 3.3, 3.4, 3.8	Concept Plan. Removed Concept Plan references from Sections 3.2 (2) a, Sec. 3.3 (1) b, 3.4 (5) f, Sec. 3.8, and Table 3.2.	Legal input - because of the legislative changes in H.B. 3699, a Concept Plan which is associated with platting is no longer authorized.	Administration	Subdivision Standards
11	Section 3.2 (2)	Subsection c. Final Plat Replaced the sentences - "Final Plat submittal will normally be consolidated with construction plan/Development Permit... in accordance with this Code." Added - " A Final Plat requires approval of Preliminary Plat, construction plans for streets and infrastructure, and other items from the Preliminary Plat in accordance with this Code. ".	Modified to correct the plat types, and ensure consistency with procedures contained in the UDC and state law.	Administration	
12	Section 3.2 (2)	Subsection d. Removed subsections i-xi.	Conflicting language corrected to reflect the current procedure. Additional requirements moved to the section under Amending Plat.	Administration	
13	Section 3.2 (2)	Subsection g. Added - "...or land that was exempted from platting by TXLGC."	Modified for consistency with state law and cover all types of plats.	Administration	
14	Table 3.1	Reformatted and amended.	Amended to reflect all applications and procedures in the UDC and state law. Added clarifications, addressed discrepancies, added missing steps and missing application types. Moved Development Agreement to Policy related category.	Administration	Zoning, Subdivision Standards
15	Section 3.4 (1)	Subsection a. Added - "b.A Pre-application Conference is required for the following applications. i.Annexation ii.Concept Plan iii.Special Use Permit iv.Planned Unit Development v.Comprehensive Plan Amendment vi.Zoning Map Amendment (Rezoning) vii.Code Text Amendment viii.Conservation Development Alternative (CDA) ix.Policy Variance x.Judicial Variance xi.Development Plat xii.Building Permits (for larger projects that may need multiple approvals, or as recommended by staff) xiii.Group Living Operating License	Clarified that the pre-application conference is mandatory.	Administration	

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16	Section 3.4 (2)	Subsection c.iii. Removed - "... of fifty (50) percent of the total amount paid upon written request to the City. The application fee required for any policy application is not refundable." Added - "...upon written request to the City and upon' s City discretion."	Administrative decision based on the resources used to process the application.	Administration	
17	Section 3.4 (4)	Subsection a. Removed the reference "this ordinance" and corrected to "the UDC". Removed - "A survey exhibit and other appropriate exhibits as deemed necessary by the City Manager. Said exhibits will include but not be limited to Site Plans, maps, architectural elevations, and information about proposed use (in digital file format if available);" Added - "...exhibits.."..."Administrative Procedures Manual, and as deemed necessary by the City Manager (or designee) for processing of a specific application..." Removed - "... for processing of a specific Development Permit."	Legal input - minor edit for consistency with terminology. Listing specific information will limit the City's ability to request additional information from applicants to review applications for conformance.	Administration	
18	Section 3.4 (4)	Subsections d. and e. Changed 15th to 10th. Removed - "A determination that ...application was submitted." Added - ".A determination that the application ... for filing." Removed - "... mailed a copy..."	Conformance to state statute. Process improvement. Compliance to state code. Clarified notification requirement.	Administration	
19	Section 3.4 (4)	Updated subsection h.	Legal input - Revised for consistency with LGC chapter 245.	Administration	
20	Table 3.2	Reformatted . Updated expiration dates to 12 months. Removed some applications for which expiration dates are not applicable.	Based on P & Z input, changed all expiration dates to 12 months. Expiration dates are not applicable to Letter of Regulatory Compliance, Written Interpretation etc.	Administration	
21	Section 3.5 (1)	Removed - "...ninety (90) days ... period will prevail" Added - "...as per State law."	Ensured consistency with state law.	Administration	
22	Section 3.5 (2)	Added - "...shall follow the state law. " Removed - "...are guidelines, and ... requirements." Removed a - c.	Ensured consistency with state law.	Administration	

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23	Section 3.5 (3)	Replaced a. with "The standard review period of an application for a plat or subdivision plan may be extended one time for a period not to exceed thirty (30) days upon the submission of a written request for extension. The request for extension will be placed on the first available city council meeting agenda for approval. " Removed - b - e.	Ensured consistency with state law.	Administration	
24	Table 3.3	Reformatted. Clarified that public hearing requirement is applicable only to certain replats. Added CDA.	Ensured consistency with state law.	Administration	Zoning, Subdivision Standards
25	Table 3.4	Added mailing notice requirement to UDC Text Amendments	Legal input -a UDC text amendment may also require mailed notice depending on what is being changed. See court case City of Austin v. Acuna, No. 14-20-00356-CV, 2022 WL 805953 (Tex. App. Mar. 17, 2022).	Administration	
26	Section 3.7	Amended list of policy related applications to include CDA and Concept Plan.	Legal input - the city may still require concept plans in other sections of the UDC – just not as a prerequisite to platting.	Administration	Zoning
27	Section 3.7 (3)	Subsection b (c in the clean version) Removed "Any modification to an approved Site Plan that was filed as part of a Special Use Permit will cause the Special Use Permit to become void, regardless of its current status, including any approval previously given by the City Council" . Replaced with "No building, premise, or land used under a Special Use Permit (SUP) may be enlarged, modified, structurally altered, or otherwise significantly changed, unless an amendment to the approved SUP is granted for such enlargement, modifications, structural alteration, or change." Added - "1)The modified Site Plan permit will follow the regular review process for a regularly submitted Special Use Permit." Removed 1. and 2.	Legal input - to make voidable with opportunity to amend. As a general rule, provisions that automatically void land use are disfavored by the courts.	Administration	

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28	Section 3.7 (3)	Subsection c.(d in the clean version). Added - "The City Council, in considering final action, may impose conditions on the proposed use and attach such conditions to the Special Use Permit as deemed necessary to mitigate adverse effects of the proposed use and to carry out the spirit and intent of this section. Conditions and modifications may include but are not limited to limitation of building size or height, increased open space, limitations on impervious surfaces, enhanced loading and parking requirements, additional landscaping, curbing, sidewalk, vehicular access and parking improvements, placement or orientation of buildings and entryways, buffer yards, landscaping and screening, signage restrictions and design, maintenance of buildings and outdoor areas, duration of the permit and hours of operation. Where appeals are made to the City Council, the City Council 's action is considered final, subject only to judicial review."	Legal input -add language stating that City Council may add conditions to a SUP.	Administration	
29	Section 3.7 (5)	Subsection b.iii. Removed "Budget. A draft multi-year budget for the Association."	Legal input -remove the requirement of HOA budget information requirement as it is not a land use function.	Administration	
30	Section 3.7 (5)	Subsection f. Added - ".....covered by the proposed change or the area of lots or area of land " and "Computation of area covered by proposed change shall include the streets and alleys".	Legal input -revise to include the 20% of property owners being rezoned, since the city council can initiate rezoning. Also included about streets and alleys being included in the calculation for consistency with state law.	Administration	
31	Section 3.8 (2)	Subsection a. ii. Amending Plat. Removed - " ...such changing the preceding plat to create six (6) or fewer lots in the subdivision, when agreed to by all adjacent property owners." Added - "if the amending plat is signed by the applicants only and is solely for one or more of the following purposes:". Moved text from 3.2. Removed - "The amendment does not render any resulting lot substandard ... Future Land Use Map;	Legal input - remove the language to as it does not conform to LGC 212.016(9) and is a function of conforming with applicable regulations listed in item 10 below. If choice is to include, recommend generalized statement: The amendments does not render the resulting lot out of compliance with applicable municipal or state law regulations.	Administration	
32	Section 3.8 (4)	3.8 (3) in the clean version. Removed subsection d.	Legal input - plat waivers should be pulled out of this section and given its own section (probably 3.8(8)). This will prevent confusion about how plat waivers are processed and also avoid issues with denying a plat where a discretionary waiver was not granted.	Administration	
33	Section 3.8 (4)	3.8 (3) in the clean version. Added subsection f.	Legal input -ensured the technical review of all can occur before the 30-day shot clock begin.	Administration	

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34	Section 3.8 (5)	3.8 (4) in the clean version. Subsection e. Removed - "...City Manager (or designee) has approved the construction plans." Replaced - "...the record filing fee" with " all associated fees".	Clarified the requirements. P & Z approved the process that will allow recordation of the final plat prior to completion of public improvements if the construction plans are approved and a fiscal surety is posted.	Administration	
35	Section 3.8 (5)	3.8 (4) in the clean version. Added subsection f.	Legal input -ensure the technical review of all can occur before the 30-day shot clock begin.	Administration	
36	Section 3.8 (6)	3.8 (5) in the clean version. Subsection f. Replaced "before the 15th day" with "at least 16 days".	Legal input -revise to avoid confusion with the statutory language "before the 15th day.	Administration	
37	Section 3.8 (6)	3.8 (5) in the clean version. Added subsection g.	Legal input -ensured the technical review of all can occur before the 30-day shot clock begin.	Administration	
38	Section 3.9 (2)	Replaced - "City Council" with "Zoning Board of Adjustments" . Added - "Applications must be made in a format consistent with requirements established by the City Manager (or designee). Applications must include all materials determined necessary by the City Manager (or designee)."	ZBOA makes decision regarding appeals related to UDC interpretations.	Administration	
39	Section 3.9 (5)	Added - "where specifically permitted by this code,...". Added - "...or deviations may be approved in certain circumstances,...". Added- "Applications must include all materials determined necessary by the City Manager (or designee)." Replaced - "City Council" with "Zoning Board of Adjustments" .	Legal input - the special exceptions allowance seemed very broad. Added clarifications. ZBOA makes decision regarding appeals related to UDC interpretations.	Administration	
40	Section 3.9 (7)	Changed "8" to "7" and "9" to "8". Removed - " iii. ETJ. Prior to issuance of a Stormwater Permit, the City Manager or City Council must approve the Site Plan for projects within the City's ETJ to ensure any required compliance with this Code, as required in Section 2.3."	Corrected the chapter number. Legal input - only regulations that can extend into the ETJ are subdivision, floodplain and possibly signs. How does this site plan tie in with stormwater? Might be a regulation that cannot be extended into the ETJ.	Administration	

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41	Section 3.9 (8)	<p>Added - "...Adjustment as per Section 2.3. The appeal must be filed not later than the 20th day after the date the decision is made. The Zoning Board of Adjustment shall decide the appeal at the next meeting for which notice can be provided following the hearing and not later than the 60th day after the date the appeal is filed, in compliance with LGC 211.010(d)). "</p> <p>Added - "...All activities remain stayed, unless ..." and removed "if".</p> <p>Removed - "...the development may proceed..."</p> <p>Added - "...in which case a restraining order granted by the board or a court of record on application and notice to the City is granted upon a showing of due cause." and removed "...proceed, unless a restraining order is issued by a competent court of record".</p>	<p>Legal input - recommend that the 60 days time limit for appeals of zoning decisions be added to ensure compliance with LGC 211.010(d)).</p> <p>Legal input - recommend tracking LGC 211.010(c) to allow option to the board to grant restraining order.</p>	Administration	
42	Section 3.9 (9)	<p>Added - "These waivers must be approved prior to approval of the plat."</p> <p>Added - "as per Section 3.9 of this Unified Development" and removed "... if the City Manager agrees to recommend the Special Exception."</p> <p>Added b.i.8).</p>	Legal input - recommend adding the additional criteria for finding a hardship as applied to a structure LGC 211.009(b-1) be included and include the specific criteria for a finding of an unnecessary hardship.	Administration	
43	Section 3.9 (11)	The county permit must be presented before installing new or replacement Septic Systems.	P& Z input.	Administration	
44	Section 3.9 (12)	<p>Removed - "For all other types of development, A Building Permit will expire if the building or work authorized by such permit is not commenced within 270 days from the date of such permit, or if the building or work authorized by such permit is suspended or abandoned at any time after the work is commenced for a period of 270 days. Before such work can be recommenced, a new permit will be first obtained to do so, and the fee for the new permit will be one-half (1/2) the amount required for a new permit for such work, provided no changes have been made or will be made in the original plans and specifications for such work, and that the suspension or abandonment has not exceeded one (1) year. If the suspension or abandonment has exceeded one (1) year, the permit fee will be the full fee for a new permit and will comply with all codes and ordinances applicable at that time."</p> <p>Changed " once" to "twice".</p>	<p>Expiration of all applications changed to 12 months.</p> <p>Allowed two extensions.</p>	Administration	
45	Section 3.9 (14)	Removed - "An applicant for relief may appeal the decision of the City Manager (or designee) to the City Council within ten (10) days of the written decision of the City Manager. The City Council will set a hearing on the appeal of the staff decision, give public notice thereof, as well as written notice to the parties of interest, and decide the same within thirty (30) days of the making of the appeal. Any party may appear at the hearing in person or by agent. The Applicant bears the burden of proof in establishing that relief is justified."	Ensured consistency with state law and previous variance section in the UDC.	Administration	

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46	Section 3.9 (15)	<p>Removed - "Protect residents from persons ...advantage of them".</p> <p>Replace - "It is unlawful for any person to construct, maintain or operate within the city limits, any group or community home, halfway house, or other group living facility unless such person first obtains a license. An application for an annual license to operate a group or community home, halfway house or other group living facility is required within the city limits, or for property located in the City's ETJ that is part of a development agreement. Approval of a Group Living Operating License authorizes the use of the property in accordance with the terms of the license and other applicable requirements of this Code for one year, after which the Group Living Operating License must be renewed annually." with</p> <p>"It is unlawful for any person to construct, maintain, or operate within the City, any group or community home, halfway house, or other group living facility unless such person first obtains a use permit. A request for reasonable accommodation to accomplish the goals and policies of the Fair Housing Act (42 U.S.C. 3601) may be authorized."</p> <p>Replaced - "That there are no outstanding permit requirements." with "Current and valid state licenses and a current and valid Certificate of Occupancy issued by the City of Fair Oaks Ranch."</p>	<p>Legal input - remove this language conflicts with legal requirements of Fair Housing Act. Inserted proposed language.</p> <p>Replaced license with permit. Add reference to the Fair Housing Act (42 U.S.C. 3601).</p>	Administration	