

Chapter 23-6:

Permits & Special Approvals

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Article 23-6A: Purpose and Applicability

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Division 23-6A-1: Purpose and Applicability

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23-6A-1010 Purpose and Applicability

- (A) This chapter establishes requirements for the review and approval of development applications required for various types of construction authorized under this Title, from building permits for single structures to more complex approvals that affect larger areas or implicate specialized development regulations.
- (B) The requirements of this chapter are supplemental to requirements imposed elsewhere under this Title, including the general application procedures adopted under Chapter 23-2 (Administration and Process).

23-6A-1020 Review Authority

- (A) Authority and responsibility for implementing this chapter is delegated to the Development Services Director, referred to herein as “the director.” However, the city manager may from time to time delegate particular functions to one or more other city departments, which shall control over the general delegation in this subsection.
- (B) In exercising authority under this division, the director or building official may consult with other city departments regarding issues within that department’s area of expertise. For a summary of general functions performed by various city departments under this Title, see Section 23-1B-3020 (Overview of City Departments).

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Article 23-6B: Site Plan Review & Permitting

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23-6B-1010 Purpose and Applicability

- (A) This article establishes review and permitting procedures for proposed development that may be subject to requirements of this Title which apply beyond the limits of construction and extend to the larger site on which the development is proposed to occur.
- (B) The purpose of this article is to provide for a clear and efficient review process that is scaled to the nature and intensity of development and proportionate to the requirements of this Title applicable to a proposed development.

23-6B-1020 Plan Review Determination

- (A) Except as authorized by the director, an applicant must obtain a plan review determination under this section to request that a proposed development be exempt from review under Division 23-6B-2 (Site Plan Review). A request must be on a form approved by the director and include information required by the director to make a determination.
- (B) The director shall review a determination request under Section 23-6B-1030 (Plan Review Criteria) and issue a determination as to which of the following procedures is required for approval of the proposed development:
 - (1) Site plan review under Division 23-6B-2 (Site Plan Review);
 - (2) Limited site plan review under Division 23-6B-3 (Limited Site Plan Review); or
 - (3) Building permit review under Article 23-6C (Building and Demolition Permits).
- (C) A plan review determination under this section does not authorize construction, but constitutes a final determination as to the type of review process required for a proposed development.

23-6B-1030 Plan Review Criteria

- (A) **Purpose and Applicability.** This section establishes criteria for determining the type of approval process required for a proposed development. The director shall use the criteria in this section in making a determination requested under Section 23-6B-1020 (Plan Review Determination).

- (B) **Site Plan Review.** Approval of a site plan under Division 23-6B-2 (Site Plan Review) is required unless the director determines that a proposed development meets the requirements for:
- (1) Limited site plan review under Subsection (C); or
 - (2) Building permit review under Subsection (D).
- (C) **Limited Site Plan Review.** Approval of a limited site development permit under Division 23-6B-3 (Limited Site Plan Review) is required if a proposed development satisfies the criteria described in this subsection.
- (1) The proposed development does not:
 - (a) Increase the degree to which a structure or site is nonconforming with a requirement of this Title under Section 23-2H-1020 (Nonconforming Status); or
 - (b) Require approval of a variance or exception from the Land Use Commission or Board of Adjustment under Article 23-2G (Quasi-Judicial and Administrative Relief).
 - (2) The proposed development falls into one of the more following categories:
 - (a) **Antenna Placement.** Placement of an antenna by a provider of personal wireless services, as defined by the United States Code, Title 47, Section 332(c)(7).
 - (b) **Change of Use.** A change from one permitted use to another permitted use, provided that the use:
 - (i) Must meet applicable off-street parking requirements, if any; and
 - (ii) Must not include an Adult Entertainment use.
 - (c) **Clearing.** Clearing an area no greater than 15 feet in width for surveying or testing, unless the clearing would result in the removal of a tree regulated under Article 23-4C (Urban Forest Protect and Planting).
 - (d) **Commercial Portable.** Construction or installation of a portable structure for a permitted commercial use or an authorized temporary commercial use, if:
 - (i) The site complies with the applicable landscaping requirements of this Title; and
 - (ii) Proposed construction:
 - Is located on existing impervious cover; and
 - Does not impede or divert drainage.
 - (e) **Community Garden.** Development of a site solely for a community garden use, if the director determines that the use does not exceed the limitations established elsewhere in this subsection.
 - (f) **Docks & Bulkheads.** The repair, maintenance, or modification of an existing dock or bulkhead, provided that:
 - (i) The dock or bulkhead was legally constructed;
 - (ii) The proposed work does not:
 - Increase the existing footprint of the dock or shoreline access; or
 - Add, change, or replace structural components, including, but not limited to, walls, load bearing beams, piers, or pilings; and

- (iii) For a bulkhead:
 - The repair does not exceed 25% of the bulkhead or the portion of the bulkhead on a lot or tract; and
 - No repair or modification to the bulkhead was conducted without approval of site plan in the previous three years.
- (g) **Fences.** Installation of a fence, provided that the fence does not obstruct the flow of water.
- (h) **Interior Alterations.** Alterations to the interior of an existing building, if the alterations do not increase the floor area, lot coverage, or height of the building.
- (i) **Limited Construction Activity.** Proposed construction that:
 - (i) Does not exceed the following square footage limitations, which shall exclude construction of driveway modifications or sidewalk closings:
 - 3,000 square feet for overall limits of construction; or
 - 1,000 square feet of impervious cover, except that up to 3,000 square feet of impervious cover is allowed if the site contains existing development and the proposed construction will provide accessible facilities for persons with disabilities;
 - (ii) Does not add a new drive-in service or add lanes to an existing drive-in service, unless the director determines that the new lanes will have an insignificant effect on traffic circulation and surrounding land uses;
 - (iii) Does not result in the removal of a tree regulated under Article 23-under Article 23-4C (Urban Forest Protection and Planting);
 - (iv) Does not include an Adult Entertainment Use; and
 - (v) Is not located within the 100-year floodplain, unless the Watershed Director determines that it would have an insignificant effect on the waterway.
- (j) **Relocation or Demolition.** Relocation or demolition of an existing structure, if:
 - (i) For a demolition, the foundation or structure does not cover more than 10,000 square feet;
 - (ii) The relocation or demolition does not result in the removal of a tree regulated under Article 23-23-4C (Urban Forest Protection and Planting) or damage to the critical root zone; and
 - (iii) The site is not cleared.
- (k) **Restoration of Damaged Building.** Restoration of a building damaged by fire, explosion, flood, tornado, riot, act of the public enemy, a natural weather event, or accident of any kind, provided that the work begins within one year from the date the damage occurred.
- (l) **Residential Construction of Three to Eight Units.** Residential construction in accordance with Section 23-2B-2020 (Three to Eight-Unit Residential).

- (m) **Subdivision Infrastructure.** Construction of subdivision infrastructure permitted by a subdivision construction plan approved under Division 23-5B-6 (Subdivision Construction Plan).
 - (n) **Tree Removal.** A permit for tree removal issued under Article 23-4C (Urban Forest Protection and Planting).
 - (o) **Minor Site Development.** Minor site development that the director determines is similar in scale and intensity to exemptions described in this subsection.
- (D) **Building Permit Review.** Approval of a building permit under Division 23-6C-2 (Building and Demolition Permits) is required for development described in this subsection.
- (1) **Single-Family Construction.** Construction or alteration of a single-family residential land use structure, single-family attached land use or duplex residential land use structure, an accessory dwelling unit, or an accessory structure, provided that:
 - (a) No more than two residential dwelling units are constructed on a legal lot or tract;
 - (b) No structures or associated improvements are located within the 100-year floodplain, unless the director determines that the development will have insignificant effect on the waterway; and
 - (c) The development complies with the applicable requirements of Division 23-2B-2 (Residential Development Regulations).
 - (2) **Other Construction Activity.** Work for which a building permit is required under Article 23-6C (Building and Demolition Permits).

Division 23-6B-2: Site Plan Review

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23-6B-2010 Purpose and Applicability

- (A) The requirements of this division apply to development for which a site plan is required under Section 23-6B-1030 (Plan Review Criteria). Site plan approval provides a more comprehensive level of development review than required under Division 23-6B-3 (Limited Site Plan Review) or Article 23-6C (Building and Demolition Permits) and is appropriate for development with the greatest potential impact to the public realm.
- (B) Requiring site plan review for new development ensures that all approved site and structural development:
 - (1) Promotes the orderly development of the City in conformance with the goals and policies of the Comprehensive Plan, other applicable plans, the standards specified in this Title, and other adopted rules/criteria;
 - (2) Protects the environmental characteristics of the site;
 - (3) Contributes to and preserves the character of the City;
 - (4) Ensures the proper placement, extension, and sizing of infrastructure to provide reliable service and minimize customer outages during maintenance and repair; and
 - (5) Ensures public health, safety, and welfare.

23-6B-2020 Restriction on Development

- (A) **Development Prohibited Pending Site Plan Approval.** Except as provided in Subsection (B), if proposed development requires approval of a site plan under this article, a site development permit must be approved and released before development of the site may occur or a building permit for construction on the site may be approved.
- (B) **Advanced Site Preparation Plan.** The director may, by administrative rule, adopt standards consistent with this subsection authorizing an applicant to begin limited site preparation and development while a site plan application is under review.
 - (1) The director may approve an advanced site preparation plan only if:

- (a) The site plan:
 - (i) Is located within the Urban or Suburban watershed;
 - (ii) Requires approval of a certificate of occupancy or compliance;
 - (iii) Does not require a public hearing before a board or commission;
 - (b) The applicant has posted fiscal surety for required erosion and sedimentation controls and for revegetation of the development;
 - (c) The work does not jeopardize the environment or pose a threat to public health, safety, or welfare; and
 - (d) Preparation of the site will not negatively impact locating or spacing requirements for utility infrastructure.
- (2) An authorization for advanced site preparation expires if the site plan application is denied.
 - (3) An authorization for advanced site preparation may be revoked at any time if the director finds that the work fails to meet applicable requirements or poses a threat to public safety. A revocation may be appealed as provided under Division 23-2J-4 (Appeal Procedures).

23-6B-2030 Application Requirements

(A) General Information.

- (1) A site plan application must be on a form prescribed by the director under Section 23-2C-1010 (Application Requirements and Procedures) and include information required by department guidelines for site plan review, which shall be published on the city's website.
- (2) Applicants are encouraged to obtain a project assessment under Section 23-2C-1060 (Project Assessment) before submitting a site plan application, to assess whether variances may be required and to identify significant issues that may impact project design.
- (3) Application submittal requirements shall be scaled to the nature and intensity of development and proportionate to the requirements of this Title applicable to a proposed development.

(B) **Land Use Permit Approval.** If a use proposed in a site plan application requires a conditional use permit or a minor use permit under Division 23-3B-1 (Land Use Approvals), the applicant must obtain the required approval before submitting a site plan application unless the director approves concurrent review of the applications under Section 23-2C-1040 (Concurrent Applications).

(C) **Site Plan Elements.** In addition to the information required under Subsection (A), a site plan must include the elements described in this subsection.

(1) Planning Element.

- (a) The planning element must include information necessary to ensure that a site plan application is consistent with the goals and policies of the Comprehensive Plan and that the proposed use and general site layout complies with this Title and the applicable development standards for the zone.
 - (b) While not sufficient to obtain construction-level approval, a planning element can be used to provide an overview of an application submitted for review and as a basis for considering requests for:
 - (i) Discretionary approvals, such as a variance or conditional use permit; and
 - (ii) A project assessment under Section 23-2C-1060 (Project Assessment).
- (2) **Construction Element.**
- (a) The construction element must include detailed information and construction documents regarding building structure, grading, air quality, drainage, water quality, and other aspects of site design.
 - (b) The construction element shall serve as a basis for determining whether a site plan meets applicable site development regulations of the Title and for evaluating whether the proposed development sufficiently addresses:
 - (i) Nuances to properties and structures adjacent to the development site;
 - (ii) Pedestrian and vehicular safety, both on- and off-site;
 - (iii) Drainage and water quality;
 - (iv) Conflicts with existing and future utilities, street trees, easements; and
 - (v) Other construction and maintenance considerations.
- (D) Phased Site Plan.
- (1) The director shall, at the request of an applicant, approve a site plan for completion in phases if the director determines that:
 - (a) The proposed development as a whole is conducive to phasing and that each proposed phase is a discrete and substantial part of the entire development;
 - (b) Each development phase satisfies the requirements of Section 23-6B-2060 (Release and Revision), independently or in combination with previously constructed phases; and
 - (c) If a transportation impact analysis is required, the phasing plan must implement solutions approved by the director to address identified traffic problems; and
 - (2) If construction of a phase is completed, the director may issue a certificate of occupancy or compliance for that phase under Division 23-2C-5 (Certificates of Occupancy & Compliance) even if construction of remaining phases of the site plan remain incomplete.
 - (3) Construction of all phases must begin before a site plan expires under Section 23-6B-2070 (Expiration and Extension).

23-6B-2040 Notice of Application

(A) General Notice Requirement.

- (1) Except as provided in Subsection (A)(2), the director shall provide notice under Section 23-2D-5010 (Notice of Application) after accepting a site plan application for filing and may not approve the application sooner than 14 days after notice is provided.
 - (2) Notice is not required if:
 - (a) The site is under 10,000 square feet;
 - (b) The limits of construction for the proposed development is less than 3,000 square feet; and
 - (c) Approval of the application does not require a public hearing under Division 23-3B-1 (Land Use Approvals) or Article 23-2G (Quasi-Judicial and Administrative Relief).
- (B) **Supplemental Notice for Telecommunications Facilities.** In addition to the notice required under Subsection (A), an application to construct a telecommunication tower described in Section 23-3D-1380 (Telecommunications) is subject to the additional notice requirements described in this subsection.
- (1) The director shall provide notice of the application to each registered neighborhood organization in whose boundaries the proposed tower is located and to each property owner within 500 feet of the centerline of the proposed tower. The notice must include the tower location, the name and telephone number of the tower owner, and the telephone number of the director.
 - (2) The applicant shall post a sign in compliance with Section 23-2D-3040 (Notification Signs) at the street right-of-way nearest the proposed tower location. The sign must state that an application to construct a telecommunication tower at that location has been filed and include the name and telephone number of the tower owner.

23-6B-2050 Review and Approval

- (A) **Director's Decision.**
- (1) The director shall approve a site plan application if it meets the applicable requirements of this Title and the applicant has obtained all discretionary approvals required for compliance.
 - (2) If the director determines that a site plan application does not meet the requirements of this Title, the director shall:
 - (a) Disapprove the application pending the applicant's filing an update under Section 23-2C-2040 (Update of Application), or
 - (b) Deny the application, if the time period for filing an update under Section 23-2C-2030 (Expiration of Application) has expired.
- (B) **Notice of Decision.** The director shall provide notice of decisions to approve or disapprove a site plan to the applicant and to registered parties under Section 23-2D-5020 (Notice of Administrative Decision).
- (C) **Appeal.** As authorized by Section 23-3B-2040 (Administrative Appeal), the director's interpretation of applicable zoning regulations in connection with the approval or

disapproval of a site plan application may be appealed to the Board of Adjustment consistent with the requirements of Article 23-2I (Appeals).

23-6B-2060 Release and Revision

(A) Site Plan Release.

- (1) A site development permit must be released before development requiring site plan approval may occur. If the director releases a site development permit, the applicant may develop the site in accordance with the approved plans and request approval of building permits required to complete the proposed development.
- (2) The director shall release a site development permit if:
 - (a) The site plan has been approved;
 - (b) The applicant has posted the required fiscal security with the director; and
 - (c) If applicable, tenant notification has been provided for the period required under Division 23-4E-3 (Tenant Notification and Relocation).
- (3) Release of a site development permit voids any previously approved site plan for property included in the released site plan.

(B) Site Plan Revision. Following release of a site development permit, no revisions to the approved plans may be made except in accordance with this subsection.

- (1) **Minor Revisions.** The director may approve an application for a minor revision to a released site plan if the proposed revision does not:
 - (a) Expand the limits of construction;
 - (b) Increase the effect of development on drainage and water quality controls; or
 - (c) Exceed the changes necessary to:
 - (i) Address a site or infrastructure condition that was unknown by the applicant at the time the site plan was released;
 - (ii) Reflect as-built site conditions that comply with this Title, but deviate from the released site plan;
 - (iii) Change a use on the site to a use permitted in the base zone, other than an adult entertainment use; or
 - (iv) Complete site work that is necessary to comply with the Americans with Disabilities Act or that complies with the requirements for a limited site development permit under Division 23-6B-3 (Limited Site Plan Review).
- (2) **Major Revisions.** The director may approve an application for a major revision to a released site plan if the proposed revision does not:
 - (a) Result in increased impacts on a neighboring property, the public, or a person who will occupy or use the proposed development beyond what was originally approved;

- (b) Cause a change in the character of the development;
 - (c) Add a new building; or
 - (d) Significantly increase effects to utility infrastructure or traffic on roadways adjacent or external to the development.
- (3) **Exceptions to Limits on Revisions.** The restrictions in Subsections (B)(1) and (B)(2) do not apply if a revision is necessary to:
- (a) Relocate approved building floor area or parking areas out of a condemned right-of-way area; or
 - (b) Comply with the Americans with Disabilities Act.
- (4) **Land Use Commission Review.**
- (a) The Land Use Commission may consider requests to revise Commission-approved site plans, such as a conditional use permit, under the same standards applicable to revisions approved by the director under this subsection.
 - (b) An applicant may withdraw a revision request submitted to the Land Use Commission at any time and develop the property in compliance with the previously approved site plan.
- (5) **Effect of Denial.** If the director or Land Use Commission denies approval of a minor or major revision under this subsection, the applicant must submit a new development application to request approval of the proposed development.

23-6B-2070 Expiration and Extension

- (A) **Site Plan Expiration.** A site plan expires three years after the date of its approval unless:
- (a) Building permits have been issued to construct all buildings shown on the site plan and those permits remain active until the work is completed and certificates of occupancy have been issued;
 - (b) Required site work does not require building permits, is begun before the site plan expires, and is diligently pursued to completion through issuance of certificate of compliance or certificate of occupancy under Division 23-2C-5 (Certificates of Occupancy & Compliance); or
 - (c) A request for an extension of a released site plan is granted under Subsection (B).
- (1) **Phased Site Plan.** For a phased site plan, all phases expire three years from the date that the site plan is approved unless the applicant satisfies the requirements in Paragraph (1)(a)-(c), in which case that phase may remain active; or
- (B) **Site Plan Extension.** An applicant may request an extension in accordance with this subsection at any time before the site plan expires.
- (1) **Application and Notice.** After receiving an application for a site plan extension, the director shall provide notice under 23-2D-5010 (Notice of Application).
- (2) **Approval of Extension by the Director.** The director shall approve a one-time, one-year extension if the director determines that:
- (a) The site plan substantially complies with the requirements that apply to a new application for site plan approval;

- (b) The applicant filed the original application for site plan approval with the good faith expectation that the site plan would be constructed;
 - (c) The applicant constructed at least one structure shown on the original site plan that is suitable for permanent occupancy; or
 - (d) The applicant has constructed a significant portion of the infrastructure required for development of the original site plan; and
 - (e) With respect to transportation impacts:
 - (i) If an analysis was submitted with the site plan application, the director concludes that the assumptions remain valid or the applicant has submitted an addendum proposing acceptable strategies to mitigate any new impacts identified by the director; or
 - (ii) If an analysis was not submitted with the site plan application, the applicant demonstrates that any transportation impacts identified by the director will be adequately mitigated.
- (3) **Approval of Extension by the Land Use Commission.** After receiving a one-year extension from the director, any further extensions may only be approved by the Land Use Commission consistent with this subsection.
- (a) Before considering a request for an extension, the Land Use Commission shall hold a public hearing on the request and the director shall provide notice of the hearing under Section 23-2D-4020 (Type 1 Public Hearing Notice).
 - (b) In considering a request for site plan extension, the Land Use Commission shall apply the same criteria as the director under Section (C)(2).
- (C) **Effect of Expiration.** If a site plan expires, the director may not issue a building permit, certificate of occupancy, or other approval for development on the property requiring a site plan.

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Division 23-6B-3: Limited Site Plan Review

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23-6B-3010 Purpose and Applicability

- (A) The requirements of this division apply to development for which a limited site development permit is required under Section 23-6B-1030 (Plan Review Criteria).
- (B) Limited site plan review is intended for lower intensity development.

23-6B-3020 Application Requirements

- (A) An application for a limited site development permit must include the director's determination under Section 23-6B-1020 (Plan Review Determination) approving the project for limited site plan review and any other information required by the director.
- (B) Depending on the nature and intensity of proposed development and the level of construction required, the director may:
 - (1) Approve a limited site development permit authorizing the proposed development; or
 - (2) Require the applicant to obtain approval of a building permit under Article 23-6C (Building and Demolition Permits), in addition to review under this division.

23-6B-3030 Review and Approval

- (A) **Director's Decision.**
 - (1) The director shall approve an application for a limited site development permit under this division if the proposed development meets all applicable requirements of this Title, excluding existing non-conforming site conditions located outside the limits of construction that do not:
 - (a) Pose a threat to public health and safety; or
 - (b) Cause a significant adverse impact to the environment.
 - (2) If the director determines that a limited site plan application does not meet the requirements of this Title, as specified in Subsection (A), the director shall:
 - (a) Disapprove the application under Section 23-2C-2040 (Update of Application), pending the applicant's filing an update; or

- (b) Deny the application, if the time period for filing an update under Section 23-2C-2030 (Expiration of Application) has expired.
- (B) **Appeal.** As authorized by Section 23-3B-2040 (Administrative Appeal), the director's interpretation of applicable zoning regulations in connection with the approval or disapproval of an application for a limited site development permit may be appealed to the Board of Adjustment consistent with the requirements of Article 23-2I (Appeals).

Article 23-6C: Building and Demolition Permits

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23-6C-1010 Jurisdiction

- (A) This article applies to property in the City’s zoning jurisdiction.
- (B) The provisions of this chapter relating to plumbing, electric, and mechanical permits apply to structures connected to the City’s electric and water and wastewater utilities.

23-6C-1020 Historic Properties and Buildings 45 or More Years Old

- (A) The building official shall notify the historic preservation officer before issuing a building, demolition, or relocation permit for a building that is 45 or more years old.
- (B) The building official shall not issue a building, demolition, or relocation permit for a property described in Subsection (A) unless all applicable requirements of Article 23-6E (Special Requirements for Historic Properties and Buildings 45 or More Years Old) have been satisfied.

23-6C-1030 Permit Inspections

- (A) A permit holder must obtain any inspection required by Chapter 23-10 (Technical Codes).
- (B) Additional inspections may be required if the building official determines that one or more hazardous conditions exist. An inspection under this subsection must be performed by an inspector approved by the building official.
- (C) The building official shall ensure that an inspection is performed as required by Chapter 23-10 (Technical Codes).

23-6C-1040 Definitions

- (A) This section defines words and phrases that are used primarily in this chapter. For words and phrases used generally throughout this Title, see Article 23-12A (Definitions and Measurements).

ARCHITECTURAL FEATURE. An architectural element that, alone or as part of a pattern, reflects the style, design, or general arrangement of the exterior of a building or structure, including but not limited to the kind, color, and texture of building materials, and style and type of windows, doors, siding, trim, eaves, cornices, roof ornamentation and materials, lights, porches, awnings, and signs.

CERTIFICATE OF APPROPRIATENESS. An approval allowing work on, relocation of, or demolition of a historic property, historic or archeological site, or a contributing structure within a historic area combining district.

CONTRIBUTING PROPERTY. A building, structure, site, feature, or object within a local or National Register historic district that reflects the historic character of the district, was built during the district's period of significance, and retains sufficient integrity to convey its historic appearance. Contributing properties are designated by the ordinance creating the local historic district or the National Register historic district nomination.

HISTORIC CONTEXT. The information about a historic property or historic district based on a shared theme, development history, specific time period, or geographical area.

HISTORIC LANDMARK. A property zoned Historic Landmark (H) Combining District.

LOCAL HISTORIC DISTRICT. Properties zoned Historic Area (HD) Combining District .

LOADED HEIGHT. The height of a building or structure, measured from the ground, when it is loaded on a trailer for moving.

LOADED WIDTH. The width of a building or structure, measured from the ground, when it is loaded on a trailer for moving.

NATIONAL REGISTER HISTORIC DISTRICT. An area designated in the Federal Register under the National Historic Preservation Act of 1966, as amended.

ORDINARY REPAIR OR MAINTENANCE. Any work that does not constitute an exterior change in design, material, or outward appearance, including in-kind replacement or repair with the same material as the original.

SITE. For the purpose of historic preservation, the location of a significant event; a prehistoric or historic occupation or activity; or a structure or building, whether standing, ruined, or vanished; where the location itself possesses historic, cultural, or archeological value regardless of the value of any existing structure. The site of a historic landmark will generally include all the land necessary to convey the context and history of the landmark, generally the tax parcel(s) zoned historic. The terms buildings, structures, sites, and objects may all fall under the more general term of historic properties.

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23-6C-2010 Permit Requirements

- (A) Unless exempted by another provision of the City Code, a person shall obtain the appropriate permit from the building official before performing the following activities:
 - (1) An activity regulated by Division 23-10B-1 (Building Code), Division 23-10B-4 (Electrical Code), Division 23-10B-5 (Mechanical Code), or Division 23-10B-6 (Plumbing Code);
 - (2) Constructing a sidewalk, curb, gutter, or driveway approach on property under a person’s control or in public right-of-way adjoining property under a person’s control;
 - (3) Altering or repairing a sidewalk on property under a person’s control if:
 - (a) The property is required to meet the requirements of Section R320 (Visitability) of the Residential Code, adopted under Chapter 23-10 (Technical Codes); and
 - (b) The sidewalk is part of the access pathway;
 - (4) Erecting, moving, or structurally altering or repairing an outdoor sign;
 - (5) Repairing a sign, if:
 - (a) Electrical work is involved with the repair; or
 - (b) The work involves any modifications to the sign other than repair;
 - (6) Constructing or structurally altering a pier or other structure in or along the shorelines of:
 - (a) Lake Austin below an elevation of 504.9 feet above mean sea level;
 - (b) Lady Bird Lake below an elevation of 435.0 feet above mean sea level; or
 - (c) Lake Walter E. Long below an elevation of 554.5 feet above mean sea level;
 - (7) Constructing a bulkhead or retaining wall in or along the shoreline of Lake Austin, Lady Bird Lake, or Lake Walter E. Long; or
 - (8) Causing or permitting the activities described in this section to occur.
- (B) A demolition permit is not required to demolish all or part of an interior wall, floor, or ceiling.
- (C) A building permit is required to relocate a building to a new site if the new site is within the City.

23-6C-2020 Existing Buildings

- (A) Work performed on all existing buildings must comply with the Existing Building Code, Chapter 23-10 (Technical Codes) and, if applicable, Article 23-6E (Special Requirements for Historic Properties and Buildings 45 or More Years Old).

23-6C-2030 Temporary Building Permit

- (A) The building official may issue a temporary building permit for a certain activity before the plans and specifications for the entire project have been submitted or approved if:
 - (1) The applicant files information and detailed statements describing the activity to be performed; and
 - (2) The building official determines that the activity complies with this title.
- (B) Construction that occurs under a temporary building permit occurs at the permittee's risk. A temporary building permit does not guarantee that a permit for the entire building or structure will be approved. A permittee does not acquire vested rights under a temporary permit issued under this section.
- (C) The building official shall provide a permittee with written documentation stating that the permittee does not acquire vested rights under a temporary building permit. Failure to comply with this requirement does not allow the permittee to acquire vested rights.

23-6C-2040 Licensed Contractor Requirements

- (A) Unless exempted by state law or another provision of City Code, a contractor must be licensed to perform an activity that requires a:
 - (1) Plumbing, electrical, solar, or mechanical permit; or
 - (2) Sidewalk, curb, gutter, or driveway approach permit.

23-6C-2050 Asbestos Survey Requirements

- (A) A permit for any development or demolition activity is subject to the applicable provisions of the Texas Department of State Health Services Asbestos Program.

23-6C-2060 Construction and Demolition Materials Diversion Requirements

- (A) Each applicant for a building permit or demolition permit for activities described in Subsection (B) must comply with this section and Chapter 15-6, Article 9 (Construction and Demolition Material Diversion Program) before a building or demolition permit is issued.
- (B) Construction and demolition materials diversion is required for:
 - (1) A construction project that exceeds 5,000 square feet of new, added, or remodeled floor area; and
 - (2) Beginning October 1, 2019, a commercial or multi-family project that requires a demolition permit.
- (C) Construction and demolition materials diversion is not required for the following activities:
 - (1) Construction that requires only mechanical, electrical, or plumbing permit; or
 - (2) Work that does not require a building or demolition permit.

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23-6C-3010 Permit Application

- (A) **Permit Required.** A person must submit an application for a building or demolition permit on a form prescribed by the building official under Section 23-2C-1010 (Application Requirements and Procedures). The application must include the information required in Division 23-10B-1 (Building Code) and the Building Criteria Manual.
- (B) **Standard for Approval.** The building official shall approve an application for a building or demolition permit that meets all applicable requirements of this Title.
- (C) **Testing of Materials and Construction Methods.**
 - (1) The building official may require that an applicant test materials or construction methods to demonstrate compliance with technical codes if:
 - (a) the building official has reason to believe that materials or construction methods were not tested; or
 - (b) the applicant proposes an alternate method of compliance.
 - (2) The applicant shall use a test method:
 - (a) Prescribed in a technical code;
 - (b) Recognized in the industry; or
 - (c) Determined by the building official.
 - (3) A test must be performed by an agency approved by the building official.
 - (4) The building official shall retain a test report for a reasonable time.
 - (5) The applicant is responsible for the cost of a test.
- (D) **Administrative Appeals.** This subsection describes rights of appeal provided under this Title for decisions by the building official to approve or disapprove a building or demolition permit.
 - (1) As authorized by Section 23-1B-2050 (Technical Code Boards), a person may appeal the building official's interpretation of applicable technical codes to the appropriate technical code board consistent with the requirements of Article 23-2I (Appeals).
 - (2) As authorized by Section 23-3B-2040 (Administrative Appeal), a person may appeal the building official's interpretation of applicable zoning regulations to the Board of Adjustment consistent with the requirements of Article 23-2I (Appeals).

23-6C-3020 Departmental Review

- (A) The building official shall submit each application for a permit under this division to the appropriate city departments for review. Each department shall determine whether an application complies with the regulations within its administrative authority, then provide its determination to the building official.

23-6C-3030 Review Periods

- (A) The building official shall approve or disapprove an application by the deadline established for the specific application under Article 23-2B-2 (Application Review & Process).

23-6C-3040 Requirements Regarding Utility Service

- (A) When an applicant files an application for a building permit, the applicant must submit a written verification, in a manner prescribed by the building official and applicable department, that utilities for the proposed development are suitable and sufficient for the proposed project.
- (B) When an applicant files an application for a demolition permit, the applicant must submit a written verification from the Electric Utility Department and the Water Department that a request to remove the utilities has been filed. The building official shall coordinate review of applications under this division with the Electric Utility Department and the Water Department.

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23-6C-4010 Expiration and Extension of Demolition Permit

- (A) Except as provided in Subsection (C), a demolition permit expires if:
 - (1) Work authorized by the permit does not begin within two years from the date the permit is issued; or
 - (2) The demolition is not complete within six months from the date work begins.
- (B) The building official may grant a single one-year extension of a demolition permit if the permittee requests an extension in writing before the permit expires.
- (C) If a demolition permit expires after work has begun, a subsequent demolition permit that is issued for the same structure expires when the work is not complete within six months or a lesser time if required by the building official based on public health and safety.
- (D) An active demolition permit does not prevent a site plan from expiring under Division 23-6B-2070 (Expiration and Extension).

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Article 23-6D: Relocation Permits

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23-6D-1010 Permit Requirements

- (A) Except as provided in Subsection (B), a person must obtain a relocation permit to move a building regulated by this Title from one site to another or along a public-right-of-way and to move a building on the same site.
- (B) A relocation permit is not required to move a building that:
 - (1) Is specifically designed and constructed to be portable;
 - (2) Has a loaded height of 14 feet or less; and
 - (3) Has a loaded width of 14 feet or less.

23-6D-1020 Permit Application

- (A) A person must submit an application on a form prescribed by the building official under Section 23-2C-1010 (Application Requirements and Procedures).
- (B) An application must include all information required by the building official to determine whether a proposed relocation complies the applicable requirements of this article, Chapter 23-10 (Technical Codes), and any other applicable requirements.

23-6D-1030 Departmental Review

- (A) The building official shall submit each application for a relocation permit to the appropriate city departments for review. The departments shall provide the building official with a recommendation on issuance of the permit.
- (B) An applicant may amend and resubmit the application if it is disapproved, as provided under Section 23-2C-2040 (Update of Application).

23-6D-1040 Requirements Regarding Utility Service

- (A) When an applicant files an application for a relocation permit, the applicant must submit a written verification from the Electric Utility Department and the Water Department that a request to remove the utilities has been filed. The building official shall coordinate review of applications under this division with the Electric Utility Department and the Water Department.

23-6D-1050 Permit Issuance

- (A) The building official shall issue a relocation permit after:
 - (1) Finding that the proposed relocation complies with all applicable regulations;
 - (2) The applicant has paid all required fees and deposits; and
 - (3) The applicant has obtained all required building permits.
- (B) An interested party may appeal a decision of the building official to approve or deny a relocation permit to the Building & Fire Code Board of Appeals, consistent with the requirements of Article 23-21 (Appeals).

23-6D-1060 Transferability

- (A) A permittee may not transfer or attempt to transfer a permit or right granted under this division unless the new moving contractor meets the qualifications of Section 23-6D-2010 (Moving Contractor Requirements).

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23-6D-2010 Moving Contractor Requirements

- (A) A building may be moved only by a moving contractor who is bonded and insured in accordance with city rules.
- (B) The building official may deny a permit application submitted by a mover who knowingly and repeatedly violates the provisions of this Title.

23-6D-2020 General Requirements for Relocation

- (A) **Expiration Requirements.** A relocation permit is subject to the same expiration and extension requirements as a demolition permit under Section 23-6C-4010 (Expiration and Extension of Demolition Permit).
- (B) **Technical Code Requirements.**
 - (1) A building or structure or building service equipment that is moved into or through the City's zoning jurisdiction must comply with the requirements of Division 23-10B-1 (Building Code) for relocated buildings and all other applicable requirements of Chapter 23-10 (Technical Codes).
 - (2) A person may not move a substandard or dangerous building into or through the City's zoning jurisdiction.
- (C) **Building and Lot Maintenance.**
 - (1) The permittee shall maintain the building to be moved and the site to which the building is moved in a clean and safe condition during repair and remodeling.
 - (2) Unless the building official allows the permittee to retain concrete or other fill onsite, the permittee shall remove from the lot from which a building is removed, all above-grade protrusions, including tree stumps, placed or prefabricated concrete, and piers and beams from the foundation.
 - (3) The permittee shall restore the lot from which a building is moved to a clean and raked condition not later than the 15th day after removal of a building.
- (D) **Damage to Property.**
 - (1) The permittee is responsible for damage to public or private property caused by the moving of a building under this division.
 - (2) The permittee shall restore damaged property to the condition that the property was in before the damage occurred.

- (3) If the permittee does not restore the damaged property as required by this section on or before the 10th day after receiving notice of the damage from the building official, the building official may make the necessary repairs. The permittee is responsible for costs incurred by the City.

(E) Tree Protection Requirements.

- (1) A permittee shall comply with all applicable provisions of Article 23-4C (Urban Forest Protection and Planting).
- (2) Except as provided in (E)(3)-(4), during relocation, a permittee may not remove, or impact in a way that constitutes removal, a tree or shrub located on or over:
 - (a) A public right-of-way or other city-owned or managed property; or
 - (b) Private property.
- (3) The city arborist may authorize, in writing, a permittee to remove or cause an impact that constitutes removal of a tree or shrub:
 - (a) Located on or over public right-of-way or other city-owned or managed property; or
 - (b) If the tree is a protected tree subject to Article 23-4C (Urban Forest Protection and Planting), located on or over private property and the owner or person in control of the private property gives written consent.
- (4) The owner or person in control of private property may authorize, in writing, a permittee to remove or cause an impact that constitutes removal of a tree or shrub located on or over the property, provided the protected tree requirements in Article 23-4C (Urban Forest Protection and Planting) do not apply.

Article 23-6E: Special Requirements for Historic Properties & Buildings 45 or More Years Old

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23-6E-1010 Purpose

- (A) The purpose of this article is to identify and protect buildings, sites, and structures of cultural and architectural significance to the community through:
 - (1) Review of proposed changes to already identified historic properties;
 - (2) Review of requests to demolish or relocate already identified historic properties;
 - (3) Review of other properties to identify assets of cultural and architectural value; and
 - (4) Protecting property rights with reasonable regulations and procedures.

23-6E-1020 Applicability

- (A) This article applies to:
 - (1) A building 45 or more years old;
 - (2) A designated or pending historic landmark;
 - (3) A contributing property or new construction within a designated or pending local historic district;
 - (4) A contributing property or new construction within a National Register Historic District;
 - (5) A property individually listed in the National Register of Historic Places;
 - (6) A National Historic Landmark;
 - (7) A recorded Texas Historic Landmark; and
 - (8) A State Antiquities Landmark.

23-6E-1030 Review Authority

- (A) Except for functions specifically delegated to the Planning and Zoning Director, authority and responsibility for implementing this article is delegated to the Historic Preservation Officer, who is appointed by the city manager. However, the city manager may from time to time delegate particular functions under this chapter to one or more other city departments, which shall control over the general delegations in this subsection.
- (B) In exercising authority under this article, the Historic Preservation Officer may consult with other city departments regarding issues within that department's area of expertise. For a summary of general functions performed by various city departments under this Title, see Section 23-1B-3020 (Overview of City Departments).

23-6E-1040 Tolling of Time Limits

- (A) A postponement requested or agreed to by the owner or the owner's agent tolls the running of a time limit for review or action by the Historic Landmark Commission. The time is tolled from the date of the request or the date the owner or the owner's agent agrees to postpone the case until the day of the Historic Landmark Commission meeting to which the case has been postponed.

23-6E-1050 Process of Historic Review

- (A) The building official shall immediately notify the historic preservation officer when the building official receives an application requesting a building permit, relocation permit, or demolition permit for a property to which this section applies.
- (B) Upon receiving notice of an application from the building official, the Historic Preservation Officer shall review the application and inform the building official within five business days if the Historic Preservation Officer will place the application on a Historic Landmark Commission agenda or if the application may receive an administrative approval under Section 23-6E-2040 (Action on a Certificate of Appropriateness), Section 23-6E-2060 Administrative Release under Advisory Review), or Section 23-6E-3020 (Administrative Approval for Buildings Without Historic Designation).
- (C) For an application to be placed on a Historic Landmark Commission agenda, the building official shall post a sign on the site and notify property owners, residents, and registered parties as required by Division 23-2D-5 (Notice of Application and Administrative Decisions).
- (D) The Historic Landmark Commission shall hold a public hearing on an application to be placed on its agenda within 60 days of the historic preservation officer receiving a complete application.
- (E) Unless the building official determines that action is necessary to protect public safety, the building official shall not issue a building, relocation, or demolition permit for a property subject to this article until the earliest of:
 - (1) The date the historic preservation officer administratively approves an application;
 - (2) The date the Historic Landmark Commission does not initiate a zoning case for historic designation regarding the property;

- (3) The date the Historic Landmark Commission approves an application for a Certificate of Appropriateness or provides comments on an application;
 - (4) The expiration of 75 days after the date of the first Historic Landmark Commission meeting at which the application is posted on the agenda; or
 - (5) The expiration of 180 days after receipt of a complete application for a contributing structure within a National Register Historic District or a pending local historic district.
- (F) If the Historic Landmark Commission initiates a zoning case for historic designation under Section 23-3B-3040 (Zoning Map Amendment Initiation), the structure is subject to Section 23-6E-4010 (Pending Historic Designations).

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23-6E-2010 Certificates of Appropriateness

- (A) This section applies to a building, structure, or site that is:
 - (1) A historic landmark;
 - (2) Pending designation as a historic landmark under Section 23-6E-4010 (Pending Historic Designations);
 - (3) A contributing property within a local historic district;
 - (4) A contributing property within a pending local historic district under Section 23-6E-4010 (Pending Historic Designations);
 - (5) New construction on a historic landmark property or within a local historic district; or
 - (6) New construction on a pending historic landmark property or within a pending local historic district under Section 23-6E-4010 (Pending Historic Designations).
- (B) A certificate of appropriateness is required for:
 - (1) Full or partial demolition of any exterior feature;
 - (2) Relocation;
 - (3) All exterior and site work regardless of whether a building or demolition permit is required, including the replacement of doors, windows, siding, and roof materials, unless the work is ordinary repair or maintenance as defined in this chapter; and
 - (4) New construction

23-6E-2020 Violations, Offenses, and Enforcement

- (A) A person who performs or authorizes another to perform an activity described in Section 23-6E-2010 (B) (Certificates of Appropriateness) without a certificate of appropriateness commits an offense punishable as set forth in Article 23-2J (Enforcement).

- (B) In a prosecution for a violation of this section, it is an affirmative defense to prosecution that the person lacked actual notice that:
 - (1) The building is a historic landmark or contributing property within a local historic district; or
 - (2) A designation is pending under Section 23-6E-4010 (Pending Historic Designations).

23-6E-2030 Administrative Approval of Certificates of Appropriateness

- (A) For a property that is a designated or pending historic landmark, the historic preservation officer may administratively approve an application under Section 23-6E-2010 (Certificates of Appropriateness) that is requested for:
 - (1) An accurate restoration or reconstruction of a documented missing historic architectural element of the structure or site;
 - (2) A change to the exterior paint color;
 - (3) Work that does not visually affect the historic character of the structure or site from the principal street frontage of the property, complies with all applicable design standards, and is limited to the construction of:
 - (a) A one-story rear outbuilding; or
 - (b) A pool, deck, fence, back porch enclosure, or other minor feature; or
 - (4) A sign that conforms to any applicable sign design standards for the property.
- (B) For a contributing property within a local historic district, the Historic Preservation Officer may administratively approve an application under Section 23-6E-2010 (Certificates of Appropriateness) that is requested for:
 - (1) An accurate restoration or reconstruction of a documented missing historic architectural element of the structure or site;
 - (2) Work that does not visually affect the historic character of the property or site from the principal street frontage of the property, complies with all applicable design standards for the district, and is limited to the construction of:
 - (a) A ground-floor, one-story rear addition;
 - (b) A one-story rear outbuilding;
 - (c) A pool, deck, fence, back porch enclosure, or other minor feature;
 - (d) A rear addition of up to two stories to a two-story building;
 - (e) A one-story accessory dwelling unit located behind the principal structure; or
 - (f) A sign that conforms to applicable sign design standards.
 - (3) The demolition of an outbuilding such as a carport, detached garage, shed, greenhouse, or other outbuilding determined by the historic preservation officer not to possess historic or architectural significance, either as a standalone building or structure, or as part of a complex of buildings or structures on the site.

23-6E-2040 Action on a Certificate of Appropriateness

- (A) This section applies to an application for a certificate of appropriateness under Section 23- 6E-2010 (Certificates of Appropriateness).
- (B) If the Historic Landmark Commission determines that the proposed work will not adversely affect the designated or pending historic landmark or contributing property within a designated or pending local historic district, it shall approve the application for a certificate of appropriateness.
- (C) In making a determination under this section for a contributing property in a local historic district, the Historic Landmark Commission shall first apply any applicable local historic district design standards approved under Subsection 23-4D-9100 (HD Overlay and Preservation Plan), followed by the Secretary of the Interior's Standards for Rehabilitation, 36 Code of Federal Regulations Section 67.7(b).
- (D) If the Historic Landmark Commission approves the application for a certificate of appropriateness, the Historic Preservation Officer shall provide the certificate to the applicant and the building official on or before the fifth day after the action.
- (E) If the Historic Landmark Commission denies the application for a certificate of appropriateness, the Historic Preservation Officer shall notify the applicant of the denial on or before the fifth day after the action.

23-6E-2050 Advisory Review for Properties with Historic Designation

- (A) This section applies to a building, structure, or site that is:
 - (1) A contributing property within a National Register Historic District;
 - (2) New construction within a National Register Historic District;
 - (3) A property individually listed in the National Register of Historic Places;
 - (4) A National Historic Landmark;
 - (5) A recorded Texas Historic Landmark; or
 - (6) A State Antiquities Landmark.
- (B) The Historic Landmark Commission shall provide comments for all exterior and site work for a property subject to this section regardless of whether a building or demolition permit is required, including but not limited to the replacement of doors, windows, siding, and roof materials, unless administratively released under Section 23-6E-2040 (Action on a Certificate of Appropriateness) or the work is ordinary repair or maintenance as defined in this chapter.

23-6E-2060 Administrative Release under Advisory Review

- (A) The historic preservation officer may administratively release an application for a project under Section 23-6E-2050 (Advisory Review for Properties with Historic Designation) that consists of:
 - (1) Minor repair or maintenance work that does not involve changes to architectural and historical value, style, or general design;

Action on an Application for a Building, Demolition, or Relocation Permit

- (2) An accurate restoration or reconstruction of a documented missing historic architectural element of the structure or site;
- (3) Work that does not visually affect the historic character of the structure or site from the principal street frontage of the property, complies with all applicable design guidelines for the district, and is limited to the construction of:
 - (a) A ground-floor, one-story rear addition;
 - (b) A one-story rear outbuilding, including an accessory dwelling unit;
 - (c) A rear addition up to two stories to a two-story building or structure;
 - (d) An accessory dwelling unit up to two stories behind a two-story house; or
 - (e) A pool, deck, fence, back porch enclosure, or other minor feature; or
- (4) The demolition of an outbuilding such as a carport, detached garage, shed, greenhouse, or other outbuilding determined by the historic preservation officer not to possess historic or architectural significance, either as a standalone building or structure, or as part of a complex of buildings or structures on the site.

23-6E-2070 Action on an Application for a Building, Demolition, or Relocation Permit

- (A) This section applies to a building, demolition, or relocation application under Section 23-6E-2050 (Advisory Review for Properties with Historic Designation).
- (B) The Historic Landmark Commission may initiate a zoning case for historic designation under Section 23-3B-3040 (Zoning Map Amendment Initiation) if it determines that the property for which an application has been submitted meets the requirements in Subsection 23-3C-10100(D) (Designation Criteria for H and HD Overlay Zones).
- (C) If the Historic Landmark Commission determines that the property does not meet the requirements in Subsection 23-3C-10100(D) (Designation Criteria for H and HD Overlay Zones), it may:
 - (1) For an application for a building permit on a building with state or national historic designation described in Section 23-6E-2050 (Advisory Review for Properties with Historic Designation), provide any applicable comments to the applicant to encourage a higher degree of compatibility with the historic character of the property or the district and release the application; or
 - (2) For an application for a demolition or relocation permit, release the application.
- (D) The Historic Preservation Officer shall notify the applicant and the building official within two days of an action under this section by the Historic Landmark Commission.
- (E) The Historic Preservation Officer shall provide the building official with any documents necessary to complete processing of the application for a building, demolition, or relocation permit by the latest of:
 - (1) The fifth day from the date the Historic Landmark Commission acts on an application, if the action is not subject to appeal under Section 23-6E-5010 (Appeal); or
 - (2) The end of the appeal period, if the action is subject to appeal under Section 23-6E-5010 (Appeal).

Division 23-6E-3: Properties without Historic Designation

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23-6E-3010 Review for Buildings 45 or More Years Old without Historic Designation

- (A) This section applies to a building, structure, or site that is:
 - (1) 45 or more years old; and
 - (2) Not listed under Subsection 23-6E-2010(A) (Certificates of Appropriateness) or Subsection 23-6E-2050(A) (Advisory Review for Properties with Historic Designation).
- (B) For a building, structure, or site that is subject to this section, the Historic Landmark Commission may review the following:
 - (1) A building permit application;
 - (2) A demolition application, including an application for partial demolition; or
 - (3) A relocation application.
- (C) When the Historic Landmark Commission reviews an application under this section, it shall evaluate the property for possible designation as a historic landmark under Section 23-3C-10100 (Historic Landmark and Historic District Overlay) and may initiate a zoning case for historic designation under Section 23-3B-3040 (Zoning Map Amendment Initiation).

23-6E-3020 Administrative Approval for Buildings Without Historic Designation

- (A) The Historic Preservation Officer may administratively approve an application under Section 23-6E-3010 (Review for Buildings 45 or More Years Old without Historic Designation) if the historic preservation officer determines that the building, structure, or site:
 - (1) Lacks historic integrity;
 - (2) Does not meet the criteria for designation as a historic landmark under Subsection 23-3C-10100 (D) (Designation Criteria for H and HD Overlay Zones); or
 - (3) Is an outbuilding such as a carport, detached garage, shed, greenhouse, or other similar structure and does not possess historic or architectural significance, either as a standalone building or structure, or as part of a complex of buildings or structures on the site.

23-6E-3030 Action on an Application for a Demolition or Relocation Permit

- (A) This section applies to a building, demolition, or relocation application subject to Subsection 23-6E-3010 (Review of Buildings 45 or More Years Old without Historic Designation).
- (B) The Historic Landmark Commission may initiate a historic zoning case if it determines that the property meets the requirements for designation as a historic landmark under Subsection 23-3C-10100 (D) (Designation Criteria for H and HD Overlay Zones).
- (C) If the Historic Landmark Commission determines that the property does not meet the requirements for designation as a historic landmark under Subsection 23-3C-10100 (D) (Designation Criteria for H and HD Overlay Zones), it shall release the application.
- (D) The Historic Preservation Officer shall notify the applicant and the building official within two days of an action under this section by the Historic Landmark Commission.
- (E) The Historic Preservation Officer shall provide the building official with any documents necessary to complete processing of the application for a building, demolition, or relocation permit by the latest of:
 - (1) The fifth day from the date the Historic Landmark Commission acts on an application, if the action is not subject to appeal under Section 23-6E-5010 (Appeal); or
 - (2) The end of the appeal period, if the action is subject to appeal under Section 23-6E-5010 (Appeal).

Division 23-6E-4: Pending Historic Designations

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23-6E-4010 Pending Historic Designations

- (A) A building, structure, or site is pending when the earliest of the following events occurs:
 - (1) Two members of the Historic Landmark Commission request in writing to place the building, structure, or site on the Historic Landmark Commission’s agenda to consider its eligibility for designation as a historic landmark under Subsection 23-3C-10100 (D) (Designation Criteria for H and HD Overlay Zones).
 - (2) A Historic Landmark Commission agenda is posted that includes the Commission’s consideration of whether the building, structure, or site is eligible for designation as a historic landmark under Subsection 23-3C-10100 (D) (Designation Criteria for H and HD Overlay Zones); or
 - (3) A Historic Landmark Commission agenda is posted that includes the Historic Landmark Commission’s consideration of an application for a demolition, relocation, or building permit concerning the building, structure, or site.
- (B) A local historic district is pending when a Historic Landmark Commission agenda is posted that includes the Historic Landmark Commission’s consideration of the district’s eligibility for designation under Subsection 23-3C-10100 (D) (Designation Criteria for H and HD Overlay Zones).
- (C) The building official may initiate enforcement action under Article 23-2J (Enforcement) to suspend or revoke a building, demolition, or relocation permit if it is issued after a building, structure, or site is pending designation.
- (D) A written request under Subsection (A)(1) must address:
 - (1) Whether the building, structure, or site is eligible for designation as a historic landmark under Subsection 23-3C-10100 (D) (Designation Criteria for H and HD Overlay Zones);
 - (2) Whether permits intended for structural stabilization or retention of integrity, as defined by Subsection 23-3C-10100 (D) (Designation Criteria for H and HD Overlay Zones), may be issued to maintain the building, structure, or site’s eligibility during zoning proceedings; and
 - (3) Whether the building, structure, or site’s eligibility for designation as a historic landmark would be compromised by the issuance of any proposed building, demolition, or relocation permit.
- (E) A designation is no longer pending when:
 - (1) The Historic Landmark Commission issues a certificate of appropriateness for the work proposed in the application;

- (2) The Historic Landmark Commission approves the demolition, relocation, or building permit concerning the building, structure, or site;
 - (3) The Historic Landmark Commission does not recommend designation as a historic landmark for the building, structure, site, or district on or before the 75th day after the date of the first Historic Landmark Commission meeting at which the application is included as an action item on the agenda; or
 - (4) The city council makes a final decision on a historic designation for the building, structure, site, or district.
- (F) Within seven calendar days from the request or vote described in Subsection (A), the historic preservation officer shall provide the building official with a copy of each written request and agenda.

Division 23-6E-5: Appeal

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23-6E-5010 **Appeal**

- (A) An owner or applicant may appeal an action of the Historic Landmark Commission under this article to the Land Use Commission.
- (B) An interested party may appeal a Historic Landmark Commission decision to allow the demolition or relocation of a designated historic landmark or a contributing property in a designated local historic district to the Land Use Commission.
- (C) An appeal must be filed no later than 10 days from the date of action by the Historic Landmark Commission.
- (D) An appeal under this section must be submitted to the historic preservation officer in writing and state the appellant’s standing to file the appeal, the case number and address of the subject property, and the basis for the appeal.
- (E) The Land Use Commission’s decision on an appeal may be appealed to the city council.
- (F) Except as otherwise provided under this section, an appeal must comply with Article 23-21 (Appeals).

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Article 23-6F: Maintenance Requirements

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 - 23-6F-1020 Duty to Preserve and Repair
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- 23-6F-2010 Demolition by Neglect and New Construction
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Division 23-6F-1: Maintenance Requirements

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23-6F-1010 Maintenance

- (A) The owner of a building or structure is responsible for the maintenance of the building, structure, and building service equipment. The owner shall:
 - (1) Maintain the building, structure, and building service equipment in a safe and sanitary condition; and
 - (2) Maintain a device or safeguard as required by a technical code in the manner required by the technical code under which the device or safeguard was installed.
- (B) The building official may inspect a building or structure to determine compliance with this section.

23-6F-1020 Duty to Preserve and Repair

- (A) This section establishes the responsibilities of an owner or other person having legal custody and control of:
 - (1) A designated or pending historic landmark;
 - (2) A contributing property within a designated or pending local historic district;
 - (3) A contributing property within a National Register Historic District;
- (B) The property shall be preserved against decay and deterioration and kept free from any of the following defects, as defined in Division 23-10B-1 (Building Code), Division 23-10B-9 (Property Maintenance Code), or other applicable provision of Chapter 23-10 (Technical Code):
 - (1) Parts that are improperly or inadequately attached so that they may fall and injure persons or property;
 - (2) Deteriorated or inadequate foundation;
 - (3) Floor supports that are defective, deteriorated, or insufficient to carry the loads imposed;
 - (4) Walls, partitions, or other vertical supports that split, lean, list, or buckle due to defect or deterioration or are insufficient to carry the loads imposed;
 - (5) Ceilings, roofs, ceiling or roof supports, or other horizontal members that sag, split, or buckle due to defect or deterioration or are insufficient to support the loads imposed;
 - (6) Broken, missing, or rotted roofing materials or roof components;
 - (7) Fireplaces and chimneys that list, bulge, or settle due to defect or deterioration, or are of insufficient size or strength to carry the loads imposed;

Duty to Preserve and Repair

- (8) Rotted, damaged, or missing siding or deteriorated, crumbling, or loose exterior stucco or mortar;
 - (9) Defective protection or lack of weather protection for exterior wall and roof coverings, including lack of paint, or weathering due to lack of paint or other protective covering;
 - (10) Broken, missing, or deteriorated window glass, sashes, frames, or exterior doors or door frames;
 - (11) Any other fault, defect, or condition in the structure that renders it structurally unsafe as defined by the Building Code and the Existing Building Code; or
 - (12) Any fault, defect, or condition in the structure that allows excessive water to infiltrate the building envelope or is not sufficiently watertight as to prevent future deterioration or water infiltration.
- (C) If the building has any of the defects listed in Subsection (B), the owner shall repair the building to comply with the city's minimum housing standards.
- (D) The property shall be maintained in a manner that complies with Chapter 9-1 (Abandoned Property and Vehicles), and Chapter 10-5 (Miscellaneous Public Health Regulations).
- (E) The owner of a residential dwelling with a homestead exemption as defined under state law may apply for an exception from certain requirements of this section, provided the conditions are not a threat to public safety. The city council may grant an exception if the owner demonstrates a financial inability to comply with this section. The city council may limit the duration of the exception and may impose conditions on the exception.

Division 23-6F-2: Demolition by Neglect & New Construction

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23-6F-2010 Demolition by Neglect and New Construction

- (A) If a building, object, site, or structure subject to this article was demolished because it was a public safety hazard and the owner received, within a one-year period, two or more notices of violation, the building official may not accept or consider an application for a permit for new construction on the property for a period of three years from the date the building, object, site, or structure was demolished.

23-7F-2020 Demolition by Neglect Procedure

- (A) The historic preservation officer and the Commission are authorized to work with a property owner to encourage maintenance and stabilization of the structure and identify resources available before taking enforcement action under this section.
- (B) Except as provided in Subsection (C), the following procedures apply to enforcement of this chapter.
 - (1) The Commission or the historic preservation officer may initiate an investigation of whether a property is being demolished by neglect.
 - (2) Upon initiation of an investigation, the historic preservation officer shall:
 - (a) attempt to meet with the property owner to inspect the structure and discuss the resources available for financing any necessary repairs; and
 - (b) prepare a report for the Commission on the condition of the structure, the repairs needed to maintain and stabilize the structure, and the amount of time needed to complete the repairs.
 - (3) The Commission shall review the historic preservation officer's report and may vote to certify the property as a demolition by neglect case.
 - (4) If the Commission certifies the property as a demolition by neglect case, the historic preservation officer shall take the following actions:
 - (a) Send notice to the property owner or the property owner's agent, by certified mail, describing the required repairs and specifying:
 - (i) that repairs must be started within 60 days; and
 - (ii) a date by which repairs must be completed, as determined by the historic preservation officer.

- (b) Meet with the property owner within 90 days after the notice is sent, if the historic preservation officer determines that it would be useful to discuss progress in making repairs and consider any issues that may delay completion of repairs.
- (5) The historic preservation officer may refer a demolition by neglect case to the appropriate city department for enforcement action.

Article 23-6G: Miscellaneous Provisions

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Division 23-6G-1: Interlocal Development Agreements

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23-6G-1010 Purpose and Authorization

- (A) **Purpose.** This division establishes procedures by which the council may approve interlocal development agreements with other governmental entities. The purpose of an interlocal development agreement is to adopt reasonable development regulations that balance the needs of other governmental entities with the requirements of this Title and the goals and policies of the Comprehensive Plan.
- (B) **Authorization**
 - (1) The city may enter into an interlocal development agreement under this division with any governmental entity, municipal corporation, or political subdivision.
 - (2) An interlocal development agreement, including an amendment to an existing agreement, may establish or modify regulations for the use, maintenance, development, or construction of property containing one or more existing or proposed structures to be used for a governmental purpose.

23-6G-1020 Initiation of Interlocal Development Agreement

- (A) The council or the responsible director may initiate the negotiation of an interlocal development agreement, subject to the review and approval procedures established in this division.

23-6G-1030 Land Use Commission Hearing and Recommendation

- (A) **Public Hearing Required.** Before the council considers a proposed interlocal development agreement, the responsible director shall schedule a public hearing on the proposed agreement before the Land Use Commission and provide notice of the public hearing under Section 23-6G-1050 (Notification Requirements).
- (B) **Commission Recommendation & Deadline.** Not later than the 14th day after the public hearing on a proposed agreement is closed, the Land Use Commission shall recommend that the council:
 - (1) Approve the interlocal development agreement as proposed;
 - (2) Approve the interlocal development agreement with modifications; or
 - (3) Reject the proposed interlocal development agreement.

23-6G-1040 City Council Hearing and Action

- (A) **Council Public Hearing & Notice.** After the Land Use Commission makes its recommendation, the council shall hold a public hearing on the proposed interlocal development agreement. The responsible director shall provide notice of the public hearing under Section 23-6G-1050 (Notification Requirements).
- (B) **Council Action.** After a public hearing on a proposed interlocal development agreements, the council may authorize the city manager to:
 - (1) Execute the agreement as proposed;
 - (2) Execute a modified agreement, which may include different use, development, or construction regulations, or other conditions, than those included in the proposed agreement recommended by the Land Use Commission or the responsible director;
 - (3) Initiate the negotiation of a new agreement, which shall be subject to review by the Land Use Commission under Section 23-6G-1030 (Land Use Commission Hearing and Recommendation); or
 - (4) Reject the proposed agreement and discontinue negotiations.

23-6G-1050 Notification Requirements

- (A) **Type of Notice Required**
 - (1) **Site-Specific Interlocal Development Agreements.** If a proposed interlocal development agreement establishes or modifies use, development, or construction regulations applicable to a particular site or structure, the responsible director shall provide notice of the hearing under Section 23-2D-4020 (Type 1 Public Hearing Notice); and
 - (2) **Areawide Interlocal Development Agreements.** If a proposed interlocal development agreement establishes or modifies general use, construction, or development regulations contained in a master plan or agreement applicable to a governmental entity, municipal corporation, or political subdivision, the responsible director shall provide notice of the hearing under Section 23-2D-4040 (Type 2 Public Hearing Notice).
- (B) **Deadlines for Notification.** The deadline for providing mailed and published notice of a public hearing on a proposed interlocal development agreement is:
 - (1) The 11th day before the date of the Land Use Commission hearing; and
 - (2) The 16th day before the date of the council hearing.
- (C) **Contents of Notice.** Mailed and published notice of a public hearing required by this division must:
 - (1) Describe the general nature of the proposed interlocal development agreement;
 - (2) Identify the governmental entity, municipal corporation, or political subdivision that is to be a party to the agreement;
 - (3) Generally describe the proposed agreement;
 - (4) Identify the entities that may approve the proposed agreement;

- (5) State the earliest date that action on the proposed agreement may occur; and
- (6) Include the address and telephone number of the responsible director or staff from whom additional information may be obtained.

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Division 23-6G-2: General Development Agreements

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23-6G-2050 Execution and Terms of Agreement. 3

23-6G-2010 Purpose and Applicability

- (A) This division establishes procedures by which the council may consider a development agreement, as authorized under Section 212.172 of the Texas Local Government Code, to achieve a higher standard of development for land located in the City’s extraterritorial jurisdiction.
- (B) A development agreement may only be considered for land located in the City’s extraterritorial jurisdiction. A development agreement may include a transfer of development intensity if the sending or receiving site, or both, are located outside the city limits at the time the agreement is executed.
- (C) A development agreement that includes land in the Barton Springs Zone is subject to Division 23-4D-9 (Save Our Springs Initiative), including the limitations on amendment established by Section 23-4D-9020 (Amendment).

23-6G-2020 Agreement Initiation and Framework

- (A) **Council Initiation Required.** A development agreement may only be considered if the council initiates the agreement by adopting a resolution directing the city manager to begin negotiating the terms of a proposed agreement with an owner of property in the City’s extraterritorial jurisdiction. A public hearing on a proposed development agreement may not be held unless the council has initiated negotiations under this section.
- (B) **Framework for Agreement.** In initiating negotiation of a development agreement, the council may specify goals or objectives to be considered in negotiations regarding any of the following elements:
 - (1) **Annexation Status.** Continuation of the extraterritorial status of the land and immunity from annexation.
 - (2) **Land Use Plan.** Extension of the City’s planning authority over the land through a development plan authorizing general lands uses and development standards, which may be tied to annexation under Subsection (B)(5).
 - (3) **Enforcement Authority.** Authorization to enforce:
 - (a) Specified land use and development regulations in the same manner the regulations are enforced within the zoning jurisdiction; and
 - (b) Environmental regulations.

- (4) **Infrastructure.** Provisions for infrastructure, including streets and roads; street and road drainage; land drainage; and water, wastewater, and other utility systems.
- (5) **Annexation.** The terms of annexation, wholly or partly, if annexation agreed to by the parties.
- (6) **General Conditions.** Other lawful terms and considerations considered appropriate.

23-6G-2030 **Boards and Commission Review**

(A) **Planning Commission Review and Recommendation**

- (1) Before presenting the terms of a proposed development agreement to the council for consideration under Section 23-6G-1040 (City Council Hearing and Action), the responsible director shall schedule a public hearing on the terms of a proposed agreement before the Planning Commission and provide notice of the hearing under Section 23-2D-4020 (Type 1 Public Hearing Notice).
- (2) No later than the 14th day after closing the public hearing, the Planning Commission shall make a recommendation to approve, conditionally approve, or reject the terms of a proposed development agreement based on the following criteria:
 - (a) The extent to which the proposed terms further the goals and policies of the Comprehensive Plan, including those related to conservation and environment, affordability, and land use and transportation.
 - (b) Whether the proposed terms further public health, safety, and welfare.
- (3) If the Planning Commission does not make a recommendation as required under Subsection (A)(2), the responsible director shall forward the terms of the proposed agreement to the council for consideration under Section 23-6G-1040 (City Council Hearing and Action).

- (B) **Additional Review & Criteria.** The council may require that the terms of a proposed development agreement be presented for review to additional city boards or commissions, other than as required by Subsection (A), and may specify additional review criteria to be considered in determining whether to recommend the terms of a proposed agreement.

23-6G-2040 **City Council Hearing and Action**

- (A) **Council Hearing.** Not later than the 60th day after the Land Use Commission makes its recommendation, the council shall hold a public hearing on the terms of a proposed development agreement, which must include a complete land use plan and any other elements agreed to by the city manager and the landowner under Section 23-6G-2020 (Agreement Initiation and Framework). The responsible director shall provide notice of the public hearing under Section 23-2D-4020 (Type 1 Public Hearing Notice).
- (B) **Council Action.** After a public hearing on a proposed development agreement, the council may authorize the city manager to:
- (1) Execute the agreement as proposed, with the concurrence of the landowner;
 - (2) Execute a modified agreement, with the concurrence of the landowner;

- (3) Initiate the negotiation of a new agreement, which shall be subject to review by the Land Use Commission under Section 23-6G-2030 (Boards and Commission Review); or
- (4) Reject the proposed agreement and discontinue negotiations.

23-6G-2050 Execution and Terms of Agreement

- (A) **Authority to Execute.** If the council approved the terms of a proposed development agreement under Section 23-6G-2040 (Council Hearing and Action), the city manager shall execute the agreement on behalf of the city subject to approval and execution by the landowner.
- (B) **Agreement Terms.** In addition to terms approved by the council and the landowner for the elements listed in Section 23-6G-2020 (Agreement Initiation and Framework), a development agreement must include provisions for each of the following:
 - (1) **Effect of Agreement.** A development agreement must include binding terms:
 - (a) Putting into effect the regulations provided in the development agreement and land use plan;
 - (b) Authorizing the provision of city services under the agreement;
 - (c) Authorizing the property owner to apply for subordinate development permits under the agreement; and
 - (d) Requiring the development agreement and land use plan to be recorded in the real property records of each county in which the land subject to the agreement is located.
 - (2) **Term of Agreement.** A development agreement must specify the duration of the contract and any successive amendments or renewals, which may not exceed 45 years.
 - (3) **Other Provisions.** A development agreement may include other general contract provisions that are determined to be necessary to the lawful execution and administration the agreement.

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Division 23-6G-3: Closed Municipal Landfills

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23-6G-3010 Applications Relating to a Closed Municipal Solid Waste Landfill

(A) Applicability

- (1) This section applies to development of a residential, commercial, or public enclosed structure that is designed for use by humans and that is located on a site over one acre in size or located within a landfill area.
- (2) This section does not apply to the remodel of or addition to a single-family or duplex use allowed in Residential House-Scale Zones.

(B) Application Requirements. The responsible director or building official may not approve a subdivision, site plan, or building permit application unless the applicant has submitted:

- (1) Certification from a licensed professional engineer that the site does not overlie a Closed Municipal Solid Waste Landfill (CMSWL); or
- (2) If the site overlies a CMSWL:
 - (a) a development permit from the Texas Commission on Environmental Quality;
 - (b) written notification from the Texas Commission on Environmental Quality that a development permit is not required; or
- (3) Certification from a licensed professional engineer that the applicant will conduct soil testing under the standards of the Texas Commission on Environmental Quality during construction of the foundations to determine whether the site overlies a CMSWL.

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