

(ARTICLE XV, ADDED BY ORDINANCE NO. 681, SEPTEMBER 6, 2007)

ARTICLE XV
DESIGN REVIEW

SECTIONS

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15-101 PURPOSES AND INTENTS

The purpose of this article is to conserve property values within the City of Fairview by establishing procedures for the design review of development henceforth erected, reconstructed or altered, and thereby:

- Promote qualities in the environment that sustain the community's economic well-being.
- Foster the community's attractiveness and functional utility as a place to live and to work.
- Preserve the community's heritage by maintaining the integrity of areas enjoying a discernible character contributing to this heritage.
- Safeguard public investment within the community.
- Raise the level of citizen expectations favoring the quality of the community's visual environment.

15-102 ROLE OF THE PLANNING COMMISSION

The Fairview Planning Commission shall administer the provisions of this article including, without limitation:

- Certification that proposed development comports with the design standards set forth herein.

- Recommend amendments, as necessary, to the Design Review Manual for approval by the Board of Commissioners.
- Consultation with municipal and other appropriate agencies on matters addressed in this article.
- Adoption of such rules of procedure as the commission may deem necessary.

15-103 DESIGN REVIEW MANUAL

To further the purposes of this article as set forth herein, there is hereby adopted a Design Review Manual. Amendments to the Design Review Manual, shall be made by resolution approved by a majority of the entire membership of the Board of Commissioners, with appropriate recommendation from the Fairview Municipal Planning Commission.

15-104 DEVELOPMENT SUBJECT TO DESIGN REVIEW

15-104.1 Development Requiring Review

Development, including any buildings, structures or physical improvements pertaining thereto, shall be subject to the provisions of this article if approval of this development is conditioned upon one or more of the following:

1. Site Plan approval under Article XVI, Section 16-103, (Plans Required), including a new structure or any addition to an existing structure totaling fifty (50) percent of the ground floor area or any external modification where the estimated cost of the improvement exceeds fifty (50) percent of the total assessed value of the structure as per Williamson County tax records.
2. Final planned unit development master development plan approval under Article VIII, unless the plan envisages the construction exclusively of one- and two-family dwellings.
3. Conditional use approval under Article XVI, Section 16-106, involving either a new structure or any addition to an existing structure totaling fifty (50) percent of the ground floor area or any external modification where the estimated cost of the improvement exceeds fifty (50) percent of the total assessed value of the structure as per Williamson County tax records.
4. The development is a public building costing in excess of twenty-five thousand dollars (\$25,000) which may be regulated by the City of Fairview under applicable law. Any other government entity will be strongly encouraged to comply.
5. Any development which requires approval by the Planning Commission which the Planning Director determines to possess design characteristics

that merit review under this article. Reasons for the Planning Director's determination must be clearly stated in writing. Appeals from the Director's determinations shall be filed with the Planning Commission within fifteen (15) days thereof, and resolved by the commission within forty-five (45) days of said filing.

15-104.2 Development Exempt From Design Review

Reconstruction or repairs required for immediate public health or safety reasons, as determined by the Mayor or his designee, are expressly exempted from the requirements of this article.

15-105 DESIGN REVIEW APPLICATIONS AND PROCESSING

15-105.1 Preapplication Conference

Any prospective applicant for a development approval permit that may require design certification under this article may request a preliminary conference with the Planning Director by filing a written request no later than fifteen (15) days prior to the Planning Commission meeting where the matter is to be heard. Accompanying the request shall be such preliminary exterior drawings, site plans, and related materials as the applicant wishes to bring to the commission's attention. Viewpoints expressed by the Planning Director shall be advisory only; no legally enforceable rights or expectations of any kind shall vest until the applicant's formal application for design review has been processed in accordance with the provisions of this article.

15-105.2 Review by Planning Commission

The Planning Commission shall approve, approve with conditions, or disapprove an application for design review certification within forty-five (45) days of the application's initial review by the Commission, unless the Commission and the applicant agree to a greater time period. Absent such an agreement, all applications not acted upon by the Commission within forty-five (45) days shall be deemed approved. Minutes shall be kept of the Commission's proceedings and reasons for its decisions shall be clearly stated in this record. An approved application and its supporting exhibits shall be endorsed as approved by the Commission or its authorized representative.

15-105.4 Appeal of Commission Actions

Any person aggrieved by an action of the Planning Commission under this article may appeal the action to the Board of Commissioners within thirty (30) days following such action. A notice setting forth the respects with which the person filing the appeal takes exception to the decision of the Planning Commission shall be provided. Appeals shall be decided within forty-five (45) days of their filing unless the applicant and the Board agree to extend this period. In reviewing the appeal, the Board shall not invalidate the Planning Commission's action, unless approved by majority of the entire membership. The reason for the decision of the Board of Commissioners' determination shall be clearly

reflected in the minutes. If the Board invalidates the Planning Commission's action, it may, in its discretion, either exercise the powers of the Commission or remand the matter, along with its statement of reasons to the Planning Commission for further action not inconsistent with the decision of the Board.

15-106 DESIGN REVIEW STANDARDS

In reviewing applications, the Planning Commission shall insure that the proposed development satisfies the criteria for the applicable category or type of development as these criteria are set forth in the City of Fairview Design Review Manual, and in any pertinent City of Fairview land use or building regulations and ordinances, including design district development plans. In the case of a conflict between this ordinance and other ordinances, the more stringent shall govern.

15-107 DESIGN DISTRICTS

15-107.1 Establishment

The Board of Commissioners may designate specific areas of the community as design districts at the request of citizens or of the Planning Commission or upon its own motion, if it determines that the area contains buildings, structures, burial grounds or other features of archaeological, architectural, or design significance.

Prior to the establishment of a design district, the Planning Commission with the assistance of its staff and such consultants as it chooses to utilize, shall prepare a design district development plan which inventories the design characteristics of the area justifying the area's selection and special protection as a design district. The Commission shall hold a public hearing on the proposed design district designation and accompanying design district development plan, and shall transmit a written report to the Board, summarizing both community response and the Commission's recommendations concerning establishment of the proposed design district. The Commission's report shall be placed on file with the Planning Director for inspection by the public. The Board shall hold a public hearing as required by Article XVI, and otherwise proceed to adopt such district in the form of an amendment to the zoning ordinance. Should the Board decide to establish the design district, it shall do so by designating upon the Zoning Map, an overlay design district, the boundaries of which shall conform with the boundaries of the underlying area.

15-107.2 Administration

No building or other development permit shall be issued or the construction, reconstruction, alteration or demolition of any building, structure or physical improvement within any design district issued absent certification by the Planning Commission pursuant to this article, of the conformance of the proposed development with the design standards established for such district. In particular, development must conform with the general land use regulations applicable to the design district's underlying area, the Design Review Manual, and the district's design development plan, as approved by the Board of Commissioners in conjunction with the Board's establishment of the design district.

15-108 PUBLIC WORKS

In reviewing the design of public buildings undertaken by governmental agencies, other than the City of Fairview, the Planning Commission shall submit a report of its recommendations to the agency proposing to construct the public project and seek to the extent permitted under applicable law or through communication with the agency to secure such modifications in the work's design as comport with the standards of this article. In the case of public projects undertaken by the City of Fairview, a Planning Commission determination to withhold a certificate of design approval shall be binding, unless this determination is reversed by a majority of the entire membership of the Board of Commissioners.

15-109 APPLICATION: VESTED RIGHTS

The provisions of this article shall not be applicable to any property owner whose actions prior to the article's effective date have created a vested right to develop under applicable state or federal law. All other development or proposed development shall be subject to the article's provision.

15-110 CONTINUING MAINTENANCE

Following the construction or modification of any development, the design of which is approved pursuant to this article, the development shall be maintained in accordance with the following standards:

- A. Buildings and appurtenances, including signs, shall be cleaned and painted or repaired as required to maintain an attractive appearance.
- B. Illuminated elements of buildings and signs shall be replaced as required to maintain the effect for which designed.
- C. Landscape materials, other than plantings, which have deteriorated shall be reconstituted or replaced.
- D. Plantings shall be kept watered, fed, cultivated, and pruned to give a healthy appearance during all seasons. Plant materials which have deteriorated, shall be replaced with healthy plantings.
- E. Parking areas shall be kept in an orderly state, properly marked, and clear of litter and debris.
- F. Vacant property shall be kept free of refuse and debris, and shall have the vegetation cut periodically during the growing season.

Failure to comply with the requirements of this section, after a notice of noncompliance has been issued with a stated time frame for compliance, shall be deemed a violation of this zoning ordinance and shall be subject to the sanctions set forth in Article XVI, Section 16-108, (Remedies and Enforcement) as well as to the revocation of any permit, license, certificate or other approval initially issued by the city as a basis for construction and/or occupancy of the development on which the violation has occurred.

15-111 PROHIBITIONS

No building permit, license, certificate, or other approval or entitlement shall be issued or given by the city with respect to any development subject to the provisions of this article, until the development has been approved as provided herein. No certificate of use or occupancy, whether temporary or permanent in form, shall be given for any such development until the Planning Director has certified that the development has been completed in accordance with the design approved by the Planning Commission; provided, however, that the Planning Staff, in its discretion, may elect to grant a Temporary Use and Occupancy Permit subject to a reasonable bond guaranteeing that the applicant will complete the development in accordance with the approved design within a time certain.