

**CHAPTER 16.12
ADMINISTRATION**

16.12.005 PLANNING AND ZONING COMMISSION

- A. Acknowledgment is hereby made of the prior creation, establishment and enumeration by the Charter of the City of Benbrook of certain powers and responsibilities of the Planning and Zoning Commission, hereinafter referred to as the "Commission". The Commission shall exercise all of the powers of approval or disapproval of plats, vacation of plats, and replats in accordance with state law, the City Charter, this Ordinance, and other Ordinances of the City.
- B. The Commission shall have the following responsibilities:
1. Provide recommendations to the City Council regarding the development, preparation, and maintenance of the Comprehensive Plan, and auxiliary plans and studies.
 2. Make recommendations to the City Council regarding development policies that should be adopted to insure the implementation of the Comprehensive Plan.
 3. Perform other planning duties which may be specifically assigned to the Commission by the City Council.
 4. Approve or disapprove applications regarding platting or subdividing land within the corporate limits of the City of Benbrook and its extraterritorial jurisdiction as follows:
 - a) Review and approve, conditionally approve, or disapprove requests for waivers or deferrals to the subdivision standards.
 - b) Review and approve, conditionally approve, or disapprove of preliminary plat proposals.
 - c) Review and approve, conditionally approve, or disapprove of short form final plats.
 - d) Approve or disapprove of phased development of a subdivision plat
 5. Review and recommend approval or disapproval to City Council of all proposed changes in the zoning map, whether by request of an individual or a change initiated by the City.
 6. Make other determinations and decisions as required of the Commission from time to time by these regulations, or the applicable sections of the Texas Civil Statutes.

16.12.010 PLANNING AND ZONING COMMISSION OFFICERS AND DUTIES

A. Officers

A Chair and Vice-Chair shall be elected annually from among the Commission's membership at the first meeting in November and at such other times as these offices may become vacant. In the absence of both the Chair and Vice-Chair, the Commission shall elect an Acting Chair.

B. Duties

The Chair, or in his/her absence the Vice-Chair, shall preside at all meetings, and shall decide all points of order or procedure. All letters of transmittal from the Commission shall have the signature of the Chair, Vice-Chair or their designated representative.

16.12.015 MEETINGS

A. Agenda

An agenda shall be prepared by the City Planner for each meeting of the Commission.

B. Regular Meeting

Regular meetings shall be held the second Thursday of each month at 7:30 P.M. in the City Council Chambers of the City Hall, unless otherwise determined by the Commission.

C. Special Meetings

Special meetings for any purpose may be held on the call of the Chairman or on request of two or more members and by giving written notice to all members, delivered to Commission members at least forty-eight (48) hours before the meeting, or as may be scheduled by a majority of the Commission at any previous meeting. The time and place of the special meeting shall be determined by the convening authority.

D. Public Meetings

All meetings shall be held in full compliance with the provisions of the State Law, the Charter and Code of the City of Benbrook and this Ordinance. Any party in interest may appear in his behalf or be represented by counsel or agent.

E. Study Sessions

The Commission may be convened as a committee of the whole in the same manner as prescribed for the calling of a special meeting for the purpose of holding a study session, provided that no official business shall be conducted thereat, and a quorum shall not be required. As a matter of course a study session will be scheduled before each regularly scheduled Commission meeting.

16.12.020 HEARINGS AND DECISIONS

A. Public Hearings and Notice

Public notice will be given for replats if required by Section 212.015 of the Local Government Code.

B. Rules of Order

Roberts Rules of Order, latest revision, may be used on all questions of procedure and parliamentary law not covered by this Ordinance.

C. Suspension of Rules

Any provision of these rules not governed by the City Charter, Code or State Law may be temporarily suspended by a two-thirds (2/3) vote of all members of the Commission of which vote shall be entered upon the minutes.

D. Order of Business

The Chair shall call the Commission to order, and the members present and absent shall be recorded. The minutes of any preceding meeting shall be submitted for approval. The public shall be advised of the procedures to be followed in the meeting.

The Commission shall then hear and act upon those proposals scheduled for public hearing, together with any other matters of business, and report as the Commission or City Planner finds to require Commission consideration.

E. Procedures for Hearing of Proposals

1. The Chair shall call each proposal for consideration.
2. The Chair shall allow the applicant to present his proposal and any supporting information and may limit the presentation to a total of ten (10) minutes.
3. The Chair shall afford the Staff an opportunity to call to the attention of the Commission any additional pertinent information.
4. The Chair shall next call on persons present who wish to speak to the proposal and shall direct that they speak in the following order:

- a) Those person in support
- b) Those persons in opposition

A total of fifteen (15) minutes shall be given to each side for testimony unless extended for due cause by the Chair.

5. The Chair shall then call for rebuttal testimony from each side in the following order:
 - a) Those persons in support including the applicant
 - b) Those persons in opposition

A total of five (5) minutes shall be given to each side for rebuttal testimony unless extended for due cause by the Chair.

F. Motions

A motion may be made by any member other than the presiding officer.

G. Disqualification

1. A member shall disqualify themselves from discussion, debate and voting on any matter whenever they find that they have a personal or monetary interest in the property under appeal, or will be directly affected by the decision of the Commission as defined by State Law or City Ordinance.
2. A member may disqualify themselves from voting whenever any applicant, or their agent, has sought to influence the vote of the member on their application, other than in the public meeting.

16.12.025 OFFICIAL RECORDS

A. Definition – Official Records

The Official records shall be the minutes of the Commission together with all findings, decisions and other official records of the Commission.

B. Recording of Vote

The minutes of the Commission's proceedings shall show the vote of each member or if absent or failing to vote shall indicate that fact.

C. Files – Retention

All matters coming before the Commission shall be filed in the Planning Department in accordance with that department's general file system. At a minimum, records shall be retained in accordance with the City's Record Retention Schedules.

D. Public Record

The official records, filed for Commission action in regular or special meeting, shall be on file in the Planning Department and shall be open to public inspection during customary working hours.

16.12.030 DUTIES AND AUTHORITY OF CITY MANAGER, CITY PLANNER, CITY ENGINEER AND CITY INSPECTOR

A. CITY MANAGER

The City Manager is hereby authorized and directed to promulgate rules, regulations, standards and specifications for the construction, installation, design, location and arrangement of streets, private streets, driveways, visibility triangles, curbs, street lights, street signs, alleys, utility layouts, utility easements, fences and gates for utility easements, sidewalks, fire hydrants, septic tanks, water wells, monuments, screening devices, criteria for drainage easement requirements, drainage facilities, and crosswalk ways. The City Manager shall file same with the City Secretary at least thirty (30) days before they become effective. The City Manager may amend the same from time to time, provided that an amendment must be filed with the City Secretary at least thirty (30) days prior to its effective date. No such rules, regulations, standards and specifications shall conflict with this or any other Ordinance of the City. All such improvements shall be constructed, installed, designed, located and arranged by the subdivider in accordance with such rules, regulations, standards and specifications.

Unless any exception is specifically requested by the City Manager and adopted by the City Council, the City hereby adopts by reference any standards and specifications for the construction, installation, design, location, and arrangement of water supply and water distribution systems and sewerage disposal systems promulgated by the Benbrook Water Authority.

B. CITY PLANNER

The City Planner or designee shall administer the provisions of these regulations and shall:

1. Have the full care, custody and control of the minutes and other official records, shall attend to the correspondence of the Commission, and shall cause to be

given notices as are required and in the manner prescribed by statute, Ordinance, these rules of the Commission.

2. Serve as Recording Secretary and shall perform such duties as are necessary to prepare accurate and complete minutes of the Commission's actions.
3. Determine meeting dates in conformance with this Ordinance, and prepare and post agendas for meetings in conformance with the Texas Local Government Code.
4. Provide for publication in the official newspaper and make all written notices that may be required by the Texas Local Government Code and this Ordinance.
5. Receive and file all sketch plats, preliminary plats, and final plats together with applications and fees.
6. Forward copies of the sketch plat, preliminary plat, and/or final plat with supplementary materials as appropriate to the City Engineer, franchised utilities and Commission.
7. Discuss with any subdivider/developer the procedures for the approval of a subdivision plat.
8. Review the sketch plat, classify the subdivision and recommend in writing to the Planning and Zoning Commission any land or park reservation.
9. Present a written report of recommendations as to classification of the subdivision, approval of the sketch plat, report of the Engineering requirements, and other related materials to the Commission at the public meeting.
10. Review all plats to determine compliance with the regulations and any previous plat approvals and conditions.
11. Make other recommendations in writing as required by these regulations or by the Commission or City Council.
12. Minor Revisions or Amendments to Site Plans – Minor revisions or amendments to site plans which comply with all Ordinance and other requirements, do not significantly alter the approved traffic and drainage patterns, and are not perceived to be controversial by the City Staff, may be approved by the Chair without a public hearing or action by the full Commission. The City Planner shall provide a written report of such action to the Commission.

C. CITY ENGINEER

The City Engineer shall be a licensed Engineer, and shall:

1. Review and make recommendations regarding Standard Plat submittals and minor plats where public infrastructure improvements are involved.
2. Review and recommend in writing, approval, conditional approval or disapproval of engineering requirements for the Preliminary Drainage Plan as required on a Preliminary Plat.

3. Review and recommend in writing, approval, conditional approval or disapproval of Engineering and other requirements for the Construction Plans and Calculations.
4. Review and recommend in writing, approval, conditional approval or disapproval of any other related materials as required by the Commission and/or City Council.
5. Issue a Letter of Acceptance of improvements upon satisfactory completion of all work on public improvements required for the subdivision.

D. CITY INSPECTOR

The City Inspector shall:

1. Issue Notice to Proceed for construction, monitor construction, and issue Stop Work orders where necessary.

16.12.035 FEES

Fees for subdivision and development-related applications are codified in Chapter 1.12 of the Benbrook Municipal Code (1985 as amended.) Appropriate fees shall be paid upon submission of plats for consideration to the City. All fees shall be paid prior to application deadlines and shall not be refundable regardless of action taken by City approving authorities. The City Council shall determine and revise the fee schedule as the need arises.

16.12.045 RECONSIDERATION, APPEALS AND FINALITY OF DECISIONS

A. Reconsideration of Preliminary Plats

Any individual or party aggrieved by any action of the Planning and Zoning Commission in the consideration of a Preliminary Plat or Replat may request that the City Council of the City of Benbrook review such action by the Commission. Such request must be submitted in writing to the City Secretary within five (5) business days of such action. The City Council shall then place such request upon a regular Council agenda and provide the protesting party an opportunity for a hearing. The City Council may, at its discretion, review the material submitted to and considered by the Planning and Zoning Commission relative to the disputed issue. At the conclusion of the hearing, the City Council may or may not choose to forward such recommendations to the Planning and Zoning Commission as it deems appropriate. If a recommendation is forwarded to the Planning and Zoning Commission, the contested item will be rescheduled upon the next available Planning and Zoning Commission agenda, and the Planning and Zoning Commission will consider the City Council recommendation and take such action as the Planning and Zoning Commission deems appropriate. Action by the Planning and Zoning Commission following consideration of the Council recommendation will be final and non-appealable.

- B. Any subdivider aggrieved by a finding or action of the Commission other than a Preliminary Plat shall appear by filing written Petition in a court of competent jurisdiction within thirty (30) days from the date of such finding or action, and not thereafter.

C. Finality of Decisions

Except for those instances provided under paragraph A above, all decisions of the Planning and Zoning Commission on Plats and subdivisions are final, unless otherwise provided by the City Charter or State law.

16.12.050 VIOLATIONS, PENALTIES, AND INJUNCTION

- A. In behalf of the City, the City Attorney shall, when directed by the City Council, institute appropriate action in a court of competent jurisdiction to enforce the provisions of this Ordinance or the standards referred to herein with respect to any violation thereof which occurs within any area subject to all or a part of the provisions of this Ordinance.
- B. In addition thereto any abutting owner or lessee or other person prejudicially affected by the violation of the terms of this Ordinance may resort to any court of competent jurisdiction for any writ or writs, or to obtain such relief, either in law or equity, as may be deemed advisable in these premises.
- C. If any subdivision exists for which a final plat has not been approved or in which the standards contained herein or referred to herein have not been complied with in full, the City Council shall pass a resolution reciting the facts of such non-compliance and failure to secure final plat approval. The City Secretary or designee shall, when directed by the City Council, cause a certified copy of such resolution under the corporate seal of the City to be filed in the Deed Records of Tarrant County. If full compliance and final plat approval are secured after the filing of such resolution, the City Planner or designee shall forthwith file an instrument, in the Deed Records of Tarrant County stating such.
- D. Any person, firm or corporation who shall violate or cause or permit anyone to violate any of the provisions of this Ordinance shall be guilty of a misdemeanor, and upon conviction therefore shall be fined an amount not to exceed the sum of TWO THOUSAND DOLLARS (\$2,000.00) for each offense relating to fire safety or public health and sanitation, and shall be fined not more than FIVE HUNDRED DOLLARS (\$500.00) for all other offenses. Each day that such violation thereof shall exist is hereby declared to be a distinct and separate offense and punishable as such.
- E. The City shall have and retain the right of injunctive relief against any person, firm or corporation who is in the process of or about to violate any section, paragraph or part of this Ordinance. Such right for injunctive relief shall exist independent of any other penalty provisions of this Ordinance and not in lieu thereof. The right for injunctive relief is essential to the City that it maintain an orderly, properly planned, and properly engineered control over subdivisions thus protecting the health, morals, safety and well being of the citizens and halting any attempt by any person, firm or corporation to inflict temporary or permanent injury on the general public by a failure to comply with the terms of this Ordinance.