



CITY OF ROCKWALL

CITY COUNCIL MEMORANDUM

PLANNING AND ZONING DEPARTMENT

385 S. GOLIAD STREET • ROCKWALL, TX 75087

PHONE: (972) 771-7745 • EMAIL: PLANNING@ROCKWALL.COM

TO: Mayor and City Council

CC: Mary Smith, *Interim City Manager*
Joey Boyd, *Assistant City Manager*
Frank Garza, *City Attorney*

FROM: Ryan Miller, *Director of Planning and Zoning*

DATE: July 6, 2021

SUBJECT: Amendment to the Application Fees for Specific Use Permits (SUP) and Variance/Special Exception Requests that are Associated with Construction Without or Not in Conformance to a Building Permit

At the May 17, 2021 City Council meeting the City Council requested that staff look for ways to deter residents from constructing non-compliant structures without a building permit or not in conformance to an approved building permit. Specifically, the City Council asked if a penalty could be applied to these types of requests. Based on the City Council's inquiry, staff is proposing to establish an alternative application fee for Specific Use Permit (SUP) and Variance/Special Exception requests that involve non-compliant structures (*i.e. that do not conform to the Unified Development Code [UDC]*) that were [1] constructed without a building permit, or [2] that were not constructed in conformance with an approved building permit. The alternative application fee would be \$1,000.00 in addition to the normal application fees. For example, an application submitted under this proposal for a one (1) acre tract of land would be calculated as follows:

Specific Use Permit (SUP): \$200.00 + (\$15.00 * 1.00-Acre) = \$215.00 + \$1,000.00 = \$1,215.00

Variance/Special Exception: \$100.00 + \$1,000.00 = \$1,100.00

This fee was derived from the estimated additional staff time these types of requests require compared to a typical Specific Use Permit (SUP) or Variance/Special Exception requests (*i.e. these types of cases typically require additional meetings with the applicants and site visits from Neighborhood Improvement Services, Building Inspections, Engineering, and Planning Departments' staff*). Staff should note that the City Attorney has reviewed the proposal and as a *Home Rule City*, finds no legal authority for prohibiting the adoption of such penalty. In the attached packet, staff has provided an example of the proposed changes to Section 10, *Fee Schedule*, of Article 11, *Development Applications and Review Procedures*, of the Unified Development Code (UDC) necessary to make the fee changes. In addition, staff has provided an updated development application reflecting the proposed fees. If the City Council chooses to direct staff to make the changes, the following would be the timeline for the proposed text amendment:

Planning and Zoning Commission Work Session: July 27, 2021

Planning and Zoning Commission Public Hearing: August 10, 2021

City Council Public Hearing/1st Reading: August 16, 2021

City Council 2nd Reading: September 7, 2021

Should the City Council have any questions concerning the proposed text amendment staff will be available at the July 6, 2021 City Council meeting.



DEVELOPMENT APPLICATION

City of Rockwall
Planning and Zoning Department
385 S. Goliad Street
Rockwall, Texas 75087

STAFF USE ONLY

PLANNING & ZONING CASE NO. _____

NOTE: THE APPLICATION IS NOT CONSIDERED ACCEPTED BY THE CITY UNTIL THE PLANNING DIRECTOR AND CITY ENGINEER HAVE SIGNED BELOW.

DIRECTOR OF PLANNING: _____

CITY ENGINEER: _____

PLEASE CHECK THE APPROPRIATE BOX BELOW TO INDICATE THE TYPE OF DEVELOPMENT REQUEST [SELECT ONLY ONE BOX]:

PLATTING APPLICATION FEES:

- MASTER PLAT (\$100.00 + \$15.00 ACRE) ¹
- PRELIMINARY PLAT (\$200.00 + \$15.00 ACRE) ¹
- FINAL PLAT (\$300.00 + \$20.00 ACRE) ¹
- REPLAT (\$300.00 + \$20.00 ACRE) ¹
- AMENDING OR MINOR PLAT (\$150.00)
- PLAT REINSTATEMENT REQUEST (\$100.00)

SITE PLAN APPLICATION FEES:

- SITE PLAN (\$250.00 + \$20.00 ACRE) ¹
- AMENDED SITE PLAN/ELEVATIONS/LANDSCAPING PLAN (\$100.00)

ZONING APPLICATION FEES:

- ZONING CHANGE (\$200.00 + \$15.00 ACRE) ¹
- SPECIFIC USE PERMIT (\$200.00 + \$15.00 ACRE) ^{1 & 2}
- PD DEVELOPMENT PLANS (\$200.00 + \$15.00 ACRE) ¹

OTHER APPLICATION FEES:

- TREE REMOVAL (\$75.00)
- VARIANCE REQUEST/SPECIAL EXCEPTIONS (\$100.00) ²

NOTES:

¹: IN DETERMINING THE FEE, PLEASE USE THE EXACT ACREAGE WHEN MULTIPLYING BY THE PER ACRE AMOUNT. FOR REQUESTS ON LESS THAN ONE ACRE, ROUND UP TO ONE (1) ACRE.

²: A **\$1,000.00** FEE WILL BE ADDED TO THE APPLICATION FEE FOR ANY REQUEST THAT INVOLVES CONSTRUCTION WITHOUT OR NOT IN COMPLIANCE TO AN APPROVED BUILDING PERMIT.

PROPERTY INFORMATION [PLEASE PRINT]

ADDRESS _____

SUBDIVISION _____

LOT _____

BLOCK _____

GENERAL LOCATION _____

ZONING, SITE PLAN AND PLATTING INFORMATION [PLEASE PRINT]

CURRENT ZONING _____

CURRENT USE _____

PROPOSED ZONING _____

PROPOSED USE _____

ACREAGE _____

LOTS [CURRENT] _____

LOTS [PROPOSED] _____

SITE PLANS AND PLATS: BY CHECKING THIS BOX YOU ACKNOWLEDGE THAT DUE TO THE PASSAGE OF HB3167 THE CITY NO LONGER HAS FLEXIBILITY WITH REGARD TO ITS APPROVAL PROCESS, AND FAILURE TO ADDRESS ANY OF STAFF'S COMMENTS BY THE DATE PROVIDED ON THE DEVELOPMENT CALENDAR WILL RESULT IN THE DENIAL OF YOUR CASE.

OWNER/APPLICANT/AGENT INFORMATION [PLEASE PRINT/CHECK THE PRIMARY CONTACT/ORIGINAL SIGNATURES ARE REQUIRED]

OWNER

APPLICANT

CONTACT PERSON _____

CONTACT PERSON _____

ADDRESS _____

ADDRESS _____

CITY, STATE & ZIP _____

CITY, STATE & ZIP _____

PHONE _____

PHONE _____

E-MAIL _____

E-MAIL _____

NOTARY VERIFICATION [REQUIRED]

BEFORE ME, THE UNDERSIGNED AUTHORITY, ON THIS DAY PERSONALLY APPEARED _____ [OWNER] THE UNDERSIGNED, WHO STATED THE INFORMATION ON THIS APPLICATION TO BE TRUE AND CERTIFIED THE FOLLOWING:

"I HEREBY CERTIFY THAT I AM THE OWNER FOR THE PURPOSE OF THIS APPLICATION; ALL INFORMATION SUBMITTED HEREIN IS TRUE AND CORRECT; AND THE APPLICATION FEE OF \$ _____, TO COVER THE COST OF THIS APPLICATION, HAS BEEN PAID TO THE CITY OF ROCKWALL ON THIS THE _____ DAY OF _____, 20 _____. BY SIGNING THIS APPLICATION, I AGREE THAT THE CITY OF ROCKWALL (I.E. "CITY") IS AUTHORIZED AND PERMITTED TO PROVIDE INFORMATION CONTAINED WITHIN THIS APPLICATION TO THE PUBLIC. THE CITY IS ALSO AUTHORIZED AND PERMITTED TO REPRODUCE ANY COPYRIGHTED INFORMATION SUBMITTED IN CONJUNCTION WITH THIS APPLICATION, IF SUCH REPRODUCTION IS ASSOCIATED OR IN RESPONSE TO A REQUEST FOR PUBLIC INFORMATION."

GIVEN UNDER MY HAND AND SEAL OF OFFICE ON THIS THE _____ DAY OF _____, 20 ____.

OWNER'S SIGNATURE _____

NOTARY PUBLIC IN AND FOR THE STATE OF TEXAS _____

MY COMMISSION EXPIRES _____



not be designed to generate revenue for the City other than recovery of actual administrative costs.

- (B) Fees. The fees for development related applications in the City of Rockwall shall be as follows:

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(c) Building Permit Fee Waiver	\$0.00

NOTES:

* See Section (D) below.

- (C) Calculation of Fees. Fees that have a scaled fee structure (*i.e. that are based on the acreage of the property*) are calculated by multiplying the acreage of the property by the scalable fee and adding the base fee. For example, a 5.25-acre property that is requesting a zoning change would be calculated as follows:

$$5.25\text{-acres} \times \$15.00/\text{Acres} = \$78.75 + \$200.00 \text{ [Base Fee]} = \$278.75 \text{ [Fee Due]}$$

Properties that are less than one (1) acre in total size shall be calculated as one (1) acre. No other rounding methods shall be used in the calculation of a fee.

- (D) Non-Compliant Structure Fees. Fees associated with requests for a Specific Use Permit (SUP) or a Variance/Special Exception that deal with structures that were [1] constructed without a building permit, or [2] that were not constructed in conformance with an approved building permit shall be increased by \$1,000.00. For example, a 5.25-acre property that is requesting approval under this section would be calculated as follows:

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CITY OF ROCKWALL

PLANNING AND ZONING COMMISSION MEMORANDUM

PLANNING AND ZONING DEPARTMENT

385 S. GOLIAD STREET • ROCKWALL, TX 75087

PHONE: (972) 771-7745 • EMAIL: PLANNING@ROCKWALL.COM

TO: Planning and Zoning Commission

FROM: Ryan Miller, *Director of Planning and Zoning*

DATE: July 27, 2021

SUBJECT: Z2021-028; *Amendment to the Application Fees for Specific Use Permits (SUP) and Variance/Special Exception Requests that are Associated with Construction Without or Not in Conformance to a Building Permit*

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In the attached packet, staff has provided an example of the proposed changes to Section 10, *Fee Schedule*, of Article 11, *Development Applications and Review Procedures*, of the Unified Development Code (UDC) necessary to make the fee changes. In addition, staff has provided an updated development application and draft ordinance for the Planning and Zoning Commission's review. In accordance, with Section 02.04(B) of Article 11, *Development Applications and Review Procedures*, of the Unified Development Code (UDC), staff is bringing the proposed amendment forward to the Planning and Zoning Commission for a recommendation to the City Council. The schedule for this text amendment is as follows:

Planning and Zoning Commission Work Session: July 27, 2021

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Staff has sent out a 15-day notice to the Rockwall Herald Banner in accordance with all applicable state laws and Section 02.03(A)(3) of Article 11, *Development Applications and Review Procedures*, of the Unified Development Code (UDC). Should the Planning and Zoning Commission have any questions staff will be available at the meeting on July 27, 2021.



DEVELOPMENT APPLICATION

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CITY OF ROCKWALL

ORDINANCE NO. 21-XX

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ROCKWALL, TEXAS, AMENDING THE UNIFIED DEVELOPMENT CODE [ORDINANCE NO. 20-02] OF THE CITY OF ROCKWALL, AS HERETOFORE AMENDED, BY AMENDING SECTION 10, FEE SCHEDULE, OF ARTICLE 11, DEVELOPMENT APPLICATIONS AND REVIEW PROCEDURES, AS DEPCITED IN EXHIBIT 'A' OF THIS ORDINANCE; PROVIDING FOR A PENALTY OF FINE NOT TO EXCEED THE SUM OF TWO THOUSAND DOLLARS (\$2,000.00) FOR EACH OFFENSE; PROVIDING FOR A SEVERABILITY CLAUSE; PROVIDING FOR A REPEALER CLAUSE; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, an amendment to the City of Rockwall's Unified Development Code [*Ordinance No. 20-02*] has been initiated by the City Council of the City of Rockwall to amend Section 10, *Fee Schedule*, of Article 11, *Development Applications and Review Procedures*, of the Unified Development Code [*Ordinance No. 20-02*]; and,

WHEREAS, the Planning and Zoning Commission of the City of Rockwall and the governing body of the City of Rockwall in compliance with the laws of the State of Texas and the ordinances of the City of Rockwall have given the requisite notices by publication and otherwise, and have held public hearings and afforded a full and fair hearing to all property owners generally and to all persons interested in and situated in the city's corporate boundaries, and the governing body in the exercise of its legislative discretion, has concluded that the Unified Development Code [*Ordinance No. 20-02*] should be amended as follows:

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ROCKWALL, TEXAS:

SECTION 1. That Section 10, *Fee Schedule*, of Article 11, *Development Applications and Review Procedures*, of the Unified Development Code [*Ordinance No. 20-02*] of the City of Rockwall, as heretofore amended, be and the same is hereby amended as specifically described in *Exhibit 'A'* of this ordinance;

SECTION 2. That any person, firm, or corporation violating any of the provisions of this ordinance shall be deemed guilty of a misdemeanor and upon conviction shall be punished by a penalty of fine not to exceed the sum of *Two Thousand Dollars (\$2,000.00)* for each offense and each and every day such offense shall continue shall be deemed to constitute a separate offense;

SECTION 3. That if any section, paragraph, or provision of this ordinance or the application of that section, paragraph, or provision to any person, firm, corporation or situation is for any reason judged invalid, the adjudication shall not affect any other section, paragraph, or provision of this ordinance or the application of any other section, paragraph or provision to any other person, firm, corporation or situation, nor shall adjudication affect any other section, paragraph, or provision of the Unified Development Code [*Ordinance No. 04-38*], and the City Council declares that it would have adopted the valid portions and applications of the ordinance without the invalid parts and to this end the provisions for this ordinance are declared to be severable;

SECTION 4. That this ordinance shall take effect immediately from and after its passage.

PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF ROCKWALL, TEXAS, THIS THE 7TH DAY OF SEPTEMBER, 2021.

ATTEST:

Kristy Cole, *City Secretary*

APPROVED AS TO FORM:

Frank J. Garza, *City Attorney*

1st Reading: August 16, 2021

2nd Reading: September 7, 2021

DRAFT
ORDINANCE
07.27.2021

Exhibit 'A'
Section 10, Fee Schedule, of
Article 11, Development Applications and Review Procedures, of the
Unified Development Code (UDC)

Additions: Highlighted

Deletions: Highlighted, Strikeout

(A) Establishment of Fees. Fees for all development related applications in the City of Rockwall shall be established by the City Council upon recommendation of the City Council. Such fees shall be for the sole purpose of recovering the administrative cost of processing development applications, advertising zoning requests, and holding public hearings required by this Article. Such fee shall not be designed to generate revenue for the City other than recovery of actual administrative costs.

(B) Fees. The fees for development related applications in the City of Rockwall shall be as follows:

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Exhibit 'A'
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(D) **Non-Compliant Structure Fees.** Fees associated with requests for a Specific Use Permit (SUP) or a Variance/Special Exception that deal with structures that were [1] constructed without a building permit, or [2] that were not constructed in conformance with an approved building permit shall be increased by \$1,000.00. For example, a 5.25-acre property that is requesting approval under this section would be calculated as follows:

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PLANNING AND ZONING DEPARTMENT

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PHONE: (972) 771-7745 • EMAIL: PLANNING@ROCKWALL.COM

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~~Planning and Zoning Commission Work Session: July 27, 2021~~

Planning and Zoning Commission Public Hearing: August 10, 2021

City Council Public Hearing/1st Reading: August 16, 2021

City Council 2nd Reading: September 7, 2021

Staff has sent out a 15-day notice to the Rockwall Herald Banner in accordance with all applicable state laws and Section 02.03(A)(3) of Article 11, *Development Applications and Review Procedures*, of the Unified Development Code (UDC). Should the Planning and Zoning Commission have any questions staff will be available at the meeting on August 10, 2021.



DEVELOPMENT APPLICATION

City of Rockwall
Planning and Zoning Department
385 S. Goliad Street
Rockwall, Texas 75087

STAFF USE ONLY

PLANNING & ZONING CASE NO. _____

NOTE: THE APPLICATION IS NOT CONSIDERED ACCEPTED BY THE CITY UNTIL THE PLANNING DIRECTOR AND CITY ENGINEER HAVE SIGNED BELOW.

DIRECTOR OF PLANNING: _____

CITY ENGINEER: _____

PLEASE CHECK THE APPROPRIATE BOX BELOW TO INDICATE THE TYPE OF DEVELOPMENT REQUEST [SELECT ONLY ONE BOX]:

PLATTING APPLICATION FEES:

- MASTER PLAT (\$100.00 + \$15.00 ACRE) ¹
- PRELIMINARY PLAT (\$200.00 + \$15.00 ACRE) ¹
- FINAL PLAT (\$300.00 + \$20.00 ACRE) ¹
- REPLAT (\$300.00 + \$20.00 ACRE) ¹
- AMENDING OR MINOR PLAT (\$150.00)
- PLAT REINSTATEMENT REQUEST (\$100.00)

SITE PLAN APPLICATION FEES:

- SITE PLAN (\$250.00 + \$20.00 ACRE) ¹
- AMENDED SITE PLAN/ELEVATIONS/LANDSCAPING PLAN (\$100.00)

ZONING APPLICATION FEES:

- ZONING CHANGE (\$200.00 + \$15.00 ACRE) ¹
- SPECIFIC USE PERMIT (\$200.00 + \$15.00 ACRE) ^{1 & 2}
- PD DEVELOPMENT PLANS (\$200.00 + \$15.00 ACRE) ¹

OTHER APPLICATION FEES:

- TREE REMOVAL (\$75.00)
- VARIANCE REQUEST/SPECIAL EXCEPTIONS (\$100.00) ²

NOTES:

¹: IN DETERMINING THE FEE, PLEASE USE THE EXACT ACREAGE WHEN MULTIPLYING BY THE PER ACRE AMOUNT. FOR REQUESTS ON LESS THAN ONE ACRE, ROUND UP TO ONE (1) ACRE.

²: A **\$1,000.00** FEE WILL BE ADDED TO THE APPLICATION FEE FOR ANY REQUEST THAT INVOLVES CONSTRUCTION WITHOUT OR NOT IN COMPLIANCE TO AN APPROVED BUILDING PERMIT.

PROPERTY INFORMATION [PLEASE PRINT]

ADDRESS _____

SUBDIVISION _____

LOT _____

BLOCK _____

GENERAL LOCATION _____

ZONING, SITE PLAN AND PLATTING INFORMATION [PLEASE PRINT]

CURRENT ZONING _____

CURRENT USE _____

PROPOSED ZONING _____

PROPOSED USE _____

ACREAGE _____

LOTS [CURRENT] _____

LOTS [PROPOSED] _____

SITE PLANS AND PLATS: BY CHECKING THIS BOX YOU ACKNOWLEDGE THAT DUE TO THE PASSAGE OF HB3167 THE CITY NO LONGER HAS FLEXIBILITY WITH REGARD TO ITS APPROVAL PROCESS, AND FAILURE TO ADDRESS ANY OF STAFF'S COMMENTS BY THE DATE PROVIDED ON THE DEVELOPMENT CALENDAR WILL RESULT IN THE DENIAL OF YOUR CASE.

OWNER/APPLICANT/AGENT INFORMATION [PLEASE PRINT/CHECK THE PRIMARY CONTACT/ORIGINAL SIGNATURES ARE REQUIRED]

OWNER

APPLICANT

CONTACT PERSON _____

CONTACT PERSON _____

ADDRESS _____

ADDRESS _____

CITY, STATE & ZIP _____

CITY, STATE & ZIP _____

PHONE _____

PHONE _____

E-MAIL _____

E-MAIL _____

NOTARY VERIFICATION [REQUIRED]

BEFORE ME, THE UNDERSIGNED AUTHORITY, ON THIS DAY PERSONALLY APPEARED _____ [OWNER] THE UNDERSIGNED, WHO STATED THE INFORMATION ON THIS APPLICATION TO BE TRUE AND CERTIFIED THE FOLLOWING:

"I HEREBY CERTIFY THAT I AM THE OWNER FOR THE PURPOSE OF THIS APPLICATION; ALL INFORMATION SUBMITTED HEREIN IS TRUE AND CORRECT; AND THE APPLICATION FEE OF \$ _____, TO COVER THE COST OF THIS APPLICATION, HAS BEEN PAID TO THE CITY OF ROCKWALL ON THIS THE _____ DAY OF _____, 20 _____. BY SIGNING THIS APPLICATION, I AGREE THAT THE CITY OF ROCKWALL (I.E. "CITY") IS AUTHORIZED AND PERMITTED TO PROVIDE INFORMATION CONTAINED WITHIN THIS APPLICATION TO THE PUBLIC. THE CITY IS ALSO AUTHORIZED AND PERMITTED TO REPRODUCE ANY COPYRIGHTED INFORMATION SUBMITTED IN CONJUNCTION WITH THIS APPLICATION, IF SUCH REPRODUCTION IS ASSOCIATED OR IN RESPONSE TO A REQUEST FOR PUBLIC INFORMATION."

GIVEN UNDER MY HAND AND SEAL OF OFFICE ON THIS THE _____ DAY OF _____, 20 ____.

OWNER'S SIGNATURE _____

NOTARY PUBLIC IN AND FOR THE STATE OF TEXAS _____

MY COMMISSION EXPIRES _____



not be designed to generate revenue for the City other than recovery of actual administrative costs.

- (B) Fees. The fees for development related applications in the City of Rockwall shall be as follows:

(1) PLATTING	
(a) Master Plat	\$100.00 + \$15.00/Acre
(b) Preliminary Plat	\$200.00 + \$15.00/Acre
(c) Final Plat	\$300.00 + \$20.00/Acre
(d) Replat	\$300.00 + \$20.00/Acre
(e) Amending or Minor Plat	\$150.00
(f) Plat Reinstatement Request	\$100.00
(2) SITE PLAN	
(a) Site Plan	\$250.00 + \$20.00/Acre
(b) Amended Site Plan	\$100.00
(3) ZONING	
(a) Zoning Change	\$200.00 + \$15.00/Acre
(b) Specific Use Permit (SUP)*	\$200.00 + \$15.00/Acre
(c) Planned Development (PD)	\$200.00 + \$15.00/Acre
(4) MISCELLANEOUS	
(a) Variance/Special Exception*	\$100.00
(b) Tree Removal	\$75.00
(c) Other Miscellaneous Requests	\$0.00
(5) HISTORIC PRESERVATION ADVISORY BOARD	
(a) Certificate of Appropriateness (COA)	\$0.00
(b) Small Matching Grants	\$0.00
(c) Building Permit Fee Waiver	\$0.00

NOTES:

* See Section (D) below.

- (C) Calculation of Fees. Fees that have a scaled fee structure (*i.e. that are based on the acreage of the property*) are calculated by multiplying the acreage of the property by the scalable fee and adding the base fee. For example, a 5.25-acre property that is requesting a zoning change would be calculated as follows:

$$5.25\text{-acres} \times \$15.00/\text{Acres} = \$78.75 + \$200.00 \text{ [Base Fee]} = \$278.75 \text{ [Fee Due]}$$

Properties that are less than one (1) acre in total size shall be calculated as one (1) acre. No other rounding methods shall be used in the calculation of a fee.

- (D) Non-Compliant Structure Fees. Fees associated with requests for a Specific Use Permit (SUP) or a Variance/Special Exception that deal with structures that were [1] constructed without a building permit, or [2] that were not constructed in conformance with an approved building permit shall be increased by \$1,000.00. For example, a 5.25-acre property that is requesting approval under this section would be calculated as follows:

$$5.25\text{-acres} \times \$15.00/\text{Acres} = \$78.75 + \$200.00 \text{ [Base Fee]} = \$278.75 \text{ [Typical Application Fee]} + \$1,000.00 \text{ [Forgiveness Fee]} = \$1,278.75 \text{ [Fee Due]}$$

CITY OF ROCKWALL

ORDINANCE NO. 21-XX

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ROCKWALL, TEXAS, AMENDING THE UNIFIED DEVELOPMENT CODE [ORDINANCE NO. 20-02] OF THE CITY OF ROCKWALL, AS HERETOFORE AMENDED, BY AMENDING SECTION 10, FEE SCHEDULE, OF ARTICLE 11, DEVELOPMENT APPLICATIONS AND REVIEW PROCEDURES, AS DEPCITED IN EXHIBIT 'A' OF THIS ORDINANCE; PROVIDING FOR A PENALTY OF FINE NOT TO EXCEED THE SUM OF TWO THOUSAND DOLLARS (\$2,000.00) FOR EACH OFFENSE; PROVIDING FOR A SEVERABILITY CLAUSE; PROVIDING FOR A REPEALER CLAUSE; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, an amendment to the City of Rockwall's Unified Development Code [*Ordinance No. 20-02*] has been initiated by the City Council of the City of Rockwall to amend Section 10, *Fee Schedule*, of Article 11, *Development Applications and Review Procedures*, of the Unified Development Code [*Ordinance No. 20-02*]; and,

WHEREAS, the Planning and Zoning Commission of the City of Rockwall and the governing body of the City of Rockwall in compliance with the laws of the State of Texas and the ordinances of the City of Rockwall have given the requisite notices by publication and otherwise, and have held public hearings and afforded a full and fair hearing to all property owners generally and to all persons interested in and situated in the city's corporate boundaries, and the governing body in the exercise of its legislative discretion, has concluded that the Unified Development Code [*Ordinance No. 20-02*] should be amended as follows:

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ROCKWALL, TEXAS:

SECTION 1. That Section 10, *Fee Schedule*, of Article 11, *Development Applications and Review Procedures*, of the Unified Development Code [*Ordinance No. 20-02*] of the City of Rockwall, as heretofore amended, be and the same is hereby amended as specifically described in *Exhibit 'A'* of this ordinance;

SECTION 2. That any person, firm, or corporation violating any of the provisions of this ordinance shall be deemed guilty of a misdemeanor and upon conviction shall be punished by a penalty of fine not to exceed the sum of *Two Thousand Dollars (\$2,000.00)* for each offense and each and every day such offense shall continue shall be deemed to constitute a separate offense;

SECTION 3. That if any section, paragraph, or provision of this ordinance or the application of that section, paragraph, or provision to any person, firm, corporation or situation is for any reason judged invalid, the adjudication shall not affect any other section, paragraph, or provision of this ordinance or the application of any other section, paragraph or provision to any other person, firm, corporation or situation, nor shall adjudication affect any other section, paragraph, or provision of the Unified Development Code [*Ordinance No. 04-38*], and the City Council declares that it would have adopted the valid portions and applications of the ordinance without the invalid parts and to this end the provisions for this ordinance are declared to be severable;

SECTION 4. That this ordinance shall take effect immediately from and after its passage.

PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF ROCKWALL, TEXAS, THIS THE 7TH DAY OF SEPTEMBER, 2021.

Kevin Fowler, *Mayor*

ATTEST:

Kristy Cole, *City Secretary*

APPROVED AS TO FORM:

Frank J. Garza, *City Attorney*

1st Reading: August 16, 2021

2nd Reading: September 7, 2021

Exhibit 'A'
 Section 10, Fee Schedule, of
 Article 11, Development Applications and Review Procedures, of the
 Unified Development Code (UDC)

Additions: Highlighted

Deletions: Highlighted, Strikeout

(A) Establishment of Fees. Fees for all development related applications in the City of Rockwall shall be established by the City Council upon recommendation of the City Council. Such fees shall be for the sole purpose of recovering the administrative cost of processing development applications, advertising zoning requests, and holding public hearings required by this Article. Such fee shall not be designed to generate revenue for the City other than recovery of actual administrative costs.

(B) Fees. The fees for development related applications in the City of Rockwall shall be as follows:

(1) PLATTING	
(a) Master Plat	\$100.00 + \$15.00/Acre
(b) Preliminary Plat	\$200.00 + \$15.00/Acre
(c) Final Plat	\$300.00 + \$20.00/Acre
(d) Replat	\$300.00 + \$20.00/Acre
(e) Amending or Minor Plat	\$150.00
(f) Plat Reinstatement Request	\$100.00
(2) SITE PLAN	
(a) Site Plan	\$250.00 + \$20.00/Acre
(b) Amended Site Plan	\$100.00
(3) ZONING	
(a) Zoning Change	\$200.00 + \$15.00/Acre
(b) Specific Use Permit (SUP)*	\$200.00 + \$15.00/Acre
(c) Planned Development (PD)	\$200.00 + \$15.00/Acre
(4) MISCELLANEOUS	
(a) Variance/Special Exception*	\$100.00
(b) Tree Removal	\$75.00
(c) Other Miscellaneous Requests	\$0.00
(5) HISTORIC PRESERVATION ADVISORY BOARD	
(a) Certificate of Appropriateness (COA)	\$0.00
(b) Small Matching Grants	\$0.00
(c) Building Permit Fee Waiver	\$0.00

NOTES:

*: See Section (D) below.

(C) Calculation of Fees. Fees that have a scaled fee structure (*i.e. that are based on the acreage of the property*) are calculated by multiplying the acreage of the property by the scalable fee and adding the base fee. For example, a 5.25-acre property that is requesting a zoning change would be calculated as follows:

$$5.25\text{-acres} \times \$15.00/\text{Acres} = \$78.75 + \$200.00 \text{ [Base Fee]} = \$278.75 \text{ [Fee Due]}$$

Properties that are less than one (1) acre in total size shall be calculated as one (1) acre. No other rounding methods shall be used in the calculation of a fee.

Exhibit 'A'
Section 10, Fee Schedule, of
Article 11, Development Applications and Review Procedures, of the
Unified Development Code (UDC)

(D) **Non-Compliant Structure Fees.** Fees associated with requests for a Specific Use Permit (SUP) or a Variance/Special Exception that deal with structures that were [1] constructed without a building permit, or [2] that were not constructed in conformance with an approved building permit shall be increased by \$1,000.00. For example, a 5.25-acre property that is requesting approval under this section would be calculated as follows:

5.25-acres x \$15.00/Acres = \$78.75 + \$200.00 [Base Fee] = \$278.75 [Typical Application Fee] + \$1,000.00 [Forgiveness Fee] = \$1,278.75 [Fee Due]



CITY OF ROCKWALL
CITY COUNCIL MEMORANDUM

PLANNING AND ZONING DEPARTMENT
385 S. GOLIAD STREET • ROCKWALL, TX 75087
PHONE: (972) 771-7745 • EMAIL: PLANNING@ROCKWALL.COM

TO: Mayor and City Council

CC: Mary Smith, *Interim City Manager*
Joey Boyd, *Assistant City Manager*
Frank Garza, *City Attorney*

FROM: Ryan Miller, *Director of Planning and Zoning*

DATE: August 16, 2021

SUBJECT: Z2021-028; *Amendment to the Application Fees for Specific Use Permits (SUP) and Variance/Special Exception Requests that are Associated with Construction Without or Not in Conformance to a Building Permit*

At the May 17, 2021 City Council meeting the City Council requested that staff look for ways to deter residents from constructing non-compliant structures without a building permit or not in conformance to an approved building permit. Specifically, the City Council asked if a penalty could be applied to these types of requests. Based on the City Council's inquiry, staff proposed establishing an alternative application fee for Specific Use Permit (SUP) and Variance/Special Exception requests that involved non-compliant structures (*i.e. that do not conform to the Unified Development Code [UDC]*) that were [1] constructed without a building permit, or [2] that were not constructed in conformance with an approved building permit. The alternative application fee would be \$1,000.00 in addition to the normal application fees. For example, an application submitted under this proposal for a one (1) acre tract of land would be calculated as follows:

Specific Use Permit (SUP): \$200.00 + (\$15.00 * 1.00-Acre) = \$215.00 + \$1,000.00 = \$1,215.00
Variance/Special Exception: \$100.00 + \$1,000.00 = \$1,100.00

This fee was derived from the estimated additional staff time these types of requests require compared to a typical Specific Use Permit (SUP) or Variance/Special Exception requests (*i.e. these types of cases typically require additional meetings with the applicants and site visits from Neighborhood Improvement Services, Building Inspections, Engineering, and Planning Departments' staff*). Staff should note that the City Attorney reviewed the proposal and as a *Home Rule City*, found no legal authority prohibiting the adoption of such a penalty. Based on this, the City Council directed staff to proceed with the amendment on July 6, 2021.

In the attached packet, staff has provided an example of the proposed changes to Section 10, *Fee Schedule*, of Article 11, *Development Applications and Review Procedures*, of the Unified Development Code (UDC) necessary to make the fee changes. In addition, staff has provided an updated development application and draft ordinance for the Planning and Zoning Commission's review. In accordance, with Section 02.04(B) of Article 11, *Development Applications and Review Procedures*, of the Unified Development Code (UDC), staff brought the proposed text amendment to the Planning and Zoning Commission for a recommendation to the City Council, and -- *on August 10, 2021* -- the Planning and Zoning Commission approved a motion to recommend approval of the text amendment by a vote of 6-0 (*with Commissioner Moeller absent*).

Staff has sent out a 15-day notice to the Rockwall Herald Banner in accordance with all applicable state laws and Section 02.03(A)(3) of Article 11, *Development Applications and Review Procedures*, of the Unified Development Code (UDC). Should the City Council have any questions staff will be available at the meeting on August 16, 2021.



DEVELOPMENT APPLICATION

City of Rockwall
Planning and Zoning Department
385 S. Goliad Street
Rockwall, Texas 75087

STAFF USE ONLY

PLANNING & ZONING CASE NO. _____

NOTE: THE APPLICATION IS NOT CONSIDERED ACCEPTED BY THE CITY UNTIL THE PLANNING DIRECTOR AND CITY ENGINEER HAVE SIGNED BELOW.

DIRECTOR OF PLANNING: _____

CITY ENGINEER: _____

PLEASE CHECK THE APPROPRIATE BOX BELOW TO INDICATE THE TYPE OF DEVELOPMENT REQUEST [SELECT ONLY ONE BOX]:

PLATTING APPLICATION FEES:

- MASTER PLAT (\$100.00 + \$15.00 ACRE) ¹
- PRELIMINARY PLAT (\$200.00 + \$15.00 ACRE) ¹
- FINAL PLAT (\$300.00 + \$20.00 ACRE) ¹
- REPLAT (\$300.00 + \$20.00 ACRE) ¹
- AMENDING OR MINOR PLAT (\$150.00)
- PLAT REINSTATEMENT REQUEST (\$100.00)

SITE PLAN APPLICATION FEES:

- SITE PLAN (\$250.00 + \$20.00 ACRE) ¹
- AMENDED SITE PLAN/ELEVATIONS/LANDSCAPING PLAN (\$100.00)

ZONING APPLICATION FEES:

- ZONING CHANGE (\$200.00 + \$15.00 ACRE) ¹
- SPECIFIC USE PERMIT (\$200.00 + \$15.00 ACRE) ^{1 & 2}
- PD DEVELOPMENT PLANS (\$200.00 + \$15.00 ACRE) ¹

OTHER APPLICATION FEES:

- TREE REMOVAL (\$75.00)
- VARIANCE REQUEST/SPECIAL EXCEPTIONS (\$100.00) ²

NOTES:

¹: IN DETERMINING THE FEE, PLEASE USE THE EXACT ACREAGE WHEN MULTIPLYING BY THE PER ACRE AMOUNT. FOR REQUESTS ON LESS THAN ONE ACRE, ROUND UP TO ONE (1) ACRE.

²: A **\$1,000.00** FEE WILL BE ADDED TO THE APPLICATION FEE FOR ANY REQUEST THAT INVOLVES CONSTRUCTION WITHOUT OR NOT IN COMPLIANCE TO AN APPROVED BUILDING PERMIT.

PROPERTY INFORMATION [PLEASE PRINT]

ADDRESS _____

SUBDIVISION _____

LOT _____

BLOCK _____

GENERAL LOCATION _____

ZONING, SITE PLAN AND PLATTING INFORMATION [PLEASE PRINT]

CURRENT ZONING _____

CURRENT USE _____

PROPOSED ZONING _____

PROPOSED USE _____

ACREAGE _____

LOTS [CURRENT] _____

LOTS [PROPOSED] _____

SITE PLANS AND PLATS: BY CHECKING THIS BOX YOU ACKNOWLEDGE THAT DUE TO THE PASSAGE OF HB3167 THE CITY NO LONGER HAS FLEXIBILITY WITH REGARD TO ITS APPROVAL PROCESS, AND FAILURE TO ADDRESS ANY OF STAFF'S COMMENTS BY THE DATE PROVIDED ON THE DEVELOPMENT CALENDAR WILL RESULT IN THE DENIAL OF YOUR CASE.

OWNER/APPLICANT/AGENT INFORMATION [PLEASE PRINT/CHECK THE PRIMARY CONTACT/ORIGINAL SIGNATURES ARE REQUIRED]

OWNER

APPLICANT

CONTACT PERSON _____

CONTACT PERSON _____

ADDRESS _____

ADDRESS _____

CITY, STATE & ZIP _____

CITY, STATE & ZIP _____

PHONE _____

PHONE _____

E-MAIL _____

E-MAIL _____

NOTARY VERIFICATION [REQUIRED]

BEFORE ME, THE UNDERSIGNED AUTHORITY, ON THIS DAY PERSONALLY APPEARED _____ [OWNER] THE UNDERSIGNED, WHO STATED THE INFORMATION ON THIS APPLICATION TO BE TRUE AND CERTIFIED THE FOLLOWING:

"I HEREBY CERTIFY THAT I AM THE OWNER FOR THE PURPOSE OF THIS APPLICATION; ALL INFORMATION SUBMITTED HEREIN IS TRUE AND CORRECT; AND THE APPLICATION FEE OF \$ _____, TO COVER THE COST OF THIS APPLICATION, HAS BEEN PAID TO THE CITY OF ROCKWALL ON THIS THE _____ DAY OF _____, 20 _____. BY SIGNING THIS APPLICATION, I AGREE THAT THE CITY OF ROCKWALL (I.E. "CITY") IS AUTHORIZED AND PERMITTED TO PROVIDE INFORMATION CONTAINED WITHIN THIS APPLICATION TO THE PUBLIC. THE CITY IS ALSO AUTHORIZED AND PERMITTED TO REPRODUCE ANY COPYRIGHTED INFORMATION SUBMITTED IN CONJUNCTION WITH THIS APPLICATION, IF SUCH REPRODUCTION IS ASSOCIATED OR IN RESPONSE TO A REQUEST FOR PUBLIC INFORMATION."

GIVEN UNDER MY HAND AND SEAL OF OFFICE ON THIS THE _____ DAY OF _____, 20 ____.

OWNER'S SIGNATURE _____

NOTARY PUBLIC IN AND FOR THE STATE OF TEXAS _____

MY COMMISSION EXPIRES _____



not be designed to generate revenue for the City other than recovery of actual administrative costs.

- (B) Fees. The fees for development related applications in the City of Rockwall shall be as follows:

(1) PLATTING	
(a) Master Plat	\$100.00 + \$15.00/Acre
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(c) Other Miscellaneous Requests	\$0.00
(5) HISTORIC PRESERVATION ADVISORY BOARD	
(a) Certificate of Appropriateness (COA)	\$0.00
(b) Small Matching Grants	\$0.00
(c) Building Permit Fee Waiver	\$0.00

NOTES:

* See Section (D) below.

- (C) Calculation of Fees. Fees that have a scaled fee structure (*i.e. that are based on the acreage of the property*) are calculated by multiplying the acreage of the property by the scalable fee and adding the base fee. For example, a 5.25-acre property that is requesting a zoning change would be calculated as follows:

$$5.25\text{-acres} \times \$15.00/\text{Acres} = \$78.75 + \$200.00 \text{ [Base Fee]} = \$278.75 \text{ [Fee Due]}$$

Properties that are less than one (1) acre in total size shall be calculated as one (1) acre. No other rounding methods shall be used in the calculation of a fee.

- (D) Non-Compliant Structure Fees. Fees associated with requests for a Specific Use Permit (SUP) or a Variance/Special Exception that deal with structures that were [1] constructed without a building permit, or [2] that were not constructed in conformance with an approved building permit shall be increased by \$1,000.00. For example, a 5.25-acre property that is requesting approval under this section would be calculated as follows:

$$5.25\text{-acres} \times \$15.00/\text{Acres} = \$78.75 + \$200.00 \text{ [Base Fee]} = \$278.75 \text{ [Typical Application Fee]} + \$1,000.00 \text{ [Forgiveness Fee]} = \$1,278.75 \text{ [Fee Due]}$$

CITY OF ROCKWALL

ORDINANCE NO. 21-XX

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ROCKWALL, TEXAS, AMENDING THE UNIFIED DEVELOPMENT CODE [ORDINANCE NO. 20-02] OF THE CITY OF ROCKWALL, AS HERETOFORE AMENDED, BY AMENDING SECTION 10, FEE SCHEDULE, OF ARTICLE 11, DEVELOPMENT APPLICATIONS AND REVIEW PROCEDURES, AS DEPCITED IN EXHIBIT 'A' OF THIS ORDINANCE; PROVIDING FOR A PENALTY OF FINE NOT TO EXCEED THE SUM OF TWO THOUSAND DOLLARS (\$2,000.00) FOR EACH OFFENSE; PROVIDING FOR A SEVERABILITY CLAUSE; PROVIDING FOR A REPEALER CLAUSE; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, an amendment to the City of Rockwall's Unified Development Code [*Ordinance No. 20-02*] has been initiated by the City Council of the City of Rockwall to amend Section 10, *Fee Schedule*, of Article 11, *Development Applications and Review Procedures*, of the Unified Development Code [*Ordinance No. 20-02*]; and,

WHEREAS, the Planning and Zoning Commission of the City of Rockwall and the governing body of the City of Rockwall in compliance with the laws of the State of Texas and the ordinances of the City of Rockwall have given the requisite notices by publication and otherwise, and have held public hearings and afforded a full and fair hearing to all property owners generally and to all persons interested in and situated in the city's corporate boundaries, and the governing body in the exercise of its legislative discretion, has concluded that the Unified Development Code [*Ordinance No. 20-02*] should be amended as follows:

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ROCKWALL, TEXAS:

SECTION 1. That Section 10, *Fee Schedule*, of Article 11, *Development Applications and Review Procedures*, of the Unified Development Code [*Ordinance No. 20-02*] of the City of Rockwall, as heretofore amended, be and the same is hereby amended as specifically described in *Exhibit 'A'* of this ordinance;

SECTION 2. That any person, firm, or corporation violating any of the provisions of this ordinance shall be deemed guilty of a misdemeanor and upon conviction shall be punished by a penalty of fine not to exceed the sum of *Two Thousand Dollars (\$2,000.00)* for each offense and each and every day such offense shall continue shall be deemed to constitute a separate offense;

SECTION 3. That if any section, paragraph, or provision of this ordinance or the application of that section, paragraph, or provision to any person, firm, corporation or situation is for any reason judged invalid, the adjudication shall not affect any other section, paragraph, or provision of this ordinance or the application of any other section, paragraph or provision to any other person, firm, corporation or situation, nor shall adjudication affect any other section, paragraph, or provision of the Unified Development Code [*Ordinance No. 04-38*], and the City Council declares that it would have adopted the valid portions and applications of the ordinance without the invalid parts and to this end the provisions for this ordinance are declared to be severable;

SECTION 4. That this ordinance shall take effect immediately from and after its passage.

PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF ROCKWALL, TEXAS, THIS THE 7TH DAY OF SEPTEMBER, 2021.

Kevin Fowler, *Mayor*

ATTEST:

Kristy Cole, *City Secretary*

APPROVED AS TO FORM:

Frank J. Garza, *City Attorney*

1st Reading: August 16, 2021

2nd Reading: September 7, 2021

Exhibit 'A'
 Section 10, Fee Schedule, of
 Article 11, Development Applications and Review Procedures, of the
 Unified Development Code (UDC)

Additions: Highlighted

Deletions: Highlighted, Strikeout

(A) Establishment of Fees. Fees for all development related applications in the City of Rockwall shall be established by the City Council upon recommendation of the City Council. Such fees shall be for the sole purpose of recovering the administrative cost of processing development applications, advertising zoning requests, and holding public hearings required by this Article. Such fee shall not be designed to generate revenue for the City other than recovery of actual administrative costs.

(B) Fees. The fees for development related applications in the City of Rockwall shall be as follows:

(1) PLATTING	
(a) Master Plat	\$100.00 + \$15.00/Acre
(b) Preliminary Plat	\$200.00 + \$15.00/Acre
(c) Final Plat	\$300.00 + \$20.00/Acre
(d) Replat	\$300.00 + \$20.00/Acre
(e) Amending or Minor Plat	\$150.00
(f) Plat Reinstatement Request	\$100.00
(2) SITE PLAN	
(a) Site Plan	\$250.00 + \$20.00/Acre
(b) Amended Site Plan	\$100.00
(3) ZONING	
(a) Zoning Change	\$200.00 + \$15.00/Acre
(b) Specific Use Permit (SUP)*	\$200.00 + \$15.00/Acre
(c) Planned Development (PD)	\$200.00 + \$15.00/Acre
(4) MISCELLANEOUS	
(a) Variance/Special Exception*	\$100.00
(b) Tree Removal	\$75.00
(c) Other Miscellaneous Requests	\$0.00
(5) HISTORIC PRESERVATION ADVISORY BOARD	
(a) Certificate of Appropriateness (COA)	\$0.00
(b) Small Matching Grants	\$0.00
(c) Building Permit Fee Waiver	\$0.00

NOTES:

*: See Section (D) below.

(C) Calculation of Fees. Fees that have a scaled fee structure (*i.e. that are based on the acreage of the property*) are calculated by multiplying the acreage of the property by the scalable fee and adding the base fee. For example, a 5.25-acre property that is requesting a zoning change would be calculated as follows:

$$5.25\text{-acres} \times \$15.00/\text{Acres} = \$78.75 + \$200.00 [\text{Base Fee}] = \$278.75 [\text{Fee Due}]$$

Properties that are less than one (1) acre in total size shall be calculated as one (1) acre. No other rounding methods shall be used in the calculation of a fee.

Exhibit 'A'
Section 10, Fee Schedule, of
Article 11, Development Applications and Review Procedures, of the
Unified Development Code (UDC)

(D) **Non-Compliant Structure Fees.** Fees associated with requests for a Specific Use Permit (SUP) or a Variance/Special Exception that deal with structures that were [1] constructed without a building permit, or [2] that were not constructed in conformance with an approved building permit shall be increased by \$1,000.00. For example, a 5.25-acre property that is requesting approval under this section would be calculated as follows:

5.25-acres x \$15.00/Acres = \$78.75 + \$200.00 [Base Fee] = \$278.75 [Typical Application Fee] + \$1,000.00 [Forgiveness Fee] = \$1,278.75 [Fee Due]