

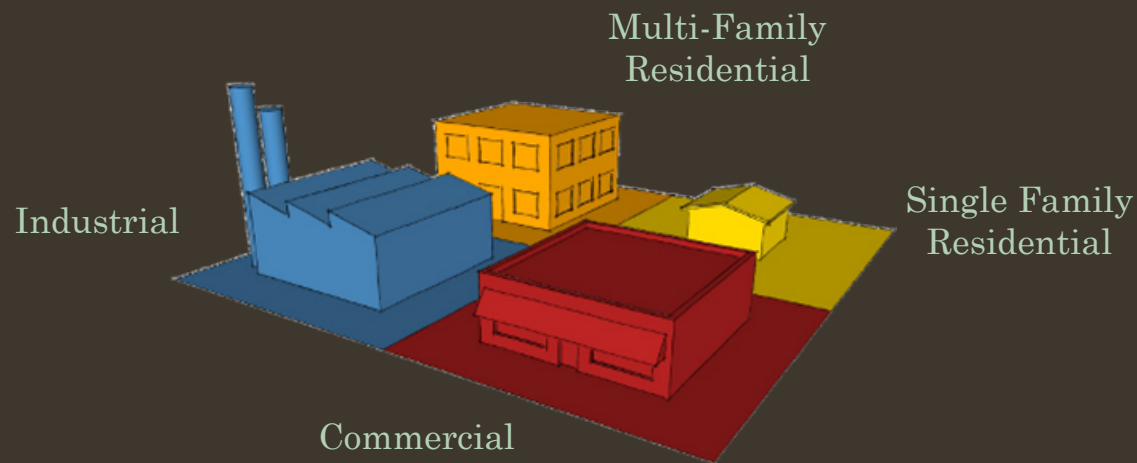
ZONING 101

Presented by Legal Aid of NorthWest Texas, Community Revitalization Project



What is Zoning?

The division of municipal land into specific districts designed to regulate use, design, and structure



Where does a City's zoning power come from?

- Most states have a **Standard Zoning Enabling Act (SZA)** that grants Cities the power to zone
- Texas's zoning enabling statute is contained in **Chapter 211 of the Local Government Code**
- Chapter 211 provides zoning powers to cities *“for the purpose of promoting the public health, safety, morals, or general welfare and protecting and preserving places and areas of historical, cultural, or architectural importance and significance”* (Tex. Loc. Gov't Code § 211.001)
- Zoning regulations must be adopted in accordance with a comprehensive plan and must be designed to...promote health and the general welfare (Tex. Loc. Gov't Code § 211.004)

What does the City have the power to regulate via Zoning?

- Under the Local Government Code, a City may regulate:
 1. The height, number of stories, and size of buildings and other structures;
 2. The percentage of a lot that may be occupied;
 3. The size of yards, courts, and other open spaces;
 4. Population density;
 5. The location and use of buildings, other structures, and land for business, industrial, residential, or other purposes; and
 6. The pumping, extraction, and use of groundwater by persons other than retail public utilities
- Cities may also regulate:
 - The construction, alteration or razing of structures in areas of historical, cultural, or architectural significance

What does Zoning consist of?

- Two Key Components = Zoning Ordinance + Zoning Map
 - 1) The Zoning Ordinance creates and defines specific zones or districts
 - Each district has unique regulations and restrictions regarding:
 - **Use** (e.g. residential, commercial, or industrial)
 - **Area** (e.g. minimum lot size, frontage, setbacks, floor area ratios (FAR), maximum lot coverage, etc.)
 - **Height**
 - 2) The Zoning Map correlates each parcel of land with one of the districts created in the zoning ordinance

Zoning Regulations in the City of Dallas

- The Zoning Ordinances for the City of Dallas can be found in the **Dallas Development Code** located in Chapters 51, 51A and 51P of the Dallas City Code
 - To access: Visit Dallas City Attorney Website (www.dallascityattorney.com) and click City Codes from top menu bar
- The City of Dallas Zoning Map can be accessed online at: gis.dallascityhall.com/zoningweb/

What kinds of Zoning Districts exist?

- **Residential Districts**

- Single-Family (R)
- Duplex (D)
- Townhouse (TH)
- Multifamily (MF)

- **Nonresidential Districts**

- Office (GO, LO, MO, NO)
- Retail/Commercial (NS, CR, RR)
- Industrial (LI, IR, IM)

- **Mixed Use Districts**

- Office/Retail/Residential (MU)

- **Special Purpose Districts**

- Planned Development Districts (PD)
- Conservation Districts (C)

- **Overlay Districts**

- Historic Overlay (H)
- Demolition Delay Overlay (DDO)
- Neighborhood Stabilization Overlay (NSO)

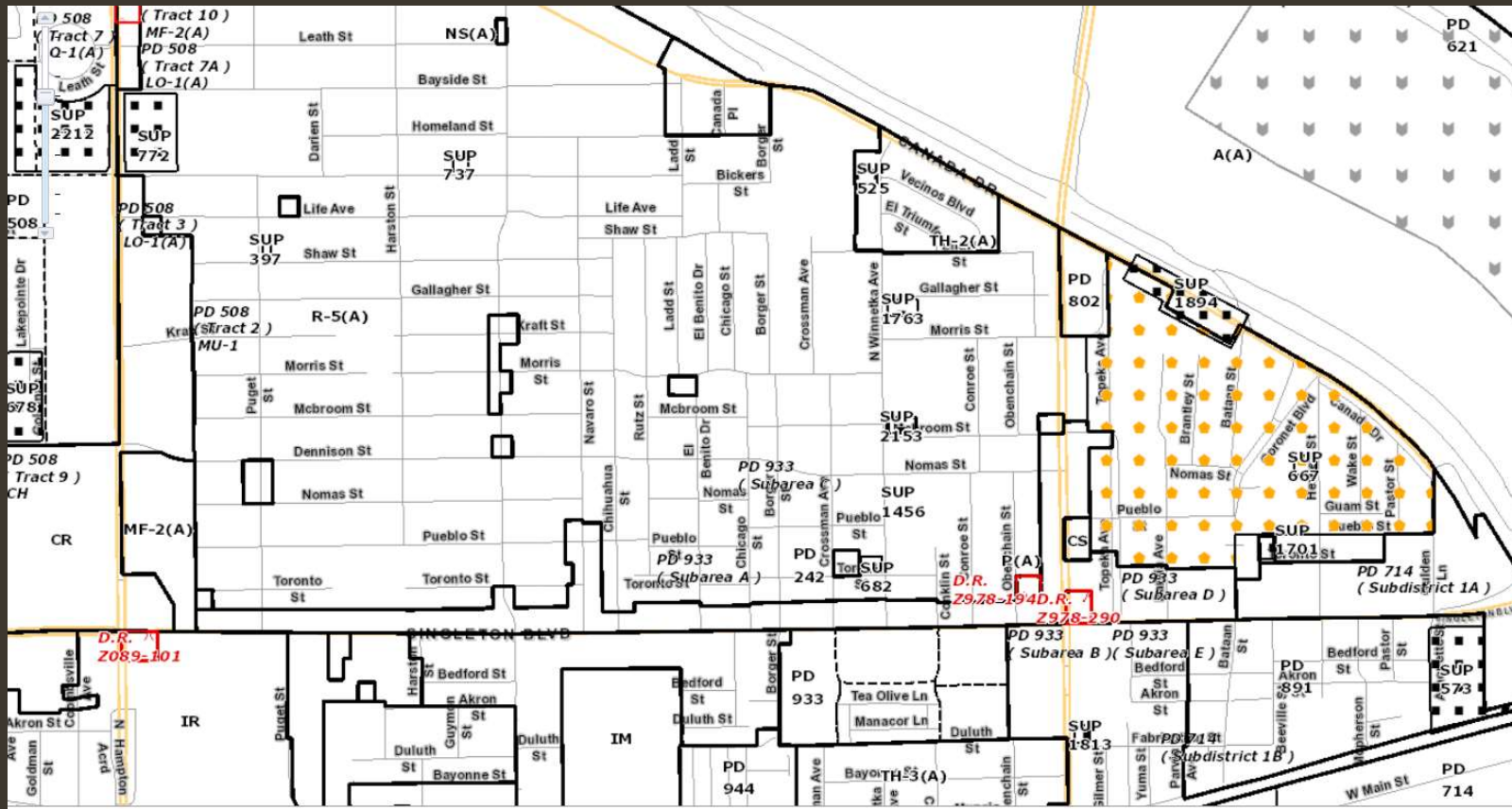
A list of zoning districts and standards can be found at:

<http://dallascityhall.com/departments/sustainabledevelopment/planning/Pages/zoning-districts.aspx>

Examples of Zoning District Standards

<u>DISTRICT</u>	<u>SETBACKS</u>		<u>DENSITY</u>	<u>HEIGHT</u>	<u>LOT COVERAGE</u>	<u>PRIMARY USE</u>
	Front	Side/Rear				
R-5	20'	5'	1 Dwelling Unit/ 5,000 sq. ft.	30'	45%	Single family residential
MF-1	15'	15'	Min lot 3,000 sq. ft. 1,000 sq. ft. – E 1,400 sq. ft. – 1 BR 1,800 sq. ft. – 2 BR + 150 sq. ft. each add BR	36'	60%	Multifamily, duplex, single family
MU-1	15'	20' if adjacent to R	0.8 FAR base 1.0 FAR maximum	90' or 120' (with retail)	80%	Retail, office, multifamily residential
IR	15'	30' if adjacent to R	2.0 FAR overall 0.75 office/retail 0.5 retail	200'	80%	Research and development, light industrial
IM	15'	30' if adjacent to R	2.0 FAR overall 0.75 office/retail 0.5 retail	110'	80%	Heavy industrial manufacturing

What does a Zoning Map look like?



So what are PDs and SUPs?

- A **Specific Use Permit (SUP)** is a permit that allows for a non-conforming use within an established zoning district for a specific period of time
 - The specific use must be compatible with adjacent property and must contribute to, enhance, or promote the welfare of the area
 - Temporary zoning change: must be renewed upon expiration but may be eligible for automatic renewals
- A **Planned Development District (PD)** is a customized zoning district created to accommodate developments that would not be possible under existing zoning standards
 - Each PD is unique with its own use, area, and height regulations
 - Permanent zoning change

What happens when a Developer wants to build something that does NOT conform with the current zoning ordinance?

The Developer may:

- Seek a Variance or Special Exception to the Zoning of its property
 - A Variance = A deviation from the Zoning Ordinance's spatial regulations (e.g. setbacks, density, height, etc.)
 - A Special Exception = An exception to the Zoning Ordinance that is expressly provided for in the City Code when certain conditions are met
- Apply for a Specific Use Permit
- Request to Change the Zoning to another existing Zoning District
- Request to create a brand new Zoning District in the form of a Planned Development District (PD)

Who has the power to approve zoning changes in the City of Dallas?

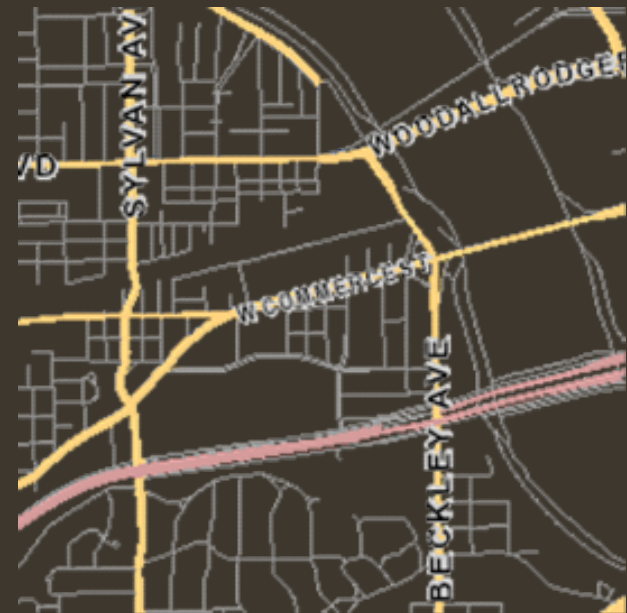
- **Zoning Board of Adjustment (ZBA)**
 - 15-member citizen board, divided into three 5-member panels
 - Permit appeals, variances, and special exceptions
 - “Quasi-Judicial” Board – decisions are appealed directly to District Court
- **Landmark Commission (LC)**
 - 15-member citizen board, 3 alternates
 - District-specific Task Forces
 - LC Committees: Designation Committee, Preservation Solutions Committee
 - Historic Districts, individually designated landmarks
 - “Quasi-Judicial” Board
- **City Plan Commission (CPC)**
 - 15-member citizen board, appointed by the City Council and Mayor
 - CPC Committees: Urban Design Committee (UDC), Zoning Ordinance Advisory Committee (ZOAC)
 - Zoning Changes, Specific Use Permits, Planned Development Districts, Platting & Subdivisions
 - Advisory Board – makes recommendations to City Council
- **City Council (CC)**
 - Appoints citizens to serve on boards and commissions including ZBA, LC, and CPC
 - Must give final approval to all CPC actions

The Zoning Change Request Process



Where can I find information about current zoning projects in the City of Dallas?

- Go to:
<https://developmentdata.dallascityhall.com/>
- Click: Zoning Intake
- Three Options:
 - 1) View Specific Case (if you know the case number)
 - 2) Search Cases (filter by Council District)
 - 3) Search Map (zoom in to desired geographic area)

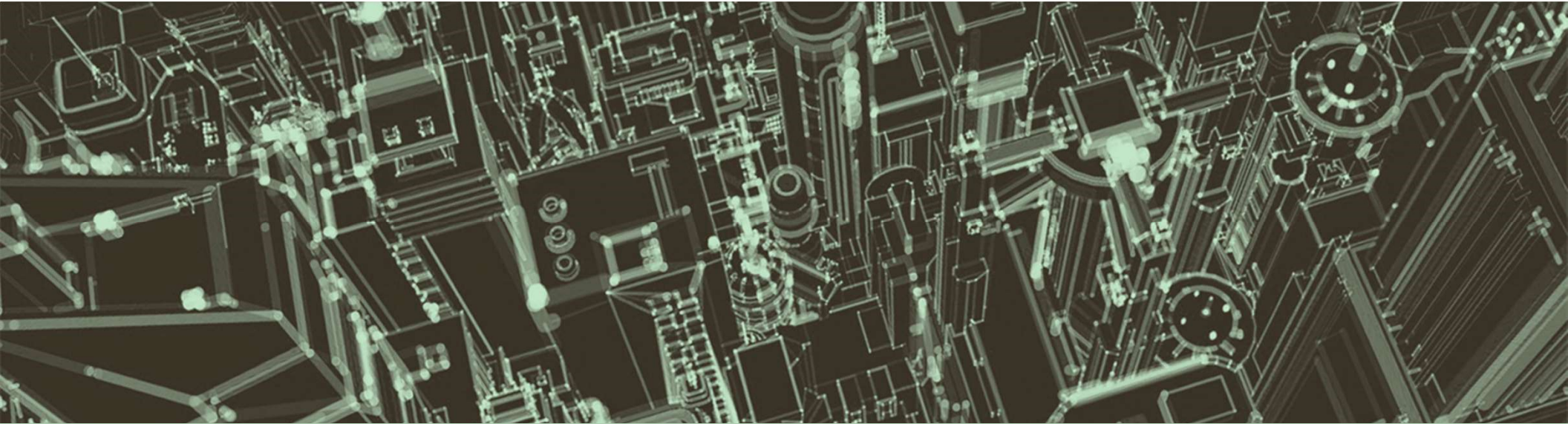


How can I stay informed/get involved?

- Get on the Early Notification List
 - Call the Office of Sustainable Development and Construction: (214) 670 - 4209
- Attend CPC and City Council public hearings on zoning cases in your neighborhood
 - CPC meetings take place bi-weekly on Thursdays at 9:00am at City Hall. Public hearings begin at 1:30pm
 - View agendas at: <http://dallascityhall.com/government/meetings/Pages/city-plan-commission.aspx>
 - Watching meetings online at: <http://dallascityhall.com/government/Pages/Live.aspx>
- Submit written comments to CPC and City Council members regarding pending zoning cases
- Organize community members and engage in private negotiations with individual developers to procure community benefits via a Community Benefits Agreement (CBA)

Resources

- **City of Dallas Current Planning website:**
<http://dallascityhall.com/departments/sustainabledevelopment/planning/Pages/default.aspx>
- **Dallas Development Guide** *available at:*
http://dallascityhall.com/departments/sustainabledevelopment/development_facilitation/Documents/Dallas%20Development%20Guide%202016.pdf
- **American Planning Association: A Guide to Urban Planning in Texas Communities 2013, Chapter 4: Zoning Regulations in Texas** *available at:*
<https://txplanningguide-ojs-utexas.tdl.org/txplanningguide/index.php/tpg/article/download/39/27>
- **Partnership for Working Families, Policy & Tools: Community Benefits Agreements and Policies in Effect** *available at:*
<http://www.forworkingfamilies.org/page/policy-tools-community-benefits-agreements-and-policies-effect#cbas>



HISTORIC PRESERVATION ZONING

- Historic Overlay Districts (aka Landmark Designation)
- Demolition Delay Overlay Districts



What is a Historic Overlay District?

- A **Historic Overlay District** is a special zoning district intended to preserve the historic criteria of an area or structure. It incorporates the underlying zoning for the area and adds additional regulations and review for new construction, demolitions, exterior alterations.
- Goal: To preserve places and areas of “**historical, cultural, or architectural importance and significance**”. To preserve the *original* materials, colors, styles, and other elements of the original structure.
- Landmark Districts (e.g., Winnetka Heights, Tenth Street, Lake Cliff)
 - Contributing structures
 - Non-contributing structures
- Landmark Structures (e.g., Texas Theater, Sunset High School)

A Historic Overlay District must meet three or more of the following ten characteristics:

- | | |
|--|---|
| (1) <u>History, heritage and culture</u> | (6) <u>Historic context</u> |
| (2) <u>Historic event</u> | (7) <u>Unique visual feature</u> |
| (3) <u>Significant persons</u> | (8) <u>Archaeological</u> |
| (4) <u>Architecture</u> | (9) <u>National and state recognition</u> |
| (5) <u>Architect or master builder</u> | (10) <u>Historic education</u> |

A description of the historic characteristics can be found here:

<http://dallascityhall.com/departments/sustainabledevelopment/historicpreservation/Pages/Landmark-Designation.aspx>

How does a Historic Overlay District work?

- The historic overlay ordinance sets preservation criteria standards for exterior work on historic properties. The criteria is specifically tailored to each district.
 - Contributing structures: In addition to meeting preservation criteria, work cannot have an adverse effect on building's architectural features; historic overlay district; or future preservation, maintenance or use of the structure or district.
 - Non-contributing structures: Work must be compatible with the historical overlay district.
- Certificate of Appropriateness: Property owners are required to obtain a Certificate of Appropriateness before doing any exterior work on their property.
- Review Process:

Routine Maintenance: Submission → Staff Issuance

All other work: Submission → Neighborhood Task Force Meeting → Staff Recommendation → Landmark Commission Public Hearing

Demolition Process for Historic Structures

Permissible Reason for Demo

1. To replace the structure with a new structure that is more appropriate and compatible with the historic overlay district
2. No economically viable use of the property exists
3. The structure poses an imminent threat to public health or safety
4. The structure is non-contributing to the historic overlay district because it is newer than the period of historic significance.

Requirements

1. Proof that owner has the financial ability and intent to build the new structure; Approved Certificate of Appropriateness to build new structure; guarantee agreement to build new structure
2. Consideration by economic review panel of experts. Proof of no reasonable economic return without demolition; structure cannot be adapted; no investors who would realize an economic return.
3. Proof of a public health and safety threat that cannot be abated
4. Proof that it is non-contributing, newer, and demolition will not adversely affect the historic character of the property or integrity of the district

*** A separate process applies to court-ordered demolitions of residences under 3,000 sq. ft. of floor area.*

What is a Demolition Delay Overlay?

A **Demolition Delay Overlay (DDO)** is a *historic preservation tool* used to delay the demolition of historic buildings in a designated area.

How it works:

- When a property owner in a DDO District applies for a demolition permit, the City has 10 days to determine whether the building qualifies for the delay.
- If it does, then there is a 45-day delay period. During that time, there is a public meeting with the owner, City officials, and other stakeholders to discuss alternatives to demolition (e.g. to move the building, sell it or renovate it.)
- After the 45-day delay period, the property owner can enter into an agreement with the City to delay the permit and explore the alternatives to demolition. Or the owner can decline the agreement, and then the City has to issue the demolition permit.

Which buildings qualify for a Demolition Delay?

A building must be located *in a Demolition Delay Overlay District*, be at least *50 years old*, AND meet one of the following criteria:

- 1) Listed on the National Register of Historic Places or located in a National Register Historic District;
- 2) Designated as a Recorded Texas Historic Landmark
- 3) Designated as a State Archeological Landmark
- 4) Designated as a National Historic Landmark
- 5) Listed as significant in the City's 2003 Downtown Dallas/Architecturally Significant Properties Survey; or
- 6) Listed as contributing in the City's 1994 Hardy-HeckMoore Survey.

More information about Demolition Delay Overlays, including links to the surveys, can be found at:
<http://dallascityhall.com/departments/sustainabledevelopment/historicpreservation/Pages/Demolition-Delay-Overlay-Districts.aspx>

Other Preservation Designations

- **National Historic Landmarks** (National Park Service)
 - Only 47 in Texas and 3 in Dallas (Dealey Plaza, Fair Park Centennial Buildings, Highland Park Shopping Village)
- **National Register of Historic Places** (Texas Historical Commission and NPS)
 - Examples: Winnetka Heights Historic District (1984), Tenth Street Historic District (1994), Texas Theater (2003)
- **Recorded Texas Historic Landmarks** (Texas Historical Commission)
 - Examples: John Neely Bryan Cabin, Sunset High School, Oak Cliff United Methodist Church
- **City of Dallas Conservation Districts**
 - Examples: Bishop Arts, Kessler Park

Historic Preservation Resources

- **City of Dallas Historic Preservation website:**
<http://dallascityhall.com/departments/sustainabledevelopment/historicpreservation/Pages/default.aspx>
- **National Register of Historic Places website:**
<https://www.nps.gov/nr/>
- **Texas Historical Commission website:**
<http://www.thc.texas.gov/>
- **Preservation Dallas website:**
<http://www.preservationdallas.org/>