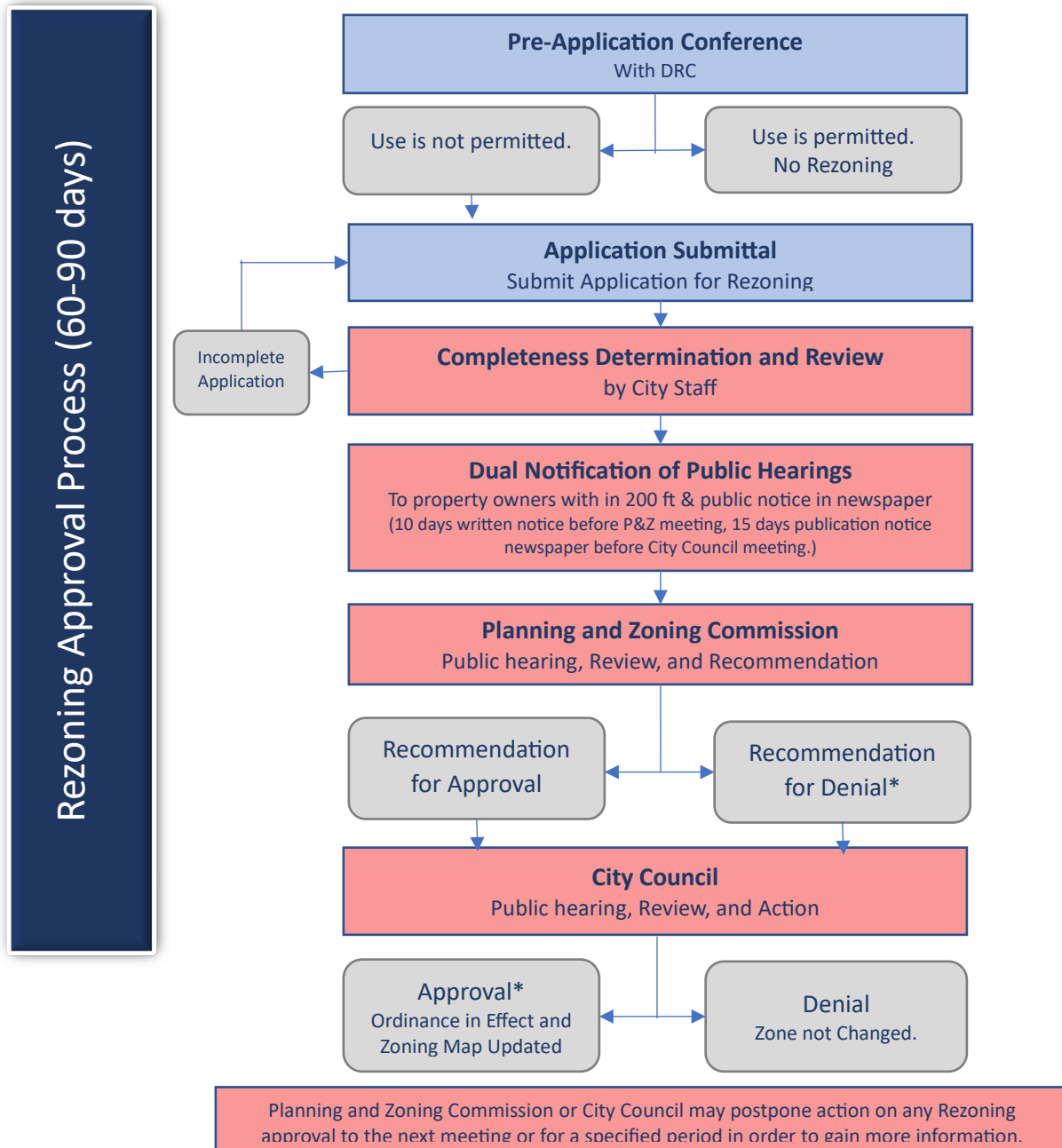


Zoning Process Flowchart



*At least three-fourths vote of the city council is required: If a proposed rezoning has been protested in writing by the owners of at least 20 percent of the area within 200 feet of the tract.

§ 3.1 Zoning Processes.

3.1.1 COMPLIANCE WITH ZONING REGULATIONS.

- A. Compliance with Zoning Regulations Required. All land, buildings, structures, or appurtenances thereon located within the City of Joshua which are hereafter occupied, used, erected, altered, removed, placed, demolished, or converted shall be occupied, used, erected, altered, removed, placed, demolished, or converted in conformance with the zoning regulations prescribed for the zoning district in which such land or building is located as hereinafter provided.

- B. Authority to Enter Upon Private Property. The Administrative Official may, in the performance of his/her functions and duties under the provisions of this ordinance, enter upon any land and make examinations and surveys as deemed necessary in the administration and enforcement of this ordinance in accordance with all applicable laws.
- C. Building Permits Prohibited Without Plat. Except as permitted by the Subdivision Ordinance, no permit for the construction or placement of a building or buildings upon any tract or plot shall be issued unless the plot or tract is part of a plat of record, properly approved by the Planning and Zoning Commission and City Council and filed in the Plat Records of Johnson County.
- D. Exclusions. Nothing herein contained shall require any change in the plans or construction of a building for which a permit has been applied for at the time of the passage of this ordinance and which entire building is completed within one (1) year from the effective date of this ordinance.
- E. One Main Building on a Residential Lot or Tract; Street Frontage Required. Only one main building for one-family or moderate density residential uses with permitted accessory buildings may be located upon a lot or tract. Every dwelling shall face or front upon a public street other than an alley.
- F. Regulations Applicable to Multiple Buildings. Where a lot is used for retail or multi-dwelling purposes, more than one main building may be located upon the lot but only when such buildings conform to all the open space, parking, and density requirements applicable to the uses and districts. No parking area, storage area, or required open space for one building shall be computed as being the open space, yard, or area requirements for any other building or use.

3.1.2 PLATTED PROPERTY TO BE PERMANENTLY ZONED.

- A. Zoning Required Prior To Approval of Plat. The City Council shall not approve any plat of any subdivision within the city limits until the area covered by the proposed plat shall have been permanently zoned by the City Council.
- B. Annexation Prior To Approval of Plat. The City Council shall not approve any plat or any subdivision within any area where a petition or ordinance for annexation or a recommendation for annexation to the city is pending before the City Council unless and until such annexation shall have been approved or disapproved by the City Council.
- C. Contemporaneous Action on Zoning and Annexation. In the event the City Council holds a hearing on proposed annexation, it may, at its discretion, hold a contemporaneous hearing upon the permanent zoning that is to be applied to the area or tract to be annexed. The City Council may, at its discretion, act contemporaneously on the matters of permanent zoning and annexation.

3.1.3 CREATION OF BUILDING SITE.

- A. Procedure for Creating Building Site/Lot. No permit for the construction of a building or buildings upon any tract or plot shall be issued until a building site, building tract, or building lot has been created by compliance with one of the following conditions:
 - 1. The lot or tract is part of a plat of record, properly approved by the City, and filed in the plat records of the county or counties in which the lot or tract is located.
 - 2. The lot or tract faces upon a dedicated street and was separately owned prior to the effective date of this ordinance or prior to annexation to the City, whichever is applicable, in which event a building permit for only one main building conforming to all the requirements of this ordinance may be issued on each such original separately owned lot or tract.
 - 3. The lot or tract is all or part of a site plan officially approved by the City and compliance has been made with provisions and improvements approved on such site plan for all utility and drainage easements, dedication of streets, alleys and other public improvements required to meet the standards established for the platting of land. Any lots or tracts must be provided access via a public street or drive.

3.1.4 AMENDMENTS, CHANGES AND ADMINISTRATIVE PROCEDURES.

- A. Declaration of Policy. The City declares the enactment of these regulations governing the use and development of land, buildings, and structures to be a measure necessary to the orderly development of the community. Therefore, no change shall be made in these regulations or in the boundaries of the zoning districts except:
 - 1. To correct any error in the regulations or map.
 - 2. To recognize changed or changing conditions or circumstances in a particular locality.
 - 3. To recognize changes in technology, style of living, or manner of doing business.
- B. Authority to Amend Ordinance. The City Council may from time to time, after public hearings required by law, and after receipt of the recommendation and report of the Planning and Zoning Commission, amend, supplement, or change the regulations herein provided or the classification or boundaries of the zoning districts. Any amendment, supplement, or change to the text of the Zoning Ordinance and any change in the classification or boundaries of the zoning districts may be ordered for consideration by the City Council, may be initiated by the Planning and Zoning Commission, the City Council, or may be requested by the owner of the affected real property or the authorized representative of an owner of affected real property.
- C. Public Hearing and Notice. Upon filing of an application for an amendment to the zoning ordinance and/or map, the Planning and Zoning Commission shall call a public hearing on said application.
 - 1. Before the tenth (10th) day before the public hearing date, written notice of the hearing before the Planning and Zoning Commission shall be sent to the owner of the property on which the change in classification is proposed or his/her agent and each owner, as indicated by the most recently approved municipal tax roll, of real property within two hundred (200) feet of the property on which the change in classification is proposed. Such notice may be served by depositing the same in the municipality, properly addressed and postage paid, in the United States mail. Where property lying within two hundred (200) feet of the property proposed to be changed is located in territory which was annexed to the City and is not included in the most recently approved municipal tax roll, notice to such owners of the time and place of the hearing shall be given by one publication in the official newspaper before the fifteenth day before the date of the hearing. Failure of owners to receive notice of hearing shall in no way affect the validity of the action taken.
 - 2. If, at the conclusion of the public hearing, the Planning and Zoning Commission, shall make a report and recommendation to the City Council concerning the proposed amendment which report, and recommendation shall be by the affirmative votes of not less than a majority of its total membership present and voting. A copy of any recommended amendment shall be submitted to the City Council and shall be accompanied by a report of findings, summary of hearing and any other pertinent data.
 - 3. Any proposal or application may be withdrawn by the applicant after the Planning and Zoning Commission makes its final report, and such proposal or application shall not be subject to the provision hereof that a period of time must pass before a new application is considered. If such proposal is withdrawn, the City Council will not consider it. Withdrawal of an application from a public hearing or meeting agenda is at the review or decision-making authority's discretion.
- D. Action of the City Council.
 - 1. Upon receipt of the report and recommendation of the Planning and Zoning Commission of an application to rezone property or to amend the zoning ordinance, not previously scheduled, the City Council shall schedule the application or amendment for public hearing and shall give notice of the time and place of the hearing by one (1) publication in the official newspaper at least fifteen (15) days prior to such hearing.
 - 2. When the Planning and Zoning Commission has recommended to the City Council that a proposed amendment be approved or disapproved, the City Council may approve or disapprove the petition or application for amendment by a simple majority vote of the City Council present and voting.
 - 3. In the case of a written protest against an amendment to the ordinance signed by the owners of at least twenty percent (20%), of either the area of the lots or land covered by the proposed change or the area of the lots or land

immediately adjoining the area included in the proposed change and extending two hundred (200) feet from that area, such amendment shall not become effective except by the favorable vote of three-fourths (3/4) of all members of the City Council. Written protests shall be subject to the following requirements:

- a. All protests must be submitted to the City Secretary in writing before 5:00 p.m. of the fourth (4th) working day immediately preceding the date advertised for the City Council public hearing in the statutory notice published in the official newspaper of the City. For example, a written protest must be received by 5:00 p.m., on the Friday prior to a regularly scheduled Thursday City Council meeting. A protest sent through the mail must be received by the City Secretary before the deadline. Such written protest(s) shall include the zoning case number, the name of the protesting property owner, the address(es) or property description(s) of the property for which the property owner is asserting a protest, the reasons for the property owner's protest such as the zoning classifications or uses to which the property owner is opposed, and the signature of the protesting property owner(s).
 - b. In all cases where a protest has been properly signed pursuant to this Section, the City shall presume that the signatures appearing on the protest are authentic and that the persons whose signatures appear on the protest are either owners of the property or authorized to sign on behalf of one or more owners as represented. Upon the advice of the City Attorney, this presumption shall not be followed in a specific case based on evidence presented.
 - c. A person may by written request withdraw his or her signature from the protest at any time prior to the close of the public hearing for the zoning case. If the withdrawal of an owner's signature from a protest reduces the percentage of land area ownership protesting the zoning change to less than twenty percent (20%) of the total area of land, a three-fourths (3/4) vote of the City Council for approval of the zoning change shall not be required.
 - d. In the event that multiple protests and withdrawals are filed on behalf of the same owner, the instrument with the latest date and time of execution controls.
 - e. At any time before City Council action on a zoning case, the filing deadline for a protest is automatically extended whenever the zoning case is postponed or continued to a later date.
4. In making its determination, the City Council may consider the following factors:
- a. Whether the uses permitted by the proposed change will be appropriate in the immediate area concerned and their relationship to the general area and the City as a whole.
 - b. Whether the proposed change is in accord with any existing or proposed plans for providing public schools, streets, water supply, sanitary sewers and other utilities to the area and shall note the findings.
 - c. The amount of vacant land currently classified for similar development in the vicinity and elsewhere in the City, and any special circumstances which may make a substantial part of such vacant land unsuitable for development.
 - d. The recent rate at which land is being developed in the same zoning classification as the request, particularly in the vicinity of the proposed changes.
 - e. The manner in which other areas designated for similar development will be, or are likely to be, affected if the proposed amendment is approved, and whether such designation for other areas should also be modified.
 - f. Any other factors which will substantially affect the public health, safety, morals or general welfare.
5. If the City Council fails to pass an ordinance approving such proposed amendment, supplement or change, then in that event, a new application for such proposed amendment, supplement or change to the zoning ordinance shall not again be considered until after the expiration of six (6) months from the date such proposed amendment, supplement or change was rejected; provided, however, that such application may be reconsidered within the above mentioned six (6) month period, if it be shown to the City that a substantial change in conditions has taken place in the vicinity of the property sought to be rezoned. Newly annexed land which has been assigned to the Agricultural zoning district is exempt from the six (6) month waiting period.
6. In the event of a reapplication affecting the same land for a zone that will permit the same use of the property as

that which would have been permitted under the denied application, the same shall not be considered to be substantially different from the application denied.

- E. Final Approval and Ordinance Adoption. If the amending ordinance is not approved within six (6) months from the date of completion of the original public hearing, the application for rezoning, at the option of the City Council, may be rescheduled for another public hearing.
- F. Changes in Zoning Regulations Not Involving Particular Property. Amendments to the Zoning Ordinance not involving a particular property but involving general changes in the zoning regulations do not require notice to individual property owners. In such cases, notice of the required public hearing shall be given by publication in the official newspaper of the City, stating the time and location of the public hearing, which time shall not be earlier than fifteen (15) days from the date of such publication.

3.1.5 SCHEDULE OF FEES; CHARGES, AND EXPENSES.

- A. Establishment. The City Council shall establish a schedule of fees, charges, and expenses, and a collection procedure for building permits, certificates of zoning compliance, appeals, and other matters pertaining to this ordinance. The schedule shall be posted in the office of the Administrative Official and may be altered or amended only by the City Council.
- B. Requirements. No permits, certificates, Special Exceptions, or variances shall be issued unless and until such costs, charges, fees, or expenses have been paid in full, nor shall any action be taken on proceedings before the Zoning Board of Adjustment unless or until preliminary charges and fees have been paid in full.

(Ordinance 782-2020 adopted 6/18/20; Ordinance 819-2021 adopted 8/19/21)

