



# Land Development Rules Adoption Policy and Process

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## Purpose

The purpose of this document is to establish written procedures for the administrative rules adoption process so departments may enact needed rules for implementing the Land Development Code (LDC) consistently and in a timely manner.

## Background

On January 28, 1988, Council adopted [Ordinance No. 880128-Q](#), establishing the process for City departments to adopt administrative rules for implementing, administering, and enforcing the Land Development Code (LDC). In 1999, Council adopted [Ordinance No. 99-0225-70 \(b\)](#), which recodified the rules adoption process under City Code [Title 1, Chapter 1-2 \(Adoption of Rules\)](#), and broadened it to cover all types of administrative rules.

City departments follow the rules process established under Chapter 1-2 to adopt “administrative criteria manuals,” which codify rules used by individual departments to implement LDC requirements within their areas of expertise. To achieve greater consistency and provide for heightened level of review and input, in 2023 the City Council passed [Resolution No. 20230323-057](#) directing the City Manager to establish a Technical Advisory Review Panel (TARP). The role of the TARP includes: *“Ensuring opportunities for public input and consultation... which should be timed to maximize opportunities for departments to consider the TARP’s recommendations before beginning the process required by City Code Chapter 1-2 (Adoption of Rules) for adopting criteria manuals or amendments.”*

## Rules and Applications

Rules are adopted to implement, administer, enforce, or comply with the Code, an ordinance, or another law for which a department is responsible. Proposed rules must be limited to these purposes.

As authorized by City Chapter 25-1, Article 4 (*Application and Approval*), rules may be used to establish requirements for reviewing and submitting applications consistent with the LDC. These requirements may include, where appropriate, review deadlines, processing cycles, and other requirements that help to ensure an efficient, cost-effective, and thorough review process.

## Roles and Responsibilities

### City Manager

Acts on appeals of adopted rules as required by Code. Considers reports issued by the TARP.

### Department Directors

Appoints one single point of contact (SPOC) for their department. Works with other directors to resolve departmental conflicts. Reviews and signs the Notice of Proposed Rule prior to review by the

City Attorney.

Department Single Point of Contact (SPOCS)

Works with their department to draft needed proposed rules. Facilitates their department's stakeholder review prior to posting the rule. Submits proposed rules to the Rules Manager. Provides feedback on other department's proposed rules. Serves as a panelist of the TARP.

Land Development Rules Administrator (LDRA)

Reviews proposed rules and determines if enhanced review is needed by the TARP before initiating the rules adoption process under Chapter 1-2 of the City Code. Facilitates and manages operation of the TARP, including panelist information, organizing and facilitating meetings, and producing reports and recommendations.

Law Department

Assists departments with rule creation. Ensures proposed rules are legally valid and there is no other conflicting ordinance or rule, as indicated through the signature of the City Attorney on the Notice of Proposed Rule.

Office of the City Clerk

Posts notices on the [Land Development Rules Notice website](#).

Rules Manager

Coordinates the rules posting and adoption process required under Chapter 1-2 of the City Code. Creates and distributes the annual rules cycle calendar (Appendix 2). Confirms department SPOCs have submitted all necessary documents and information for notices. Ensures adopted rules are made publicly available, currently through the criteria manuals hosted on Municode. Maintains internal tracking of all proposed rules and their status.

Technical Advisory Review Panel

At the direction of the LDRA, reviews and discusses established and proposed rules codified in administrative criteria manuals. Considers ways to better align criteria manuals with existing City Council policies, City housing goals, and industry best practices, as well as the needs of individual departments and the protection of public health and safety.

**Procedures**

Phase 1 – Proposed Rule Analysis & Stakeholder Engagement

City Departments may elect to conduct their stakeholder review before or after submitting proposed rules for analysis by the LDRA. The requirements for both stages of this phase are described below.

*Rules Analysis*

City Departments will prepare proposed rules and submit them to the Rules Manager. In addition to the proposed rule language, SPOCs will also submit the screening standards worksheet (Appendix 1) to help determine if the standard interdepartmental review process is sufficient for the proposed rule or if TARP review is required. The LDRA will assist with the completion of the screening standards worksheet as needed.

### ***Rules Screening***

Proposed rules will be uploaded to a common site where City departments can review and perform an internal interdepartmental review. Once posted, department SPOCs must provide comments and/or their approval within 30 days. If a department wishes to remove their proposed rule from further consideration or TARP review they may do so at any time.

After reviewing a proposed rule and the screening standards worksheet submitted by the department SPOC, the LDRA will determine whether to require TARP review based on the proposed rule's overall consistency with the Criteria Manual Screening Standards. If the LDRA does not require TARP review, the rule may be initiated under the rules adoption process established in Chapter 1-2 of the City Code following completion of the interdepartmental review process.

If a proposed rule requires TARP review, the LDRA will schedule one or more TARP meetings to evaluate the proposed rule for consistency with the screening standards. In advance of the TARP meeting, the LDRA will identify primary issues of concern based on the worksheet submitted by the department SPOC. TARP panelists with expertise relevant to a proposed rule must attend meetings held for those rules.

After the TARP has considered the proposed rule, the LDRA will issue a report summarizing any concerns identified through the TARP process and shall make a determination on whether the proposed rule is approved to be initiated for adoption. In making this determination, the LDRA shall consider all of the screening standards, but shall defer to department SPOCs on issues requiring technical expertise or engineering judgment, and shall consider any changes proposed by the department to address concerns identified through the TARP process.

If the LDRA determines that a proposed rule is approved to be initiated for adoption following one or more TARP meetings, no further interdepartmental review is required. If the LDRA determines that a proposed rule is denied to be initiated for adoption, the rule may not be considered in its original form until a subsequent rules posting cycle. However, if the department SPOC submits a revised version of the proposed rule, the department may initiate the rule for adoption in the current cycle if the LDRA determines that the revisions address concerns identified through the TARP process.

### ***Escalation Process***

A department SPOC may request in writing that the City Manager overturn a decision by the LDRA that a proposed rule is denied to be initiated. Where escalation is requested, the LDRA shall provide City Manager's Office with copies of all relevant background materials, including the LDRA's report on the proposed rule and any statement the department SPOC provides in support of the proposed rule.

## *Stakeholder Engagement*

[Resolution No. 19950223-050](#) requires gathering external stakeholders' input before a department initiating a rule can submit the Notice of Proposed Rule. The initiating department is to contact their stakeholders to make them aware of their draft rule through mail, e-mail, or scheduled meetings.

There is no prescribed method for involving stakeholders. Some departments use structured processes while others send out emails. Departments should use whatever method is effective for them. External stakeholders should be given at least 3 weeks to review and comment. Departments are required to submit documentation of stakeholder involvement to the Rules Manager.

### Phase 2 – Notice of Proposed Rule

SPOCS are responsible for submitting the following to the rules manager:

- Completed Notice of Proposed Rule, including:
  - The appropriate dates
  - Contact information of representative the public can direct questions to
  - Brief explanation of the rule
  - Director signature
  - Signature of the City Attorney
  - Proposed rule changes shown in red
- Word document of the proposed rule changes shown in red
- Documentation of stakeholder involvement
- Documentation of request sent to Housing and Planning Department for the Affordability Impact Statement

Once all documents have been received, the Rules Manager will assign a rule number and instruct the Office of the City Clerk to post the Notice of Proposed Rule on the [Land Development Rules Notice website](#).

### Phase 3 – Public Comment / Rule Adoption

After the public comment period indicated on the Notice of Proposed Rule has closed, the SPOC must respond to all comments received using the LDC Rules Response to Public Comments Tool (Appendix 3). If changes are desired to address comments, they should be incorporated into the proposed rule language for the Notice of Rule Adoption and sent to the Rules Manager.

The Rules Manager will instruct the Office of the City Clerk to post the Notice of Rule Adoption on the [Land Development Rules Notice website](#)

A Notice of Rule Adoption must be posted after the public comment period but no later than seventy (70) days after posting the Notice of Proposed Rule. If the 70 days are exceeded, the rule is automatically withdrawn from the process and must be reprocessed.

### Phase 4 – Appeal Process

A person may appeal the adoption of a rule to the city manager by filing with the city clerk a written

statement that:

- States the name, address, and telephone number of the person appealing the rule
- Identifies each rule being appealed; and
- States the specific reason why the rule should be modified or withdrawn

On receipt of an appeal, the City Clerk will supply a copy to the City Manager, Director of the initiating department, each Council member, and the Rules Manager.

The City Manager may affirm, amend, or withdraw the appealed rule by filing a Notice of Decision on Appeal of an Adopted Rule. Notices must be filed with the Office of the City Clerk. If the City Manager does not act on the appeal on or before the 60<sup>th</sup> day after the Notice of Rule Adoption is posted, the rule is withdrawn.

#### Phase 5 – Publication

The Rules Manager will send the publisher the adopted rules with the rule number, adopted date, and the title of the manual the rule will reside. The Rules Manager will also update their internal tracking of the status of the rules for that cycle.

#### **Appendices**

Appendix 1 – Screening Standards Worksheet

Appendix 2 – Sample Annual Rules Cycle Calendar

Appendix 3 – LDC Rules Public Comments Tool

## **Appendix 1 – Screening Standards Worksheet**

### Standard #1 – Land Development Code Authority

Criteria Manual:

Rule Name:

Rule Section Number and Title:

Rule Description:

Rule Justification:

Relevant City Code:

### Standard #2 – Health and Safety

To what extent is the rule necessary to protect public health and safety?

### Standard # 3 – Impact on Development Potential

Describe how this rule may reduce the likelihood that projects will achieve their full development potential under Title 25:

If loss of development potential is expected, what steps are being taken to reduce the loss?

### Standard #4 – Impacts on Housing Capacity

How likely is the rule to reduce the number of housing units otherwise permitted under Title25?

### Standard # 5 – Conflicts and Redundancies

Does this rule impact other rules in other criteria manuals? Does it impact the operations of other departments? If so, describe.

Standard #6 – Best Practices

How does the requirement of this rule differ from peer cities? Are requirements similar or different? If different, what is the local justification?

Standard #7 – Cost Estimates

Does the rule require additional City staff to perform reviews?

Number of staff needed:

Will this create additional costs for developers/contractors to comply? If so, describe and provide estimates.

