

**ORDINANCE NO. 2025-O-650**

**AN ORDINANCE OF THE CITY OF JONESTOWN, TEXAS, ADOPTING A NEW UNIFIED DEVELOPMENT CODE; REPEALING CHAPTER 3 “BUILDINGS,” CHAPTER 10 “SUBDIVISION REGULATION,” AND CHAPTER 14 “ZONING” OF THE CODE OF ORDINANCES IN THEIR ENTIRETY; PROVIDING A PENALTY NOT TO EXCEED TWO THOUSAND AND NO/100 DOLLARS (\$2,000.00) FOR EACH OFFENSE AND A SEPARATE OFFENSE SHALL BE DEEMED COMMITTED EACH DAY DURING OR ON WHICH A VIOLATION OCCURS OR CONTINUES; PROVIDING FOR SAVINGS, CUMULATIVE/REPEALER, AND SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the City Council of the City of Jonestown has the authority and power to adopt and amend ordinances that regulate the use and development of land within the City’s incorporated limits; and

**WHEREAS**, in an effort to provide revised and updated land use regulations that are in the best interest of the public health, safety, and welfare and are in accordance with the Comprehensive Plan, the City administration, in consultation with the Planning and Zoning Commission, has recommended a Unified Development Code that reorganizes and amends several separate sections of City code regarding zoning and land use, subdivision and platting, building and construction and other development provisions; and

**WHEREAS**, the Planning and Zoning Commission, in compliance with the laws of the State of Texas and the ordinances of the City of Jonestown, having given notice as required by law, and after holding a public hearing, recommends that the City Council approve and adopt the Unified Development Code; and

**WHEREAS**, after receiving the final report of the Planning and Zoning Commission, the City Council held a public hearing on the Unified Development Code, for which notice was given as required by law;

**WHEREAS**, the City Council finds consolidating the City’s development standards, subdivision regulations, zoning and land use, building regulations and other development-related standards into the Unified Development Code is in the best interest of the public health, safety, and welfare of the City’s residents and the adoption of the Unified Development Code is in accordance with the Comprehensive Plan.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF JONESTOWN, TEXAS, that:**

**SECTION 1. Findings Incorporated.** The findings set forth above are incorporated as if fully set forth herein.

**SECTION 2. Adoption.** The Uniform Development Code attached hereto as Exhibit A and incorporated as if fully rewritten herein, is hereby adopted in its entirety.

**SECTION 3.** Any currently existing development projects will continue to be governed by the standards reflected by the City's ordinances presently in effect prior to the adoption of the Unified Development Code. All development projects beginning after the adoption of this ordinance will be governed by this ordinance and the Unified Development Code.

**SECTION 4.** Chapter 3 "Building Regulations," Chapter 10 "Subdivision Regulations," and Chapter 14 "Zoning" are hereby repealed in their entirety.

**SECTION 5. Penalty Clause.** Any act of commission or omission contrary to the commands or directives of the Unified Development Code ("Code"), any breach of any duty imposed by this Code, or any failure to otherwise comply with any provision of this Code shall constitute a violation hereof. An offense under this section is subject to general penalty provisions provided under Chapter 1, Sections 1.01.009, 1.01.010 of the City's Code of Ordinances as a Class C misdemeanor, unless specifically indicated otherwise. Violators shall be subject to a fine not to exceed the sum of five hundred dollars (\$500.00) for each offense, and each and every day any such offense shall continue shall be deemed to constitute a separate offense, provided, however, that in all cases involving violation of any provision of this Ordinance or Code of Ordinances, as amended hereby, governing the fire safety, zoning, or public health and sanitation shall be subject to a fine not to exceed the sum of two thousand dollars (\$2,000.00) for each offense.

**SECTION 6. Cumulative/Repealer Clause.** This Ordinance shall be cumulative of all provisions of State or Federal law and other ordinances of the City of Jonestown, Texas, except where the provisions of this Ordinance are in direct conflict with the provisions of such ordinances, in which event the conflicting provisions of such ordinances are hereby repealed to the extent of such conflict, and the provisions of this Ordinance shall be and remain controlling as to the matters regulated, herein,

**SECTION 7. Severability Clause.** It is hereby declared to be the intention of the City Council that the phrases, clauses, sentences, paragraphs and sections of this ordinance are severable, and if any phrase, clause, sentence, paragraph or section of this ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this ordinance, since the same would have been enacted by the City Council without the incorporation of this ordinance of any such unconstitutional phrase, clause, sentence, paragraph or section.

**SECTION 8. Effective Date.** This Ordinance shall become effective immediately upon its passage and publication as required by law.

**SECTION 9. Proper Notice and Meeting.** It is hereby officially found and determined that the meeting at which this ordinance was passed was open to the public and that public notice of the time, place, and purpose of said meeting was given as required by the Open Meetings Act, Chapter 551 of the Texas Government Code. Notice was also provided as required by Chapter 52 of the Texas Local Government Code.

**APPROVED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF JONESTOWN ON THIS THE 9<sup>th</sup> DAY OF JANUARY 2025.**



Paul Johnson, Mayor

ATTEST:



Sandra Barton, Secretary



APPROVED AS TO FORM:

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Josh Brockman-Weber, City Attorney

**CITY OF JONESTOWN  
CODE OF ORDINANCES**

**DEVELOPMENT CODE**

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**ARTICLE 1 ENACTMENT AND LEGAL STATUS PROVISIONS**

*DIVISION 1 ENACTMENT*

**Section 1.1.1 Enactment and Legal Status Provisions**

- A. *Generally.* This document shall be officially known as the Development Code of the City of Jonestown, Texas.
- B. *Short Title.* The Jonestown Development Code may hereinafter be called "these regulations or the "Code"

**Section 1.1.2 Purpose**

- A. *Generally.* These regulations have been created in order to achieve the general purpose of protecting and promoting the public health, safety, morals, and general welfare of the residents, business owners, employees, property owners, and visitors of the City and by preserving places and areas of historical, cultural, or architectural importance and significance. Furthermore, these regulations are intended to be consistent with and implement City-adopted master plans and promote policies of the City.
- B. *Purposes.* In addition to the general purposes identified in Subsection 1.1.2.A, above, these regulations are intended to lessen congestion in the streets, secure safety from fire, panic and other dangers, promote the health and general welfare, provide adequate light and air, prevent the overcrowding of land, avoid undue concentration of population and facilitate the adequate provision of transportation, water, sewer, schools, parks and other public requirements.

### **Section 1.1.3 Authority**

- A. *Generally.* These regulations are adopted and enforced in accordance with the authorities contained in the constitution and laws of the State of Texas, including Chapters 211 and 212 of the Texas Local Government Code, and other applicable statutes and law.
- B. *Comprehensive Plan.* These regulations are enacted to be consistent with and implement the policies, objectives, and other strategic actions of the City's Comprehensive Plan.
- C. *State Law.* It is the intent of these regulations to comply with any and all state law requirements.

### **Section 1.1.4 Jurisdiction**

- A. *Generally.* These regulations apply to all land, development, and the use of all land, buildings, and structures, unless specifically exempted herein or preempted by state or federal law.
- B. *City Limits.* These regulations apply to all areas within the City limits of the City of Jonestown, Texas.
- C. *Extraterritorial Jurisdiction (ETJ).* In order to promote the health, safety, morals, and general welfare of the City and the safe, orderly, and healthful development of the City, it is the intent of the City to exercise full authority in all or portions of the ETJ as allowed by state law, including but not limited to the following:
  - 1. The City will exercise full authority in the entire designated ETJ or portions of the ETJ (as applicable) as follows:
    - a. Plats, Development Plats and subdivision approvals.
    - b. Access to public roads.
    - c. Regulation of ground water.
    - d. The regulation of nonpoint source pollution.
  - 2. In addition to the matters listed in Subsection 1.1.4.C.1, the City will apply the following provisions related to the use and development of property in the entire designated ETJ, generally through the requirement of a subdivision plat or Development Plat and/or Site Development Plan:
    - a. Any and all portions of the City's Code of Ordinances that specifically state their application to the ETJ;
    - b. All standards of the following regulations:
      - (1) All standards of Article 4, Environmental Protection.
      - (2) All standards of Article 5, Subdivision Design and Land Development.

- (3) All standards of Article 6, Access, Driveways, and Circulation.
- (4) All standards of Chapter 13, Utilities
- (5) All standards of Chapter 15, Signage

#### *DIVISION 1.2 LEGAL STATUS*

##### **Section 1.2.1 Relationship to Existing Applications and Development**

- A. *Pending Applications for Development Approvals.* Any application for a development approval or permit submitted to the City prior to the adoption date of these regulations shall be processed and considered for approval in accordance with the regulations in effect on the date the application was submitted.
- B. *Existing Development Agreements.* Executed development agreements shall be subject to the regulations described in the Development Agreement, or as same may be modified or amended by subsequent Development Agreement amendments or subsequent zoning ordinance amendments.
- C. *Prior Conditions of Approval.* Conditions on development approvals granted prior to the effective date of these regulations remain in effect. However, conditions on development approvals granted prior to the effective date may be modified or eliminated for new applications that meet the procedures and standards of these regulations.
- D. *Private Restrictions/Deed and Covenant Restrictions.* These regulations do not affect private restrictions, nor do private restrictions affect these regulations. The City has no duty to search for the existence of private restrictions that may affect the use, development, or maintenance of a property. The City will only enforce the provisions of these regulations and other applicable City ordinances. Enforcement of private restrictions is at the sole discretion and responsibility of the parties to the private restrictions, unless such restrictions are created to provide compliance with a requirement of these regulations.

##### **Section 1.2.2 Conflicting Provisions**

- A. *Generally.* In the event that one or more of these regulations are in conflict with each other or other lawfully adopted rules, regulations, or ordinances, the requirement that is the most recently enacted provision shall apply and if both provisions were enacted at the same time, then the most restrictive or that imposes the higher standard shall govern.
- B. *State and Federal Law.* No part of these regulations relieves any applicant or recipient of any permit, certificate, or approval from the responsibility of complying with all other applicable requirements of any other county, state, or federal agency having jurisdiction over the structures or land uses for which the permit, certificate, or approval was issued. Likewise, compliance with state or federal law does not relieve the applicant or

recipient of any permit, certificate, or approval from the responsibility of complying with these regulations, unless the application of these regulations is legally preempted.

**ARTICLE 2 ZONING DISTRICTS**

*DIVISION 2.1 ZONING DISTRICTS*

**Section 2.1.1 Zoning Districts Established**

- A. *Generally.* The establishment of zoning districts in the City of Jonestown, Texas, are intended to promote compatible patterns of land use and site development consistent with the City’s Comprehensive Plan.
- B. *Districts Established.* The City of Jonestown is hereby divided into 16 zoning districts that are established by Table 2.1.1.A, Zoning Districts Established. All land within the City limits shall be classified into one of the following zoning districts:

Table 2.1.1.A Zoning Districts Established			
District Type	Name	Symbol	General Purpose and Overview
Rural Residential	Rural Estate District	R-R	This district is intended to establish and preserve low-density rural residential use. This district is appropriate for selected locations where rural characteristics are desired or where terrain or public service capacities necessitate very low densities. The Rural Estate District is intended to provide the opportunity to develop a large lot subdivision prior to public utilities being available. It is intended to remain rural in character, suited for larger lot and consistent with designated uses.
Single Family Residential	Single Family Detached District	R-1	Permits detached single-family dwellings and related accessory structures.
Two Family Residential	Two Family Attached District	R-2	Allows attached duplex housing not to exceed one (1) structure per acre
Multi-Family	Multifamily Residential District	R-3	Allows conventional and high-density attached apartment development. Requires additional facilities such as pool, common area or community areas, tennis courts, open space, playscapes and green belts. May be used as a transitional district between single family and other residential or commercial districts.

District Type	Name	Symbol	General Purpose and Overview
Single Family Manufactured Home	Single Family Manufactured Housing District	M-1	<p>Manufactured homes may be placed on individual lots meeting this zoning classification and used for single-family occupancy only. No home shall have less than 650 square feet of living area, and shall be a minimum of 14 feet in width, and shall have no metal on the outside wall and be no older than 5 years at the time of placement on the lot, with one single-family home per lot or space. Detached single-family dwellings built on-site and related accessory structures are also permitted, subject to the conditions and limitations and site development regulations for the R-1 single-family residential district set forth in Section 3.1.4.</p>
Manufactured Home Park	Manufactured Home Park District	M-2	<p>(a) Property and areas of the city zoned “M-2” may be used and occupied as a manufactured home park. No home shall have less than 650 square feet of living area and shall be a minimum of 14 feet in width, and shall have no metal on the outside wall and be no older than 5 years at the time of placement on the lot, with one single-family home per lot or space. All lease spaces shall be under one ownership, operated and under the continuous control of a resident manager.</p> <p>(b) Property and areas of the city zoned M-2 may be planned, used, approved, platted and occupied as a manufactured home subdivision where lots are sold and conveyed to individual lot owners. Land and areas of the city zoned “M-2” and having an approved subdivision plat may be used for manufactured homes having a minimum of 650 square feet of living area, a minimum width of 14 feet, and be no more than 5 years old at the time the of lot or space sale, with one home per lot.</p> <p>(c) Requires additional facilities such as pool, common area or community areas, tennis courts, open space, playscapes and green belts.</p>



District Type	Name	Symbol	General Purpose and Overview
Recreational Vehicle	RV Park District	RV	<p>(a) Provides for properly planned, supervised and operated recreational vehicle communities (<i>i.e.</i>, recreational vehicle (RV) parks): (1) promote the safety and health of the residents of such communities and of other nearby communities; (2) encourage economical and orderly development of such communities. All lease spaces shall be under one ownership, operated and under the continuous control of an on-site resident manager.</p> <p>(b) Property and areas of the city zoned RV may not be planned, used, approved, platted or occupied as an RV subdivision where individual RV sites lots are sold and conveyed to individual lot owners.</p> <p>(c) Requires additional facilities such as a pool, common area or community areas, tennis courts, open space, playscapes, green belts or other amenities commonly included within an RV Park.</p>
Office	Professional and Office District	O	Provide sites for quiet, low-density professional offices where all services shall be performed inside the designated office space or building, with only outside accessory building for storage in enclosed structures allowed. Allows retail or service business development within the office building structure but not occupying more than twenty (20) percent of the office space square footage.
Business-Retail	Business-Retail District	B-1	This district is designed to provide sites for low-density, retail businesses providing goods, services and merchandise completely contained within a building. No open air or outdoor storage is allowed in this district.
Business-General	Business-General District	B-2	This district is designed to provide sites for more general and less restrictive sale of products and merchandise, by allowing larger facilities, larger parking areas, the outdoor display and sale of merchandise and products that are visible from the public roads as well as allowing accessory buildings.
Light Industry	Light Industry District	I-1	This district is designed to provide locations for outlets offering goods and services to a

District Type	Name	Symbol	General Purpose and Overview
			targeted segment of the general public as well as industrial users. The uses include uses that serve other commercial and industrial enterprises.
Planned Unit	Planned Unit Development District	PUD	The purpose and intent of the planned unit development district is to provide a flexible, alternative procedure to encourage imaginative and innovative designs for the unified development of property designed: (i) to accommodate cluster type residential development as opposed to traditional block type subdivisions, (ii) to allow development which is harmonious with nearby areas; (iii) to enhance and preserve areas which are unique or have outstanding scenic, environmental, cultural or historic significance; (iv) to provide an alternative for more efficient use of land, resulting in smaller utility networks, safer streets, more open space, and lower construction and maintenance costs; (v) to encourage harmonious and coordinated development, considering natural features, community facilities, circulation patterns and surrounding properties and neighborhoods; (vi) to facilitate the analysis of the effect of development upon the tax base, the local economy, population, public facilities and the environment; (vii) to provide and result in an enhanced residential and/or work environment for those persons living and/or working within the district; and (viii) to require the application of professional planning and design techniques to achieve overall coordinated mixed-use developments and avoid the negative effects of piecemeal, segregated, or unplanned development.
FM 1431 Overlay	FM 1431 Corridor Overlay District	FM-1	The City Council establishes the FM 1431 Corridor overlay district to provide for orderly development and to maximize the access to the city through a major traffic artery in a rural area. (a) The City Council establishes the FM 1431 Corridor overlay district to create an

District Type	Name	Symbol	General Purpose and Overview
			<p>attractive, higher intensity use corridor composed primarily of office, retail, and commercial uses along the existing traffic artery, FM 1431, within the city.</p> <p>(b) The FM 1431 Corridor overlay district development is intended to be comprised of high-quality development projects and structures that create an environment to enhance the public image of the community, attract and maintain viable land uses, encourage long-term economic investment, and provide attractive gateways into the city.</p> <p>(c) The FM 1431 Corridor overlay district is intended to regulate the use of land to support the rural and recreational quality of life of the Texas Hill Country by promoting uses typical of a small Hill Country community.</p>
Short Term Rental Overlay	Short Term Rental Overlay District	STR-1	Provide for orderly development and to maximize protection of the integrity and community identity of residential neighborhoods within the city. The STR overlay district is intended to identify and limit those areas within the city in which permits may be issued for short-term rental uses. The uses allowed in the district are those uses allowed for the underlying zoning district.
Governmental, Utility and Institutional	Governmental, Utility and Institutional District	GUI	This district is intended to provide appropriate areas for uses that provide important community services often requiring large amounts of land. Uses permitted in the GUI district and other substantially similar uses generate a large amount of traffic. Land abutting a major street that can be used for access will be considered appropriate for GUI classification.
Temporary	Temporary District	T	Automatically includes all territory hereafter annexed into the city, pending subsequent action by the commission and council for permanent zoning; Permanent zoning can be initiated by the city or the property owner of the land being annexed. Zoning notice must

District Type	Name	Symbol	General Purpose and Overview
			be given and hearings held and zoning ordinance adopted in compliance with chapter 211 of the Texas Local Government Code, as amended.

**Section 2.1.2 Official Zoning Map**

- A. *Generally.* The boundaries of all zoning districts are shown on the map entitled the “Official Zoning Map of Jonestown, Texas,” which may be referenced herein as the “Official Zoning Map.” The Official Zoning Map and a record of all amendments thereto shall be kept on file by the City and shall constitute the original record. A copy of the currently effective Official Zoning Map may also be distributed to other City departments to facilitate inspection during regular business hours.
  
- B. *Force and Effect.* The Official Zoning Map, together with all legends, symbols, references, notations, boundaries, and other information, is adopted as a part of these zoning regulations, and has the full force and effect of these zoning regulations. The Official Zoning Map, with a record of all amendments that are on file with the City Secretary shall be the controlling document in the event of a conflict between the map that is on file and any other reproduction of the Official Zoning Map.
  
- C. *Effective Date.* The Official Zoning Map shall show the “Effective Date” and the “Last Revision Date.” Any changed, amended, replaced, or otherwise new Official Zoning Map shall supersede the prior zoning map. However, the effective date of a rezoning ordinance shall be the date specified in the ordinance itself, and not the date when the revision was made to the Official Zoning Map.
  
- D. *Maintenance.*
  - 1. *Responsibility for Maintenance.* The Official Zoning Map shall be maintained by the City, which shall use all reasonable means to protect the Official Zoning Map and ensure its accuracy.
  
  - 2. *Distribution.* The City is authorized to distribute paper and digital copies of the Official Zoning Map, provided they include the title Official Zoning Map and the Effective Date and Last Revision Date.
  
  - 3. *Notification.* The City is not required to provide individual notification of changes to the Official Zoning Map except for what is required by public notice as set out in Division 7.2.2 Public Notice, and as otherwise required by law.
  
  - 4. *Damaged or Destroyed Official Zoning Map.* In the event that the Official Zoning Map becomes damaged or destroyed, the City Council may adopt a new Official Zoning Map by ordinance. However, such adoption shall not amend or otherwise change district boundaries or classifications from the prior Official Zoning Map.

E. *Interpreting Boundaries.*

1. *Generally.* The boundaries of zoning districts are shown on the Official Zoning Map and shall adhere to the provisions of this subsection for the purposes of the administration, interpretation, and enforcement of these regulations.
2. *City Limits.* Where district boundaries are indicated as approximately following the boundaries of the City limits, the district boundary shall be construed to follow such City limit boundaries.
3. *Property Lines or Platted Lot Lines.* Where district boundaries are indicated as approximately following property lines or platted lot lines, the district boundary shall be construed to follow such property lines or platted lot lines. If a district boundary line divides a property into two (2) parts, the district boundary line shall be construed to the property line nearest the district line as shown.
4. *Rights-of-Way or Easements.* Where district boundaries are indicated as approximately following streets, roads, highways, alleys, railroads, utility lines, or similar rights-of-way or easements, the district boundary shall be construed to follow the centerline of the right-of-way or easement.
  - a. Where the location of these rights-of-way or easements differ from that shown on the Official Zoning Map, the features on the ground shall control.
  - b. Whenever any street, alley or other public way is vacated by the City Council, the zoning district shall be automatically extended to the center of such vacation and all area included in the vacation shall then and henceforth be subject to all regulations of the districts as extended.
5. *Waterbodies, Watercourses, and Similar Geographic Features.* Where district boundaries are indicated as approximately following the centerline of waterbodies (e.g., ponds, lakes), watercourses (e.g., drainage ways, streams, creeks, rivers), or other similar geographical features, the centerline of such geographical feature shall be construed to be the district boundary.
6. *Undetermined Features.* In the absence of any identifiable boundaries, the district boundaries shall be clearly defined by an official survey. If a district boundary line divides a property into two (2) parts, the district boundary line shall be construed to be the property line nearest the district line as shown.
7. *Interpretation Responsibility.* Should any uncertainty remain regarding the exact location of the boundaries of a zoning district as displayed on the Official Zoning Map, the Planning Director shall make a determination based on the criteria established in this subsection.

- a. The determination of such district boundary shall be included on the Official Zoning Map pursuant to Division 2.1.2.F, Official Zoning Map, Amendments.
  - b. Any such administrative determination is subject to appeal in accordance to Division 4.2.1.5 Appeals.
  
- F. *Amendments.* The Official Zoning Map may be amended, which shall supersede the prior zoning map.
  - 1. *Generally.* Any changes or amendments to the zoning district boundaries or zoning classification of a property shall be made by ordinance pursuant to Division 2.1.2.F, Official Zoning Map, Amendments. Amendments shall be incorporated into the Official Zoning Map promptly after the amendment has been approved by the City Council.
  - 2. *Recordkeeping.* A descriptive record of all amendments shall be maintained and kept with the Official Zoning Map filed with the City.
  - 3. *Effect.* Any changes or amendments to the Official Zoning Map shall not have the effect of amending these regulations or any subsequent amendment.
  
- G. *Corrections and Errors.* The Planning Director may determine that the identification of zoning of property or other characteristics of the Zoning Map are in error and shall have the authority to make corrections accordingly.
  
- H. *Un-Zoned Land.* All land within the City limits shall have a zoning designation. If it is determined that land has not been zoned, that land shall be zoned Temporary (T) until affirmatively rezoned to another district.

### **Section 2.1.3 Zoning of Annexed Land**

- A. *Generally.* It is intended that when land is annexed into the City limits, it will ultimately be zoned using the guidance of the Future Land Use Plan set out in the City's Comprehensive Plan.
  
- B. *Annexation and Zoning.* Upon completion of the annexation of land into the City limits, land annexed into the City shall automatically be zoned Temporary (T) until proceedings to establish zoning may be commenced. The City may commence the zoning process upon its own initiative at any time, including at the time of annexation, or property owners may submit an application for a zoning designation. The permanent zoning of annexed property shall be based on the Zoning district set out in the Future Land Use Map, provided however that land uses set out in a development agreement between the city and the landowner prior to annexation, will be zoned PUD District in accordance with the terms of the Development Agreement.

## ARTICLE 3 LAND USE

### DIVISION 3.1 LAND USES BY ZONING DISTRICT

#### Section 3.1.1 General Parameters for Determining Permitted Land Uses

- A. *Generally.* This Division identifies the land uses that may be allowed within each of the specified zoning districts established in Section 2.1.1, Zoning Districts Established, and sets out supplemental use regulations. Uses shall not be permitted, and buildings and structures associated with such use shall not be erected, brought or moved onto a tract or parcel, structurally altered, or enlarged on a property, unless said use is permitted within the zoning district applicable to the property located within the City limits of Jonestown, and in accordance with the provisions of these regulations. Provided, however, that necessary structural repairs may be made where health and safety are endangered.
- B. *Conformity to building setback requirements, minimum lot size and width, impervious cover and height limits.*
1. No building, structure or accessory structure shall be erected, converted or enlarged, nor shall any such existing building or structure be structurally altered or rebuilt, nor shall any open space surrounding any building be encroached upon or reduced in any manner, unless the same shall be done and completed in a manner to comply with this article and all applicable city codes, regulations, and ordinances, and such structure or building shall conform to the setback, building site area, height, building location and land use regulations hereinafter designated for the district in which such building, structure, or open space is located. No yard or other open space provided around any structure or building for the purpose of complying with the requirements of this article shall be considered as providing a yard or open space for a building on any other lot.
  2. Except as otherwise specifically provided in this article, no structure shall be erected or maintained within the required building setbacks set forth herein, or which exceeds the height limits specified in the following charts except that height limits prescribed herein shall not apply to television, cellular or radio towers, church spires or belfries or elevator bulkheads.
  3. The primary structure may be shifted up to five (5) feet into the front setback or into the rear setback for the following reasons: to avoid removing a protected tree, or to avoid a ravine or drainage easement that exists within the buildable portion of the lot. The front or rear setback, as appropriate shall be increased by an amount that corresponds to the distance that the structure extends into the front or rear setback so that the buildable area of the lot is not increased. For example, if a primary structure is located two feet into the front setback and the rear setback is 25 feet, the rear setback shall be increased by a corresponding two feet to 27 feet. The primary structure shall include attached decks, porches or

patios. The location of a structure within the front or rear setback that meets the requirements of this subsection shall be approved by the building official at the time of building permit approval. Sufficient information will be provided with the building permit application, and as requested by the building official, in order for the building official to determine whether this subsection applies.

4. Accessory structures designed, constructed and located for a use permitted in the district, in compliance with this article and all other applicable city ordinances, are permitted as provided in this article. No accessory structure may be constructed before a main building is constructed or exist on a lot without a primary structure and shall conform to accessory structure setbacks. Fencing is not considered an accessory structure for purposes of this provision.
5. Up to a five percent (5%) increase in the maximum impervious cover requirement may be authorized in order to meet the minimum requirements for use of a property under this code, such as minimum parking space or sidewalk requirements. Up to a ten percent (10%) total increase in maximum impervious cover may be authorized if a professionally designed rainwater collection system is installed on the property for use of collected rainwater on the property for on-site irrigation or other non-potable uses. The rainwater collection system is not in lieu of required detention ponds or other drainage improvements, but may be applied towards impervious cover credits in the LCRA Watershed Protection requirements, as amended from time to time, as determined by LCRA. This subsection applies to nonresidential districts (GUI, O, B-1, B-2, I-1).
6. Only land above the six hundred eighty-five foot (685') contour may be used in calculating impervious cover.
7. The city is divided into sixteen (16) zoning districts, the use, height and area regulations as set out herein shall be uniform in each district.

**CHART 1. REQUIREMENTS FOR LOTS**

Zoning District	Front Setback	Side Setback	Street Side Yard Setback	Rear Setback	Minimum Lot Size (Acres)	Minimum Lot Width	Height Limit
GUI	30 ft.	Note 1	30 ft.	Note 3	2	150 ft.	30 ft.
R-R	30 ft.	25 ft.	30 ft.	30 ft.	5	150 ft.	35 ft.
R-1/M-1	30 ft.	25 ft.	30 ft.	30 ft.	1	150 ft.	28 ft.
R-2	30 ft.	25 ft.	30 ft.	30 ft.	1	150 ft.	28 ft.
R-3	30 ft.	50 ft.	30 ft.	50 ft.	4	400 ft.	35 ft.
O	30 ft.	Note 1	30 ft.	Note 3	1-1/2	150 ft.	35 ft.
B-1	30 ft.	Note 1	30 ft.	Note 3	1-1/2	150 ft.	35 ft.
B-2	30 ft.	Note 1	30 ft.	Note 3	2	150 ft.	35 ft.
M-2	30 ft.	50 ft.	30 ft.	50 ft.	4	150 ft.	28 ft.
I-1	30 ft.	Note 1	30 ft.	Note 2	1-1/2	150 ft.	30 ft.



Nonconforming lots that are less than 150 feet in width shall comply with the side setback requirements in Chart 3.

A PUD shall use the requirements in this chart as a baseline for design and development of a PUD as defined in Division 9. Deviations from any requirements in Chart 1 may be approved by a PUD in order to best meet the purpose and objectives for a PUD as defined in Division 9.

**Note 1:** 25 feet minimum from O, B-1, B-2, I-1, and 40 feet minimum with 6' fence from R-R, R-1, M-1, M-2, R-2, and R-3.

**Note 2:** 50 feet minimum from O, B-1, B-2, I-1, and 100 feet minimum with 6' fence from R-R, R-1, M-1, M-2, R-2, and R-3.

**Note 3:** 40 feet minimum from O, B-1, B-2, I-1, and 50 feet minimum with 6' fence from R-R, R-1, M-1, M-2, R-2, and R-3.

**Note 4:** The requirements for Minimum Lot Size must be met using land above the current 100-year floodplain elevation as defined by FEMA or Division 9. The lot area does not include any area in the 100-year floodplain, as defined by FEMA or Division 9.

**Note 5:** Height limits for the O, B-1, B-2, and R-1 districts pertain to structures after the effective date of this ordinance.

**CHART 2. REQUIREMENTS FOR LOTS WITH PUBLIC SEWER**

Zoning District	Front Setback	Side Setback	Street Side Yard Setback	Rear Setback	Minimum Lot Size (Acres)	Minimum Lot Width	Height Limit	Min SF
GUI	25 ft.	Note 1	20 ft.	Note 3	½	150 ft.	30 ft.	500
O	25 ft.	Note 1	20 ft.	Note 3	½	150 ft.	35 ft.	500
B-1	25 ft.	Note 1	20 ft.	Note 3	½	150 ft.	35 ft.	500
B-2	25 ft.	Note 1	20 ft.	Note 3	½	150 ft.	35 ft.	1,000
I-1	25 ft.	Note 1	20 ft.	Note 2	1	150 ft.	30 ft.	2,500
R-1	30 ft.	25 ft.	30 ft.	30 ft.	1	150 ft.	28 ft.	1,000

**Note 1:** 10 feet minimum from O, B-1, B-2, I-1, and 30 feet minimum with 8' fence from R-R, R-1, M-1, M-2, R-2, and R-3.

**Note 2:** 35 feet minimum from O, B-1, B-2, I-1, and 75 feet minimum with 8' fence from R-R, R-1, M-1, M-2, R-2, and R-3.

**Note 3:** 20 feet minimum from O, B-1, B-2, I-1, and 40 feet minimum with 8' fence from R-R, R-1, M-1, M-2, R-2, and R-3.

**Note 4:** The requirements for minimum lot size must be met using land above the current 100-year floodplain elevation as defined by FEMA. The lot area does not include any area in the 100-year floodplain, as defined by FEMA.

**Note 5:** Height limits for the O, B-1, B-2, and R-1 districts pertain to structures after the effective date of this ordinance.

**CHART 3. REQUIREMENTS FOR EXISTING SUBDIVIDED LOTS THAT ARE LESS THAN ONE ACRE**

Zoning District *	Front Setback	Side Setback	Side Street Setback	Rear Setback	Height Limit
GUI	20 ft.	5 ft.	10 ft.	20 ft.	35 ft.
R-1	20 ft.	5 ft.	10 ft.	20 ft.	28 ft.
R-2	20 ft.	5 ft.	10 ft.	Note 2	28 ft.
M-1 ***	20 ft.	5 ft.	10 ft.	20 ft.	28 ft.
M-2 **	30 ft.	Note 1	15 ft.	Note 2	28 ft.
O	20 ft.	Note 1	15 ft.	Note 2	35 ft.
B-1	30 ft.	Note 1	15 ft.	Note 2	35 ft.
B-2	30 ft.	Note 1	15 ft.	Note 2	35 ft.

**Note 1:** 10 feet minimum from O, B-1, B-2, I-1 and 10 feet minimum with 6' fence from R-R, R-1, R-2 and R-3.

**Note 2:** 20 feet minimum from O, B-1, B-2, I-1 and 35 feet minimum with 6' fence from R-R, R-1, R-2 and R-3.

\*There are no existing subdivided lots that are less than one acre in the R-R, R-3, I-1.

\*\*Allowed subject to federal, state and local regulations.

\*\*\* Rear setback for lots 90' or less in depth shall be 10'.

**CHART 4. SETBACKS, MINIMUM AND MAXIMUM SQUARE FOOTAGE, AND HEIGHT RESTRICTIONS FOR ACCESSORY STRUCTURES**

Zoning District	Front Setback	Side Setback	Street Side Yard Setback	Rear Setback	Minimum Sq.Ft.	Maximum Sq.Ft.*	Height Limit**
R-R	30 ft.	5 ft.	30 ft.	7-1/2 ft.	80 ft.	800 ft.	12 ft.
M-1, M-2	20 ft.	5 ft.	20 ft.	7-1/2 ft.	80 ft.	800 ft.	12 ft.
R-1	20 ft.	5 ft.	20 ft.	7-1/2 ft.	80 ft.	800 ft.	12 ft.
R-2	20 ft.	5 ft.	20 ft.	7-1/2 ft.	80 ft.	800 ft.	12 ft.
R-3	20 ft.	5 ft.	20 ft.	7-1/2 ft.	80 ft.	800 ft.	12 ft.
O	Note	Note	Note	Note	80 ft.	800 ft.	12 ft.
B-1	Note	Note	Note	Note	80 ft.	800 ft.	12 ft.
B-2	Note	Note	Note	Note	80 ft.	800 ft.	12 ft.

**Note:** The setbacks regulations set forth in Charts 1 and 3 shall apply.

\* Accessory structures located on lots that are 2 acres or less shall be no larger than 800 square feet; provided that maximum impervious cover for the lot is not exceeded. Accessory structures located on lots that are greater than 2 acres shall be no larger than 1600 square feet; provided that maximum impervious cover for the lot is not exceeded. The maximum surface area for boat docks is set forth in Division 3.2.8.

\*\*Accessory structures with a maximum size of 150 square feet or less must comply with the 12' height restrictions. Accessory structures between 150 and 400 square feet shall be limited to 24 feet in height. Accessory structures over 400 square feet shall not be any higher than the primary structure. Accessory structures greater than 400 square feet and all storage buildings in the O, B-

1, and B-2 Districts shall be constructed of the same materials as the primary structure. Garages and carports shall cover a Paved Area for parking, be connected to a street by a paved drive, and meet the minimum building setback requirements of this article.

**CHART 5. MINIMUM AND MAXIMUM SQUARE FOOTAGE FOR BUILDINGS AND MAXIMUM IMPERVIOUS COVER REQUIREMENTS**

Zoning District	Maximum Impervious Cover	Minimum Sq. Ft. of Floor Area	Maximum Building Footprint
GUI	LCRA**	3,000 sq. ft.	N/A
R-R	40%	1,400 sq. ft. primary – 650 sq. ft. secondary	N/A
M-1, M-2	40%	650 sq. ft.	N/A
R-1	40%	1,000 sq. ft. for lots more than 6,000 sq. ft.	N/A
R-1	40%	650 sq. ft. for lots less than 6,000 sq. ft.	N/A
R-2	40%	900 sq. ft. per dwelling unit	N/A
R-3	40%	750 sq. ft. per dwelling unit	N/A
O	LCRA**	1,000 sq. ft.	45% traditional/65% LID
B-1	LCRA**	1,000 sq. ft.	45% traditional/65% LID
B-2	LCRA**	1,500 sq. ft.	45% traditional/65% LID
I-1	LCRA**	5,000 sq. ft.	45% traditional/65% LID

**Note:** Includes accessory structures in districts where allowed.

**Note:** Only land above the 685 MSL shall be used to calculate impervious cover.

**Note:** Open, unpaved, off-street parking and loading areas will not be considered as lot coverage under this subsection.

\*Maximum building footprint of 45% of total property area if following traditional standards of water quality/impervious cover control, and a maximum building footprint of 65% of the total property area if following low impact development (LID) standards.

\*\*LCRA - For maximum impervious cover standards refer to Lower Colorado River Authority Highland Lakes Watershed Ordinance Manual, as amended.

C. List of Districts and permitted land uses are set out in the following sections:

1. Section 3.1.2, Government, Utility and Institutional Uses (GUI);
2. Section 3.1.3 Rural Residential District (R-R);
3. Section 3.1.4 Single Family Residential District (R-1)

4. Section 3.1.5 Two Family Residential District (R-2)
5. Section 3.1.6 Multi-family Residential District (R-3)
6. Section 3.1.7 Single Family Manufactured Housing District (M-1)
7. Section 3.1.8 Manufacture Home Park District (M-2)
8. Section 3.1.9 RV Park District (RV)
9. Section 3.1.10 Professional and Office District (O)
10. Section 3.1.11 Business Retail District (B-1)
11. Section 3.1.12 Business General (B-2)
12. Section 3.1.13 Light Industry (I-1)
13. Section 3.1.14 Planned Unit Development (PUD)
14. Section 3.1.15 FM-Corridor Overlay District (FM-1)
15. Section 3.1.16 Short Term Rental Overlay District (STR-1)
16. Section 3.1.17 Temporary District (T)

D. *Interpretation.* Land uses are classified for each zoning district as either permitted by-right (P), conditional uses (C) or restricted (R), as set out in this subsection and as shown in the land use tables in Division 3.1.1.H -Chart 1.

1. *Permitted Uses (P).* The use is permitted by-right in the specified zoning district, subject to the standards for permitted uses that are established by these regulations and any applicable City ordinance. Permitted uses do not require additional approval to be authorized within the applicable district.
2. *Restricted Uses (R).* The use is allowed in the specified zoning district, subject to the standards for permitted uses that are established by these regulations and any applicable City ordinance, and any use-specific requirements set out in Section 3.1.1.H, Restricted Uses may be administratively approved by the Planning Director provided all requirements are met.
3. *Conditional Uses (C).* The use requires approval by Planning and Zoning Commission and the City Council after a public hearing as set out in Division 7.2.1 to be allowed within the specified zoning district, in addition to the standards for permitted uses that are established by these regulations and any applicable City ordinance.
4. *Prohibited Uses (blank).* The use is prohibited in the specified zoning district. Any use not expressly allowed by this Chapter shall not be allowed.

E. *Principal and Accessory Uses.* The City recognizes that multiple uses may occasionally occupy a property. These uses can be classified as Principal or Accessory, as follows:

1. *Principal Uses.* The primary activity on a parcel of property is considered the Principal Use. Land uses listed in the land use tables of Section 3.1.2, Governmental, Utility, and Institutional Uses through Section 3.1.17 Temporary Uses, shall be inferred to be a "principal use" as defined by these regulations. At times, however, a principal use identified in Section 3.1.2 through Section 3.1.17

may be secondary to another principal use (e.g., a drive-in or drive-through to a food and drink establishment) and may be subject to further use restrictions in Division 3.1.18, Restricted and Conditional Uses. When more than one principal use exists or is proposed on a parcel proposed for development, each shall be permitted in the zoning district and subject to all development standards associated with each use.

2. *Accessory Uses.* Uses that are typically incidental to and subordinate to but customarily associated with a specific principal use located on the same parcel of property are considered an Accessory Use. For example, a storage facility for light industrial services, a cafeteria within a hospital, or a car wash at a vehicle fueling station. The relationship among principal and accessory uses shall be determined either by definition of the principal use in these regulations or by customary association with the principal use, as determined by the Director. Accessory uses shall not be allowed without a principal use. Accessory uses shall be subject to the same regulations that apply to the principal uses in each district, except as otherwise provided in these regulations.
- F. *Unlisted Uses.* It is recognized that new types of land uses may emerge, and forms of land use not presently anticipated may seek to locate to the City. The Planning Director shall make a determination as to whether a particular unlisted use may be reasonably classified as adhering to a listed use as set out in this Division.
1. *Consideration of an unlisted use.* The Planning Director shall consider an unlisted use on a case-by-case basis and either determine that the proposed unlisted use is materially similar to an existing listed use as defined in these regulations (see Division 9, Definitions), or determine that the unlisted use is not materially similar.
    - a. If the Director determines an unlisted use is materially similar to an existing listed use, such use will be authorized similar to the listed use and is subject to all of the same standards and requirements as set out in these regulations.
    - b. If the Director determines that an unlisted use is not materially similar to an existing listed use, the unlisted land use shall be considered incompatible and a prohibited use from being located within the City. If desired, a text amendment to consider the land use can be subsequently initiated by the City Council, as set out in Table 7.2.1.B, Text Amendment.
    - c. The Director may elect not to make a determination and request that the Planning and Zoning Commission interpret the unlisted use at their next regularly scheduled meeting. If the Planning and Zoning Commission renders an interpretation upon request of the Director, the Director shall adhere to and enforce the determination provided.
  2. *Unlisted Use Determination Criteria.* In considering an unlisted use, the Director, or in the event of referral, the Planning and Zoning Commission, shall take into consideration all the land development impacts the unlisted use may have

including, but not limited to, parking demand, trip generation, impervious surface, regulated air or water emissions, noise, lighting, dust, odors, solid waste generation, potentially hazardous conditions, use and storage of materials, character of building and structures, nature and impacts of operation, hours of operation, volume and frequency of deliveries, utility impact, and compatibility with surrounding land uses.

G. *Agricultural Uses and Operations.* These regulations are not intended to restrict or impose a governmental requirement that applies to agricultural operations located in the city limits unless:

1. The City Council makes a finding by resolution, based (on a report described below, that there is clear and convincing evidence that the purposes of the requirement cannot be addressed through less restrictive means and that the requirement is necessary to protect persons who reside in the immediate vicinity or persons on public property in the immediate vicinity of the agricultural operation from the danger of: (i) the likelihood of an explosion; (ii) flooding; (iii) an infestation of vermin or insects; (iv) physical injury; (v) the spread of an identified disease that is directly attributable to the agricultural operation; (vi) the removal of lateral or subjacent support; (vii) an identified source of contamination of water supplies; (viii) radiation; (ix) improper storage of toxic materials; (x) crops planted or vegetation grown in a manner that will cause traffic hazards; or (xi) discharge of firearms or other weapons subject to local restrictions;
2. The City Council makes a finding by resolution, based on the report described in Number 4, below, that the requirement is necessary to protect public health; and
3. The requirement is not otherwise prohibited by the statute governing limitations on city governmental requirements applicable within the city limits;
4. Prior to making a finding described in, above, the City Council must obtain and review a report prepared by the city health officer or a consultant that: (a) identifies evidence of the health hazards related to the agricultural operations; (b) determines the necessity of regulation and the manner in which agricultural operation should be regulated; (c) states whether each manner of regulation, above, will restrict or prohibit a generally accepted agricultural practice; and (d) if applicable, includes an explanation why the report recommends a manner of regulation that will restrict the use of a generally accepted agricultural practices.

H. *Permitted Land Use Tables.*

**Chart 1 of permitted uses in selected districts**

**X- Permitted**

**-- or blank box means Not Permitted**

**C- Conditional**

**R- Restricted**

Any uses not listed herein, are prohibited.

<b>Business</b>	<b>O</b>	<b>B1</b>	<b>B2</b>	<b>I-1</b>	<b>GUI</b>
24-hour medical clinic and safety services		X	X		
Acetylene gas storage.				X	
Air-conditioning and heating sales and services,			X*		
Amusement centers (indoor and outdoor) and commercial swimming pools.			X		
Antique shop.		X	X		
Apparel manufacturing, fur goods manufacture, not including tanning or dyeing, fabric cleaning and dyeing plants and laundries or other facilities placing a significant demand on wastewater or water treatment facilities.				X	
Arts and craft supply store.		X	X		
Athletic field or stadium.			X		X
Auto and marine sales, service, and repair facilities including new and used automobiles, trucks, recreational vehicles, boats and other marine motorized vehicles.			X*		
Automobile and marine repair (major and minor).				X	
Automobile, truck, boat and other motorized vehicle machine parts sales facilities.			X		
Bakeries.		X	X		
Banks and financial institutions			X		
Bar, nightclub, private club, dance hall and social club, with or without the sale of wine, beer, and mixed alcoholic beverages for on-premises consumption.			X	X	
Barber and beauty shop.		X	X		
Blacksmith shops, machine shops, sheet metal fabrication, metal products and welding shops.				X	
Boat, boat trailer and RV storage facilities.				X	
Book and office supply store.		X	X		
Box, broom, and canvas goods manufacturers				X	

<b>Business</b>	<b>O</b>	<b>B1</b>	<b>B2</b>	<b>I-1</b>	<b>GUI</b>
Brick, tile, pottery or terra-cotta manufacture other than the manufacture of handcraft or concrete products.				X	
Bus line shops and garages, crating express storage, expressing, baggage, and transfer delivery services				X	
Business professional office.	X	X	X		
Carpentry, painting, plumbing and other facilities for the skilled building trades.			X*		
Carpeting and floor covering		X	X		
Carwash – full or self-service.			X		
Catering of food and beverage facilities.			X		
Cemetery, funeral home, with crematorium, columbarium, and mausoleum.					X
Childcare center, small, intermediate or large.			X		
Childcare, small and intermediate.		X	X		
Child development facilities.			X		
Churches with associated facilities.					X
Commercial hot tubs and swimming pool sales.			X		
Contractor's yard.			X		
Convenience/grocery store. The sale of beer and wine for off-premises consumption is allowed.			X*		
Cultural services and community centers, public and private.			X		
Dancing and music academies.			X		
Delicatessen/fast food (no alcohol permitted).		X	X		
Department store limited to clothing and household goods.		X	X		
Dressmaking, tailoring, and shoe repair facilities.			X		
Electrical and telephone substations.					X
Employee dining facilities provided they are secondary to the primary business.	X	X	X	X	
Entertainment facilities – indoor or outdoor.			X		
Farm implement display and sales facilities.			X		
Farm or truck gardens, limited to the propagation and cultivation of plants.			X		
Fine arts and craft gallery.		X	X		
Fish and meat smoking and curing.				X	
Florist shop.		X	X		
Food and beverage products, excluding alcohol, of any kind that are not made on site, including but		X	X		



<b>Business</b>	<b>O</b>	<b>B1</b>	<b>B2</b>	<b>I-1</b>	<b>GUI</b>
not limited to, ice cream, coffee, chocolate, and similar shops					
Food sales or food and beverage sales, that are made on site, with the sale of wine and beer for off-premises consumption.			X		
Frozen food lockers and cold storage plants.			X		
Furniture Store Small	C				
Funeral home.			X		
Garage and parking lots, commercial.			X		
Garden centers, nurseries and greenhouses, with outdoor service and display.			X		
Gas and petroleum storage, but not within 100 feet of a property line.				X	
Gift shop.		X	X		
Glass products from previously manufactured glass for wholesale distribution, emery cloth and sandpaper manufacture.				X	
Greenhouses and wholesale growers.				X	
Hardware stores.			X		
Hatchery.				X	
Health and athletic clubs.			X		
Health food store.		X	X		
Homebuilders.		X	X		
Hospital (acute and chronic care) and hospital services privately owned.			X		
Hospitals (acute and chronic care).					X
Household goods shop.		X	X		
Hotels, motels, assisted living retirement facilities, boarding houses and bed and breakfast facilities. The sale of beer and wine for on-premises consumption is allowed with a conditional use permit.			X		
Household appliances, electronics, and bicycle repair facilities.			X		
Ice cream store.		X	X		
Institutions of a religious, educational, charitable or philanthropic nature; not including any jail, penal or mental institution.			X		X
Jewelry store.		X	X		
Laundry and dry-cleaning facilities.			X		
Laundry and dry-cleaning substation.		X	X		

<b>Business</b>	<b>O</b>	<b>B1</b>	<b>B2</b>	<b>I-1</b>	<b>GUI</b>
Liquor store, retail, off-premises alcohol sales permitted.			X		
Lumber and building materials sales and storage.			X*		
Lumber and building materials sales and storage, contractor's yard.				X	
Manufacture of personal cosmetics, drug and pharmaceutical products manufacturing.				X	
Manufacture, assembly and packaging of products from previously prepared material such as cloth, plastic, paper, leather, and precious or semi-precious metal or stone.				X	
Manufacture, assembly and processing of food and beverages, excluding meat packing plants and similar processes that place a significant demand on wastewater or water treatment, but including ice cream, dairy products, ice, candy, general food processing and dehydrating, beverage bottling and distribution, packaging of honey, herbs, spices and peppers.				X	
Manufacture, assembly and testing of communication equipment, medical instruments and apparatus, optics, photographic equipment and supplies, timing equipment, musical instruments and related equipment, computer components, computers, electronics and precision instruments.				X	
Materials recovery facility.				X	
Milk and bread distributing facilities.			X		
Self-storage (must be security gated), warehouse storage , and distribution center.				X	
Motion-picture or video production facilities and sound stages, printing, publishing, and bookbinding.				X	
Newspaper and other written, electronic and voice communication facilities.			X		
Nursing and convalescent homes, hospice, sanitariums and institutions for care of substance dependent persons privately operated.			X		
Office equipment and supplies manufacturing.				X	
Optical goods store.		X	X		
Parks, playgrounds, greenbelts, community buildings and other public recreational facilities, owned and/or operated by the municipality or other public agency.					X
Pharmacy.		X	X		

<b>Business</b>	<b>O</b>	<b>B1</b>	<b>B2</b>	<b>I-1</b>	<b>GUI</b>
Photocopying and printing service and supply.		X	X		
Plastic products manufacture not including the processing of raw materials, and candle manufacture.				X	
Postal facilities and public utility substations.			X		
Product assembly services (nonhazardous).				X	
Product development services (general).				X	
Product development services (no hazard).				X	
Public buildings, including city occupied or owned building, libraries, museums, police and fire stations.					X
Public utility substations and distributing centers, regulation centers, and underground stations.					X
Radio and television broadcasting stations and studios, excluding radio or television broadcasting towers and wireless telecommunications facilities.			X		
Recycling operation (outdoor), automobile salvage and wrecking yards.				X	
Recycling operations (indoor).				X	
Research services (general), engineering and development facilities or laboratories.				X	
Restaurant, cafe, cafeteria, or other facility for the retail sale of food products, with the sale of wine, beer, and mixed alcoholic beverages for on-premises consumption.			X		
Retail propane sales.				X	
Schools, public and private, including housing, recreational and food services incidental to the school.					X
Sexually oriented business.				X	
Shopping centers and shopping malls.			X		
Sign shops.				X	
Soap manufacture.				X	
Solid waste truck garage and storage including accessory trash containers.				X	
Sporting and athletic equipment manufacture.				X	
Sporting goods store.		X	X		
Stone, marble, and granite grinding and cutting operations.				X	
Storage building as an accessory use, provided that the storage building may not be constructed before a main building is constructed or may not exist on a	X	X	X		

<b>Business</b>	<b>O</b>	<b>B1</b>	<b>B2</b>	<b>I-1</b>	<b>GUI</b>
lot without a primary structure and shall be constructed of the same materials as the primary structure.					
Studio for art, dance, drama, music, photography, or interior decorating.		X	X		
Tar roofing or waterproofing storage.				X	
Tool and die shops.				X	
Toy store.		X	X		
Veterinarian services and veterinary hospitals.			X		
Veterinary hospital.				X	
Video and CD sales and rental.		X	X		
Wastewater treatment plants.					X
Water supply reservoirs, pumping plants, and water towers.					X
Wholesale and retail sales and supply businesses, including office warehouse configurations.			X		
Wine and cheese shop, on-premises alcohol sales permitted.		X	X		
*Subject to screening requirements set forth in the site development regulations for this district.					

Any uses not listed herein are prohibited. City council may grant a conditional use permit for unlisted uses.

**Section 3.1.2 Governmental, Utility and Institutional District “GUI”**

- A. *Purpose.* This district is intended to provide appropriate areas for uses that provide important community services often requiring large amounts of land. Uses permitted in the GUI district and other substantially similar uses generate a large amount of traffic. Land abutting a major street that can be used for access will be considered appropriate for GUI classification.
- B. *Permitted uses.* See the chart of permitted uses in selected districts in Section 3.1.1.
  - 1. Parks, playgrounds, greenbelts, community buildings and other public recreational facilities, owned and/or operated by the municipality or other public agency.
  - 2. Public buildings, including city occupied or owned building, libraries, museums, police and fire stations.
  - 3. Schools, public and private, including housing, recreational and food services incidental to the school.

4. Water supply reservoirs, pumping plants, and water towers.
  5. Wastewater treatment plants.
  6. Electrical and telephone substations.
  7. Churches with associated facilities.
  8. Hospitals (acute and chronic care), publicly or governmentally operated.
  9. Institutions of a religious, educational, charitable or philanthropic nature; not including any jail, penal or mental institution.
  10. Nursing and convalescent homes, hospice, sanitariums and institutions for care of substance dependent persons, publicly or governmentally operated.)
  11. Public utility substations and distributing centers, regulation centers, and underground stations.
- C. *Conditions and limitations.* See Section 3.1.1.
- D. *Conditional uses permitted upon authorization of City Council.*
1. Wireless telecommunications facility, subject to Section 3.1.18.
- E. *Restricted Uses.*
1. Manufactured Home used as a temporary construction office. Prior to the commencement of such use, the owner shall secure a temporary occupancy or use permit from the Planning Director of the City. The duration of the temporary use permit shall be limited to 6 months, unless extended by the Planning Director. Any extension is limited to an additional 6 months period. No manufactured home that has been previously occupied and is then more than five (5) years old, and no manufactured home that the building inspector observes to be damaged or deteriorated, may be located, placed or installed in the city after the effective date of this article unless it is first documented to the city that the manufactured home has been inspected and found to be habitable by the manufactured housing division of the state department of housing and community affairs, or an inspector licensed by that department. The inspection documentation shall be dated after the later of the date the apparent damage occurred or the date the manufactured home was last occupied.

### **Section 3.1.3 "R-R" Rural Residential District**

- A. *Purpose and permitted uses.* This district is intended to establish and preserve low-density rural residential use. This district is appropriate for selected locations where rural

characteristics are desired or where terrain or public service capacities necessitate very low densities. Any uses not listed are prohibited.

B. *Additional permitted uses.*

1. Childcare center (small).
2. Boat dock, subject to Section 3.2.8.
3. Accessory structures which are customary and incidental to the use in this district and located on the same lot as the main residence, not involving the conduct of any business or commercial enterprise. Accessory structures may not be constructed prior to a main residence, and are subject to Section 3.1.1.
4. Raising of animals. The possession and raising of animals (excluding wild animals) or fowl for personal family use on a strictly noncommercial basis are allowed in the district, subject to restrictions on the maximum number of animals allowed under section 2.01.015 of the code of ordinances.
5. Private horse stable and riding stable. The stable building must be set back from all adjacent property lines at least fifty feet (50'), shall be at least one hundred feet (100') from any adjacent residence.
6. Private kennel.
7. Home-based business, subject to section 3.2.10.
8. Accessory dwelling units, subject to Section 3.1.20.
9. A temporary construction office or sales office. Prior to the commencement of such use, the owner shall secure a temporary occupancy or use permit from the Planning Director of the city. The duration of the temporary use permit shall be limited to 6 months, unless extended by the Planning Director. Any extension is limited to an additional 6 months period.

C. *Conditions and limitations.*

1. The minimum lot size shall be five acres including only those lots within the boundaries of the legally approved subdivision.
2. Each lot shall be restricted to single-family dwelling units.
3. Each lot shall not have more than two residences, a primary residence and a secondary residence. The primary residence must be constructed first, before the secondary residence, if any.

4. Additional conditions and limitations are set forth in Section 3.1.1.

D. *Conditional uses permitted upon authorization of City Council.*

1. Bed and breakfast, subject to Section 3.1.18.

#### **Section 3.1.4 Single-Family Residential District “R-1”**

A. *Purpose and permitted uses.* Permits detached single-family dwellings and related accessory structures.

B. *Additional permitted uses.*

1. Real estate sales offices during the development of a residential subdivision but not to exceed two (2) years; model homes or display dwellings with sales offices, provided that said display dwellings must be moved or converted to a permitted use within a period of two (2) years.

2. Temporary buildings for uses incidental to construction work on the premises, which buildings shall be removed upon the completion or abandonment of construction work.

3. Accessory structures which are customary and incidental to the use in this district and located on the same lot as the main residence, not involving the conduct of any business or commercial enterprise. Accessory structures may not be constructed prior to a main residence and are subject to Section 3.1.1.

4. Boat dock, subject to Section 3.2.8.

5. Child care center (small).

6. Home-based businesses, subject to section 3.2.10.

7. Guest or employee quarters.

C. *Conditional uses permitted upon authorization of City Council.*

1. Bed and breakfast, subject to Section 3.1.18.

2. Group home, subject to Section 3.1.18.

D. *Conditions and limitations.* See Section 3.1.1.

E. Residential structures shall comply with the site development regulations in this subsection and any other applicable building codes and regulations.

F. *Restricted Uses.*

1. *Manufactured Home.* So long as it meets or exceeds the requirements set out in Section 3.1.7.
2. *Manufactured Home used as a temporary construction office or sales office.* A temporary construction office or sales office. Prior to the commencement of such use, the owner shall secure a temporary occupancy or use permit from the Planning Director of the city. The duration of the temporary use permit shall be limited to 6 months, unless extended by the Planning Director. Any extension is limited to an additional 6 month period.

**Section 3.1.5 Two-family residential district “R-2”**

A. *Purpose and permitted uses.* Allows duplex housing not to exceed one (1) structure per acre.

B. *Additional permitted uses.*

1. Home-based business, subject to section 3.2.10.
2. Boat dock, with only one dock per R-2 lot, subject to Section 3.2.8.
3. Accessory structures which are customary and incidental to the use in this district and located on the same lot as the main residence, and not involving the conduct of any business or commercial enterprise. Accessory structures may not be constructed prior to a main residence, and subject to Section 3.1.1.

C. *Conditional uses permitted upon authorization of City Council.*

1. Bed and breakfast, subject to Section 3.1.18.
2. Group home, subject to Section 3.1.18.

D. *Conditions and limitations.* See Section 3.1.1.

E. Residential structures shall comply with the site development regulations in this subsection and any other applicable building codes and regulations.

F. *Restricted uses.*

1. *Manufactured Home used as a temporary construction office or sales office.* A temporary construction office or sales office. Prior to the commencement of such use, the owner shall secure a temporary occupancy or use permit from the Planning Director of the city. The duration of the temporary use permit shall be



limited to 6 months, unless extended by the Planning Director. Any extension is limited to an additional 6 month period.

### **Section 3.1.6 Multifamily Residential District “R-3”**

- A. *Purpose and permitted uses.* Allows conventional and high-density apartment development.
- B. *Additional permitted uses.*
  - 1. Uses usually associated with apartment complexes including but not limited to swimming pools, playscapes, tennis courts, greenbelts, and other facilities for the use of the residents.
  - 2. Accessory structures which are customary and incidental to the use in this district and located on the same lot as the main residence, not involving the conduct of any business or commercial enterprise. Accessory structures may not be constructed prior to a main residence and are subject to Section 3.1.1.
- C. *Conditional uses permitted upon authorization of City Council.*
  - 1. Bed and breakfast, subject to Section 3.1.18.
  - 2. Marina, provided that the marina complies with all LCRA regulations and with Section 3.1.18 herein. A marina may not be located in the R-3 zoning district except in conjunction with a multiple-family dwelling development constructed before or at the same time as the marina is constructed, and such marina shall be of a size that is reasonably in proportion to the number of units in the multiple-family dwelling development. The use of slips in such marina shall be restricted to residents of the R-3 multifamily project. See also special criteria in section 3.1.18 governing marinas.
  - 3. Group home, subject to Section 3.1.18.
- D. *Conditions and limitations.* See Section 3.1.1.
- E. Residential structures shall comply with the site development regulations in this subsection and any other applicable building codes and regulations.
- F. *Restricted use.* Manufactured Home.

### **Section 3.1.7 Manufactured home - district “M-1”**

- A. *Purpose and permitted uses.* Manufactured homes may be placed on individual lots meeting this zoning classification and used for single-family occupancy only. No home shall have less than 650 square feet of living area, and shall be a minimum of 14 feet in width, and shall have no metal on the outside wall area (See above) and be no older than

5 years at the time of placement on the lot, with one single-family home per lot or space. Detached single-family dwellings built on-site and related accessory structures are also permitted, subject to the conditions and limitations and site development regulations for the R-1 single-family residential district set forth in Section 3.1.4.

B. *Additional permitted uses.*

1. Home-based businesses, subject to section 3.2.10.
2. Boat docks, subject to Section 3.2.8.
3. Accessory structures which are customary and incidental to the use in this district and located on the same lot as the main residence, not involving the conduct of any business or commercial enterprise. Accessory structures may not be constructed prior to a main residence and are subject to Section 3.1.1.

C. *Conditions and limitations.* See Section 3.1.1. For detached single-family dwellings and related accessories, the conditions and limitations for the R-1 single-family residential district apply.

D. *Standards.*

1. Detached single-family dwellings and accessories shall comply with the site development regulations in this subsection and any other applicable building codes and regulations.
2. For manufactured homes, see the city's mobile homes and manufactured homes ordinance, article 3.06 of the code, as amended.
3. Driveways and off-street parking shall be provided in accordance with the requirements for R-1 single-family residential district.
4. For manufactured homes, patio and porch covers are permitted, provided they cover an improved patio, deck, or porch, and meet the minimum building setback requirements in Section 3.1.1, chart 1 or 3.
5. For manufactured homes, living area additions are permitted, provided they meet the minimum building setback requirements in Section 3.1.1, have roof and siding material that is compatible with the primary structure, and comply with the same structural standards as the primary structure.
6. No part of any manufactured home or any addition thereto may occupy any part of a septic system or public utility easement.
7. All manufactured homes brought into or relocated within the city shall be required to obtain city building permits, electrical permits, plumbing permits, mechanical

permits and are subject to all required inspections as set forth in city ordinances and regulations.

8. A manufactured home occupying a lot in the M-1 or M-2 District, may be replaced by a manufactured home that is no more than five years old (the “replacement manufactured home”), provided that the replacement manufactured home is newer than the manufactured home that is being replaced and is at least as large in living space as the prior manufactured home. The limitation of a single replacement does not apply to a manufactured home that is replaced due to damage caused by a natural disaster, including a fire.

E. *Restricted Uses.*

**Section 3.1.8 Manufactured Home Park or Subdivision - District “M-2”**

- A. *Purpose and permitted uses.* Property and areas of the city zoned “M-2” may be used and occupied as a manufactured home park. No home shall have less than 650 square feet of living area, and shall be a minimum of 14 feet in width, and shall have no metal on the outside wall area and be no older than 5 years at the time of placement on the lot, with one single-family home per lot or space. All lease spaces shall be under one ownership, operated and under the continuous control of a resident manager.
- B. Property and areas of the city zoned M-2 may be planned, used, approved, platted and occupied as a manufactured home subdivision where lots are sold and conveyed to individual lot owners. Land and areas of the city zoned “M-2” and having an approved plat may be used for manufactured homes having a minimum of 650 square feet of living area, a minimum width of 14 feet, and be no more than 5 years old at the time of the lot or space sale, with one home per lot.
- C. The proposed sale of any Individual lots or spaces of a manufactured home park or portion thereof, shall meet the requirements of the city subdivision ordinance prior to closing.
- D. All manufactured homes brought into or relocated within the city shall be required to obtain city building permits, electrical permits, plumbing permits, mechanical permits and are subject to all required inspections as set forth in city ordinances and regulations.
- E. *Additional permitted uses.*
  1. Home-based businesses, subject to section 3.2.10.
  2. Boat dock, subject to Section 3.2.8.
- F. *Conditional uses permitted upon authorization of City Council.*
  1. Short term rentals, subject to Section 3.1.18.

- G. *Conditions and limitations.* See Section 3.1.1.
- H. *Standards.*
  - 1. Subject to limitations as may be set forth in state or federal law, the installation, occupancy and maintenance of manufactured homes in the “M-2” district shall be subject to the same provisions as set forth in Section 3.1.7. The construction of additional living area is not permitted. The construction of garages, carports, and porches is permitted under the same conditions set forth in Section 3.1.7. Building permits for such structures are required.
  - 2. Driveways and off-street parking shall be provided in accordance with the requirements for R-1 single-family residential district.
- I. *Through traffic.* No through traffic shall be permitted in a manufactured home park or subdivision.
- J. *Perimeter fence.* A 6' perimeter fence shall be required.
- K. *Additional storage required.* Each lot or space shall have a carport equipped with a storage unit with said storage unit having a minimum floor space of 100 square feet or a two-car enclosed garage, which shall be subject to Section 3.1.1.

### **Section 3.1.9 RV Park District “RV”**

- A. *Purpose.* The City Council finds that properly planned and operated recreational vehicle communities (*i.e.*, recreational vehicle (RV) parks): (1) promote the safety and health of the residents of such communities and of other nearby communities; (2) encourage economical and orderly development of such communities and other nearby communities. It is, therefore, declared to be the policy of the city to eliminate and prevent health and safety hazards and to promote the economical and orderly development and utilization of land by providing for planned and supervised recreational vehicle communities by providing for the standards and regulations necessary to accomplish these purposes. This section is enacted in order to achieve orderly development of recreational vehicle parks (RV parks), to promote and develop the use of land to minimize possible impacts, and to promote the health, safety and general welfare of the public.
- B. *Permitted uses.*
  - 1. Property and areas of the city zoned “RV” may be used and occupied as an RV park, as defined in Article 9. All lease spaces shall be under one ownership, operated and under the continuous control of an on-site resident manager.
  - 2. Property and areas of the city zoned RV may not be planned, used, approved, platted or occupied as an RV subdivision where individual RV sites lots are sold and conveyed to individual lot owners.

- C. *Applicability.* This shall apply to any recreational vehicle park located or to be located within the city limits.
- D. *Definitions.* See Article 9.
- E. *License.*
1. *Required.* It shall be unlawful for any person to operate any RV park within the limits of the city unless he/she holds a valid license issued annually by the city in the name of such person for the specific park. The applicant shall make all applications for licenses on forms furnished by the development services department, which shall issue a license upon compliance with the provisions of this code.
  2. *Hearing on denial.* Any person whose application for a license under this section has been denied may request, and shall be granted, a hearing on this matter before the city administrator.
  3. *Application for renewal.* Application for renewal of a license shall be made in writing by the licensee on forms furnished by the development services department on or before January 31<sup>st</sup> of each year. Such application shall contain any changes in the information occurring after the original license was issued or the latest renewal granted.
  4. *Fee.* All applications shall be accompanied by a fee as provided for in the fee schedule found in the appendix of the city Code of Ordinances.
  5. *Approval of transfer.* Every person holding a license shall give notice in writing to the development services department within ten (10) days after having sold, transferred, given away, or otherwise disposed of interest in or control of any RV park. Application for transfer of license shall be made within ten (10) calendar days after notification of change covered in this subsection. Within thirty (30) calendar days thereafter, the development services department shall act on the application for license transfer, and it shall be approved if the RV park is in compliance with the provisions of this code.
  6. *Transfer fee.* All applications for license transfer shall be accompanied by a fee as provided for in the fee schedule found in the appendix of the Code of Ordinances.
  7. *Suspension.*
    - a. Whenever, upon inspection of any RV park, the city finds that conditions or practices exist which are in violation of any provisions of this section applicable to such park, the city shall give notice in writing to the owner and/or manager of the park, and if such conditions or practices have not

been corrected in the time frame set forth in the notice, the city will suspend the license and give notice of such suspension. Upon suspension of license, the licensee shall cease operation of such park.

- b. The suspension of license may be appealed to city administrator in writing within ten days of the date of the suspension.

F. *Inspections.*

1. *Required.* The planning director, building official, code enforcement officer, fire chief, and police chief are hereby authorized and directed to make such inspections as are necessary to determine compliance with this code.
2. *Entry on premises.* The planning director, building official, code enforcement officer, fire chief, and police chief shall have the power to enter at reasonable times upon any private or public property for the purpose of inspecting and investigating conditions relating to the enforcement of this code.

G. *Location and fencing.*

1. Recreational vehicles cannot be placed closer than ten (10) feet to the property line separating the RV park from adjoining property, measured from the nearest point of the recreational vehicle. No recreational vehicle within an RV park shall be placed closer than twenty (20) feet to any property line adjoining a single-family, townhouse, two-family or apartment residence.
2. A fence at least six (6) feet in height must be placed on the property line adjoining any residence (single-family structures, townhouses, duplexes, quadraplexes, apartments, etc.) to buffer the RV park from view.

H. *Size and density.* Each RV park must have a minimum size of one (1) acres, with a maximum of five (5) acres. The maximum site density for RV parks shall be twenty (20) sites per acre. Only one (1) recreational vehicle is permitted per recreational vehicle site.

I. *Size of individual sites; pad requirements; landscaping.*

1. Each recreational vehicle site within the RV park shall have a minimum area of one thousand nine hundred fifty (1,950) square feet and shall be at least thirty (30) feet wide and sixty-five (65) feet in depth. The sites shall be designed as pull-through for ease of entering and leaving the site. A roadway is therefore required to the front and to the rear.
2. The left 1/3 (10 x 65) of the site, or driver's side, must be planted with grass and other landscaping, the middle (10 x 65) must be paved with cement, and the remaining 1/3, or passenger side, can be paved with either cement or asphalt. The

middle portion is to be used for the parking of the recreation vehicle, with the Paved Area on the right used as a parking and patio area.

3. Landscaping must be provided as set forth in Section 3.2.6 of this code. In addition, a tree of the large variety, as set forth in the list of recommended trees maintained by the city, must be planted at a minimum on every site.

J. *Street access; street lighting.*

1. Each recreational vehicle site within the RV park shall have access to an internal private roadway, which shall have access to a public street. The entrance of the internal roadway shall have a pavement width of at least thirty (30) feet with an adequate curb radius. The internal streets shall have a pavement width (concrete or asphalt) of twenty-four (24) feet in accordance with city standards and an emergency services easement in a form acceptable to the city shall be dedicated to the city as an emergency access. The roadway width may be fifteen (15) feet if the RV park is designed for one-way roads. Each emergency access easement shall have a clear unobstructed width of twenty-four (24) feet (fifteen (15) feet if one-way) and shall have a turning area and radii a minimum of sixty (60) feet to permit free movement of emergency vehicles. Dead-end streets are not allowed.
2. Metal signs shall be placed along the emergency access easement, by the owner or agent of the RV park, stating that parking is prohibited. The sign type, size, height and location shall be approved by the city.
3. Adequate lighting for the RV park shall be provided in a manner required by Section 3.2.5 of this code for the LZ 2 lighting zone.

K. *Required facilities.*

1. Each RV park must have an office for the manager of the RV park, and bathroom and shower facilities, as well as laundry facilities. All facilities used by residents must be well lit inside and out during the night hours. Facilities must comply with the city's plumbing codes.
2. This subsection applies to RV parks that have at least twenty (20) RV sites. All RV parks that have at least twenty (20) RV sites shall have at least one (1) recreation area, located as to be free of traffic hazards, easily accessible to all park residents and centrally located where topography permits. Not less than eight (8) percent of the gross park area shall be devoted to recreational facilities. Recreation areas include space for community buildings and community use facilities such as adult recreation (basketball court or tennis court) and playgrounds for children, and swimming pools, but not including vehicle parking, maintenance and utility areas.

- L. *Soil and ground cover.* Exposed ground surfaces in all parts of the RV park shall be paved, covered with stone, rock, or other similar solid material, or protected with a vegetative cover that is capable of preventing soil erosion and eliminating dust.
- M. *Drainage.* The ground surface in all parts of the RV park shall be graded and designed to drain all stormwater surface water in a safe, efficient manner. Drainage analysis shall be performed by a licensed professional engineer and easements for the conveyance of surface water off site shall be obtained, if needed. The development of the RV park shall also comply with the drainage and flood control regulations set forth in Section 4.1.2 and Division 5 of this code.
- N. *Water supply.* Each site within an RV park shall be provided with a connection to the public water supply. If required by state law, a permit from the Texas Commission on Environmental Quality (TCEQ) shall also be obtained. The city/water service provider and the city must approve all proposed water facility plans prior to construction. The water distribution system shall be installed as follows:
1. The water supply system, fixtures and other equipment must be installed in accordance with the city's plumbing codes.
  2. A master water meter(s) shall be installed to serve the RV park. Sub-metering or re-metering of RV sites is not permitted.
  3. A reduced pressure principal backflow preventer will be required to be placed at the property line on the discharge side of the master meter. In addition, one (1) must be placed at each of the connections for each RV site and located on the left side of the site.
  4. Water riser service branch lines shall extend at least four (4) inches above ground elevation. The branch line shall be at least three-quarters (3/4) inch.
  5. Adequate provisions shall be made to prevent freezing of service lines, valves and riser pipes. Surface drainage shall be diverted from the location of utility connections at each site.
  6. A shutoff valve below the frost line shall be provided near each water riser pipe.
  7. The owner/operator shall have complete maintenance responsibility for the water system within the RV park.
  8. The city has no maintenance responsibility for service lines within the RV park.
- O. *Wastewater facilities.*



1. On-site sewage facilities must be designed by a licensed professional and approved by LCRA. The city must approve all proposed wastewater facility plans prior to construction.
  2. The owner/operator shall have complete maintenance responsibility for the wastewater system within the RV park.
- P. *Electrical service.* Each site within an RV park shall be provided with electrical service. All electrical service shall be underground and installed in accordance with the current city codes. The electrical service shall be installed as follows:
1. Electric metering equipment and locations(s) shall be as required by the providing utility.
  2. The location of all underground lines shall be clearly marked by surface signs at approved intervals.
  3. Power supply to each site shall be a minimum of one 20-amp and one 50-amp power supply.
  4. Outlets (receptacles or pressure connectors) shall be housed in an Underwriters' Laboratories, Inc., approved weatherproof outlet box.
  5. A watertight seal shall be provided for underground conduit in floodplain installations and power disconnects shall be located one foot above the base flood elevation.
- Q. *Sanitary facilities.*
1. Each RV park shall provide the following sanitary facilities as listed below:
    - a. One (1) toilet or stool for the female sex for every twenty (20) sites or fraction thereof (minimum of one (1) is required) for the first one hundred and twenty (120) sites, and one (1) per forty (40) sites thereafter.
    - b. One (1) toilet or stool and one (1) urinal stall for the male sex for every twenty (20) sites or fraction thereof (minimum of one (1) is required) for the first one hundred and twenty (120) sites, and one (1) per forty (40) sites thereafter.
    - c. One (1) washbasin shall be provided within the toilet room for every two (2) toilets or fraction thereof (a minimum of one (1) is required).
    - d. One (1) shower shall be provided for each sex for each twenty (20) sites or fraction thereof (minimum of one (1) is required for each sex) for the first

one hundred and twenty (120) sites, and one (1) per forty (40) sites thereafter.

- e. All toilets and shower facilities shall be placed in properly constructed buildings and located not more than two hundred (200) feet from any recreational vehicle site.
  - f. Buildings shall be well lit at all times, day or night, well ventilated with screened openings, and constructed of moisture-proof material to permit rapid and satisfactory cleaning, scouring and washing.
  - g. The floors shall be of concrete or other impervious material, elevated not less than four (4) inches above grade, and each room shall be provided with floor drains.
  - h. A slop sink or basin with water supply shall be in each restroom (male and female) and at least one (1) in the laundry facility, and shall be constructed in accordance with design, size and materials approved by the building official.
2. Toilet and bathing facilities shall be in separate rooms or partitioned apart in any manner as to provide privacy and promote cleanliness. Each toilet provided in a community toilet house shall be partitioned apart from any other toilet in the same room. The floor surface around the commode shall not drain onto the shower floor.
3. Toilet floors and walls shall be of impervious material, painted white or a light color, and kept clean at all times. Shower stalls shall be of tile, plaster, cement or some other impervious material and shall be kept clean at all times. If a shower stall is of some impervious material other than tile, cement or plaster, it shall be painted white or some light color and kept clean at all times. The floor of any bathroom, other than the shower stall, shall be of some impervious material, and the walls of the bathroom, other than the shower stall, shall be papered with canvas and wallpaper, or an equivalent washable surface, and kept clean at all times.
- R. *Storage, collection and disposal of refuse and garbage.* Each RV park shall be provided with safe and adequate facilities for the collection and removal of waste and garbage. Storage, collection, and handling shall be conducted so as to create no health hazards, rodent harborage, insect breeding areas, or fire hazards. Every site shall be located within two hundred (200) feet of a refuse facility measured along the RV park internal roadway. If trash dumpsters are used, they shall be screened.
- S. *Permanent occupancy prohibited.* No RV park or recreational vehicle therein shall be used as a permanent residence for any period of time, except for permanent full-time employees of the RV park. Occupancy or parking of a recreational vehicle within the RV

park extending beyond six (6) months in any twelve-month period shall be presumed permanent occupancy. (For example, staying in the park for three (3) months, leaving for one (1) month, and returning for three (3) months is six (6) months of occupancy.) After six (6) months of occupancy, the recreational vehicle must leave the park and cannot return until six (6) months have passed.

- T. *Telephone.* A minimum of one (1) public or semipublic telephone shall be provided in an easily accessible location twenty-four (24) hours a day, seven (7) days a week.
- U. *Accessory structures.* The individual sites within the RV park are not allowed to have accessory structures as defined herein or in the zoning ordinance. Individual sites may have an awning or temporary, portable canopy to provide shade for site occupants.
- V. *Registration of guests; on-site manager.*
  - 1. Each person renting a site within an RV park shall provide the following information to the owner, manager, operator or person in charge of the RV park and the owner, manager, operator, or person in charge of the RV park shall maintain a record of all of the following information:
    - a. Name.
    - b. Full address of permanent residence.
    - c. Automobile and recreational vehicle license plate number and the state in which each is registered.
    - d. Driver's license number of the owner.
    - e. The number or letter of the site being rented; and
    - f. Date of arrival and departure.
  - 2. The owner, manager, operator, or person in charge of the RV park shall maintain the above information for at least a year and shall allow the city access to the information to determine compliance with this code.
  - 3. Each RV park shall have an on-site resident manager.
- W. *Control of insects, rodents and other pests.* Grounds, buildings and structures in the RV park shall be maintained free of the accumulation of debris so as to prevent rodent and snake harborage or the breeding of flies, mosquitoes or other pests.
- X. *Fire safety standards; fire hydrants.*

1. Open fires shall be allowed only in a manner and within a structure approved by the fire chief and in compliance with applicable city regulations.
2. The RV park owner or manager shall be responsible for maintaining the entire area of the park free of dry brush, leaves, limbs and weeds.

Y. *Restricted Uses.*

### **Section 3.1.10 Professional and Office District “O”**

A. *Purpose and permitted uses.* This use is intended to provide sites for quiet, low-density professional offices where all services shall be performed inside the designated office space or building, with only outside accessory building for storage in enclosed structures allowed. The following uses and substantially similar type uses shall be permitted provided they comply with the other regulatory requirements contained in the code. See the chart of permitted uses in selected districts in Section 3.1.1.H.

1. Business and professional offices without retail or wholesale space or warehouses.
2. Storage building as an accessory use, provided that the storage building may not be constructed before a main building is constructed or may not exist on a lot without a primary structure and shall be constructed of the same materials as the primary structure.

B. *Additional permitted uses.*

1. Employee dining facilities provided they are secondary to the primary business.

C. *Conditional uses permitted upon authorization of City Council.*

1. Long-term mobile food vendors, subject to Section 3.1.18.

D. *Conditions and limitations.* See Section 3.1.1.

E. *Site development regulations.*

1. Sidewalks and paved driveways are required.
2. Conformity to the FM 1431 Corridor overlay district site development regulations for any structure within the FM 1431 Corridor overlay district. See Section 3.1.15.

G. *Restricted Uses.*

### **Section 3.1.11 Business - Light Commercial District “B-1”**

A. *Purpose and permitted uses.* This district is designed to provide sites for low-density, retail businesses providing goods, services and merchandise completely contained within a building. No open air or outdoor storage is allowed in this district. The following uses and other substantially similar uses shall be permitted provided they comply with other regulatory requirements contained in the code. See the chart of permitted uses in selected districts in Section 3.1.1.H.

1. Antique shop.
2. Arts and craft supply store.
3. Bakery.
4. Bank.
5. Barber and beauty shop.
6. Book and office supply store.
7. Carpeting and floor covering.
8. Child care, small and intermediate.
9. China or glassware shop.
10. Delicatessen.
11. Department store limited to clothing and household goods.
12. Fine arts and craft gallery.
13. Florist shop.
14. Gift shop.
15. Grocery.
16. Health food store.
17. Home builders.
18. Ice cream store.
19. Jewelry store.

20. Laundry and dry cleaning substation.
21. 24-hour medical clinic and safety services.
22. Optical goods store.
23. Pharmacy.
24. Photocopying and printing service and supply.
25. Studio for art, dance, drama, music, photography, or interior decorating.
26. Sporting goods store.
27. Toy store.
28. Video and CD sales and rental.
29. Any permitted uses in the "O" districts.
30. Storage building as an accessory use, provided that the storage building may not be constructed before a main building is constructed or may not exist on a lot without a primary structure and shall be constructed of the same materials as the primary structure.

B. *Conditional uses permitted upon authorization of City Council. (See Section 3.1.18.)*

1. Group home, subject to Section 3.1.1.
2. Marina, provided that the marina complies with all LCRA regulations and with Section 3.1.1 herein.
3. Uses permitted in the R-1 District.
4. Long-term mobile food vendors, subject to Section 3.1.18.
5. Vehicle inspection station.

C. *Conditions and limitations.*

1. See Section 3.1.1.
2. Alcoholic beverage sales, on-premises and off-premises. Where allowed, alcohol sales are subject to Texas Alcoholic Beverage Commission (TABC) standards and section 3.2.11 of this article.

D. *Site development regulations.*

1. Sidewalks and paved driveways shall be required.

E. *Performance standards – light commercial district.* All uses in the B-1 (light commercial) district shall conform in operation, location and construction to the minimum performance standards herein specified. No noise, odorous matter, toxic and noxious matter, glare, smoke, particulate matter and other air contaminants, fire, explosive and hazardous matter, and vibration shall be permitted.

1. *Noise.* See the city's general nuisance regulations.

**Section 3.1.12 Business - General Commercial District "B-2"**

A. *Purpose and permitted uses.* This district is designed to provide sites for more general and less restrictive sale of products and merchandise, by allowing larger facilities, larger parking areas, the outdoor display and sale of merchandise and products that are visible from the public roads as well as allowing accessory buildings. B-2 should be reserved for areas where the anticipated impact of the commercial use is likely to have an adverse effect on residential use of properties located in close proximity to the B-2 use. Any use provided for in district B-1 and the following uses and other substantially similar uses shall be permitted. See the chart of permitted uses in selected districts in Section 3.1.1.H.

1. Air-conditioning and heating sales and services, subject to screening requirements set forth in the site development regulations for this district.
2. Amusement centers (indoor and outdoor) and commercial swimming pools.
3. Athletic field or stadium.
4. Auto and marine sales and repair facilities including new and used automobiles, trucks, recreational vehicles, boats and other marine motorized vehicles. (Subject to screening requirements. See site development regulations for this district.)
5. Automobile, truck, boat and other motorized vehicle machine parts sales facilities.
6. Bakeries.
7. Reserved.
8. Carpentry, painting, plumbing and other facilities for the skilled building trades, subject to the screening requirements set forth in the site development regulations for this district.
9. Catering of food and beverages facilities.

10. Cemetery, funeral home and mausoleum.
11. Child care center, small, intermediate or large.
12. Convenience store, food sales or food and beverage sales, including the sale of wine and beer for off-premises for off-store consumption.
13. Cultural services and community centers, public and private.
14. Child development facilities.
15. Commercial hot tubs and swimming pools sales.
16. Dancing and music academies.
17. Dressmaking, tailoring, and shoe repair facilities.
18. Farm implement display and sales facilities.
19. Farm or truck gardens, limited to the propagation and cultivation of plants.
20. Food sales and food and beverage sales. The sale of wine and beer for off-premises consumption is allowed with a conditional use permit.
21. Frozen food lockers and cold storage plants.
22. Garage, commercial.
23. Garden centers, nurseries and greenhouses, with outdoor service and display.
24. Hardware stores.
25. Health and athletic clubs.
26. Hospital (acute and chronic care) and hospital services, privately operated. Privately operated.
27. Hotels, motels, assisted living retirement facilities, boarding houses and bed and breakfast facilities. The sale of beer and wine for on-premises consumption is allowed with a conditional use permit.
28. Household appliances, electronics and bicycle repair facilities.
29. Institutions of a religious, educational, charitable or philanthropic nature; not including any jail, penal or mental institution.



30. Laundry and dry cleaning facilities.
31. Lumber and building materials sales and storage, subject to screening requirements set forth in the site development regulations for this district.
32. Milk and bread distributing facilities.
33. Newspaper and other written, electronic and voice communication facilities.
34. Nursing and convalescent homes, hospice, sanitariums and institutions for care of substance dependent persons, privately operated.
35. Parking lots, commercial.
36. Postal facilities and public utility substations.
37. Radio and television broadcasting stations and studios, excluding radio or television broadcasting towers and wireless telecommunications facilities.
38. Restaurants, cafes, cafeterias, and other facilities for the retail sale of food products. The sale of wine, beer, and mixed alcoholic beverages are permitted.
39. Shopping centers and shopping malls.
40. Veterinarian services and veterinary hospitals.
41. Wholesale and retail sales and supply businesses, including office warehouse configurations.
42. Any permitted uses in the "O" and "B-1" districts.
43. Storage building as an accessory use, provided that the storage building may not be constructed before a main building is constructed or may not exist on a lot without a primary structure and shall be constructed of the same materials as the primary structure.
44. Bar, nightclub, private club, dance hall and social club, with or without the sale of wine, beer, and mixed alcoholic beverages for on-premises consumption, subject to compliance with all TABC standards and permits.

B. *Additional permitted uses.*

1. Employee dining facilities, provided they are secondary to the primary business.

C. *Conditions and limitations.*

1. See Section 3.1.1.
  2. Alcoholic beverage sales, on-premises and off-premises. Where allowed, alcohol sales are subject to Texas Alcoholic Beverage Commission (TABC) standards and section 3.2.11 of this article.
- D. Conditional uses permitted upon authorization of City Council (subject to Section 3.1.18).
1. Boat dock assembly.
  2. Commercial kennels.
  3. Circus, carnival, commercial amusement and other temporary recreational events.
  4. Group home, subject to Section 3.1.18.
  5. Halfway houses.
  6. Jail, penal or mental institutions.
  7. Marina, provided that the marina complies with all LCRA regulations and with Section 3.1.18 herein.
  8. Large vehicle parking.
  9. Long-term mobile food vendors, subject to Section 3.1.18.
  10. Farmer's/artisan markets.
- E. *Signs. See the city's sign regulations.*
- F. *Site development regulations.*
1. Sidewalks and paved driveways are required.
  2. Screening requirements - Stored product or storage facilities that are visible from any street or right-of-way must be screened with a 6' privacy fence.
- G. *Performance standards – general commercial district.* All uses in the B-2 (general commercial) district shall conform in operation, location and construction to the minimum performance standards herein specified. No noise, odorous matter, toxic and noxious matter, glare, smoke, particulate matter and other air contaminants, fire, explosive and hazardous matter, and vibration shall be permitted.

1. Noise. See the city's general nuisance regulations.

*H. Restricted Uses.*

**Section 3.1.13 Light Industrial - District "I-1"**

A. Purpose and permitted uses. This district is designed to provide locations for outlets offering goods and services to a targeted segment of the general public as well as industrial users. The uses included primarily serve other commercial and industrial enterprises. The following uses and other similar uses shall be permitted, provided they comply with the other regulatory requirements contained in the code. See the chart of permitted uses in selected districts in Section 3.1.1.H.

1. Bar, nightclub, private club, dance hall, and social club. The sale of wine, beer, and mixed alcoholic beverages for on-premises consumption is allowed.
2. Manufacture, assembly and packaging of products from previously prepared material such as cloth, plastic, paper, leather, and precious or semi-precious metal or stone.
3. Manufacture, assembly and processing of food and beverages, excluding meat packing plants and similar processes that place a significant demand on wastewater or water treatment, but including ice cream, dairy products, ice, candy, general food processing and dehydrating, beverage bottling and distribution, packaging of honey, herbs, spices and peppers.
4. Manufacture, assembly and testing of communication equipment, medical instruments and apparatus, optics, photographic equipment and supplies, timing equipment, musical instruments and related equipment, computer components, computers, electronics and precision instruments.
5. Research services (general), engineering and development facilities or laboratories.
6. Motion picture or video production facilities and sound stages, printing, publishing, and bookbinding.
7. Tool and die shops.
8. Mini-storage, mini-warehouse (must be security gated) warehouse, storage and distribution center.
9. Sexually oriented business.

10. Apparel manufacturing, fur goods manufacture, not including tanning or dyeing, fabric cleaning and dyeing plants and laundries or other facilities placing a significant demand on wastewater or water treatment facilities.
11. Recycling operations (indoor).
12. Greenhouses and wholesale growers.
13. Office equipment and supplies manufacturing.
14. Retail propane sales.
15. Veterinary hospital.
16. Blacksmith shops, machine shops, sheet metal fabrication, metal products and welding shops.
17. Box, broom, and canvas goods manufacturers.
18. Product assembly services (nonhazardous).
19. Bus line shops and garages, crating express storage, expressing, baggage, and transfer delivery services.
20. Product development services (general).
21. Drapery and bedding manufacturers.
22. Manufacture of personal cosmetics, drug and pharmaceutical products manufacturing.
23. Lumber and building materials sales and storage, contractor's yard.
24. Glass products from previously manufactured glass for wholesale distribution, emery cloth and sandpaper manufacture.
25. Sign shops.
26. Stone, marble, and granite grinding and cutting operations.
27. Plastic products manufacture not including the processing of raw materials, and candle manufacture.
28. Product development services (non-hazard).
29. Sporting and athletic equipment manufacture.

30. Brick, tile, pottery or terra-cotta manufacture other than the manufacture of handcraft or concrete products.
  31. Automobile and marine repair (major and minor).
  32. Boat, boat trailer and RV storage facilities.
  33. Farm and truck gardens, including the raising of chickens or the making of dairy products such as cheese.
  34. Fish and meat smoking and curing.
  35. Gas and petroleum storage, but not within 100 feet of a property line.
  36. Hatchery for fish, chickens, or other poultry, including butchering of the same.
  37. Materials recovery facility.
  38. Soap manufacture.
  39. Recycling operation (outdoor), automobile salvage, and wrecking yards.
  40. Solid waste truck garage and storage including accessory trash containers.
- B. *Additional permitted uses.*
1. Employee dining facilities.
- C. *Conditions and limitations. See Section 3.1.1.*
1. Alcoholic beverage sales, on-premises and off-premises. Where allowed, alcohol sales are subject to Texas Alcoholic Beverage Commission (TABC) standards and section 3.2.11 of this article.
- D. *Conditional uses permitted upon authorization of City Council (subject to Section 3.1.18).*
1. Circus, carnival, commercial amusement and other temporary recreational events.
  2. Long-term mobile food vendors, subject to Section 3.1.18.
- E. *Signs. See the city's sign regulations.*
- F. *Site development regulations.*

1. Sidewalks and paved driveways are required.
- G. *Performance standards – light industrial districts.* All uses in the I-1 (light industrial) district shall conform in operation, location and construction to the minimum performance standards herein specified. No noise, odorous matter, toxic and noxious matter, glare, smoke, particulate matter and other air contaminants, fire, explosive and hazardous matter, and vibration shall be permitted.
1. *Noise.* Noise shall be contained to sounds that do not cause a nuisance as set out in the city’s general nuisance regulations.

### **Section 3.1.14 Planned Unit Development District (“PUD”)**

- A. *Purpose.* The purpose and intent of the planned unit development district is to provide a flexible, alternative procedure to encourage imaginative and innovative designs for the unified development as opposed to traditional block type subdivisions, (ii) to allow development which is harmonious with nearby areas; (iii) to enhance and preserve areas which are unique or have outstanding scenic, environmental, cultural or historic significance; (iv) to provide an alternative for more efficient use and development of property in the city consistent with this article and accepted urban planning, with overall regulations as set forth below and in accordance with the city’s comprehensive plan and its supporting planning documents. All PUD Districts require approval of a Concept Plan at the time that PUD zoning is considered for approval.
- B. *Objectives.* The PUD rules are designed: (i) to accommodate cluster type residential of land, resulting in smaller utility networks, safer streets, more open space, and lower construction and maintenance costs; (v) to encourage harmonious and coordinated development, considering natural features, community facilities, circulation patterns and surrounding properties and neighborhoods; (vi) to facilitate the analysis of the effect of development upon the tax base, the local economy, population, public facilities and the environment; (vii) to provide and result in an enhanced residential and/or work environment for those persons living and/or working within the district; and (viii) to require the application of professional planning and design techniques to achieve overall coordinated mixed-use developments and avoid the negative effects of piecemeal, segregated, or unplanned development. Toward these ends, rezoning of land and development under this district will be permitted only in accordance with the intent and purpose of the city’s comprehensive plan and this article, and to that end the PUD Concept Plan must be prepared and approved in accordance with the provisions of this article.
- C. *Mixed use development.* The PUD district may include and allow for compatible mixed uses such as compatible residential, commercial, office, and/or industrial, within a single project within the boundaries of an approved Concept Plan area, in order to provide the flexibility required for a well-designed and innovative development that will conserve, develop, protect and utilize to their best use the natural resources of the area in a manner that ensures the safe, orderly and healthy development and expansion of the city. In order

to promote such development, the PUD may be comprised of a combination of all the other zoning districts provided for in this article. The outer boundary of each such PUD zoning district shall be shown on a map. Said map will include a descriptive legend, the specific boundaries of the area proposed for use authorized for in any other zoning district, and percentage of the total area of such PUD which will comprise each such separate use, and all notations, references, and other information shown thereon, shall be adopted by ordinance.

- D. *Flexible planning.* When considering a PUD, the unique nature of each proposal for a PUD may require, under proper circumstances, the departure from the strict enforcement of certain present codes and ordinances, e.g., without limitation, the width and surfacing of streets and highways, lot size, parking standards, setbacks, alleyways for public utilities, signage requirements, curbs, gutters, sidewalks and streetlights, public parks and playgrounds, drainage, school sites, storm drainage, water supply and distribution, sanitary sewers, sewage collection and treatment, single-use districts, etc. Final approval of a PUD by the City Council shall constitute authority and approval for such flexible planning to the extent that the PUD as approved, departs from existing codes and ordinances. The flexibility permitted for a PUD does not imply that any standard or requirement will be varied or decreased. In particular, development standards may be more stringent than the requirements applicable to other zoning districts and any regulation that is varied or decreased within the PUD district should be accompanied by a development standard that is more restrictive to provide mitigation to adjoining land uses that may be affected by the decrease in standards.
- E. *Rules applicable.* The City Council, after public hearing and proper notice to all parties affected and after recommendation from the commission, may attach a planned unit development district designation to any tract of land equal to or greater than five (5) acres. Under the planned unit development designation the following rules apply:
1. The approval of any proposed PUD or combination of uses proposed therein shall be subject to the discretion of the City Council, and no such approval will be inferred or implied.
  2. Permitted uses are those listed under the applicable zoning district(s) for the base zoning to be applied to the PUD (for example, the permitted uses in a PUD proposed to be developed as a retail, commercial and office development are the respective uses listed for the commercial and office districts). In addition, a planned unit development district may be established where the principal purpose is to serve as a transitional district, or as an extension of an existing district whereby the provision of off-street parking, screening walls, fences, open space and/or planting would create a protective transition between a lesser and more restrictive district. In approving a planned unit development, additional uses may be permitted, and specific permitted uses may be prohibited from the base district.

3. Conditional uses are those uses listed as conditional uses under the applicable zoning districts. Those uses require the same conditional use permit required under other districts and is in addition to the grant of approval for the PUD. A marina may be permitted as a conditional use in a PUD upon authorization by the City Council and compliance with all LCRA regulations and Section 3.1.18 of this article.
4. Standards required by the base zoning apply in a planned unit development except that the following regulations and standards may be varied in the adoption of the planned unit development; provided that the Concept Plan is consistent with sound urban planning and good engineering practices:
  - a. Front, side and rear setbacks.
  - b. Maximum height.
  - c. Maximum lot coverage.
  - d. Floor area ratio.
  - e. Off-street parking requirements. See off-street parking and loading standards for each designated use. See Section 3.1.1.
  - f. Special district requirements pertaining to the base zoning.
  - g. Number of dwelling units per acre of land as calculated above the current 100-year flood elevation as defined by FEMA.
  - h. Accessory building regulations.
  - i. Sign regulations.
5. In approving a planned unit development, no standards may be modified unless such modification is expressly permitted by this article, and in no case may standards be modified when such modifications are prohibited by this article.
6. In approving a planned unit development, the City Council may require additional standards deemed necessary to create a reasonable transition to, and protection of, adjacent property and public areas, including but not limited to, light and air, orientation, type and manner of construction, setbacks, lighting, landscaping, management associations, open space, and screening.
7. The commission and City Council, in approving modifications to standards and regulations, shall be guided by the purpose intended by the base zoning and general intent of this article.



8. Any application requesting PUD zoning shall include a list of the portions of the Code by section number that the project will not achieve and the portions of the Code that the project will exceed.
- F. *Concept Plan.* A Concept Plan, prepared in accordance to the requirements set out in Section 3.3.3, for the entire Project intended for development within the property to be zoned as a planned unit development district shall be considered by the commission prior to any recommendation to, or consideration by, the City Council of the planned unit development district ordinance.
1. Approval of the Concept Plan will determine the location and mix of proposed uses, proposed points of ingress and egress, parking spaces, sensitive environmental areas, building location, building size, footprint and height, lot coverage, yards and open spaces, landscaping, trails, no cut zones or conservation areas, screening walls or fences, topography, and other development and protective requirements, considered necessary to create a reasonable transition to, and protection of, the adjacent property.
  2. The commission and/or City Council may approve, conditionally approve, request modifications, or deny approval of the Concept Plan with respect to:
    - a. The plan's compliance with all provisions of this article and other ordinances of the city.
    - b. The environmental impact of the development relating to the preservation of existing natural resources on the site and the impact on the natural resources of the surrounding properties and neighborhood.
    - c. The relationship of the development to adjacent uses in terms of harmonious use and design, setbacks, maintenance of property values, and negative impacts and the extent to which a decrease in requirements is off-set by mitigation of same.
    - d. The provision of a safe and efficient vehicular and pedestrian circulation system that includes multiple points of ingress to and egress from the PUD.
    - e. The design and location of off-street parking and loading facilities to ensure that all such spaces are usable and are safely and conveniently arranged.
    - f. The sufficient width and suitable grade and location of streets designed to accommodate prospective traffic and to provide access for firefighting and emergency equipment to buildings.
    - g. The coordination of streets so as to compose a convenient system consistent with the comprehensive plan of the city.

- h. The use of landscaping and screening:
  - (1) to provide adequate buffers to shield lights, noise, movement or activities from adjacent properties when necessary; and
  - (2) to complement the design and location of buildings and be integrated into the overall site design.
  - (3) the location, size and configuration of open space areas to ensure that such areas are suitable for intended recreation and conservation uses.
- i. The adequacy of water, drainage, storm water detention, wastewater facilities, garbage disposal and other utilities necessary for essential services to residents and occupants.

G. *Site plan.* Following approval of the PUD zoning and prior to the commencement of site construction or development, the property shall obtain approval of a Site Plan in accordance with Section 3.3.4. If the property will be required to obtain plat approval, the Site Plan can be approved in conjunction with approval of the Plat.

H. *Amendments.* Consideration of amendments to a planned unit development will take into consideration the effect of the proposed development on the remainder of the property, adjacent properties and the neighboring communities. Major Amendments, or changes of use, will require amendment to the Concept Plan and shall be processed and considered for approval as a zoning ordinance amendment including public hearings. Any amendments to a PUD district that includes amendments to development standards of the PUD, will be processed as zoning ordinance amendment, unless such changes are considered a Minor Amendment or are approved in conjunction with a Plat or Site Plan approval. Amendments to a Site Plan which do not trigger a rezoning process automatically amends any applicable portions of the Concept Plan.

I. *Expiration.* If development equal to at least twenty-five percent (25%) of the cost of installing streets, utilities and drainage in the PUD, or, if the PUD is approved to be developed in sections or phases, if development equal to at least fifty (50%) percent of the cost of installing streets, utilities and drainage in the first section or phase of the PUD has not occurred, on a planned unit development tract or lot within five (5) years after the date of approval, such approval shall expire; and may only be renewed after application is made therefore, notice is given and public hearings are held by the commission and City Council to evaluate the appropriateness of the previously authorized planned development approval. Any such application for renewal or extension shall be considered in the same manner, and under the same rules, regulations and ordinances then in effect, as a new application for zoning. In the event that PUD zoning expires the zoning of the property shall immediately return to the zoning in place prior to the approval of the PUD zoning.

- J. *Ordinance amendment.* Every planned unit development district approved under the provisions of this article is considered an amendment of this article as to the property involved, and to the comprehensive plan. All planned unit development districts will be referenced on the zoning district map, and a list of such planned unit development districts shall be maintained as an appendix to this article.
- K. *Development Standards and Certificate of Occupancy.* All planned unit development district conditions and special regulations that differ from the Code of Ordinances shall be encompassed within an exhibit attached to the zoning ordinance creating the PUD and labeled Development Standards. All of the Code requirements, except as amended by the Development Standards, must be complied with in the PUD, or in the applicable separate section or phase, before a certificate of occupancy is issued for the use of land or any structure thereon which is part of a planned unit development district, or, if applicable, the separate section or phase being developed.

### **Section 3.1.15 FM-Corridor Overlay District (FM-1)**

- A. *Purpose.*
  - 1. The City Council establishes the FM 1431 Corridor overlay district to provide for orderly development and to maximize the access to the city through a major traffic artery in a rural area.
  - 2. The City Council establishes the FM 1431 Corridor overlay district to create an attractive, higher intensity use corridor composed primarily of office, retail, and commercial uses along the existing traffic artery, FM 1431, within the city.
  - 3. The FM 1431 Corridor overlay district development is intended to be comprised of high-quality development projects and structures that create an environment to enhance the public image of the community, attract and maintain viable land uses, encourage long-term economic investment, and provide attractive gateways into the city.
  - 4. The FM 1431 Corridor overlay district is intended to regulate the use of land to support the rural and recreational quality of life of the Texas Hill Country by promoting uses typical of a small Hill Country community.
- B. *Permitted uses.* The uses permitted in the underlying zoning district shall be permitted in the FM 1431 Corridor overlay district.
- C. *Applicability.* The site development regulations of this section shall apply to the construction or renovation of any building or structure located on property within the FM 1431 Corridor overlay district, except for property zoned to the R-R, R-1 or R-2 districts. Nonconforming structures located within the FM 1431 Corridor overlay district may be continued as long as otherwise lawful, subject to the Section 3.1.19.

- D. *Corridor designation.* The FM 1431 Corridor overlay district shall include all property within 500 feet from the centerline of FM 1431 within the Jonestown city limits as they existed on April 28, 2005. Where a portion of tract or parcel is within 500 feet of the centerline of FM 1431, the entire tract or parcel, within the city limits, shall be zoned to the FM 1431 Corridor overlay district.
- E. *Conditions and limitations.* See Section 3.1.1.
- F. *Development Standards.*
1. Definitions. For the purpose of this section, the following definitions shall apply:
    - a. Masonry construction. Shall include all construction of stone material, brick material, or stucco, which is composed of solid, cavity, faced, or veneered-wall construction. The standards for masonry construction types are listed below:
      - (1) Stone material. Masonry construction using stone material which may consist of granite, marble, limestone, slate, river rock, other hard and durable stone, and manufactured stone which meets the latest version of ASTM standard C1670, Standard Specification of Adhered Manufactured Stone Masonry Veneer Units. Cut stone and dimensioned stone techniques are acceptable.
      - (2) Brick material. Brick material used for masonry construction shall be hard fired (kiln fired) clay or slate material which meets the latest version of ASTM standard C216, Standard Specification for Facing Brick (Solid Masonry Unit Made of Clay or Shale), and shall be severe weather (SW) grade, and type FBA or FBS or better.
      - (3) Glass and metal. Means glass walls that include glass curtain walls or glass block construction. Glass curtain wall shall be defined as an exterior wall which carries no structural loads, and which may consist of the combination of metal, glass, or other surfacing material supported in a metal framework.
      - (4) It is recommended and encouraged that the exterior color of all nonresidential structures be in keeping with the "Hill Country look" of the FM 1431 Corridor overlay district, which are matched to the following designated color palette, Benjamin Moore Williamsburg Heritage Collection, provided, however that no registered trademark shall be affected or restricted thereby.
  2. Elevated water storage tanks and pump stations. All water storage facilities which serve the public shall be designed and painted to complement natural surroundings. All public water storage facilities shall be placed, to the extent possible, so as to have minimal negative impact on surrounding areas. The City Council shall be authorized to approve alternate color selections, if such color(s) are more compatible with surrounding areas.

3. Temporary construction buildings. Temporary buildings and temporary building material storage areas to be used for construction purposes may be permitted for a specific period of time in accordance with a permit issued by the building official and subject to periodic renewal by the building official for cause shown. Upon completion or abandonment of construction or expiration of permit, such field offices or buildings and material storage areas shall be removed at the satisfaction of the building official.
4. Rooftop mechanical equipment. All rooftop mechanical equipment shall be shielded from public view.
5. Landscaping and sidewalk requirements.
  - a. The owner or tenant shall provide landscaping on the premises of any property within the FM 1431 Corridor overlay district in accordance with all other landscaping requirements of the city's Code of Ordinances, including, without limitation landscape materials shall be comprised of native vegetation, including nursery-propagated native species, which require minimum maintenance and irrigation.
  - b. Before the certificate of occupancy is issued, the owner or tenant shall provide pedestrian walkways within the front yard setback that connect to adjacent property lines, even if the adjacent properties are not yet developed. These walkways shall be constructed with pavers, asphalt, or concrete with an exposed aggregate or broom finish and shall be calculated as part of the impervious cover maximum limits for development.

### **Section 3.1.16 Short Term Rental Overlay District (STR-1)**

- A. *Purpose.*
  1. The City Council establishes the short-term rental overlay district ("STR overlay district) to provide for orderly development and to maximize protection of the integrity of residential neighborhoods within the city.
  2. The STR overlay district is intended to identify and limit those areas within the city in which conditional use permits may be issued for short-term rental uses.
- B. *Permitted uses other than short-term rentals.* The uses permitted in the underlying zoning district shall be permitted in the STR overlay district.
- C. *Corridor designation.* The STR overlay district shall include all property located within the areas depicted on the City Zoning Map Section 2.1.2.

- D. *Conditions and limitations.* Short-term rental use shall be allowed by right in the STR overlay district so long as such use is registered and licensed pursuant to article 4.09, short-term rentals, as that article currently exists or may hereafter be amended.
- E. *Corridor regulations.* For any rental of a residence for less than thirty (30) days, a property owner who desires to rent his/her residential property, whether leased directly or subleased through another party, shall comply with the following criteria and conditions:
1. Recreational vehicles and trailers may not be utilized as short-term rental properties.
  2. Functions such as weddings, parties or other type gatherings at the short-term rental shall be prohibited.
  3. The minimum rental period for a short-term rental shall be two (2) consecutive nights.
  4. No more than fifteen (15) people can be at the residence at any given time.
  5. Occupancy of short-term rentals shall be based on the number of bedrooms in the residence, i.e., 1 bedroom = 4 persons; 2 bedrooms = 6 persons; 3 bedrooms = 8 persons; 4 bedrooms = 10 persons. Overnight occupancy of a short-term rental shall be limited to a maximum of ten (10) persons.
  6. No noise before 9:00 a.m. or after 10:00 p.m. which can be heard at the residence closest to the short-term rental is allowed.
  7. No live music before 1:00 p.m. or after 10:00 p.m.
  8. No firepits shall be allowed.
  9. The property owner must comply with and pay any amounts required by state hotel occupancy tax laws and any ordinance of the city requiring the payment of hotel occupancy tax. A short-term rental license under article 4.09 shall not be renewed if the property owner fails to comply with the state hotel occupancy tax laws or city ordinance.
  10. Any complaints related to the operation of a short-term rental, including but not limited to complaints concerning noise, garbage, parking and disorderly conduct by guests, shall be reported to the city community development department and reviewed at the time of the short-term rental licensing application.
  11. No permit shall be issued for residential property subject to deed restrictions or rules promulgated by a home or property owners' association prohibiting short-term rental use. For properties subject to home or property owner association deed restrictions, or similar regulations that do not prohibit short-term rental use,

short-term rental tenants shall comply with other applicable home or property owner association regulations.

12. Subdivisions considered for approval after December 15, 2023, and located within the Short-Term Rental Overlay District shall meet the parking requirements of the underlying zoning plus two (2) additional parking spaces per lot. Such additional parking spaces will be created as community parking within the street right of way and shall be clustered in small groups to facilitate short term rentals. Street right of way shall be expanded so that the area available within the right of way for vehicle ingress and egress is not diminished by the addition of such community, parking areas.

### **Section 3.1.17 Temporary District (T)**

- A. *Purpose.* The purpose of the temporary zoning district is to temporarily, but automatically, zone property upon annexation of the property until permanent zoning of the property can be accomplished. Any use of the property in existence at the time of annexation of the property may be continued in accordance with the regulations associated with legal non-conforming uses as set out in Section 3.1.19. No use existing within the Temporary Zoning District at the time of annexation may be expanded, unless and until permanent zoning of the property is obtained. Permanent zoning of the property shall occur according to Section 2.1.3.

### **Section 3.1.18 Conditional Uses**

- A. *Generally.* The City Council may by ordinance, after following the same public notice, public hearing and procedures of a re-zoning application and upon approval by four (4) affirmative votes after receiving the recommendation of the commission, grant a conditional use permit in compliance with this section for the conditional uses listed in subsection K below, or to allow conditional uses set out in the land use zoning chart, or to allow conditional uses as authorized elsewhere in the code of ordinances. The City Council may impose appropriate conditions and safeguards, including a specified period of time for the permit, to protect the comprehensive plan and to conserve and protect property and property values in the neighborhood.
- B. *Initiation of Application.* An application for a Conditional Use Permit may be filed by the property owner(s), or a person having a contractual interest in the subject property with consent of the property owner(s).
- C. *Application Requirements.* The Director shall ensure that a completed application has been submitted by the applicant pursuant to Section 7.1.1, General Application Procedures, and includes the information and materials necessary for City Council to render an informed decision.
- D. *Procedures.* All applications for a Conditional Use Permit shall follow the procedure set out in this Section.

1. *Staff Review.* For each Conditional Use Permit request, the Director shall review the application considering the approval criteria established in Subsection 3.1.18.E, Review Criteria, below, and may refer the application to other departments as deemed necessary. The Director shall prepare a findings report, which shall be presented to the Planning and Zoning Commission and City Council at the same public meeting as the public hearing and may also provide a recommendation.
  
2. *Planning and Zoning Commission Review.*
  - a. The Planning and Zoning Commission shall hold a public hearing, pursuant to the requirements set out in Section 7.2.1 Public Hearings, and Section 7.2.2, Public Notice, on an application for a Conditional Use Permit prior to making its recommendation to City Council.
  
  - b. Following a public hearing, the Planning and Zoning Commission shall make a final recommendation to the City Council by an affirmative vote of a majority of the body to:
    - (1) Approve the Conditional Use Permit;
    - (2) Approve with conditions, pursuant to Subsection 3.1.18.F, Conditions of Approval, below; or
    - (3) Deny the Conditional Use Permit.
  
  - c. The Planning and Zoning Commission may table its recommendation to continue a public hearing; to obtain additional information; or for further consideration. Such postponement of the final recommendation of a Conditional Use Permit by the Planning and Zoning Commission may not exceed 40 days following the closing of a public hearing on the Conditional Use Permit.
  
  - d. Failure of the Planning and Zoning Commission to make a recommendation to the City Council shall be considered a recommendation for denial.
  
2. *City Council Review.*
  - a. The City Council shall hold a public hearing, pursuant to the requirements set out in Section 7.2 Public Hearings, and Section 7.2.2, Public Notice, on any Conditional Use Permit prior to making its decision.
  
  - b. The City Council may refer the application back to Planning and Zoning Commission for further consideration; continue a public hearing; or table the action. A continuance, or postponement, of the final decision of a Conditional Use Permit may not exceed 90 days.



c. Following a public hearing, the City Council shall take final action by an affirmative vote of a majority of the body, to:

- (1) Approve the Conditional Use Permit;
- (2) Approve with conditions; or
- (3) Deny the Conditional Use Permit.

E. *Review Criteria.* In the review and consideration of a Conditional Use Permit, the Director, Planning and Zoning Commission and City Council shall consider the following criteria:

1. *Compliance with Zoning District Regulations.* The conditional use shall comply with the purpose and intent and all applicable regulations of the zoning district in which it is located.
2. *Compliance with Applicable Criteria of the Conditional Use.* The conditional use shall comply with any applicable criteria as established in this Code of Ordinances.
3. *Impact on Public.* The conditional use shall not endanger, be detrimental, or otherwise adversely affect the health, safety, and welfare of the public.
4. *Operation of Existing or Permitted Uses.* The conditional use shall not impair the operation of existing or permitted uses on the subject property or on abutting properties or be injurious to property or improvements in the immediate area.
5. *Compatibility with Nearby Uses.* The conditional use shall be compatible with nearby uses in the immediate area with respect to building height, bulk and scale, setbacks, open spaces, landscaping, site development, and access and circulation features.
6. *Provision of Public Infrastructure.* The conditional use shall ensure adequate provision of streets, water, wastewater, and other public infrastructure and utilities.
7. *Consideration of Site Development.* The site development of a conditional use shall effectively mitigate impacts of the conditional use on the surrounding area and abutting properties. This includes consideration of, but not limited to, drainage, landscaping, buffering and screening, traffic control, pedestrian and vehicle access and circulation, parking, loading areas, lighting, and any other impacts the use may have on the surrounding area.

F. *Conditions of Approval.* Upon consideration of the review criteria, the Director and Planning and Zoning Commission may recommend, and the City Council may establish, conditions of approval, which may exceed the Applicable Criteria, and as deemed necessary to ensure compatibility with surrounding uses and to preserve the public health, safety and welfare, and to promote compliance with the review criteria set out in Subsection 3.1.18.E, Review Criteria, above.

G. *Effect of Approval.*

1. Affirmative approval of a Conditional Use Permit by the City Council, following the procedures set out in this Section, shall be in effect in the manner provided herein or as otherwise required by state law.
2. A Conditional Use Permit granted pursuant to these provisions that has not expired, shall run with the land and shall continue to be valid upon a change of ownership of the site or structure which was the subject of the Conditional Use Permit application.

H. *Modifications to Approved Conditional Use Permits.* Once a Conditional Use Permit is approved, the project shall be built and operate in the manner specified as part of the Conditional Use Permit approval. Any modification shall require the submittal of a revised application for approval.

I. *Expiration of Conditional Use Permit.*

1. *Expiration.* An approved Conditional Use Permit shall expire if construction has not commenced or a Site Development Plan, building permit, or Certificate of Occupancy, as required, is not issued and construction begun within two (2) years of the approval of the Conditional Use Permit or submittal date of the most recently dated application for permit or approval.
2. *Extension.* A Conditional Use Permit subject to expire may be extended by the Director for a period not to exceed one year, provided that the extension is requested prior to the expiration date.
3. *Discontinuance.* A Conditional Use Permit shall expire one year following the discontinuation of the use for which the permit was approved and issued. Any legally established pre-existing conditional use that is not being used at the effective date of these regulations shall expire one (1) year following the effective date of these regulations, if at the expiration date the conditional use remains inactive.

J. *Revocation of Approved Conditional Use Permit.* The City Council may revoke approval of a Conditional Use Permit if it is determined that:

1. The applicant misrepresented any material fact on the application or supporting materials;
2. The conditional use fails or ceases to comply with the applicable standards, criteria, or conditions for issuance of the permit;
3. The operation of the conditional use violates any statute, law, or regulation; or

4. The operation of the conditional use constitutes a real or potential threat to health, safety, or welfare to the public.

K. Authorized conditional uses. The following listed conditional uses and those indicated in a specific zoning district as a permitted use with a conditional use permit, and none other, may be authorized subject to the terms of this section and compliance with all conditional terms, regulations and requirements established by the City Council.

1. Airport, landing field, landing strip or heliport for aircraft; municipal service facilities and buildings.
2. Circus, carnival, commercial amusement, and other temporary recreational events:
  - a. May not be located within 300 feet of any residential district;
  - b. Shall have all temporary wiring installed in accordance with article 525 of the National Electrical Code, as amended.
3. Junkyards and salvage yards.
4. Group Home.
5. Radio or television broadcasting tower or station, excluding wireless telecommunications facilities.
6. Halfway house.
7. Reserved.
8. Bed and breakfast facilities. A person who desires to operate a bed and breakfast facility in a single-family residence shall comply with the following conditional criteria and conditions:
  - a. The number of double occupancy bedrooms in a bed and breakfast in a single-family residential structure shall not exceed one double occupancy room per 700 square feet of building area as rounded off to the nearest 1,000 square feet of the principal residential structure. Notwithstanding the preceding sentence, the maximum number of double occupancy rooms shall not exceed four.
  - b. All bedrooms shall be located within the principal residential structure.
  - c. Any bedroom shall not be rented to any particular guest for more than 30 consecutive days.

- d. Meal service is prohibited in connection with the bed and breakfast residential use, other than breakfast service to overnight guests.
  - e. No signs are permitted on the property other than the street number for the residential structure.
  - f. A bed and breakfast residential use requires an annual city hotel, motel, rooming house license.
  - g. The bed and breakfast operator or its designee shall permanently reside on the premises to participate in the bed and breakfast residential use.
  - h. The owner of the residence must maintain a current register of all guests.
  - i. Neither the interior nor the exterior of the residence shall be structurally altered so as to change the existing residential character of the building without City approval
  - j. If no complaints have been lodged against the property or the property owner during the preceding 12 months, the city staff may approve a renewal conditional use permit for an additional 12-month period.
  - k. If any complaints have been lodged against the property or the property owner during the preceding 12 months, the application for renewal will be referred to the planning and zoning commission for processing as a new application for a conditional use permit.
  - l. The property owner must comply with state hotel occupancy tax laws and any ordinance of the City of Jonestown requiring the payment of hotel occupancy tax. A conditional use permit under this section will not be renewed if the property owner fails to comply with the state hotel occupancy tax laws or city ordinance.
9. Marina. Where permitted in a district, the following special criteria shall apply to new marinas and for existing marinas which are being expanded or permanently reconfigured.
- a. Marina construction standards will be governed by the city's building codes and regulations, Division 3.4 of this code, as amended, and applicable LCRA construction standards. Construction may not begin until a permit is secured from the LCRA. The LCRA permit and any supporting documents shall be submitted to the city building official for review before construction may begin. Inspections, both during construction and after, shall be carried out by the LCRA and the city building official, as applicable.

- b. Minimum marina construction standards.
  - (1) The roof shall be constructed of not less than 26 gauge steel, with baked-on enamel finish.
  - (2) All marinas shall have sewage pump-out stations that are constructed and maintained in compliance with all local, state and federal laws.
  
- c. A site plan meeting the intent and requirements of this section, and all other ordinances of the city, must be approved by the planning and zoning commission and the City Council.
  
- d. A conditional use permit shall be required for new marinas, and for existing marinas which are being expanded or permanently reconfigured. The permit will automatically terminate if construction of the new marina, or the expansion or reconfiguration, is not substantially complete within two years after the permit is issued.
  - (1) All representations made in an application for a conditional use permit, or in any application for construction, shall become conditions upon which the conditional use permit is issued, and the City Council may terminate the conditional use permit if the representations are false, are violated, or are not implemented.
  - (2) The number of slips, the height and size, the location, and the commercial/retail services permitted, shall be established in the conditional use permit.
  - (3) The maximum length of a slip at a marina is limited to 40 feet, the width is limited to 16 feet, and the maximum boat length to be moored at the marina is 38 feet. No boat may be moored outside of a slip.
  - (4) No lifts shall be located at a marina other than lifts located in the individual slips to lift the boat out of the water. All watercraft maintenance, repair, sanding, painting and other types of finishing or refinishing work shall be performed in such a manner and at locations that will prevent materials, fuel, oil, sewage, paint, or other pollutants from entering the waters of Lake Travis by being carried by the wind or through runoff. No maintenance activities shall be conducted directly over the water of the lake.
  - (5) The land under the marina shall be leased for a term of not less than 15 years or owned by the applicant applying for the permit.
  - (6) No part of the marina including any anchor or breakwater, shall be closer than 50 feet to any boundary or property line of the lot, tract or parcel of land on which the marina is located; provided that the setback line from the end lot line that is located on shore shall be established in the permit; and provided further that anchors that

will be covered by not less than 6 feet of water during low water periods may be located within 10 feet of a property line.

e. Lighting requirements.

- (1) All lighting for all facilities located at the marina shall be muted, shielded and directed downward. All lighting shall be installed and maintained in accordance with the approved lighting plan.
- (2) Exterior lights shall not be permitted to shine directly onto any public or private road (except straight down on to the road) or neighboring property, or where the illumination interferes with the rural, residential character of the city. The lighting plan shall be amended and the lighting plan shall be adjusted and maintained from time to time to correct any violation of this section.
- (3) Lighting other than that necessary for safety as defined by LCRA and security shall be turned off at 11:00 p.m.
- (4) The conditional use permit application shall include a lighting plan for the marina which will specify the location of the sources of lights, the maximum height of the light fixtures and the amount of light permissible at the various locations.

f. Noise requirements. The marina shall adopt regulations to insure that the motors on all boats moored at the marina exhaust under the water.

- (1) No exterior paging system can be used at the marina, except for emergency notification purposes. No amplified music can be used at the marina by the marina owner or the marina owner's agent unless a waiver has been granted for a special event, on a case-by-case basis, by the City Council.
- (2) The marina shall be constructed and maintained in a manner that the structures constituting the marina do not, during high wind, cause noise that will disturb persons occupying adjoining land.

g. Location limitations. A marina shall not be located:

- (1) Within one thousand (1000) feet of:
  - (a) Another marina.
  - (b) The intake point for a public water system.
- (2) Within any cove, hollow or inlet; or
- (3) At any point at which there will be less than a 500-foot-wide segment of water area at 650 feet mean sea level elevation between the rear (water side) of the proposed marina and the opposite shoreline of the lake. Distances and elevations will be determined by a survey made by a registered professional land surveyor.

- (4) A marina may not be located in the R-3 zoning district except in conjunction with a multiple-family housing development constructed before or at the same time as the marina is constructed, and such marina shall be of a size that is reasonably in proportion to the number of units in the multiple-family housing development. The use of slips in such marina shall be restricted to residents of the multiple-family project.
  - h. No-wake zones are generally not allowed but may be approved by the City Council. A permit from LCRA is required.
  - i. Abandoned or discontinued business.
    - (1) The owner(s), of any marina that is abandoned as a business operation shall, at their own expense, be required to remove all improvements and anchorage associated with the marina, on the land and on and under the water, and restore the area to its original condition, within three (3) months after the operation is abandoned or business ceases.
    - (2) Should the owner(s) fail to remove the marina, or any part thereof, or to restore the property to its original condition, the city may, any time after ninety (90) days, or more, declare the marina abandoned and after giving notice to the owner(s) to dismantle and remove all improvements and anchorage, and restore the area to its original condition, may itself dismantle and remove all improvements and restore the area to its original condition and shall collect from the owner(s) the city's cost of the removal and restoration, plus interest and any costs incurred in connection with removing the improvements and anchorage, and restoring the property.
    - (3) The owner(s) will be responsible for the city's attorney fees and costs, in the event the costs are referred to an attorney for collection. Further, the owner(s) contract and agree that by locating a marina on any land or water within the city, that the city may file a lien in the amount of the funds expended, and costs incurred, by the city to clear and restore the property, and to collect such amounts from the owner(s) against the land on which the marina was located.
- 10. Uses permitted in the R-1 district may be allowed in the O, B-1 and B-2 districts by conditional use permit, provided that the building or structure complies with the 1431 Corridor overlay district site development regulations, if applicable, and the conditions and limitations and the site development regulations for the zoning district in which the building or structure is located.
- 11. Communications facility (CF).

- a. Purpose. The City Council hereby declares that the purposes of this subsection are to:
  - (1) Protect and provide for the public health, safety and general welfare of the city and its citizens;
  - (2) Establish regulations and standards for the siting of CFs and antennas that do not unreasonably discriminate among providers of equivalent services and to ensure equitable treatment of providers of such services;
  - (3) Encourage the users of existing structures, support structures and antennas to collocate where possible as an alternative to new CF construction and to locate all facilities, to the extent possible, in areas where adverse impact on the community is minimal;
  - (4) Encourage the joint use of CFs;
  - (5) Encourage stealth design and construction of facilities, where feasible, which minimize adverse visual impacts;
  - (6) Ensure compliance of all CFs with current federal, state, and local regulations; and
  - (7) Enhance the ability of providers of telecommunications services to provide such services within the city safely, effectively and efficiently.
  
- b. Definitions. See Article 9.
  
- c. Applicability; conditional use permit required.
  - (1) This subsection applies to all communication facilities including but not limited to telecommunication towers, support structures and antennas installed, built or modified (generally called "CF") supporting one or more antennas for the reception or transmission of wireless radio, television, microwave, or telephone communication or other communication by electromagnetic waves within the corporate limits of the city.
  - (2) No property within the corporate limits of the city may be used for the siting and construction of a CF thereon unless the owner or authorized agent of the owner of said property shall have first obtained a CF conditional use permit. The CF conditional use permit shall be in addition to other permits otherwise required by the city's codes.
  
- d. Procedure for obtaining permit.
  - (1) In addition to any other materials required for a standard permit under this section or any other ordinance of the city, all applicants for permits to construct a CF or antenna shall submit the following:



- (a) Visual impact demonstrations using photo simulations of the proposed facility as it would be seen from at least five points of public view including residential areas, public rights-of-way, and public parks and other sites as deemed appropriate by the planning and zoning commission and approved by the City Council;
- (b) The general capacity of the proposed CF in terms of the number and type of antennas it is designed to accommodate;
- (c) The applicant's current overall system plan for the city documenting telecommunications facilities presently constructed or approved and future expansion plans, including a map that indicates the proposed provider's current coverage for the city and the area that the requested site would cover;
- (d) A copy of the lease or letter of authorization from the property owner evidencing applicant's authority to pursue the permit application.
- (e) A statement outlining the rationales for the particular location, design and height of the proposed CF, including documentation of all the existing sites or structures considered as alternatives to the proposed location and the reasons why those alternatives were either unavailable or not feasible; an application may not be approved unless applicant can document that the proposed CF cannot be accommodated on an existing or approved tower located within the corporate limits of the city due to:
  - i. The planned CF would exceed the structural capacity of existing and/or approved towers, considering existing and planned use of those tower(s) and the existing tower(s) cannot be reinforced to accommodate the planned CF at a reasonable costs;
  - ii. The planned CF would cause radio frequency interference with other existing or planned equipment for these existing tower(s) and the interference cannot be prevented at a reasonable costs;
  - iii. The existing or approved CF do not have space on which the planned CF can be placed so it can function effectively and reasonably in parity with other similar equipment in place or approved; and/or
  - iv. Geographic service requirements of the planned CF.

- (f) A landscape plan drawn to scale showing proposed and existing fencing and landscaping, including type, spacing, size and irrigation methods;
  - (g) A visual depiction or architect's rendering (drawn to scale) of the CF;
  - (h) A site plan, drawn to scale, indicating the location and height of the CF (with associated ancillary facilities), as well as its proximity to (or distance from) buildings and to other structures on the same and adjacent properties to include a radius measured from the base of the structure of 200 feet plus the maximum height of the structure (the "fall zone"). The fall zone must remain within the boundaries of the property where the structure is located and may not encompass structures (other than the CF), public streets or utility lines;
  - (i) A certification and sealed report from a state registered professional engineer stating that all structural components of the CF comply with all applicable codes and regulations including wind loads. In the case of CFs, the report should further note the extent to which the CF is designed and/or built to accommodate co-location;
  - (j) A statement that the proposed support structure will be made available for collocation to other service providers at commercially reasonable rates.
- (2) Applicants, in addition to the conditional use permit fee, shall reimburse the city for actual costs incurred by the city for radio frequency evaluations, structural engineering reviews, professional fees, and/or any other services that the city may deem necessary to review and process the application.
- (3) Towers erected by a public agency for police, fire, EMS, 911 or other similar public emergency communications shall be exempt from the requirements of this section.
- (4) Within thirty (30) days of the receipt of an application for review, the Director shall either:
- (a) Inform the applicant, in writing, the specific reasons why the application is incomplete and does not meet the submittal requirements; or
  - (b) Deem the application complete.
  - (c) If the city informs the applicant of an incomplete application within such thirty (30) days, the overall timeframe for review is suspended until such time that the applicant fully provides the requested information.
  - (d) An applicant that receives notice of an incomplete application may submit the necessary additional

information to complete the application. An applicant's failure to complete the application within sixty (60) days after receipt of written notice shall be deemed withdrawn. An application withdrawn or deemed withdrawn may be resubmitted upon the filing a new application fee. All timeframes herein stated begin again upon resubmittal.

(5) Once an application is deemed complete, the city shall schedule such application for public hearing before the planning and zoning commission and the City Council on the next available hearing date that complies with all notice requirements.

(a) The City Council may, by ordinance, adopted by a supermajority of those members present and eligible to vote, including the mayor, after receiving the recommendation of the commission, grant a conditional use permit pertaining to CFs in compliance with this section for the conditional uses listed herein. The City Council may impose appropriate conditions and safeguards, including a specified period of time for the permit, to protect the comprehensive plan and to conserve and protect property and property values in the neighborhood.

(6) A variance granted by the board of adjustment is required for any CF which will not comply with the requirements of this section unless otherwise specified herein.

(7) A final decision by the City Council shall be issued in writing within one hundred fifty (150) days from the date the application is deemed complete. Should the City Council deny issuance of the conditional use permit, it shall provide written findings and justifications for such denial which shall be based on the compliance or noncompliance of this applicant with this section.

e. Construction requirements.

(1) All CFs shall be of monopole construction or of a stealth design, which is designed in such a way that the facility is not readily recognizable as telecommunications equipment and is virtually transparent or invisible to its surroundings.

(2) CFs shall not be illuminated by artificial means unless required by the Federal Aviation Administration or other federal, state or city law, rule or regulation.

(3) No CFs shall be constructed within 1,320 feet of any pre-existing or permitted CF.

(4) The applicant shall ensure that the CF will not cause localized interference with the reception of area television or radio

broadcasts, or other legally existing CFs. If on review the city finds that the CF will interfere with such reception, the city may deny the conditional use permit. If such interference occurs after the permit is issued and the problem is not corrected within 60 days, the city may revoke or modify the permit.

- (5) Construction, placement, removal or alterations of the CF and related buildings shall not be performed outside the time periods designated in Section 8.05.002(c)(5) unless it is a bona fide emergency.

f. Maintenance and inspection.

- (1) The owner or operator of a CF shall be responsible for the maintenance of the CF and shall maintain all buildings, structures, supporting structures, wire, fences, or ground areas used in connection with a CF in a safe condition and in good working order, as required by city building, fire, or any other applicable codes, regulations or ordinances or to standards that may be imposed by the city at the time of granting of a permit. To the extent required under a permit issued under this section, such maintenance shall include, but shall not be limited to, maintenance of the paint, landscaping, fencing, equipment enclosure, and structural integrity. If the city finds that the CF is not being properly maintained, the city will notify the owner or operator of the CF of the problem. If the owner or operator fails to correct the problem within 30 days after being notified, the city may undertake maintenance at the expense of the owner or applicant, or revoke the permit, at the city's sole option.
- (2) By applying for a conditional use permit under this section, the applicant specifically grants permission to the city, its duly authorized agents, officials, and employees to enter upon the property for which a permit is sought, after first providing a reasonable attempt to notify a person designated by the applicant, except in the event of an emergency, for the purpose of making all inspections required or authorized to be made under applicable regulations. The city may require periodic inspections of the CF to ensure structural integrity and other code compliance. Based upon the result of an inspection, the city may require repair or removal of a CF with the cost of compliance borne by the applicant/owner.
- (3) The applicant shall provide the city with a letter of certification from the design engineers indicating that the CF was constructed according to the plans submitted to the city. The letter shall be submitted within thirty (30) days of completion of the CF.
- (4) The city shall require inspections of the CF to ensure structural integrity and other code compliance at least every two (2) years. Based upon the result of an inspection, the city may require repair

or removal of a CF with the cost of compliance borne by the applicant/owner. The owner of the CF shall provide the city with a certified copy of any engineer's inspection report, which includes but is not limited to:

- (a) The condition of the grounding system;
  - (b) The structural integrity of the facility;
  - (c) Any damage incurred since the last inspection;
  - (d) The condition of the bolts; and
  - (e) A plan to correct any deficiencies.
- g. Location of facilities on or near Scenic Lake and Hill Country Vistas. CFs may be approved on or near lake and hill country vistas by special exception and only if so concealed as to be substantially invisible. The views and vistas of the lake and hill country shall not be impaired or diminished by the placement of CFs and antennae.
- h. Height restrictions.
- (1) No new or height modified CF shall exceed 100 feet in height. However, in the event of dense vegetation or other substantial obstacles to signal propagation, facilities can extend to a height of no more than 20 percent above the average tree canopy height within 1,000 feet of the proposed facility.
  - (2) CFs that simulate objects that typically occur in landscapes similar to the proposed location (except billboards, electrical transmission, or CFs) may exceed 100 feet in height if, based on the judgment of the planning and zoning commission and as approved by the City Council, it would appear in context on the landscape, is aesthetically acceptable, and would be a preferable alternative to an undisguised facility.
  - (3) CFs located atop or within existing buildings or structures may result in an overall increase in height of the structure of no more than ten percent of the structure's height without the facility, or the maximum height allowed in the zoning district in which the structure is located, whichever is less; planning and zoning commission may recommend and the City Council may approve a larger increase in height where information is provided that the landscaping and aesthetics are not as impacted and such increase would be preferable to a new or undisguised facility.
- i. New CFs and collocation.
- (1) In all applications for construction of a new CF, the applicant must prove by substantial evidence that a bona fide need exists for the facility and that no reasonable combination of locations,

techniques, or technologies will obviate the need. The applicant must further prove that it has made all reasonable efforts to procure antenna space on existing facilities and that the cost of collocation exceeds the cost of a new facility by at least fifty percent.

(2) Prior to the issuance of a permit for a new CF, the applicant shall demonstrate commitment to joint use as follows:

(a) The applicant requesting the permit shall submit evidence to the city demonstrating that a genuine effort has been made to solicit additional users for the proposed new CF. Evidence of this shall include, at a minimum, copies of notices sent by registered mail, return receipt requested, to all other providers of cellular and wireless communications services within Travis County and adjacent counties, advising of the intent to construct a new CF, identifying the location, inviting the joint use and sharing of costs, and requesting a written response within fifteen business days.

(b) The applicant shall sign an instrument, maintained by the city, agreeing to encourage and promote the joint use of CFs within the city and, to that extent, committing that there shall be no unreasonable act or omission that would have the effect of excluding, obstructing or delaying joint use of any CF where fair and just market reasonable compensation is offered for such use.

j. Collocation - public entity. CFs owned by entities other than governmental entities may be collocated on property owned by the city under the following conditions:

(1) The CFs may only be attached to an existing improvement or replace an existing improvement and must follow the requirements set forth herein.

(2) The improvement shall be capable of supporting the CF and any associated equipment and shall not interfere with the use or other operations of the city.

(3) For antennas attached to improvements located in rights-of-way, all associated equipment must be less than thirty (30) inches in height, located underground, attached to the support structure itself, or be located in an areas outside the right-of-way.

(4) Prior authorization for use of city property must be shown by a franchise, lease, license, permit, or other document duly executed by an authorized city representative and adopted in conformance with all applicable city regulations for the property. The granting of a franchise, lease, license, or permit is at the sole discretion of the City Council and its authorized designee and must comply with all ordinances.

- (5) The antennas and any accompanying equipment must comply with all ordinances, rules and regulations.
  - (6) The applicant requesting the permit must provide a minimum amount of \$500,000.00 liability insurance that covers the CF and such insurance coverage must be maintained at all times. The city must be listed as an additional insured and proof of insurance coverage must be provided to the city at the time application is made for the permit.
- k. Indemnification. All collocation applicants who will be attaching any CF to any city-owned property, the applicant and/or owner of a CF shall expressly indemnify, protect, and hold the city harmless to the maximum extent allowed by law. No exceptions to this requirement shall be allowed.
- l. Collocation - private property. CFs may be collocated on property owned by private entities. CFs proposed to be located on any privately owned property or structure must provide:
- (1) A copy of the lease or other agreement indicating the approval by the owner of such property or structure;
  - (2) An engineer's report or other acceptable form of proof of the structural integrity of the property and/or structures the applicant intends to attach to.
  - (3) All CFs attached to privately owned property or structures must comply with all requirements set forth herein or request a variance.
  - (4) If a current collocated CF must be relocated due to their own circumstances or decision, such CF shall be considered an application for a new CF and must provide the information required hereunder.
  - (5) If a current collocated CF must be relocated due to circumstances not within the owner of the CF's control, such CF application shall be required to provide the information set out in subsection 11(k)(1). Such applications shall still be required to address construction requirements, maintenance inspections, height restrictions, insurance, signs, electronic emissions and removal.
- m. Setback.
- (1) No new CF shall be constructed without a minimum setback equal to the fall zone, measured from the CF's base to the nearest property line.
  - (2) CFs shall be setback a minimum of 500 feet from one- and two-family districts and 250 feet from any multifamily district.
  - (3) No CFs shall be allowed within 3,000 feet of the 681' MSL shoreline of Lake Travis.

- (4) The City Council may allow an existing co-location CF to continue on a structure or be transferred to an existing structure that does not meet the minimum setback equal to the fall zone so long as such CF application includes engineering plans under the seal of a registered professional engineer of the state showing structural integrity that meets or exceeds the FCC, Electronic Industries Association Standard EIA-222D, structural standards for steel antenna towers and antenna supporting structures and/or the building codes for both the CF and the structure or building the CF is or shall be attached to.
  
- n. Equipment shelters and CF access. No equipment shed for a CF shall exceed 750 square feet in area nor 12 feet in height. All such sheds shall be screened with vegetation or other aesthetically pleasing materials. If an equipment shed is part of a co-located CF and is or will be located on leased premises, such shed shall be built to blend in with the surrounding location. Furthermore, all such sheds and CFs shall be secured with approved fencing and a locked gate.
  
- o. Signs. Unless otherwise required by state or federal law, the only signage that is permitted upon an antenna-supporting structure, equipment enclosures, or fence (if applicable) shall be: informational and for the purpose of identifying the antenna-supporting structure (such as ASR registration number), as well as the party responsible for the operation and maintenance of the facility, the party's current address and telephone number; security and safety signs; and property manager signs (if applicable). If more than two hundred twenty (220) voltage is necessary for the operation of the facility and is present in a ground grid or in the CF, signs located on each side of the structure or fence shall display in large, bold contrast letters, the following "high voltage - danger," with the minimum height of each letter being four inches. No commercial messages nor any other signs beyond the signs authorized in this subsection shall be placed on any CF or related facility.
  
- p. Fencing and parking.
  - (1) Ground mounted accessory equipment and support structures shall be secured and enclosed with a security fence not less than six (6) feet in height.
  - (2) At least one (1) off-street parking space shall be provided per CF.
  - (3) The location and design of driveways and/or accesses to reach the CF from the public street shall be in conformance with the city's development requirements.
  
- q. Electronic emissions and electromagnetic radiation.



- (1) Prior to commencing regular operation of the facility, all facility owners and operators must submit a certificate of compliance with all current Federal Communications Commission regulations concerning electromagnetic radiation and other electronic emissions applicable to the facility.
- (2) All facility operators and owners must sign an agreement, to be maintained by the city, agreeing to bring facilities into compliance with any new federal, state, or local laws or regulations concerning electromagnetic radiation and other electronic emissions applicable to the facility within 120 days of the effective date of the regulations.

r. Revocation of permit.

- (1) The owner or operator of any tower for which a permit is issued shall, after issuance of the permit, operate and maintain the tower in accordance with the requirements of the permit and this article.
- (2) If the owner or operator of any tower and related structures either:
  - (a) Discontinues use of the tower for a period of 180 days; or
  - (b) Allows the tower and related structures to deteriorate so that they are not structurally sound or usable; or
  - (c) Does not remain in continuous compliance with the terms of his permit or this section; or
  - (d) Permits the tower and related structures' appearance to deteriorate; or
  - (e) Allows the tower and related structures to become a danger to public safety; or
  - (f) Allows weeds or other vegetation to accumulate; or
  - (g) Uses the site for storage or allows any accumulation of materials, then the building inspector shall revoke the permit.
- (3) Upon revocation of the permit, the owner or operator shall dismantle and remove the tower and related structures and clear the site.

s. Removal of facilities.

- (1) The owner of a CF shall establish a cash security fund or provide the city with an irrevocable letter of credit in a form acceptable to the city attorney in an amount which shall be determined and defined in the permit as satisfactory to secure the cost of removing the antenna, antenna array, tower, or other facility. In the event of a transfer of ownership, the seller shall be responsible for notifying

- the buyer of this requirement and for notifying the city of the transfer.
- (2) CFs that have, due to damage, lack of repair, or other circumstances, become unstable, lean significantly out-of-plumb, or pose a danger of collapse or falling shall be removed or brought into repair within sixty (60) days following notice given by the building official. If the CFs are not made safe or removed within sixty (60) days of notification from the city, the city may remove the CFs and place a lien on the property for the costs of the removal. The building official may order immediate action to prevent an imminent threat to public safety or property.
  - (3) CF is considered abandoned after 180 days of no active communications. The CF must be removed and the site must be restored to substantially its original condition at the owner's expense within ninety (90) days from the cessation of active communications. The security fund shall be returned or the letter of credit shall be released once the site has been returned to substantially its original condition in the time indicated by the owner. In the event the owner fails to remove the CF or the city receives notice that the irrevocable letter of credit will not be renewed, the city shall be entitled to use the cash security fund or letter of credit to remove the CF. Any remaining balance in the cash security fund or the irrevocable letter of credit shall be collected by the city as a penalty for failure to remove the CF and deposited in the general fund.
- t. Assignment of conditional use permit. The owner of a CF may assign or transfer to a subsequent purchaser of the CF the conditional use permit, with the city's prior consent. It shall be a condition of the city's consent that the new owner establish a cash security fund or provide the city with an irrevocable letter of credit in compliance with subsection (L) above.
- u. Expiration of conditional use permit. A conditional use permit for a CF shall become null, void and nonrenewable if the permitted CF is not constructed within one year of the date of issuance, provided that the conditional use permit may be extended one time for six months if construction has commenced before expiration of the initial year.
- v. Effective date and effect on pre-existing and permitted CFs.
- (1) The requirements of this subsection (11) apply to any CF and the expansion and/or alteration of any existing CFs; provided that an in-kind or smaller replacement of transmission equipment will require only a written notification to the city.
  - (2) A CF which was in existence on the date of the original adoption of this subsection (11) (February 26, 2009) shall not be required to be

removed or relocated in order to meet the minimum distance requirements of this subsection due to subsequent platting of a residential lot nearer to the CF than the distance requirements of this subsection. However, any alteration to existing CFs shall require compliance with the applicable provisions of this code.

- w. Commencing without permit. It shall be unlawful to commence any portion of construction of or improvement to a CF, including all associated appurtenances, until the conditional use permit has been issued and any building permits required for such work under the city's codes have been obtained.
  
- x. Dish antenna. Personal dish antennas are exempt from the provision of this subsection (11) but shall be required to abide by the following regulations to the extent they do not violate any federal regulations:
  - (1) Dish antenna shall not be permitted in any front setback area or side yard setback adjacent to any roadway.
  - (2) Ground mounted dish antennas mounted on masts over to six (6) feet in height shall be screened from roadways and adjacent property by a minimum six (6) foot high screening fence, evergreen hedge or masonry wall.
  - (3) Dish antennas mounted on masts in excess of twelve (12) feet in height shall not be permitted on any property used for residential purposes.
  - (4) Building/roof-mounted dish antennas two meters or less in diameter are permitted on all buildings in excess of 5,000 square feet of building floor area, subject to subsection (i) above.
  - (5) One (1) building/roof-mounted dish antenna two meters or less in diameter is allowed per living unit, including each living unit within a multifamily building.
  - (6) Building/roof-mounted dish antennas in excess of one meter in diameter mounted on residential properties shall be painted to have an appearance that blends with the building on which they are located or be located so that they are not visible from any adjacent roadway.
  - (7) Building/roof-mounted dish antennas in excess of two meters in diameter on commercial buildings shall be painted or screened with enclosures so as to have an appearance that blends with the building on which they are located or be located so that they are not visible from any adjacent roadway.
  
- y. Amateur or citizen's band radio antenna. Noncommercial, amateur, ham radio or citizen's band radio antenna-supporting structures; antenna or antenna arrays which are less than forty (40) feet in height in residential and neighborhood service districts are exempt from the provisions of this

subsection (11), however, any person constructing and/or operating an antenna-support structure, antenna or antenna arrays less than the height enumerated above shall, upon request from the city building official, provide evidence of a valid FCC amateur license for operation of an amateur facility. Failure to demonstrate a valid license upon request shall be cause for issuance of a code violation citation and the person shall either furnish a valid FCC license or remove the structure within fifteen (15) days of the issuance of the citation. Noncommercial, amateur, ham radio or citizen's band antenna-supporting structures, antennas or antenna arrays with a height greater than as provided herein shall be regulated in accordance with this subsection (11).

z. Violations and penalty.

- (1) A person who violates any provision of this subsection (11) is subject to prosecution for a class C misdemeanor.
- (2) The city shall also have, in addition to the penalty above described, the authority to seek temporary and permanent injunctive relief, as well as the authority to seek recovery of the city's costs, including remediation costs, through judicial action.

12. Large vehicle parking. Where permitted, the following regulations and criteria shall apply:

- a. Purpose. The purpose of this subsection is to authorize the use of property, where permitted in accordance with this chapter, as a parking lot for large vehicles used for a business. This section does not authorize a commercial parking lot for large vehicles; the property and the vehicles must be owned by the same person or the same business. This requirement is satisfied if the owner of the property is also an owner of the business, or vice versa. Adequate proof of compliance with this requirement must be provided at the time of application for the conditional use permit.
- b. Limitations: Location and number of vehicles. Large vehicle parking may only be allowed in the B-2 District. A maximum of vehicles per acre to be permitted on the property will be determined by council as part of each conditional use permit.
- c. Screening. The property shall be effectively screened by a sight-obscuring fence no less than six (6) feet in height, hedges, or plantings on each side where the property adjoins a residential use or an O or B-1 District or is situated in a residential area.
- d. Hazardous materials storage. No vehicle that stores or has stored hazardous material may be parked on the property, including but not limited to fuel tankers or vehicles rated to transport hazardous material.

(e.g., no fuel tankers, or rated transport matter). No hazardous material may be stored on the property.

e. Parking space and parking lot design.

- (1) Parking space dimensions. Parking spaces shall have minimum dimensions of 9 feet in width by 18-1/2 feet in length.
- (2) Aisle widths. Drive aisle widths shall comply with the following standards:

<b>Minimum Width for Specified Parking (in feet)</b>			
90°	75°	60°	45° or less
26	23	16	12.5

Note: Two-way aisles shall always require a minimum width of 26 feet.

f. Markings.

- (1) Each parking space shall be identified by surface markings at least 4 inches in width. Markings shall be visible at all times. Such markings shall be arranged to provide for orderly and safe loading, unloading, parking and storage of vehicles.
- (2) One-way and two-way accesses into required parking facilities shall be identified by directional arrows.
- (3) Surfacing and maintenance. All parking areas, drive aisles, internal roadways, and loading areas for all uses shall be paved and kept in a dust-free condition at all times.

g. Access. Required parking spaces shall not have direct access to a street or highway. Access to required parking spaces shall be provided by on-site driveways. Parking spaces shall be accessible without backing into or otherwise reentering a public right-of-way.

h. Use of required parking spaces. Parking areas shall be used solely for the parking of licensed, registered motor vehicles in operating condition. Required spaces may not be used for storage of trash dumpsters, the display of goods for sale or lease, for motor vehicle repair or service work of any kind, storage of motor homes, campers, mobile homes, or building materials, or for display or storage of vehicles for lease, sale or rent.

i. Additional criteria. Compliance with any additional regulations and criteria established by the City Council as a condition of granting the conditional use permit is required.

13. Long-term mobile food vendors.

- a. Purpose. To allow mobile food vendors (MFVs) to operate long term, as provided for and described in article 4.08 of chapter 4 of the city code.
  - b. As provided in section 4.08.002(g)[(h)], when a long-term MFV is proposed to be located on private property along with an existing business, the property owner must apply for and receive a conditional use permit before the MFV permit can be issued. The following conditions shall apply:
    - (1) The applicant must provide a written agreement between the existing business owner and the long-term MFV for utility usage and access to the business's restroom facilities by the MFV's employees.
    - (2) The MFV unit location must observe all setback requirements as though the MFV was a permanent structure.
    - (3) City staff may require that amenities such as multiple trash bins be provided based on the proposed use and hours of operation.
    - (4) The MFV unit must be inspected by the fire marshal every six months.
14. Farmer's/artisan market to include any criteria and conditions.
- a. There shall be only one (1) active farmer's/artisan market in the City of Jonestown at any time.
  - b. An applicant shall submit an application for a farmer's/artisan market zoning permit using a format and method developed by the City of Jonestown. A conditional use permit zoning change fee as provided in the fee schedule shall accompany the application along with a separate permit application fee. The application shall contain the name of the responsible party.
  - c. The minimum parking spaces shall be 2.25 spaces per vendor.
  - d. The applicant shall obtain the property owner's consent to be presented in writing at the time of application for a conditional use permit zoning change.
  - e. Applicant shall ensure adequate restroom facilities are provided either on-site or by arrangement with adjacent businesses.
  - f. Applicant shall ensure utilities (i.e., water, electricity, gas, etc.) are available to service the farmer's/artisan market.
  - g. Applicant shall submit a site plan with the application meeting the intent and requirements of this, and all other ordinances of the city, and must be

approved by the planning and zoning commission and the City Council. The site plan at a minimum must contain the following:

- (1) Site/property boundary
  - (2) Location of vendor booths
  - (3) Vendor parking/staging areas
  - (4) Event parking (on-site) and (off-site)
  - (5) Restroom location(s)
  - (6) Vendor check-in area
  - (7) Entrance and exit
  - (8) Boundary streets
  - (9) Adjacent property uses, (i.e. business, residential, etc.- zoning)
  - (10) Any structures or fixtures on the site
  - (11) Indicate any street to be closed and approval from police dept; and
  - (12) Other conditions of operation to consider or statements to include on the application such as written documentation of any agreements for providing restroom facilities and daily trash removal.
  - (13) Locations for signage and trash containers and proof of compliance with sign ordinance.
- h. Health inspections, as may be required, shall be conducted in accordance with state law and Travis County Health Department regulations, as amended. All itinerant vendors shall have their own individual licenses and certificates as required by the state and/or health inspector.
- i. The location and/or use shall not create a nuisance or interfere with surrounding properties (i.e., will not interfere with a neighbor's enjoyment of his property or business).
- j. Vendor spaces or staging areas shall not hinder or impede sidewalk, street traffic or any adjacent business parking.
- k. City or other governmental agency may inspect market and/or vendor spaces during operation.
- l. The applicant shall establish designated days and hours of operation which must be approved by the city in issuance of the permit (i.e., Saturday and/or Sunday, 9:00 a.m.–3:00 p.m.). Both open hours and set-up/tear-down time should be designated. A vendor shall not claim use of or occupy a vendor space except during the time the market is authorized to operate. A vendor may operate for one hour prior to and one hour following the hours of sales each day.

- m. All required permits and/or licenses shall be readily displayed in a conspicuous area so that the general public may inspect them (i.e. sales tax permit, health permit, etc.).
  - n. The following sales shall be prohibited:
    - (1) Alcohol sales
    - (2) Second-hand articles and cut-rate merchandise
    - (3) Mobile food vendors
  - o. Items for sale shall include a statement that the merchandise offered for sale has been created or produced by the vendor. Exception: Any space in the market used by a public or non-profit organization will not be required to grow, make or process the goods themselves.
  - p. The approval of a conditional use permit establishing a farmer's/artisan market does not create a permanent right to use and is not to be construed to authorize abandonment or vacation of a public street, sidewalk or alley.
  - q. The city may terminate the farmer's/artisan market's conditional use permit at any time without notice for violations of the provisions of this section of the city code or provisions related to health, safety or sanitation.
15. Overhead crane: Where permitted, the following regulations and criteria shall apply:
- a. The crane shall be stored inside a building when not in use and after normal business hours.
  - b. When used outside of the building, the crane shall be used only to load and unload trucks.
  - c. No storage, in-process or finished goods materials in the area in front of the main building unless screened from the public. The screening type and height shall be approved by the City Council.
  - d. The applicant shall submit a site plan with the conditional use permit application depicting the location of the overhead crane, tracks, loading and unloading area(s), and screening.
16. Vehicle inspection station. Where permitted, the following regulations and criteria shall apply:
- a. Must operate only as a vehicle inspection station as defined in Article 10 of this Code and is prohibited from any other uses such as, but not limited to, changing tires, automobile repair, and collision damage repair.



- b. No overhead doors facing FM 1431.
  - c. Protected trees must be saved in accordance with this Code.
- C. *Procedure.* Before authorization of any of the above conditional uses, public notice shall be given and public hearings shall be held as provided in chapter 211, Texas Local Government Code, as amended; and after a public hearing is held by the City Council and after having received a report and recommendation from the commission concerning the effect of the proposed use on the adjacent and neighboring properties and neighborhoods, provided that a conditional use permit for a period not to exceed seven (7) calendar days may be issued by the building official for a use set forth in (3).
- D. *Reapplication After Denial of Conditional Use Permit.* For 90 days after denial of an application for a conditional use permit, no application for the same or similar conditional use on the property identified in the denied application may be submitted. Any such application that is submitted within 90 days after denial of the previous application shall be returned to the applicant with no action taken.

### **Section 3.1.19 Non-Conforming Uses**

- A. *General policy.* Nonconforming conditions are to be avoided in the use and development of land and buildings, or eliminated where now existing, whenever and wherever possible, except:
  - 1. When necessary to preserve property rights established prior to the date these regulations become effective as to the property in question; and
  - 2. When necessary to promote the general welfare and to protect the character of the surrounding property.
- B. *Nonconforming structures.* Where a lawful structure exists on the effective date of the adoption or amendment of this article, that could not be built under the terms of this article by reason of restrictions on permitted use, area, lot coverage, height, years, its locations on the lot, or other requirements concerning the structure, such structure may be continued as long as it remains otherwise lawful, subject to the following provisions:
  - 1. No such nonconforming structure may be enlarged or altered in a way, which increases its structural nonconformity, but any structure or portion thereof may be altered to decrease its structural nonconformity.
  - 2. Should such nonconforming structure or nonconforming portions of a structure be damaged by any means to an extent of more than fifty (50) percent of its replacement cost at the time of destruction, it shall not be reconstructed except in conformity with this article.

3. Should such structure be moved for any reason for any distance whatsoever, it shall thereafter conform to the regulations of the district in which it is located after it is moved.
- C. *Nonconforming uses.* A nonconforming use may be continued as long as it remains otherwise lawful, subject to the following provisions:
1. No existing structure devoted to a nonconforming use shall be enlarged, extended, constructed or reconstructed.
  2. The use of the structure shall only be changed to a use permitted in the district in which it is located.
  3. A nonconforming use that has been discontinued may be resumed only if there has been no other use of the premises or structure since the nonconforming use was discontinued, and such use was not discontinued for a period of ninety (90) days or more.
  4. Removal or destruction of a structure containing a nonconforming use shall eliminate the nonconforming use status. Destruction for the purpose of this subsection is defined as damage equal to one hundred (100) percent of the replacement cost of the structure, as determined by the building inspector.
- D. *Repairs and maintenance.* On any nonconforming structure, or nonconforming portion of a structure, containing a nonconforming use, repairs and maintenance shall be performed to maintain the structure in compliance with the electrical, plumbing and building codes; provided that such repairs and maintenance shall be subject to the following conditions and limitations:
1. No work may be done in any period of twelve (12) consecutive months on ordinary repairs, or on repair or replacement of non-loadbearing walls, fixtures, wiring or plumbing, to an extent exceeding twenty-five (25) percent of the current replacement cost of such structure or nonconforming portion of such structure.
  2. If fifty (50) percent or more of the nonconforming structure containing a nonconforming use becomes physically unsafe or unlawful due to lack of repairs or maintenance, and is declared by a duly authorized official to be unsafe or unlawful by reason of physical condition, it shall not thereafter be restored, repaired or rebuilt except in conformity with the regulations of the district in which it is located.
- E. A manufactured home occupying a lot as of January 1, 2008, that is located outside of a district in which manufactured homes are authorized under this article, may be replaced one time by a newer manufactured home (the "replacement manufactured home"), provided that the replacement manufactured home is at least as large in living space as the prior manufactured home. The limitation of a single replacement does not apply to a

manufactured home that is replaced due to damage caused by a natural disaster, including a fire. Use of the property for a purpose other than a manufactured home site after removal of the manufactured home shall extinguish the property owner's right to install a replacement manufactured home under this section.

### **Section 3.1.20 Accessory Uses**

- A. *Purpose-Residential.* The purpose of the residential portion of this section is to create a convenient living arrangement that allows one accessory dwelling unit on the same lot as the primary single-family dwelling unit, provided it complies with the criteria in this section.
- B. *Accessory Dwelling Unit Criteria.* An accessory dwelling unit must:
1. Not be less than 200 square feet or greater than 400 square feet or more than 25% of the primary dwelling, whichever is less;
  2. Not be constructed before the construction of the primary dwelling unit;
  3. Be owned by the same owner as the owner of the principal dwelling unit;
  4. Be limited to one accessory dwelling unit per property;
  5. Not be rented or sold separately from the sale or rental of the entire property;
  6. Share the utility (i.e., water, electrical, gas) meter with the primary dwelling unit;
  7. Share the septic system permit with the primary dwelling unit;
  8. Be site-built and designed and constructed such that it is in keeping with the general architecture and building materials of the principal dwelling construction. Metal, prefabricated or manufactured buildings, and motor homes (RVs) are not permitted;
  9. Have at least one additional parking space more than the spaces required for the principal dwelling unit.
  10. Meet all applicable requirements of this chapter, including maximum impervious cover standards in chart 5.
  11. Meet all existing building code requirements as are required for the primary dwelling unit.
- C. *Accessory Buildings and Structures (Except Accessory Dwelling Units).*

1. Generally. The construction and use of accessory buildings and structures, except accessory dwelling units, are subject to the standards of this Subsection.
2. General Standards for All Accessory Buildings and Structures. All accessory building and structures shall be subject to the following standards:
  - (a) Timing of Construction. No accessory building or structure may be erected on a lot until construction of the principal building or establishment of a principal use has commenced.
  - (b) Location.
    - (1) In all zoning districts, accessory buildings and structures shall meet the required setbacks as applicable; unless expressly excepted as a permitted encroachment.
    - (2) Accessory buildings and structures are not allowed in easements unless written permission is given by the easement holder; such permission shall be submitted with the application for a permit.
3. Design. Accessory buildings and structures shall comply with the provisions set out below:
  - a. A portable storage shed is considered an accessory structure with regards to the maximum number allowed and maximum combined footprint allowed provided that it meets the following:
    - (1) It meets the square footage and height requirements for the zoning district in which it is located;
    - (2) It is freestanding, moveable, and has no permanent foundation;
    - (3) It does not contain plumbing or electrical installations; and
    - (4) It is screened from ground-level view of abutting streets and properties.
  - b. Accessory buildings or structures which are structurally attached to the principal building shall conform to all the standards of the principal building.
  - c. Accessory buildings and structures associated with nonresidential, mixed-use or apartment development shall comply with the exterior building material requirements of the principal structure. The accessory building or structure shall be finished with the same materials as the principal structure or use materials that are aesthetically compatible and complementary.

*DIVISION 3.2 SUPPLEMENTAL REGULATIONS FOR ZONING DISTRICTS*

**Section 3.2.1 Mobile Homes, Manufactured Homes and Modular, Industrial Housing**

- A. No mobile home shall be placed, located or installed on any lot, tract or parcel of land within the city after the effective date hereof.
- B. No manufactured home may be placed or located on any lot, tract or parcel of land that is not specifically zoned for use and occupancy by manufactured homes, except as provided in this article.
- C. No Industrialized Housing may be placed or located on any lot, tract or parcel of land that is not specifically zoned for such use and occupancy, except as provided by this article.

**Section 3.2.2 Mobile Homes and Manufactured Homes**

- A. *Definitions.* See Article 9 for applicable definitions.
- B. *New Installations of Mobile Homes Prohibited.* No mobile home shall be moved into the city. No mobile home shall be placed, located or installed on any lot, tract or parcel of land within the city after the effective date hereof.
- C. *Use and Occupancy Generally; Construction Standards.*
  - 1. Every mobile home and manufactured home that is located within the incorporated city limits on property zoned residential shall be used as a single-family dwelling only.
  - 2. Every mobile home and manufactured home located within the city on property zoned for any commercial, office or business use shall be used for the permitted business occupancy only. No manufactured home may be installed or moved into or relocated within the city, after the effective date of this section, for any commercial, office or business occupancy, save and except as provided in sections 3.2.2.D and 3.2.2.F.
  - 3. All manufactured homes must be constructed in compliance with the Texas Manufactured Housing Standards Act, Texas Occupations Code, Ch. 1201, and the rules and regulations of the U. S. Department of Housing and Urban Development.
- D. *Use of Manufactured Home as Temporary Office.* A manufactured home may be used as a temporary construction office, or a temporary sales office within a development, if, prior to the commencement of such use, the owner secures a temporary occupancy or use permit from the planning and zoning commission of the city. Subsection E below shall not be applicable to a manufactured home that is permitted under this section for use as a construction or sales office for a term of six (6) months or less.

E. *Minimum Size; Installation; Skirting.*

1. Every mobile home and manufactured home within the incorporated city limits, whether used for residential or commercial purposes:
  - a. Shall be at least eight hundred and forty (840) square feet in size; provided, however, that this requirement shall not apply to those mobile homes and manufactured homes located within the city on or before October 3, 1985, or to manufactured homes used as a temporary office as permitted pursuant to subsection D above.
  - b. Shall be installed in accordance with the standards and requirements of the state department of housing and community affairs and the manufactured housing board. This section shall apply to all mobile homes and manufactured homes located within the city as of October 3, 1985; to mobile homes and manufactured homes moved onto or parked on any lot or other property within the city after October 3, 1985, and prior to the effective date of this section; and to all manufactured homes moved into or relocated within the city after the effective date of this section, as follows:
    - (1) With respect to any mobile home or manufactured home located within the city as of October 3, 1985, the installation required pursuant to this section shall have been completed within thirty (30) days after October 3, 1985.
    - (2) With respect to any mobile home or manufactured home moved onto or parked on any lot or other property within the city after October 3, 1985, and prior to the effective date of this section, the installation required pursuant to this section shall have been completed prior to the occupancy of said mobile home or manufactured home for any residential or commercial purpose.
    - (3) With respect to each manufactured home moved onto or parked on any lot or other property within the city after the effective date of this section, the installation required pursuant to this section shall be completed within thirty (30) days, and must be completed prior to the occupancy of said manufactured home for any use.
    - (4) Shall have cementitious siding, concrete, rock or plaster skirting around or along the border or edge of the base of the mobile home or manufactured home so that the space between its frame and the ground is completely enclosed.
2. For any mobile home or manufactured home of any size already located within the city as of October 3, 1985, the skirting required pursuant to this section shall have been completed within sixty (60) days of October 3, 1985.

3. For any mobile home or manufactured home located, installed or placed within the city after October 3, 1985, and prior to the effective date of this section, the skirting required pursuant to this section shall have been completed within sixty (60) days of the date on which said mobile home or manufactured home was moved onto or parked on any lot or other property within the incorporated city limits.
  4. For any manufactured home located, installed or placed within the city after the effective date of this section, the skirting required pursuant to this section shall be completed within sixty (60) days of the date on which said manufactured home is moved onto or parked on any lot or other property within the incorporated city limits.
- F. *Manufactured Homes Exhibited for Sale by Licensed Retailer.* The terms, provisions and conditions of Section 3.2.2.E shall not be applicable to manufactured homes that are not occupied and that are exhibited for sale on property that is zoned “commercial,” is used solely for the retail sale of manufactured homes and directly related incidental uses, is used and occupied by a person that is a licensed retailer under a license issued by the state department of housing and community affairs, and does not have any mobile home or manufactured home stored, located or parked thereon that is not “habitable” as provided in Texas Occupations Code, Ch. 1201.
- G. *State Inspection.* No manufactured home that has been previously occupied and is then more than five (5) years old, and no manufactured home that the building inspector observes to be damaged or deteriorated, may be located, placed or installed in the city after the effective date of this article unless it is first documented to the city that the manufactured home has been inspected and found to be habitable by the manufactured housing division of the state department of housing and community affairs, or an inspector licensed by that department. The inspection documentation shall be dated after the later of the date the apparent damage occurred or the date the manufactured home was last occupied.
- H. *Zoning Regulations.* No manufactured home may be placed or located on any lot, tract or parcel of land that is not specifically zoned for use and occupancy by manufactured homes, except as provided in this article or the zoning ordinance of city.
- I. *Permit.* No manufactured home may be moved into or installed within the city, except as provided in subsection F, prior to a permit being issued therefor by the building inspector of the city. The building inspector shall grant or deny the permit within forty-five (45) days of the date a complete permit application is filed with the city. If application is made to place or install a manufactured home on property that is not properly zoned for such use or occupancy, the building inspector shall deny the permit application and advise the applicant that an application for rezoning or a temporary use permit may be made to the planning and zoning commission.

- J. *Adoption of State Law.* Texas Occupations Code, Ch. 1201, as amended from time to time, is hereby adopted in its entirety. If any term or provision of this article shall conflict with any term, provision or requirement of Texas Occupations Code, Ch. 1201, or any comparative state or federal law, rule or regulation, the terms and conditions of Texas Occupations Code, Ch. 1201 or such state or federal law, rule or regulation shall govern and control.

### **Section 3.2.3 Industrialized Housing Building Unit Standards**

- A. *Applicability.* This Section applies to single-family and duplex industrialized housing, as defined by and regulated by the Texas Manufactured Housing Standards Act (Article 5221f and 5221f-1, V.A.C.S.) and the Texas Occupations Code Chapter 1202, Industrialized Housing and Buildings.
- B. *Generally.* Industrialized homes in the City limits are regulated the same as a traditional site-built home. Industrialized homes must meet or exceed all applicable local building codes, zoning and development regulations, and licensing and permitting requirements that pertain to construction of traditional site-built single-family or duplex dwelling units. Industrialized housing is often commonly referred to as modular housing.
- C. *Industrialized Housing Design Standards.* Per the Texas Occupations Code §1202.253, single-family and duplex industrialized housing shall:
1. Have a value, after installation of the housing unit as determined by the appraisal district, equal to or greater than the median taxable value for each single-family detached dwelling unit located within 500 feet of the lot on which the industrialized housing is proposed to be located, as determined by the most recent certified tax appraisal roll for the county;
  2. Have exterior siding, roofing, roof pitch, foundation fascia, and fenestration compatible with the single-family dwellings located within 500 feet of the lot on which the industrialized housing is proposed to be located;
  3. Comply with the design standards, building setbacks, side and rear building setbacks, subdivision requirements, landscaping, square footage, and other site requirements applicable to single-family dwellings; and
  4. Be securely fixed to a permanent foundation.
- D. *Additional Application Materials.* In addition to application materials required for all new residential development, the Building Official shall require the following:
1. A confirmation that the proposed industrialized housing unit complies with the design standards set out in this Section; and



2. A complete set of designs, plans, and specifications bearing a stamp of approval Texas Industrialized Building Code Council.
- E. *Additional On-Site Inspections.* To ensure compliance with design, plans, and specifications, the following on-site inspections are required by the Building Official:
1. Confirmation that each module or Modular Component bears an approved decal or insignia by the Texas Department of Licensing and Regulation signifying that each module or Modular Component has received a post-construction inspection ensuring conformance with state-mandated building codes;
  2. The construction of the foundation system; and
  3. The erection and installation of the modules or Modular Component(s) on the foundation.

#### **Section 3.2.4 Parking**

- A. *Conformity to Parking and Loading Space Requirements.* No structure or building shall be erected, converted, reconstructed, or enlarged or structurally altered by more than twenty-five percent (25%) of the structure or building's floor area (cumulative of all renovations) unless it shall conform to the off-street parking and loading standards in this article.
- B. *Off-Street Parking and Loading Standards.*
1. Every building or structure hereafter erected shall provide and permanently maintain parking spaces as required by this chapter.
  2. Whenever an existing use which does not provide all of the off-street parking spaces required by this chapter is enlarged by an increase in dwelling units, floor area or otherwise, there shall be provided concurrently with such enlargement, the number of parking spaces that is necessitated by the magnitude of such enlargements. Further, whenever an existing use ceases to actively occupy a building and within one year is replaced by another use that would require an increased number of parking spaces, there shall be provided an additional number of parking spaces that is equal to the difference between that required by the existing use and that required by the other use. Except for residential uses, in addition to the parking requirements set out in Table 2, one space for each vehicle operated or kept in connection with the use shall be provided. Each such space shall be sized to safely accommodate the specific vehicle operated or kept.
  3. All required off-street parking shall be on-premises, and provided at the location, on the same lot, where the building it serves is located.

4. Exception. The board of adjustments may approve off-premises parking when the request meets all of the following conditions:
  - a. The lot is zoned to the O, B-1 or B-2 zoning district and located in the FM 1431 Corridor.
  - b. The off-premises lot is located no more than 200 lateral feet from the business it will serve.
  - c. The entity making the request provides proof of ownership, or a ten-year lease, for the proposed off-premises lot.
- C. *Application of Off-Street Parking and Loading Standards.* The off-street parking and loading standards in this article apply to any building constructed and to any use beginning after the effective date of this article.
- D. *Expansions and Alterations.* The off-street parking and loading standards of this article apply when an existing structure or use is expanded or enlarged. Additional off-street parking and loading spaces will be required to serve the entire building or use. The number of off-street parking and loading spaces provided for the entire use (preexisting + expansion) shall equal at least 100 percent of the minimum requirement established in the tables 1 and 2, off-street parking requirements tables.
- E. *Handicap Parking.* Nonresidential handicap parking requirements must meet Americans with Disabilities Act requirements and Texas Disability Standards.
- F. *No Reduction Below Requirement.* Existing parking and loading spaces may not be reduced below the requirements established in this article. Any change in use that increases applicable off-street parking or loading requirements will be deemed a violation of this article unless parking and loading spaces are provided in accordance with the provisions of this section.
- G. *Screening Requirements.* Off-street parking areas for more than five (5) vehicles shall be effectively screened by a sight-obscuring fence, hedge or planting, on each side, where the parking area adjoins a residential use or is situated in a residential area. To the extent applicable, the requirements of Section 3.2.6.43 shall apply.
- H. *Motorcycle/Bicycle Parking Requirements.*
  1. Parking spaces for motorcycles shall be provided as follows:
    - a. All multiple-family developments and nonresidential uses may provide one motorcycle space for every 25 required automobile spaces in lieu of a required automobile space.
    - b. Each motorcycle space shall be easily accessible and have adequate space for a standard-size motorcycle.

- c. Motorcycle parking areas shall be clearly identified with appropriate striping.
- 2. All commercial, industrial, institutional, and recreational uses which require 25 or more spaces pursuant to this chapter shall provide a designated bicycle parking area to accommodate a minimum of five bicycle spaces. Such bicycle parking areas shall provide a secure facility (e.g., rack, posts) to which to lock bicycles and shall be located so as to be reasonably convenient to the on-site use and not interfere with pedestrian and automobile traffic. Prior to issuing permits for facilities requiring 100 or more parking spaces pursuant to this chapter and/or uses with high expected bicycle traffic (e.g., schools) the city may require reasonable additional bicycle parking capacity over and above the minimum five spaces.
- I. Compact parking spaces. Whenever five or more spaces are required, no more than 30 percent of the required parking spaces should be compact parking spaces.
- J. Development and maintenance standards for parking areas. Every parcel of land within the city shall comply with the following off-street parking requirements:
  - 1. Off-street parking required by this chapter shall be located:
    - a. On the same site as the use necessitating such parking; or
    - b. Within a 300-foot walking distance measured from the nearest point of the parking facility to the nearest point of the building that such parking is required to serve.
  - 3. Application of alternative (ii) of subsection (9) of this subsection shall be subject to approval of an agreement by the city attorney which assures that the property is owned or leased by the owner or lessee of the lot or parcels containing the building or uses to be served and which assures the property will be maintained in parking lot use in conformance with this chapter as long as the building or use that it serves is continued. The city attorney shall not approve such an agreement unless he finds that the proposed parking lot will adequately serve the parking needs for which it is intended without adversely affecting neighboring properties or the use of other public and private parking facilities in the vicinity. An approved agreement shall be recorded by the applicant with the Travis County clerk and a conformed copy shall be provided prior to issuance of any building permits for a proposed project.

**TABLE 1. OFF-STREET PARKING REQUIREMENTS – RESIDENTIAL  
(RR, R-1, R-2, R-3)**

<b>General Uses</b>	<b>General Requirement</b>	<b>Additional Requirement</b>
Zoning districts RR, R-1 and R-2 on lots of 10,000 square feet or more	2 per dwelling unit	2 enclosed garage parking spaces per dwelling unit
Zoning districts RR, R-1, and R-2 on lots 6,000 square feet in size or greater and less than 10,000 square feet	2 per dwelling	1 enclosed garage parking space per dwelling unit
Zoning district R-1 and R-2 on lots of less than 6,000 square feet	2 per dwelling unit	
Zoning district R-3	1.5 per 1-bedroom unit 2 per 2-bedroom unit 2.5 per 2+ bedroom unit	Additional 5 percent of total number of required spaces
<b>Specific Uses</b>		
Guest or domestic employee quarters	1 per bedroom unit	
Home-based business	NA	
Zoning district R-3: Group homes	2	1.5 per 2 employees
All other group living	1 per 2 bedrooms	1.5 per 2 employees
Amenity centers	1.5 per 250 sq. ft. GFA	
Bed and Breakfast	1 per bedroom	1.5 per 2 resident owners
Community parks	Varies	Parking requirement based on use in park; must be reviewed and approved by City Council
Community service	1 per 250 sq. ft. GFA	
Elementary schools	3 per classroom	
High schools	10 per classroom	
Middle schools	3 per classroom	
All other educational facilities	20 per classroom	

**TABLE 2. OFF-STREET PARKING REQUIREMENTS, NONRESIDENTIAL  
(GUI, O, B-1, B-2, I-1)**

<b>General Use</b>	<b>General Requirement</b>	<b>Additional Requirement</b>
Auto service facilities	2 per service bay	Shall meet off-street stacking space requirements from this section

<b>General Use</b>	<b>General Requirement</b>	<b>Additional Requirement</b>
Carwash, full service	1 per 150 sq. ft. GFA	Shall meet off-street stacking space requirements from this section
Child care	1 per 8 pupils	
Cemeteries, columbaria, mausoleums, memorial parks, and crematoria	1 per 50 interment plots (cemeteries and memorial parks); 1 per 350 sq. ft. GFA (mausoleum and crematorium)	
Entertainment, outdoor	1 per 250 sq. ft. GFA structural area	1 per two seats
Funeral home	1 per 100 sq. ft. GFA	Minimum of 20 spaces
Golf courses and country clubs	4 spaces per hole	1.5 per 250 sq. ft. GFA of accessory use structures
Government facilities	1 per 250 sq. ft. GFA	
Heavy equipment sales and leasing	1 per 250 sq. ft. GFA	1 additional per 500 sq. ft. GFA up to 50,000 sq. ft. GFA
Hospitals	1 per 3 patient beds	
Indoor entertainment activities	1 per 250 sq. ft. GFA, or, 1 per 4 seats for theatres	1 additional per 500 sq. ft. GFA up to 50,000 sq. ft. GFA; 1 per 1,000 sq. ft. thereafter, excluding theatres
Institutions	1 per 250 sq. ft. GFA	1.5 per 2 employees
Light industrial service, manufacturing, and assembly	1 per 500 sq. ft. GFA indoor facility, except indoor storage	1 additional per 1,000 sq. ft. GFA outdoor facility; 1 per 2,500 sq. ft. indoor storage area
Linear parks/linkages Trailheads	Varies	Parking requirement based on uses in park; to be reviewed and approved by City Council
Marinas	1 space per every 2 slips	
Medical office building	1 per 150 sq. ft. GFA	1.5 per 2 employees
Mineral extraction	1 per 300 sq. ft. GFA indoor facility	1.5 per 2 employees
Other overnight accommodations	1 per bedroom	1.5 per 2 employees; 1 per 150 sq. ft. conference space
Parking, commercial	None	1 per employee
Place of worship	1 per 3 seats	
Place of worship with accessory uses	1 per 3 seats in place of worship	Spaces necessary to accommodate accessory use based on requirement for accessory use
Professional and business office	1 per 150 sq. ft. GFA	

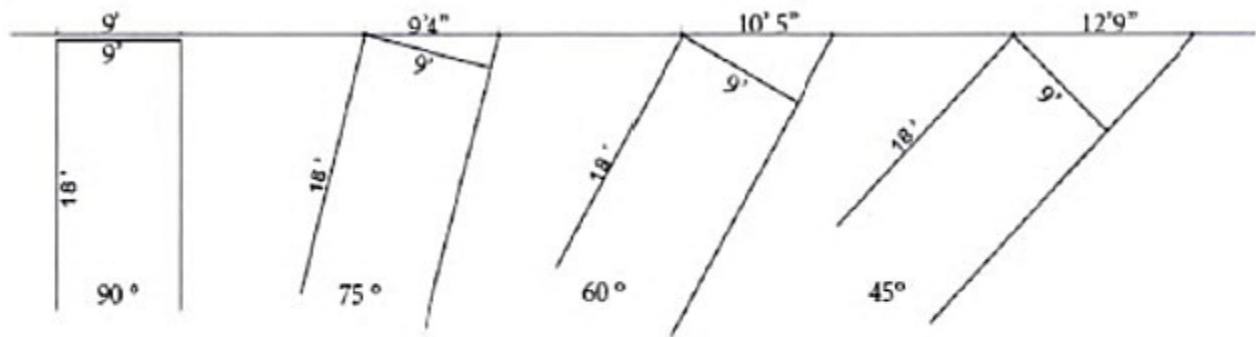
<b>General Use</b>	<b>General Requirement</b>	<b>Additional Requirement</b>
Restaurants and eating establishments	1 per 100 sq. ft. GFA (includes any outdoor seating and waiting areas)	
Self-service storage	1 space per 50 storage units	
Shopping centers larger than 100,000 sq. ft.	1 per 225 sq. ft. GFA	
All other retail sales and service	1 per 250 sq. ft. GFA	
Utilities — major	1 per facility	1 additional per 250 sq. ft. GFA; 1 per fleet vehicle
Utilities — minor/intermediate	1 per fleet vehicle	
Vehicle repair and body shop facilities	2 per service bay	Shall meet off-street stacking space requirements from this section
Vehicle sales, rental or leasing facilities	1 per 500 sq. ft. GFA indoor facility	1 additional per 1,000 sq. ft. GFA outdoor lot area
All other vehicle sales and service	1 per 250 sq. ft. GFA	5 per service bay
Warehouse and freight movement	1 per 500 sq. ft. GFA indoor facility, except indoor storage	1 additional per 1,000 sq. ft. GFA outdoor facility; 1 per 2,500 sq. ft. indoor storage area
Waste-related service	1 per 250 sq. ft. GFA	1 additional per 1,000 sq. ft. GFA outdoor facility; 1 per 2,500 sq. ft. indoor storage area
Wholesale trade	1 per 300 sq. ft. GFA indoor facility, except indoor storage	1 additional per 1,000 sq. ft. GFA outdoor facility; 1 per 2,500 sq. ft. indoor storage area
Wireless transmission facilities - traditional	1 per fleet vehicle	

K. *Shared and common parking.*

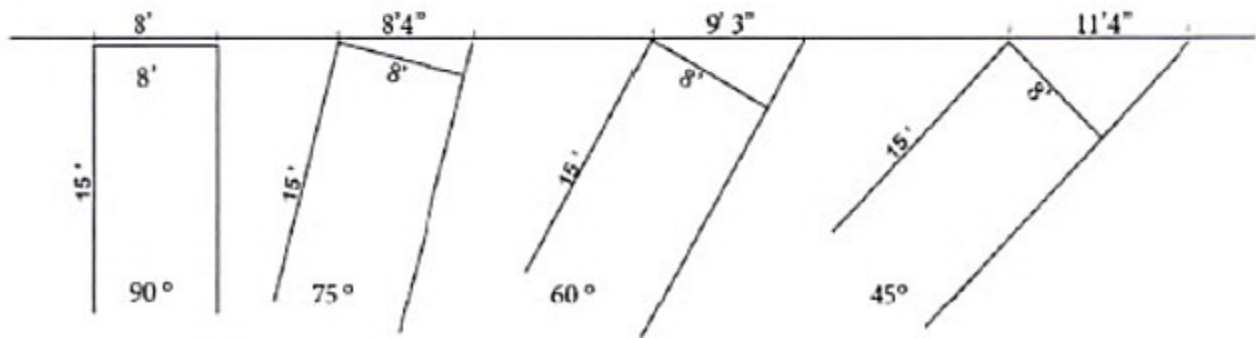
1. In limited cases, shared parking agreements, and reciprocal access parking agreements may be approved by the City Council.
2. Common parking facilities for two or more uses may be provided in lieu of individual requirements. Total parking requirements for common facilities shall be the sum of all uses computed separately, provided that the number of spaces may be decreased by 10 percent where common parking facilities provide no more than two access drives to any public street.

- L. Rules for computing requirements. The following rules apply when computing off-street parking and loading requirements.
1. Multiple uses. Lots containing more than one use shall provide parking and loading in an amount equal to the total of the requirements for all uses.
  2. When the application of this chapter requires a fractional part of an automobile parking space, a remaining fraction of one-half space or more shall be construed as one space; a remaining fraction of less than one-half space shall be disregarded.
  3. Area measurements. Unless otherwise expressly stated, all square-footage- based parking and loading standards shall be computed on the basis of gross floor area (GFA), which for purposes of computing off-street parking requirements, shall mean the gross floor area of the building measured from the exterior faces of the exterior walls or from the centerline of walls separating two buildings and shall include the following areas:
    - a. The area of each floor of the structure.
    - b. All attic space used for active commercial space.
- M. *Occupancy-Based Standards.* For the purpose of computing parking requirements based on employees, residents or occupants, calculations shall be based on the largest number of persons working on any single shift, the maximum enrollment or the maximum fire-rated capacity, whichever is applicable and whichever results in the greater number of spaces.
- N. *Unlisted Uses.* Upon receiving a development application for a use not specifically listed in the off-street parking requirements table, the building official shall apply the off-street parking standard specified for the listed use that is deemed most similar to the proposed use.
- O. *Parking Space and Parking Lot Design.*

### Standard Spaces



### Compact Spaces



1. Standard parking spaces.

Parking Angle	Space Width	Space Length (curb to drive angle)	Aisle Width 1-Way	Width at Curb
90 degrees	9'	18'	24'	9'
75 degrees	9'	22' 6"	22'	9' 4"
60 degrees	9'	21'	18'	10' 5"
45 degrees	9'	19' 10"	15'	12' 9"
Parallel	9'	24'	12'	n/a

2. Compact parking spaces.

Parking Angle	Space Width	Space Length (curb to drive angle)	Aisle Width 1-Way	Width at Curb
90 degrees	8'	15'	24'	8'
75 degrees	8'	20' 2"	22'	8' 4"
60 degrees	8'	16' 8"	18'	9' 3"
45 degrees	8'	16' 6"	15'	11' 4"



Parking Angle	Space Width	Space Length (curb to drive angle)	Aisle Width 1-Way	Width at Curb
Parallel	8'	21'	12'	n/a

- a. Standard motorcycle space: 9' x 4'.
- b. Two-way drive aisle shall always require a minimum width of 26 feet.

P. *Markings.*

- 1. Each required off-street parking space and off-street parking area shall be identified by surface markings at least 4 inches in width. Markings shall be visible at all times. Such markings shall be arranged to provide for orderly and safe loading, unloading, parking and storage of vehicles.
- 2. One-way and two-way accesses into required parking facilities shall be identified by directional arrows.

Q. *Surfacing and Maintenance.* All off-street parking areas, drive aisles, internal roadways, and loading areas for all uses shall be paved and kept in a dust-free condition at all times. Crushed granite or limestone may be used for drive aisles and off-street parking areas on properties zoned to the R-R, R-1, R-2, R-3, M-1, M-2, O, B-1, and B-2 districts that have a zero to one percent (0–1%) slope, with solid containment (such as concrete or rock), of the rock compacted with an approved stabilizer application. Drive approaches shall be paved with asphalt or concrete.

R. *Access.* Required parking spaces shall not have direct access to a street or highway. Access to required parking spaces shall be provided by on-site driveways. Off-street parking spaces shall be accessible without backing into or otherwise reentering a public right-of-way.

S. *Tandem Parking.* Tandem parking in the R-3 multifamily [district] shall be permitted only when it is located in front of a garage, which is attached to a dwelling unit and the tandem space is assigned only to the dwelling unit to which the garage is attached.

T. *Use of Required Parking Spaces.*

- 1. Required off-street parking areas shall be used solely for the parking of licensed motor vehicles in operating condition. Required spaces may not be used for storage of trash dumpsters, the display of goods for sale or lease, for motor vehicle repair or service work of any kind, storage of boats, motor homes, campers, mobile homes, or building materials, or for display or storage of vehicles for lease, sale or rent.

2. Recreational vehicles shall not be stored on any lot or street other than an improved residential lot of the owner except at an outdoor auto sales lot or in an approved commercial storage facility.
3. Commercial vehicles shall not be parked, placed, stored, or located on property zoned to the R-R, R-1, R-2, R-3, M-1, or M-2 districts except for:
  - a. An authorized emergency vehicle;
  - b. A vehicle making a verifiable pick-up or delivery;
  - c. A recreational vehicle, motor home, camper, travel trailer, or other vehicle designed for human habitation (excluding a manufactured home unless otherwise authorized in the district), provided that no more than one vehicle permitted under this subsection may be parked, placed, stored, or located on a property and provided further that such vehicle shall not be occupied either temporarily, for more than 14 days within any 6-month period or permanently while it is parked or stored on the property.

U. *Vehicle Stacking Areas.* Off-street stacking spaces shall be provided as indicated in the following table.

**TABLE 3. MINIMUM OFF-STREET STACKING SPACES**

<b>Activity Type</b>	<b>Minimum Spaces</b>	<b>Measured From</b>
Bank teller lane	4	Teller or Window
Automated teller machine	3	Teller
Restaurant drive-through	6	Order box
Restaurant drive-through	4	Order box to pickup window
Auto service facility stalls; vehicle repair and body shop stalls	2	Entrance to stall
Carwash stall, automatic	4	Entrance to wash bay
Carwash stall, self-service	3	Entrance to wash bay
Gasoline pump island	2	Pump island
Other activity	Determined by City Council	

- V. *Design and Layout.* Required stacking spaces are subject to the following design and layout standards.
1. Size. Stacking spaces shall be a minimum of 10 feet by 18 feet in size.
  2. Location. Stacking spaces may not impede on- or off-site traffic movements or movements into or out of off-street parking spaces.

3. Restaurant enterprises involving drive-up windows shall provide at least six stacking spaces for each window, equal to 18 linear feet for each stacking space. Bank facilities involving drive-up windows shall provide at least three stacking spaces for each window, equal to 18 linear feet for each stacking space. Other drive-up facilities shall provide stacking spaces to the determination of the community development director.
4. Drive-through lanes shall be separated by striping or curbing from off-street parking areas. Individual lanes shall be striped, marked or otherwise distinctly delineated.

W. *Parking and Storage of Large Vehicles and Equipment.*

1. Outdoor storage or overnight outdoor parking of tractor-trailers, semi-trucks, semi-trailers, or other vehicles having a gross vehicle weight rating of 17,000 pounds or more, shall not be permitted in any residential district or in GUI, O, B-1, B-2 districts, except as allowed by conditional use permit approved in accordance with this chapter. Construction equipment shall not be stored on lots in residential or commercial districts except during the period of permitted construction.
2. Screening from public rights-of-way or lower intensity residential uses shall be required in multifamily developments for areas designated or available for parking and storage of recreation vehicles, boats, small trailers and other noncommercial equipment. Such screening shall consist of permanent material such as concrete, masonry, wood, steel, etc.

X. *Off-Street Loading.*

1. No use of public right-of-way. At no time shall goods be loaded or unloaded from the right-of-way of a collector or arterial street. No part of any vehicle shall be allowed to extend into the right-of-way of a collector or arterial street while being loaded or unloaded.
2. Location. Plans for location, design and layout of all loading spaces shall be indicated on required site plans. Loading space size shall be based on need and in accordance with standard engineering requirements as determined by the building official.

Y. *Conflict with Use of Street or Alley.*

1. In no case shall any portion of a street or alley be counted as a part of a required parking space. All parking spaces and driveways shall be so located and designed as to avoid undue interference with the public use of streets. Alleys may be used as primary access for any single-family residential development or a maximum of

eight nonresidential parking spaces, upon approval by the development services and/or public works director or designee.

2. All parallel parking spaces in off-street parking areas or lots shall provide space adjacent to every parking space in order to allow a vehicle to go forward and back into a parking space.
- Z. *Parking Requirements for Uses Not Specified.* Where ambiguity exists in the application of off-street parking requirements, or where the parking requirements for a use are not specifically defined herein, the parking requirements for such use shall be determined by the planning director or the director's designee and such determination shall be based pursuant to this section. Such determination may be appealed to the board of adjustment.

### **Section 3.2.5 Lighting**

#### **Section 3.2.5.1 Purpose**

Dark night skies have social, ecological, cultural, economic, aesthetic and health benefits for the citizens of the city. Dark night skies are an asset and an important element of the city's appeal as a pleasant community in which to live, and that city policy seeks to protect. The purpose of this division is to provide uniform outdoor lighting standards to assure public safety and health, promote efficient and more cost-effective lighting, enhance the ability to view the night sky and promote a positive city image reflecting order, harmony and pride, thereby strengthening the economic, cultural, historical and residential stability of the city.

#### **Section 3.2.5.2 Scope and Applicability**

All outdoor and/or exterior lighting installed, replaced, or repaired after the effective date of this division shall be installed in conformance with the provisions of this division, applicable electrical code, energy codes, and building codes except as otherwise provided herein.

#### **Section 3.2.5.3 Jurisdiction**

- A. This division applies within the city limits of the city.
- B. Applicability within the city's extraterritorial jurisdiction (ETJ).
  1. Compliance with the requirements of this division is mandatory for improvements and developments within the city's ETJ in order to preclude light trespass from the ETJ into the city limits, to prevent light pollution and skyglow above the city, and to preserve the rural and historic character of the city and its environs.
  2. All outdoor lighting that is not in conformance with this division on property in the city's ETJ that is subsequently brought into the city limits ten (10) years after the effective date of this division shall be brought into conformance with this division.

Nothing in this subsection may be construed as to allow light trespass or any other form of nuisance from outdoor lighting.

**Section 3.2.5.4 Nonconforming Existing Lighting**

All existing outdoor lighting that was legally installed before December 9, 2021 and that does not conform with the standards, rules and regulations established by this division shall be deemed nonconforming. Nonconforming existing outdoor lighting shall be brought into compliance with this division upon the earlier of:

1. All nonconforming outdoor lighting located on a property for which an application for conditional use permit, subdivision approval, building permit for construction of a new building or site plan permit, is made shall be brought into compliance with this division before final inspection, issuance of a certificate of occupancy, final plat recordation, or occupancy of the improvement, whichever is applicable.
2. All nonconforming outdoor lighting, including publicly and privately owned lighting, shall be brought into compliance with this division not more than ten (10) years from December 9, 2021, after which all nonconforming lighting must be brought into compliance with the policy. Provided however, that the ten (10) year grace period is not applicable to lighting that creates a nuisance through light trespass or nuisance glare, which shall be remedied immediately upon notification by the City to the landowner that the lighting constitutes a nuisance as defined in these regulations.

**Section 3.2.5.5 Lighting Zones**

- A. Using table 1 as a guide, the city shall determine and maintain lighting zones within the boundaries of its corporate limits.
- B. The lighting zone of a parcel or project shall determine the limitations for lighting as specified in this division.

**Table 1. Lighting Zone Ratings and Characteristics Jonestown Zoning Map**

<b>Zone</b>	<b>Characteristic Use</b>	<b>Ambient Illumination</b>	<b>Lumens Per Net Acre in Any Contiguous Illuminated Area</b>	<b>Representative Locations</b>
LZ 1	Recreational	Dark	4,500	Developed areas in city parks and recreation areas. Areas where residents have expressed the desire to conserve natural illumination levels.
LZ 2	Residential	Low	25,000	Rural areas, low-density urban neighborhoods and districts, residential historic

				districts. This zone is intended to be the default for residential areas.
LZ 3	Urban and Commercial	Medium	100,000	High-density urban neighborhoods, shopping and commercial districts, industrial parks and districts. This zone is intended to be the default condition for commercial and industrial districts in urban areas.

**Section 3.2.5.6 Exemptions**

The following luminaires and lighting systems are exempt from these requirements:

1. Outdoor lighting for which light is produced directly by the combustion of fossil fuels (i.e., gas pumps).
2. Holiday lighting from November 15th to January 15th during the hours from 6:00 a.m. to midnight each day, except that flashing holiday lights are prohibited on nonresidential properties. Flashing holiday lights on residential properties are discouraged. Holiday lights may be illuminated one additional seven (7) day period per calendar year.
3. Underwater lighting in swimming pools.
4. String, festoon, bistro, and similar lighting, provided that the emission of such lighting does not exceed 125 lumens per linear foot of line or square foot of space, dependent on compliance with this division. These lights must be rated at or below 2700 Kelvin. See figure 1 of Section 3.2.5.7.
5. Lighting required by law to be installed on motor vehicles.
6. Lighting needed during activities of law enforcement, fire and/or other emergency services.
7. Lighting needed during emergency repairs of roads and utilities.
8. Temporary lighting for theatrical, television, performance areas or construction areas.
9. Lighting required and regulated by the Lower Colorado River Authority, Federal Aviation Administration or other federal or state agency.

### Section 3.2.5.7 Prohibited Lighting

A. The following lighting systems are prohibited from being installed or used:

1. Mercury vapor lighting.
2. Searchlights (under any circumstances).
3. Holiday lighting except as exempted in section 3.2.5.6.
4. Outdoor laser light projections, except when associated with a special event lasting no more than one night.
5. Any light fixture that may be confused with a traffic-control device.
6. Blue light luminaires. Correlated Color Temperature (CCT) of lamps shall be no greater than 3,000 Kelvin as shown in figure 1.

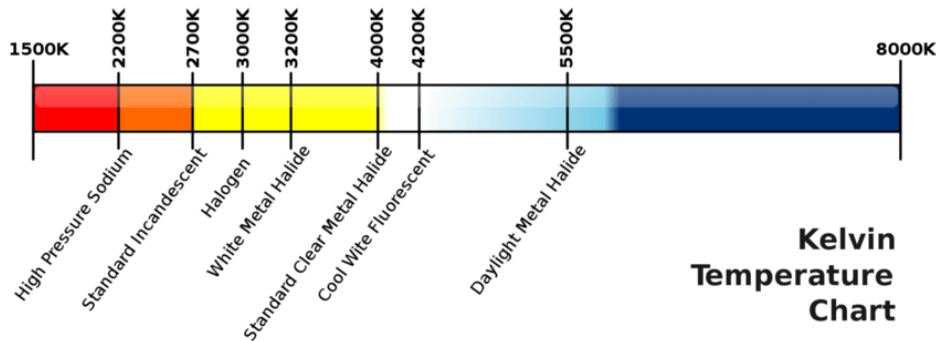


Figure 1. Kelvin Temperature Chart

7. Light trespass. No luminaire installed within the city limits, except governmental owned streetlights, shall create conditions of light trespass. Governmental owned streetlights may only create light trespass below it within one hundred (100) feet of its installed location. All outdoor lighting, except government owned streetlights, shall be shielded so that the light source shall not be visible from any other property.

B. *Lumens Per Net Acre Limits.*

1. Total outdoor light output (excluding government-owned streetlights used for illuminating public rights-of-way and outdoor recreation facilities) of any nonresidential property shall not exceed 100,000 lumens per net acre in any contiguous illuminated area. This lumens per net acre value is an upper limit and not a design goal; design goals should be the lowest levels that meet the requirement of the task. See table 1 of Section 3.2.5.5.
2. Total outdoor light output (excluding government-owned streetlights used for illuminating public rights-of-way and outdoor recreation facilities) of any residential property shall not exceed the following cap: 25,000 lm per net acre in

any contiguous illuminated area. This lumens per net acre value is an upper limit and not a design goal; design goals should be the lowest levels that meet the requirements of the task. See table 1 of Section 3.2.5.5.

3. Outdoor recreational facilities shall follow the International Dark-Sky Association Criteria for Community-Friendly Outdoor Sports Lighting v1.0, dated March 2018 for allowable target illumination and restrictions.

<b>Table 2. Comparison of Efficacy by Power (120 Volt incandescent lamps)</b>			
	<b>Output (Lumens)</b>		<b>Power (Watt)</b>
	<b>Incandescent</b>	<b>CFL</b>	<b>LED</b>
500	40	8-10	9
850	60	13-18	12-15
1200	75	18-22	15
1700	100	23-28	18

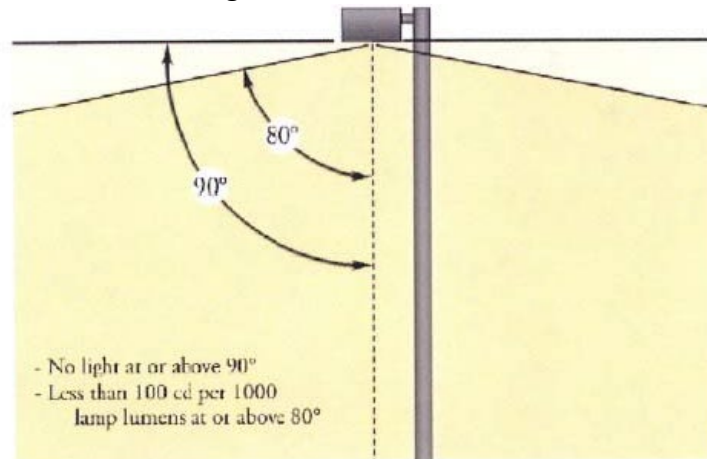
### Section 3.2.5.8 Shielding and Installation Requirements

- A. All outdoor lighting except government owned streetlights shall be fully shielded so that the luminous elements of the fixture are not visible from any other property.
- B. Government-owned streetlights, if rated by the BUG classification, shall be:
  1. Rated and installed with the maximum backlight component limited to the values in table 3. based on location of the light fixture where the property line is considered to be five feet (5') beyond the actual property line;
  2. Rated and installed with the uplight component of zero (U0);
  3. Rated and installed with the glare component no more than G1, although G0 is preferred.
- C. Government-owned streetlights, if not rated by the BUG classification, shall meet the qualifications to be full cutoff fixtures in order to limit light trespass. Mounting height or topography may cause the luminous elements of a governmental owned streetlight to require additional shielding to reduce glare (see figure 2).

<b>Table 3. Government Owned Streetlights</b>	
Fixture is greater than 2 mounting heights from property line	B4 Classification
Fixture is 1 to less than 2 mounting heights from property line	B3 Classification
Fixture is -0.5 to 1 mounting height from property line	B2 Classification



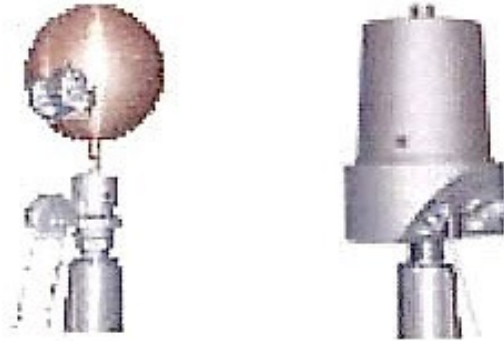
Figure 2. Full Cutoff Fixture



- D. Except as otherwise specified in this division, outdoor lighting, regardless of lumen output, shall be fully shielded and aimed downward so as to minimize glare and prevent light pollution. No outdoor lighting fixture shall permit light to shine above the horizontal plane to pollute the night sky or off the property on which it is installed. This included but is not limited to:
1. Pedestrian lighting;
  2. Parking lots;
  3. Roadways and pathways;
  4. Buildings and structures;
  5. Barn lights;
  6. Recreational areas;
  7. Building overhangs and open canopies;
  8. Driveway entrances;
  9. Residential streetlights, and residential pole-mounted and eave-mounted security lights; and
  10. Flagpoles. Property owners are encouraged to not illuminate flagpoles at night, but rather to hoist flags after dawn and lower flags before sunset. If flags are illuminated at night, lighting of up to a total of two (2) flags per property is permitted with the following conditions:
    - a. Flagpoles shall be illuminated only from above. This may be achieved by utilizing a luminaire attached to the top of the flagpole or a luminaire

mounted above the top of the flagpole on a structure within fifteen (15) feet of the flagpole and must comply with all sections of this division. The total light output from any luminaire mounted on top of or above a flagpole shall not exceed 800 lumens. See figure 3.

**Figure 3. Examples of Flagpole Lighting**



- E. Fully shielded and full cutoff fixtures must be constructed and installed in such a manner that all light emitted by the fixture meets or falls below the specification given. (See figures 2, 5 and 6.) This includes all the light emitted by the fixture, either directly from the lamp or by a diffusing element, or indirectly by reflection or refraction from any part of the fixture. Any structural part of the fixture providing this shielding must be permanently affixed.
- F. All outdoor lighting is encouraged to be turned off when no one is present to use the light. Adaptive controls must be used to turn lights off when not in use. Timers must comply with curfew requirements see Section 3.2.5.9.
- G. *New City-Owned Outdoor Lighting.* After the effective date of this division the city may install new publicly-owned outdoor lighting, to include street lighting and lighting on other public property and rights-of-way, only upon the determination of the city administrator or their designated representative. It must be shown that a clear public safety danger or danger to city workers exists in the area to be lit and that the hazard can only be effectively mitigated through the use of outdoor lighting.
- H. *Adaptive Controls.* All new publicly owned lights, including streetlights, will incorporate adaptive controls, to actively regulate the emission of light from light fixtures such that the lighting of areas is restricted to times, places and amounts required for safe occupancy.
- I. *Sign Illumination.* All permanent signs may be nonilluminated, illuminated by internal indirect (halo), or lit by external indirect illumination, unless otherwise specified.
  - 1. Illuminated signs shall be extinguished at 11:00 p.m. or within one (1) hour of the end of normal business hours, whichever occurs later.

2. Lighting should be of no greater wattage than necessary to make the sign readable at night.
3. No sign shall be illuminated, in whole or in part, where the illumination is intermittent or varies in color or intensity from time-to-time, nor shall any sign be so illuminated that it interferes with traffic or with the effectiveness of, or obscures, an official traffic sign, device or signal.
4. The use of searchlights is prohibited.
5. Luminance levels for operation between sunset and sunrise shall not exceed 100 units (100 candelas per square meter) as measured under conditions of a full white display.
6. Size limit. The luminous surface area of an individual sign shall not exceed 160 square feet.
7. Top-down lighting. Externally illuminated signs shall be lit only from the top of the sign, with fully shielded luminaires designed and installed to prevent light from spilling beyond the physical edges of the sign.
8. Neon lighting is prohibited.
9. Electronic message center (EMC) displays are discouraged but shall comply with outdoor lighting curfews stipulated in this section.
  - a. LED's or similar lighting used in EMC sign messages may utilize more than one color per message.
  - b. Moving and/or flashing text or images are prohibited.
  - c. All sign messages display times shall be a minimum of 20 seconds; however, time and temperature may have shorter display durations.
  - d. Message content and transition times shall be limited to no longer than 0.5 second intervals, with a minimum of 1,200 feet (366 meters) between installations on roadways.
  - e. Design. All EMC signs shall be a monument sign category and are not permitted to be attached to a building or other structure. The sign base must be 2 feet in height and be constructed of masonry material (brick, stone, block, etc.). The masonry material shall match or be similar to the building on lot which the EMC sign is located. The sign base shall be a minimum of seventy-five percent (75%) of sign's total width. (See table 4.)

<b>Table 4. EMC Monument Height, Area, Quantity and Location</b>					
<b>Type</b>	<b>Max. &amp; Min. Height</b>	<b>Max. and Min. Width</b>	<b>Max Area</b>	<b>Quantity</b>	<b>Other Requirements</b>
EMC: Monument sign structure	Min. height 4 ft. Max. height 8 ft.	Min. width 6 ft. Max. width 12 ft.	Min. area 24 sq. ft. Max. area 96 sq. ft.	1	Within the required building setback
	<b>Ratio</b>	<b>Max. Width</b>	<b>Max. Area</b>		
Lighted portion of EMC sign	3:2	1.5 times greater than height	32. sq. ft.	1	Within monument sign structure

- J. Canopy lighting must be fully shielded. However, indirect up-light is permitted under an opaque canopy provided that no lamp or vertical element of a lens or diffuser is visible from beyond the canopy and such that no direct up-light is emitted beyond the opaque canopy.
- K. In residential lighting applications, homeowners and designers shall assess the potential for over-lighting and adjust to the lowest light necessary, to avoid glare and light trespass. For examples of acceptable light fixtures and luminaries, see figure 4.
- L. Residential floodlights must be projected downward and fully shielded to the extent necessary to prevent light trespass to neighboring properties.
- M. Outdoor recreational and/or athletic field lighting may be exempted from the strict shielding and short-wavelength emission requirements above provided that all of the following conditions are met:
  1. Illuminating Engineering Society (IES) lighting guidelines (RP-6) are followed according to the appropriate class of play.
  2. Field lighting is provided exclusively for illumination of the surface of play and viewing stands, and not for any other applications.
  3. Illuminance levels must be adjustable based on the task (e.g., active play vs. field maintenance).
  4. Off-site impacts of the lighting will be limited to the greatest practical extent possible.
  5. The curfew requirement in Section 3.2.5.9 is observed.
  6. Timers shall be installed to prevent lights being left on accidentally overnight.

## Examples of Acceptable / Unacceptable Lighting Fixtures



Figure 4. Examples of Acceptable Light Fixtures and Luminaires



Figure 5. Examples of Full Cutoff and Fully Shielded Luminaires



Figure 6. Example of Full Shielding Around LED Array

### Section 3.2.5.9 Lighting Curfew

- A. Nonresidential outdoor or exterior lighting shall not be energized more than thirty (30) minutes after closing or the completion of activities, unless reduced to 25% or less of the total light output allowed.
- B. Light sensor switches must comply with lighting curfew requirements.
- C. Motion sensor activation must turn off within five (5) minutes after activation motion has ceased.
- D. Curfew shall be as follows:
  - 1. For LZ 1, the earlier of 10:00 p.m. (2,200 hours) or close of business, except the police department shall determine hours of operation for security lighting in city parks;
  - 2. For LZ2, midnight (2,400 hours), except solar landscape lights. Motion sensor activation is allowed to cause the light to resume total outdoor light output but shall be turned off within 5 minutes after activation motion has ceased;
  - 3. For LZ3, the later of midnight (2,400 hours) or the close of business. All illuminated signs shall be extinguished at 11:00 p.m. or within one (1) hour of the end of normal business hours, whichever occurs later.

### **Section 3.2.5.10 Lighting Plans**

A lighting plan shall be submitted with any commercial, site development and residential building permit application in which outdoor lighting is proposed or required and at a minimum provide the following information:

1. The location of all existing and proposed lighting fixtures including their height above grade.
2. A lumen calculation sheet to determine lumens per acre.
3. The total square footage of the area to be illuminated.
4. Specification sheets (photometrics) for all existing and proposed light fixtures.
5. Acknowledgement that the applicant has received notification of the provisions of this division.
6. Verification that the construction project requiring a building permit application has complied with the provisions of this division shall occur during the final inspection by the city building inspector.

### **Section 3.2.5.11 Height Limits**

- A. *Pole-Mounted Lighting.* Lighting mounted onto poles or any structures intended primarily for mounting of lighting shall not exceed a mounting height of 40% of the horizontal distance of the light pole from the property line, nor a maximum height according to table 5, whichever is lower, with the following exceptions:
1. Lighting for residential sports courts and pools shall not exceed fifteen (15) feet above the court or pool deck surface.
  2. Lights specifically for driveways, and then only at the intersection to the road providing access to the site, may be mounted at any distance relative to the property line, but may not exceed the mounting height listed in table 5.
  3. Landscape lighting installed in a tree.
- B. *Lights Mounted to Buildings or Other Structures.* All lights mounted to buildings or other structures must be fully shielded. Lighting mounted onto buildings or other structures shall not exceed a mounting height greater than four (4) feet higher than the tallest part of the building or structure at the place where the lighting is installed, nor higher than 40% of the horizontal distance of the light from the property line, whichever is less, with the following exceptions:

1. Lighting attached to single-family residences shall not exceed the height of the eave.
  2. Lighting for facades may be mounted at any height equal to or less than the total height of the structure being illuminated, regardless of horizontal distance to the property line.
  3. For buildings less than forty (40) feet to the property line, including canopies or overhangs onto the sidewalk or public right-of-way, luminaires may be mounted to the vertical facade or the underside of canopies at sixteen (16) feet or less.
  4. The top exterior deck of parking garages should be treated as normal pole-mounted lighting rather than as lights mounted to buildings.
- C. *Shielding.* Mounting height or proximity to property lines may cause the luminous elements of a light fixture to require additional shielding to prevent light trespass.

<b>Table 5. Maximum Light Mounting Height in Feet</b>			
<b>Lighting Zone</b>	<b>Lighting for Driveways, Parking and Transit</b>	<b>Lighting for Walkways, Plazas, and Other Pedestrian Areas</b>	<b>All Other Lighting</b>
LZ 1	25.0	12	4.5
LZ 2	12	8	4.5
LZ 3	37.5	18	15

**Section 3.2.5.12 Lighting Under Canopies, Building Overhangs, or Roof Eaves**

- A. All outdoor light fixtures located under canopies, under building overhangs, or under roof eaves must conform to all provisions of this division.
- B. Outdoor lighting fixtures located under canopies, under building overhangs, or under roof eaves where the center of the lamp is located at between five (5) feet and less than ten (10) feet from the nearest edge of the canopy or overhang are to be included in the lumens per net acre calculation or lumens cap, as applicable, as though they produced one one-quarter (1/4) of the lamp’s rated lumen output.

**Section 3.2.5.13 Lighting by Permit**

To obtain a permit, applicants shall demonstrate that the proposed lighting installation:

- A. Has sustained every reasonable effort to mitigate the effects of light on the environment and surrounding properties, supported by a signed statement describing the mitigation measures.
- B. Employs lighting controls to reduce lighting at a project specific curfew (“curfew”) time to be established in the permit.



- C. The City Council shall review each special permit application. A permit may be granted if, upon review, the City Council believes that the proposed lighting will not create unwarranted glare, sky glow, or light trespass.

### **Sections 3.2.5.14 through 3.2.5.99 Reserved**

### **Sections 3.2.6 Landscaping and Tree Preservation**

#### **Section 3.2.6.1 Purpose**

To establish requirements for landscaping, buffering, and screening to provide for the orderly, safe, attractive and healthful development of land and promoting the health, safety and general welfare of the city, it is deemed necessary to establish requirements for the installation and maintenance of landscaping elements and other means of site improvements on properties to be developed or redeveloped. It is the intent of this article that these minimum landscape requirements be incorporated to promote the public health, safety and welfare through:

- A. Requiring appropriate vegetation.
- B. Maintaining, creating and restoring unique city identities.
- C. Maintaining microhabitats in urban areas for the conservation of wildlife by supporting existing wildlife habitat.
- D. Creating larger, more connected plant populations, helping ensure the future of native plant species by increasing their ability to migrate in response to changes in climate.
- E. Promoting ecotourism.
- F. Conserving precious water resources by promoting water-efficient landscaping through the use of appropriate native plants, which, once established, typically require much less water than other species.
- G. Reducing the need for use of chemical fertilizers and pesticides to maintain landscaping.
- H. Reducing the negative impacts on the land, such as erosion, soil depletion, and damage by invasive plants as examples, from the use of inappropriate vegetation and poorly planned landscaping.
- I. Reducing the long term negative impacts of stormwater runoff and enhancing water quality through reduction of nutrient loading and improved adsorption of contaminants.
- J. Improving flood control.
- K. Increasing understanding and appreciation of our local natural eco systems and species through education and training.

### **Section 3.2.6.2 Applicability**

This article shall be applicable to new development or redevelopment within the corporate limits of the city commencing on or after September 9, 2021. Property that has not been platted or otherwise approved or vested for development prior to September 9, 2021, shall be considered new development. Redevelopment shall mean development of property that is replatted, or that is being repurposed, or that is considered a legal nonconforming use and is being repurposed with a conforming use, or any rebuilding, renovation, remodeling, or reconstruction of any existing development when the total square footage of a structure is replaced or expanded by fifty percent (50%) or greater. Provided however, that invasive or undesirable trees or plants from appendix C are not subject to protection and do not require a removal permit or mitigation pursuant to this article.

### **Section 3.2.6.3 Definitions**

See Article 9 for definitions applicable to this Section.

### **Section 3.2.6.4 Exemptions**

Except for the requirements of this article applicable to protection of heritage trees, the following entities and activities are exempt from this article:

- A. City, county, state or school district gardens, parks and play areas and public right-of-way;
- B. Noninvasive fruits and vegetable plants on residential or agricultural properties;
- C. Golf course play areas and game fields used for organized sports or recreational activities;
- D. Turf grass and/or designed noninvasive plantings in stormwater management areas and rain gardens;
- E. Turf grass and/or designed noninvasive plantings in public rights-of-way;
- F. Bona fide agricultural lands;
- G. Commercial and public botanical gardens;
- H. Emergency maintenance work such as fire breaks and areas cleared for protection of public health and safety.
- I. Utility easements.

### **Section 3.2.6.5 Landscape Permit Requirements for One New Single-Family Residence**

- A. A landscape plan meeting the requirements of this chapter and meeting the requirements of any previously approved landscape plan for the development, or subdivision as a whole,

shall be submitted and approved by the city as a condition of approval of a building permit associated with new home construction. All trees, shrubs, vegetative cover or turf grasses shall be selected from appendix A or appendix B in order to receive landscaping credit under the requirements of this chapter. No credit shall be given for trees or shrubs listed on appendix C. Subject to the exception described below, the landscape plan shall include a tree survey of all areas within the lot or property where land clearing or land disturbance activities will occur and be submitted on paper at least 8-1/2 by 11 in size. The tree survey should include protected and heritage trees noting the location, size and type and noting if the tree is to be saved or removed. Any protected or heritage tree in the undisturbed area of the property that the builder or homeowner wishes to use as a credit towards removal of a protected or heritage tree, or for credit against the planting requirements, shall be identified in the tree survey. No protected trees located on the property shall be removed without a tree removal permit and no heritage trees may be removed, except upon issuance of a variance in accordance with sections 3.2.6.25 and 3.2.6.26. This landscape plan shall include property boundaries, location of the planned structure(s) and improvements, any non-disturbance, preservation or management zone(s), or no cut zones(s), the approximate location of existing protected trees, and whether such trees are native trees or not and showing proposed locations for additional trees as follows:

1. A minimum of two (2) trees for lots six thousand (6,000) square feet or less;
  2. A minimum of three (3) trees for lots between six thousand one (6,001) and ten thousand (10,000) square feet;
  3. A minimum of five (5) trees for lots greater than ten thousand one (10,001) square feet;
  4. A minimum of three (3) trees for each additional acre in excess of one (1) acre.
- B. All new trees shall be chosen from appendix A or B and shall be a minimum of six (6) feet high and be a minimum of two caliper inches (2") in trunk diameter measured four feet, six inches (4' 6") above the ground.
- C. One (1) of the required trees shall be planted within ten (10) feet landward of the right-of-way for lots less than or equal to one-half acre.
- D. Landowner shall be entitled to credit existing trees against the new tree planting requirement if the trees are not removed and are native, heritage trees or protected trees. Landowners are encouraged to plant and maintain native trees listed in appendix A. Preservation and planting of native trees and vegetation increases the likelihood that a variance will be granted under this section.
- E. City staff may waive all or portions of the tree survey requirements of this section if a landscape plan was approved by the city for the development of the subdivision as a whole and the landscape and tree removal proposed for the lot or property meets or

exceeds the landscaping or tree removal requirements approved for the subdivision or development as a whole.

- F. Approval of the landscape plan shall include requirements for tree removal, new planting requirements, protection for any non-disturbance zones, protected or no cut zones, if applicable, and in particular, requirements associated with protection or removal of protected trees.
- G. In no event shall a heritage trees be removed without receiving a variance in accordance with Section 3.2.6.24 and Section 3.2.6.25.
- H. The city will conduct an on-site inspection to review the sketch and existing and tree locations prior to issuing a building permit.
- I. At least one required tree shall be a canopy tree from appendix A. Depending on lot size and requirements for utility line clearance, additional required trees may be understory trees from the appendix A or appendix B.
- J. A separate irrigation permit may be required if irrigation is installed on the property.

#### **Section 3.2.6.6 Approved Landscape Plan Required for All Development That is Not One Single-Family Residence**

- A. All applicable development, but not including development subject to Section 3.2.6.5, shall receive approval of a landscape plan or tree removal permit from the city prior to commencement of any land clearing, land disturbance activity, clearing, modification or construction work of any kind, such as adding or removing fill or tree or vegetative cover removal. The landscape plan must meet the applicable requirements set out in this article.
- B. A landscape plan or tree removal permit may be applied for separately or considered in conjunction with an application for site plan or development permit approval. If the proposed development is associated with a new subdivision, the landscape plan or tree removal permit shall be considered in conjunction with the preliminary and final plat, or development plat, as applicable. In such case, approval of the landscape plan or tree removal permit is a condition of plat approval.

#### **Section 3.2.6.7 Landscape Plan Requirements**

- A. The following information and submittals are required in conjunction with review and approval of a landscape plan. Approval of the landscape plan shall be a condition of approval for a site plan, development permit, or plat approval, as applicable. Landscape plans shall include plans for planting new trees and vegetation and preservation of existing trees and vegetation. Protected trees and vegetation shall be subject to payment of a tree mitigation fee or tree replacement, if not retained and protected in the landscape plan. Heritage trees shall be protected in the landscape plan and shall not be removed, unless the landowner receives a variance to the requirements of this article and

removal of the heritage tree is approved by the city. The landscape plan shall be prepared and sealed by a state registered landscape architect, with an irrigation plan prepared by a state licensed irrigator if irrigation is used. All commercial, industrial, multi-use or multifamily property shall provide for an irrigation system. Landscape plans shall be drawn to scale and shall include and indicate the following:

1. Landscape architect's seal, signature and date of signing;
2. Dimensions of the property;
3. Location, species, and size of all existing trees greater than 10" caliper from an on-the-ground survey;
4. Location and species of all invasive or undesirable trees;
5. Description of existing soil types as defined by the Natural Resource Conservation Service (NRCS);
6. 100-year floodplain boundaries as defined by the Federal Emergency Management Agency (FEMA);
7. Location of all existing or proposed structures, freestanding signs, parking areas, drives, vehicular use areas and other improvements to the property;
8. Location of existing water bodies and proposed water bodies location;
9. Location of overhead power lines and adjacent rights-of-way and any other easements;
10. Proposed location of species (with identification if native or nonnative), size and quantity of all proposed landscape materials trees and plants from appendix A or appendix B;
11. Hydro zones for reference use by the irrigator;
12. Proposed location of required buffers or not cut zones;
13. Proposed alterations to existing soils including locations of planned cut, fill and topsoil removal;
14. Proposed removal of any existing vegetation;
15. Proposed types of construction devices and procedures used to protect soils and trees and vegetation planned for preservation and conservation (e.g., tunneling, boring, erosion control, root barriers);

16. Location and type of irrigation system, if used, in a separate irrigation plan;
  17. Proposed soil additions, mulching materials, and initial fertilization notes and details;
  18. Proposed planting and root pruning details for trees, shrubs, vines, and ground covers installed on level ground and on slopes;
  19. Existing trees 10 inches or greater proposed for removal, including location, species and reason for removal and mitigation proposed;
  20. Existing trees to be preserved, including heritage and protected trees;
  21. Point of irrigation connection and water meter for the irrigation system, if an irrigation system is to be installed onsite;
  22. Water harvesting areas used to contribute to meeting landscaping water needs;
  23. Location of any portions of the property that are considered as priority natural areas as described in Section 3.2.6.9.
- B. No land clearing, modification, development or construction work of any kind, such as adding or removing fill, can be performed until a landscape plan or site plan, as applicable, has been submitted and approved by the city.

**Section 3.2.6.8 Protection of Rare, Threatened and Endangered Flora and Fauna Required for New Subdivisions and Commercial Developments**

Landowner shall be responsible for obtaining any necessary permits for protection for the work from state or federal agencies and shall submit permits and reports to the city.

**Section 3.2.6.9 Natural Area(s) and Preservation Required as Part of Landscape Plan for New Subdivisions and Commercial, Industrial and Multifamily Developments**

- A. Preservation areas consist of: (1) priority natural areas; (2) natural areas with substantial populations or clusters of protected trees or plants; and (3) newly planted areas or a combination of natural areas and newly planted areas, intended to serve as impact buffers, screening, or mitigation between land uses, all of which shall be protected through designation of such areas as “no disturbance zones” or “no cut zones.” In some cases, such areas may be protected through a conservation easement or through restrictive covenants. Priority natural areas shall be protected in accordance with subsection (b) and (c). Natural undisturbed areas with populations or clusters of protected trees or plants shall be preserved to the extent feasible in accordance with section 3.2.6.11. Impact and screening buffers shall be protected in accordance with section 3.2.6.10. Such preservation areas shall be identified in the landscape plan.

- B. Priority natural area(s): The following vegetation and specific areas are considered a priority for on-site retention and shall be protected and maintained throughout development and upon completion of construction within the property. Grading shall leave this vegetation and these specific areas undisturbed unless the city determines that disturbance is unavoidable in the interests of the public health, safety and welfare.
1. 100-year floodplain;
  2. Riparian buffers;
  3. Wetlands;
  4. Trees and other native vegetation defined on state, federal and city lists as rare, threatened or endangered;
  5. Corridors for wildlife movement;
  6. Low impact stormwater management;
  7. Other habitat for threatened, endangered, and species of special concern or wildlife habitat the city considers a locally unique ecosystem;
  8. Steep slopes of 25% or above.
- C. Within a priority natural area, no native trees over six (6) feet in height, or more than three (3) inches in trunk diameter, or any wetland trees or wetland vegetation of any size, shall be removed from any natural priority area unless specifically approved as part of the landscape plan and as set out in the site plan, plat, or development permit, as applicable.

#### **Section 3.2.6.10 Impact and Screening Buffers Required as Part of Landscape Plan for New Subdivisions and Commercial Developments**

Buffers are required to protect natural areas and to reduce the visual or other impacts between one type of land use and another. Impact buffers shall consist of undisturbed vegetation or planted vegetation including native and adapted plants from appendix A or appendix B; but not including turf grass, unless expressly allowed by the city.

#### **Section 3.2.6.11 Natural Area Vegetation Buffers Required as Part of Landscape Plan for New Subdivisions and Commercial, Industrial or Multifamily or Multi-Use Developments**

- A. Any location consisting of a natural area and consisting of five (5) acres or larger shall be bounded by a natural area vegetation buffer. An appropriate buffer zone of native or native-and-adapted plants shall be maintained along the perimeter of the natural area preservation areas and shall be included in the landscape plan. In cases where the buffer area is contiguous with an existing conservation area, the dimensions of the conservation area may be credited towards the minimum buffer required. The minimum buffer width

for natural areas preservation areas shall be twenty (20) feet. The minimum buffer width for natural priority areas shall be twenty-five (25) feet.

- B. No turf grass is allowed within a natural area vegetation buffer. New vegetation allowed in the buffer shall be based on the native, predevelopment plant community.
- C. A non-elevated buffer of undisturbed state native vegetation preserved on site, or a buffer planted to re-create native uplands is preferable over berms.
- D. Permissible uses within the preservation area are footpaths for walking or jogging. Footpaths must be natural or made from another pervious material. No horses, bicycles or motorized vehicle usage is allowed within the preservation area.
- E. Buffers may be used as greenbelts and shall be conserved as common areas of open space.
- F. All buffers will be included within the preservation management plan requirement outlined in Section 3.2.6.15 of this article.

#### **Section 3.2.6.12 Diversity of Appropriate Native Plants Required as Part of Landscape Plan for New Subdivisions and Commercial, Industrial, or Multifamily Developments**

It is the purpose and intent of this section to promote the preservation and restoration of diverse ecological communities to maintain viable populations of all native plant and animal species dependent on those native plants and representative stands of each habitat type in the city.

#### **Section 3.2.6.13 Minimum Landscape requirements required as Part of Landscape Plan for New subdivisions and Commercial, Industrial, or Multifamily Developments**

All landscape plan applicants are encouraged to utilize native plants and trees from appendix A in determining appropriate plant communities for the design, complete installation and restoration of all elements of the landscape plan. The source of all plant material, other than existing native vegetation at the site, shall be from plant nurseries. Invasive species of plants and trees and those trees and vegetation that are prohibited by this article, or listed in appendix C, shall not be included in the landscape plan.

#### **Section 3.2.6.14 Percentage and Size Requirements for Newly Planted Plants for New Subdivisions and Commercial, Industrial, or Multifamily Developments**

The plants used in the landscape plan shall consist of the following:

1. One hundred percent (100%) canopy trees and seventy-five percent (75%) understory trees from appendix A;
2. At least seventy-five percent (75%) of all shrubs shall be from appendix A;



3. At least seventy-five percent (75%) of all groundcovers, including grasses, shall be from appendix A;
4. At least seventy-five percent (75%) of all vines shall be from appendix A;
5. All trees from appendix A shall be a minimum of six (6) feet in height when measured immediately after planting;
6. All shrubs from appendix A shall be a minimum of two (2) feet in height when measured immediately after planting;
7. Ten (10) saplings from appendix A will equal one (1) six (6) foot tree;
8. Saplings shall only be used in required buffer areas and shall be protected as set out in the site plan, development permit or plat, as applicable.

#### **Section 3.2.6.15 Maintenance Plan Required as Part of Landscape Plan**

A maintenance plan for short-term (two-year establishment) and long-term (lifetime) management of new landscaping to be installed shall be submitted as part of the landscape plan, detailing tasks such as pruning, mulching, fertilizing, and replacement of annuals and short-lived perennials and shrubs to be performed throughout each twelve (12) month period. A maintenance plan is not required for landscape plans required in Section 3.2.6.5.

#### **Section 3.2.6.16 Management Plan Required as Part of Landscape Plan for New Subdivisions and Commercial, Industrial, or Multifamily Developments**

A management plan shall be required for any restored habitat, greenbelts, priority areas, and buffers and screening areas required for the development. The management plan shall be prepared by the landowner as part of the landscape plan and submitted to the city for approval in conjunction with the site plan or development permit. The preservation management plan shall include methods of preserving the priority area, buffer zone or screening requirements, as applicable, and shall include firewise principles especially in high-risk areas such as steep slopes and shall include methods for conserving biological diversity and management of invasive plants and trees, disease, or insect infestation.

#### **Section 3.2.6.17 Ownership and Management of Preservation Management Area(s)**

- A. The landowner of the property shall be responsible for compliance with the management plan, unless an HOA or POA is established for the property, in which case the HOA or POA, shall be responsible for the portions of the property owned or controlled by the HOA or POA.
- B. Landowner shall submit a management plan that:

1. Allocates responsibility and guidelines for the maintenance and operation of the management area(s);
2. Provides that any changes to the management plan be approved by the city.

#### **Section 3.2.6.18 Legal Instrument for Permanent Protection of Management Areas**

The management area shall be protected in perpetuity by a binding legal instrument that is recorded in the deed records.

#### **Section 3.2.6.19 Alternative Landscape Plan**

- A. An application for an alternative landscape plan sealed by a state licensed landscape architect may be submitted for consideration by the city when site conditions make strict compliance with the landscape requirements of this article undesirable or impractical.
- B. Examples of such site conditions include, but are not limited to, the following:
  1. Existing buildings, utilities or other improvements;
  2. Unusual shape of lot, tract or building site;
  3. Topography, soil, geologic, vegetation or other natural feature;
  4. Safety (e.g., vehicle safety distance, impediments to vehicle maneuvering, visibility of traffic or safety related signage, etc.);
  5. Use of the landscape for stormwater management in compliance with low-impact design requirements of the Lower Colorado River Authority's Highland Lakes Design Manual.
- C. The alternative landscape plan shall meet or exceed the standards of this article. When a provision is reduced, the plan shall increase other provisions to off-set any noncompliance. For instance, if landscape plantings are reduced in one area, plantings in other areas that will have a similar beneficial impact shall be increased by an equal or greater amount. If the area of landscaping is decreased, the number of plantings shall be increased.
- D. The city shall approve or disapprove the alternative landscape plan. If disapproved, the development shall be subject to the landscape plan requirements set out in this article.

#### **Section 3.2.6.20 Irrigation Plan Required for Proposed Irrigation Systems**

- A. If irrigation is proposed, a TCEQ licensed irrigator shall prepare an irrigation plan for each site prior to installation or alteration of an irrigation system. An easily available paper or electronic copy of the irrigation plan must be on site at all times during such installation of

the irrigation system. During the installation or alteration of the irrigation system, variances from the original plan are allowable if noted in red on the irrigation plan and provided that the change(s) does not diminish the operational integrity of the irrigation system nor violate any requirement of this section. The irrigation plan must include complete coverage of the area to be irrigated. If a system does not provide complete coverage of the area to be irrigated, it must be noted on the irrigation plan.

- B. All irrigation plans must be drawn to scale. The plan shall include the following information:
1. The irrigator's seal, signature, and date of signing;
  2. All major physical features and the boundaries of the areas to be watered;
  3. A north arrow;
  4. A legend;
  5. Illustration of water usage zones;
  6. The zone flow measurement for each zone;
  7. Design pressure;
  8. Location and type of each automatic controller and sensor (such as rain, moisture, wind, flow, or freeze sensors);
  9. Location, type, and size of each;
  10. Water source, such as, but not limited to a water meter and point(s) of connection;
  11. Backflow prevention assembly;
  12. Water emission device, including, but not limited to, spray heads, rotary sprinkler heads, quick-couplers, bubblers, drip, or micro-sprays;
  13. Valve, including but not limited to, zone valves, master valves, and isolation valves;
  14. Pressure regulation component;
  15. Main line and lateral piping;
  16. Areas where hand watering will be sufficient to establish and maintain plantings.

### **Section 3.2.6.21 Irrigation Permit and Requirements**

- A. All irrigation systems, both residential and nonresidential, shall be installed in accordance with state law, title 2 Texas Water Code, chapter 34 and title 30 Texas Administrative Code, chapter 344, as amended, as regulated and enforced by the Texas Commission on Environmental Quality (TCEQ). A permit shall be required for the installation of all automatic irrigation systems.
- B. All automatic irrigation systems are required to have a rain sensor connected to an irrigation controller in order to stop the irrigation cycle during and after a rainfall event. Rain sensors are to be installed in a location where rainfall is unobstructed, such as a rooftop or fence line. Rain sensors are to be adjusted at the one-fourth-inch (1/4") setting.
- C. All new residential and nonresidential irrigation systems are required to have pressure regulators if static pressure at the site exceeds the sprinkler manufacturer's recommended operating range.
- D. Irrigation systems shall have a controller with multiple cycle, rain sensor capability and irrigation water budget feature.
- E. Sprinkler systems shall be designed, inspected, adjusted and maintained to minimize overspray onto the hardscape throughout the life of the system.
- F. Sprinkler heads shall be installed at least eight (8) inches from the curb or edge of pavement.
- G. For strips of land less than six (6) feet in width, spray irrigation shall be prohibited and low-flow irrigation systems (such as drip, bubblers or micro-irrigation) are required.
- H. For strips of land between six (6) feet and fifteen (15) feet in width, only low-flow irrigation (such as drip, bubblers or micro-irrigation), or spray irrigation using low-angle spray nozzles designed for the specific width to be irrigated shall be permitted.
- I. For strips of land more than fifteen (15) feet in width, only low precipitation rotors with low angle nozzles may be used to irrigate turf areas. Planting beds may be irrigated with low-flow or spray irrigation. All spray heads must be designed to prevent low head drainage.
- J. The incorporation of treated effluent, rainwater, or water from rain/stormwater systems in an irrigation system is encouraged.

### **Section 3.2.6.22 Exceptions to Tree Removal**

Tree mitigation fees and tree removal permits are not required for removal of trees subject to the following:

1. Dead or diseased trees. Provided, that the city staff determines after a site inspection that a protected or heritage tree is dead, dying, or fatally diseased prior to commencement of development. A letter from an arborist may be required to confirm the condition of the tree if the condition is not obvious and city staff is unable to make a determination.
2. Dangerous trees. If the city staff determines that a protected tree or heritage tree is causing a danger or is in a hazardous condition due to natural disaster, such as a tornado, fire, storm, flood, or other act of God that endangers public health, welfare, or safety.
3. Sight triangles. the city staff determines that a protected tree or heritage tree is interfering with the safe visibility at a sight triangle of an existing public street, the tree may be removed.
4. Trees on the appendix C list.

#### **Section 3.2.6.23 Heritage Tree Preservation Requirements**

- A. Heritage trees shall be preserved on site unless otherwise approved for removal as outlined in this article. The location of heritage trees shall be shown on the landscape plan. Documents to be recorded, such as subdivision plats, shall contain a note stating that heritage trees cannot be removed without a tree removal permit and a variance to this article. Preserved heritage trees shall be credited towards the landscape requirements of this article.
- B. Trees must be protected during construction activities on the property in accordance with the approved landscape plan. No new development or other construction impacts shall occur within the dripline of a heritage tree.
- C. Pruning of heritage trees shall be performed in accordance with Section 3.2.6.36, landscape standards.

#### **Section 3.2.6.24 Protected and Heritage Tree Preservation Requirements**

- A. The location of protected and heritage trees shall be shown on the landscape plans associated with plats and site development permit plans. Preserved heritage and protected trees may be credited towards the landscape requirements of this article.
- B. Protected and heritage trees shall be preserved to the greatest extent reasonably possible. Protected trees removed during construction shall be supplanted with replacement trees, or payment of mitigation fees, or both, as required by the tree preservation and mitigation requirements of this article.
- C. The city staff shall review all applications for protected tree removal permits and may issue the permit authorizing removal of such tree(s) upon applicant's compliance with the tree

replacement requirements or upon payment of the mitigation fees or both as set forth in this article. Removal of a heritage tree requires approval of a variance by the planning and zoning commission and the City Council.

- D. Trees must be protected from and during construction on the property in accordance with the approved landscape plan and this article. For single-family residential lots, this provision only applies prior to the issuance of the initial certificate of occupancy for each lot.
- E. Pruning of protected trees shall be performed in accordance with Section 3.2.6.36 landscape standards.

### **Section 3.2.6.25 Heritage Tree Preservation Requirements for Removal**

- A. Heritage trees may only be removed from a property if a variance to this article and a landscape plan is recommended for approval by the planning and zoning commission, approved by the City Council and compliance with required mitigation has been provided.
- B. The city staff shall process and review all applications for heritage tree removal permits. However, removal of a heritage tree requires approval of a variance recommendation by the planning and zoning commission and approval by the City Council.
- C. The planning and zoning commission shall consider all applications for heritage tree removal permits and make a recommendation for approval or denial of the variance to the City Council which shall have final authority to issue the permit. approval of a variance to this article for removal of a heritage tree shall be based on the procedure set out in Section 3.2.6.46 and upon the following:
  - 1. Tree size/number of trunks;
  - 2. Tree health and viability;
  - 3. Tree location;
  - 4. Other protected and heritage trees to be preserved on site;
  - 5. Whether all reasonable efforts have been made to design the project in a way to preserve protected and heritage trees on site.
  - 6. Whether protection of the heritage tree will reduce the buildable area within a platted lot to less than 50%;
  - 7. The age of the heritage tree or its historical or cultural significance;

**Section 3.2.6.26 Mitigation for Removal of a Heritage or Protected Tree; Tree Planting Credits**

- A. The removal of heritage or protected trees shall require mitigation using the calculations and procedures defined below. Mitigation may be achieved through credit of existing trees on site, replacement trees planted on-site, or payment-in-lieu of replacement trees or a combination of replacement and mitigation fees.

Protected trees between ten (10) and eighteen (18) caliper-inches	*Replacement trees minimum 2 caliper inches	OR	Mitigation fee of three hundred dollars (\$300.00) per caliper inch removed
Protected trees greater 18 caliper-inches and above and including Ashe Juniper trees	*Replacement trees minimum 2 inches	OR	Mitigation fee of four hundred dollars (\$400.00) per caliper inch removed
Heritage trees twenty-four (24) caliper-inches and above	*Replacement trees minimum 2 inches	OR	Mitigation fee of five hundred dollars (\$500.00) per caliper inch removed

\* To qualify for replacement mitigation credit all caliper inches removed must be replaced with an equal number of caliper inches. The percentage of replacement credit allowed is set out in subsection (c) below. Native trees removed require replacement from appendix A. The amount of the replacement credit shall be processed and the percentage credited in accordance with subsection (b) and (c) below.

- B. Disposition of payments: All payments made pursuant to this section shall be deposited in the city’s tree and plant fund, with the monies in the fund being restricted to landscaping improvements in parks, conservation areas and other public areas of the city. Mitigation fees shall be paid prior to tree replacement mitigation. If actual mitigation is less than proposed, excess mitigation fees shall be refunded following final inspection.
- C. The landowner may apply for a replacement tree mitigation credit by completing an application form prepared by the city. To qualify for a credit, each tree must be planted on the property for which the tree mitigation fee was assessed or mutually agreed upon by the city and the landowner and be at least two (2) inches in diameter at the point on the trunk four feet six inches (4' 6") above ground.
1. The amount of credit provided to the landowner must be applied in the same manner as the tree mitigation fee assessed; and
    - a. Equal to the amount of the tree mitigation fee assessed against the landowner if the property is an existing one-family or two-family dwelling that is the landowner’s residence;

- b. At least fifty (50) percent of the amount of the tree mitigation fee assessed against the landowner if:
    - (1) The property is a residential structure or pertains to the development, construction, renovation of a residential structure; and
    - (2) The landowner is developing, constructing, or renovating the property not for uses as the landowner's residence; or
  - c. At least forty (40) percent of the amount of the tree mitigation fee assessed against the landowner if:
    - (1) The property is not a residential structure; or
    - (2) The landowner is constructing or intends to construct a structure on the property that is not a residential structure.
2. Tree mitigation fees must be paid in conjunction with the building permit application for tree mitigation occurring on an individual residential lot, and shall be paid prior to issuance of a site development permit, development plat or final plat, as applicable.

### **Section 3.2.6.27 Tree Replacement Requirements**

- A. *Replacement or Relocation.* Within new development, protected or heritage trees removed in the construction of roads or other infrastructure shall be replaced or relocated within divided medians, at the entrance of the development, along the right-of-way, and within park areas if parks are provided.
- B. *Prohibited Planting Locations.* The placement of replacement trees shall not be allowed within any public utility or drainage easements or natural drainageways or in any location which limits sight distances for vehicular traffic along roadways, rights-of-way, or driveway/roadway intersections.
- C. *Design Standards.* effort shall be made to allow for as many existing canopy native trees and understory native trees to remain on the lot as possible. During the building design phase, courtyards, alcoves, and ell shapes should be considered; winding sidewalks and driveways should also be designed around existing protected and heritage trees when possible.
- D. *Parking Lots.* Parking lots shall also be designed to incorporate as many existing protected and heritage trees as possible.
- E. *Patios and Decks.* Patios and decks shall be designed around or incorporate existing protected and heritage trees.



- F. *Planted Trees That Fail to Survive.* If trees are planted, replacement shall be deemed to have occurred if the original replacement trees are still alive after two years. If the trees have not survived and are not replaced within 6 months, tree mitigation payment may be made by the current property owner to the city in lieu of replacement.
- G. *Replacement Trees.* Replacement trees shall be a minimum of two (2) inches in caliper measured four feet six inches (4' 6") feet above finished grade immediately after planting. Replacement trees shall be native if the tree being replaced is a native tree. If the tree being replaced is nonnative canopy trees from appendix A or appendix B should be used for replacement as appropriate for the ecosystem where planted.
- H. *Mulch.* A mulched area at least three (3) feet in radius, and not less than fifty percent (50%) of the drip line area is required around the trunks of all existing and proposed trees, with the mulch starting two (2) inches away from the trunk.
- I. *Replacement Mitigation.* Once the minimum landscaping requirement is met, existing and retained native hardwood trees smaller than twelve (12) caliper inches and greater than or equal to two (2) caliper inches in healthy condition may be counted toward the replacement mitigation requirements in accordance with the percentage of mitigation credit set out in Section 3.2.6.26.

### **Section 3.2.6.28 Tree Protection Standards**

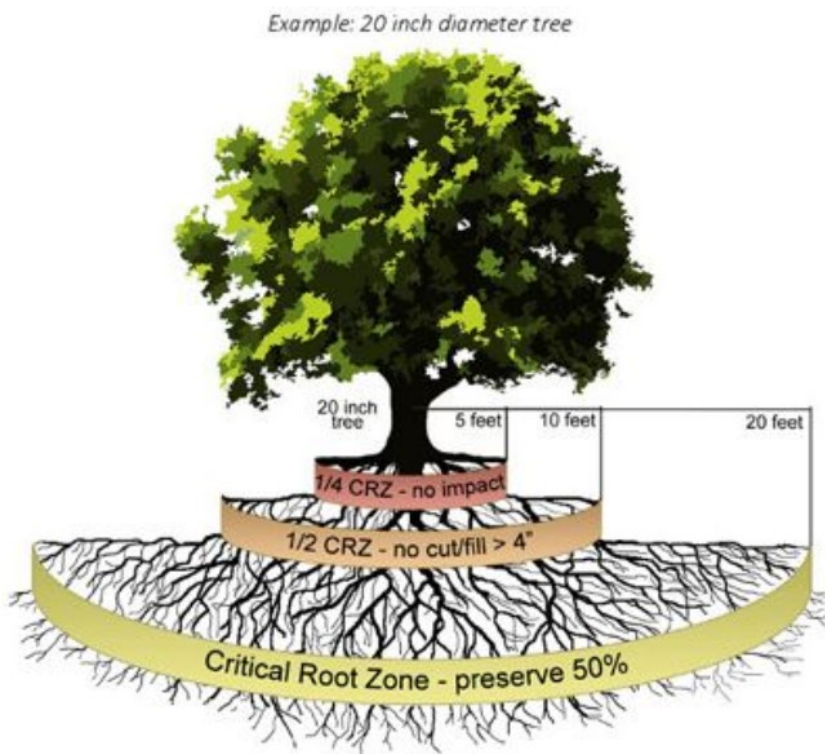
The following shall be required as a part of all development plans for all existing trees which have not been approved for removal in order to ensure that contractors adequately protect trees during construction.

- A. A graphics legend to be used throughout the plans for the purposes of showing the following: trees to be flagged, protective fencing, trees requiring bark protection, boring, and areas of cut and fill impacting protected and heritage trees, and the identification of all applicable trees as either protected or heritage trees.
- B. Graphic exhibit showing the features of existing trees to be removed or preserved, including the critical root zone, trunk, canopy, drip line and caliper.
- C. Graphic exhibits showing methods of protection, to include fences, boarded skirts, etc.
- D. Graphic exhibits showing construction methods, to include grade changes, boring, trenching, etc.
- E. All requirements of tree preservation shall be shown graphically on all applicable sheets within the development plat.
- F. Reasonable efforts shall be made to provide primary tree protection. Secondary tree protection is allowable when authorized by the building official.

- G. Tree protection fencing. All trees shown on plan to be preserved shall be protected with primary tree protection - temporary chain link fencing. In areas where installation of chain link fencing would be detrimental to a tree or a tree's root system, secondary tree protection may be acceptable. See details. Alternate fencing such as chain link panels or plastic fencing may be approved by the building official for protection of natural areas.
- H. Protective fencing shall be installed prior to the start of any site preparation work and shall be maintained throughout all phases of the construction project until the final walk-through is performed.
- I. Tree protection fencing that is damaged or found to be noncompliant shall be repaired/replaced within 24 hours of notice or a stop work order shall be given.
- J. Erosion and sedimentation control barriers shall be installed or maintained in a manner that does not result in damage to the tree or critical root zone and in a manner that does not result in soil buildup.
- K. Protective fences shall surround each tree or group of trees and will remain at the location specified in the landscape plan and approved site development plan. For natural areas, protective fencing shall follow the limit of construction line in order to prevent the following:
  - 1. Soil compaction in the root zone area as a result from vehicular traffic or storage of equipment and materials;
  - 2. Root zone disturbances due to grade changes greater than 4 inches of cut or fill, or trenching not approved or authorized by the city;
  - 3. Wounds to exposed roots, trunk or limbs by mechanical equipment;
  - 4. Other activities detrimental to trees such as chemical storage, concrete clean-outs and other construction spoils.
- L. *Critical Root Zone.*
  - 1. No construction or disturbance shall occur within an area that constitutes more than fifty percent (50%) of the total critical root zone and one half the radial distance of the critical root zone for each tree being preserved including protected trees, heritage trees, and any other trees for which preservation is to be credited. The remaining critical root zone shall consist of at least one hundred (100) square feet.
  - 2. This defined area shall be flagged and encircled with protective fencing during construction. The director may approve construction closer to the trunk than one-half (1/2) the radial distance, depending on the size, spacing, or species of the tree, the type of disturbance proposed, and uniqueness of the situation.

3. Cut or fill that is greater than four (4) inches in depth and the severing of major roots shall be considered disturbance for the purposes of this article.
4. Within the protected critical root zone, only flatwork, decking, or similar construction, may be approved and shall not affect the branching of the tree.
5. If proposed or actual protection of the critical root zone of a tree does not meet the requirements of this section, then the tree shall be considered removed and shall require mitigation in accordance with this article.

Figure 1. Critical Root Zone



Graphic Used with Permission from City of Austin

Figure 2. Primary Tree Protection - Chain-link (City of Austin Standard 610S-2)

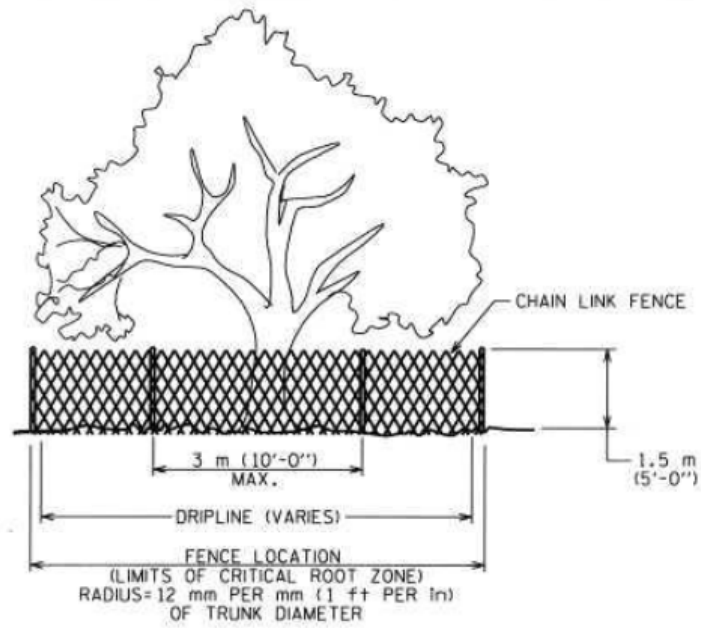
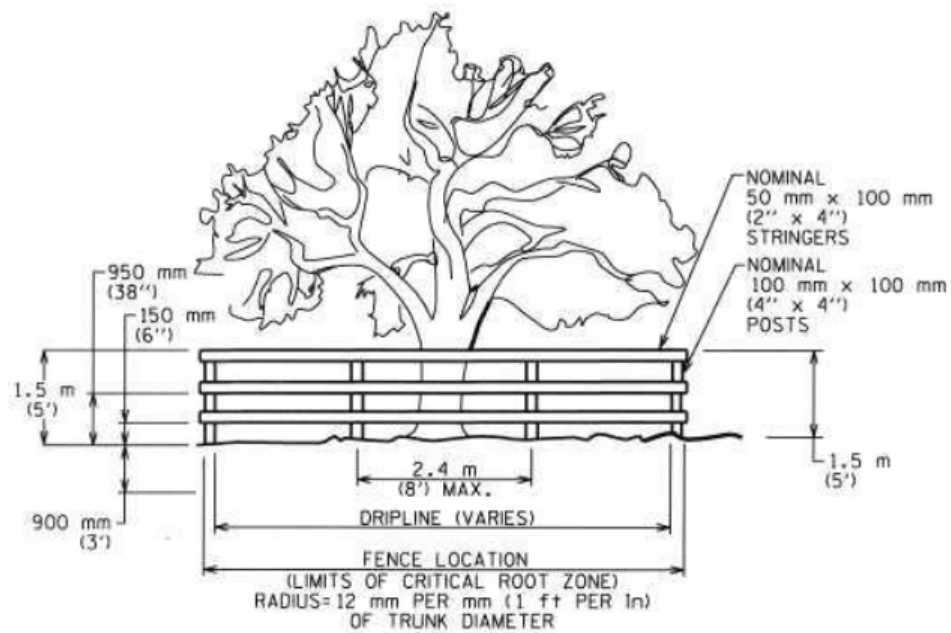


Figure 3. Secondary Tree Protection - Wood (City of Austin Standard 610S-3)



### **Section 3.2.6.29 Prohibited Activities in Root Zone of Protected and Heritage Trees**

The following activities shall be prohibited within the limits of the critical root zone of any protected or heritage tree subject to the requirements of this article:

- A. *Material Storage.* No materials intended for use in construction, or waste materials accumulated due to excavation or demolition, shall be placed within the limits of the critical root zone of any protected or heritage tree. Equipment cleaning; liquid disposal. No equipment shall be cleaned, or other materials or liquids deposited or allowed to flow over land, within the limits of the critical root zone of a protected or heritage tree. This includes, without limitation, paint, oil, solvents, asphalt, concrete, mortar or similar materials, tree attachments.
- B. *Signs, Wires, or Other Attachments.* No signs, wires, or other attachments other than those of a protective nature shall be attached to any protected or heritage tree.
- C. *Vehicular Traffic.* No vehicular and/or construction equipment traffic or parking shall take place within the limits of the critical root zone of any protected or heritage tree other than on an existing paved street or parking lot. This restriction does not apply to single incident access within the critical root zone for purposes of clearing underbrush, establishing the building pad and associated lot grading, vehicular traffic necessary for routine utility maintenance or emergency restoration of utility service, or routine mowing operations.
- D. *Grade Changes.* No grade changes in excess of two inches (2") (cut or fill) shall be allowed within the limits of the critical root zone of any protected or heritage tree unless adequate construction methods are utilized which have been approved by the building official.
- E. *Impervious Paving.* No paving with asphalt, concrete or other impervious materials in a manner which may reasonably be expected to kill a tree shall be placed within the limits of the critical root zone of a protected or heritage tree except as otherwise allowed in this article.

### **Section 3.2.6.30 Pre-Construction Requirements**

Unless otherwise approved in the site plan or development permit, the following procedures shall be followed on all construction projects:

- A. *Open Space Flagging.* All trees or groups of trees within areas intended to be saved as open space shall be enclosed with orange fencing along all areas of possible access or intrusion by construction equipment. Fencing shall be supported by metal "T" posts at a minimum of ten-foot (10') intervals on center. Single incident access for the purposes of clearing underbrush is allowed.
- B. *Protective Fencing.* In those situations where a protected or heritage tree is so close to the construction area that construction equipment will infringe on the root system, protective fencing may be required between the tree and the construction activity.

- C. *Bark Protection.* In situations where a protected or heritage tree remains in the immediate area of intended construction, the tree shall be protected by enclosing the entire circumference of the tree with 2" x 4" lumber encircled with wire or other means that do not damage the tree. This will protect the bark of the tree against incidental contact by large construction equipment.

**Section 3.2.6.31 Eradication of Stumps.**

- A. In the event that any trees of any kind are cut on a lot, the owner of the lot or the owner's agent will be required to remove, grind or otherwise eradicate the stump of the cut trees in a manner in which the stump will not be noticeable from surrounding properties or the street right-of-way.
- B. For purposes of this section, a stump will not be considered visible if the top of the stump does not exceed two (2) inches above the surface of the lot at the location of the stump.
- C. Removal of one or more stumps from a lot through excavation or bulldozing will require the installation of erosion and sedimentation controls as deemed necessary by the city. Revegetation of any area disturbed by the removal of trees or stumps must be accomplished within sixty (60) days of the removal. Erosion and sedimentation controls must be maintained in an appropriate manner to ensure their effectiveness and aesthetic appearance until such time as new vegetation is permanently established in the disturbed area(s).

**Section 3.6.2.32 Alternative tree preservation**

- A. Alternative tree preservation may be approved by the city for properties where existing tree cover is especially dense, and the following are found:
  - 1. Removal of a significant number of trees is unavoidable;
  - 2. The applicant has planned the development so as to save the highest quality and greatest number of trees that could be reasonably expected;
  - 3. All areas of the site that can be reasonably utilized for tree replacement have been utilized; and
  - 4. The proposed total landscaping exceeds the requirements of this article.
- B. The approved alternative tree preservation approach shall be included in the landscape plan and permit.

### **Section 3.2.6.33 Nonnative Invasive Plants/Prohibited Trees/Plants**

*Species public nuisance declared.* The city declares that invasive or undesirable species listed in appendix C are a public nuisance that degrades landscaped and natural areas. The landscape plan shall identify any prohibited trees or vegetation and shall provide that such species shall be removed. Prohibited trees or vegetation shall not count as credit toward planting requirements. Likewise, removal of same shall not be subject to replacement or tree mitigation fees.

### **Section 3.2.6.34 Landscaping Incentives for New Subdivisions and Commercial, Industrial Multi-Use or Multifamily Developments**

- A. *Appropriate Native Plants Incentives.* Any landowner or landowner representative submitting a required landscape plan for new subdivisions or other land developments for landscaping with one hundred percent (100%) native plants and trees will be eligible for all or part of the following incentives with eligibility based on the recommendations of the Planning and zoning commission and approval of the City Council.
1. A rebate of up to twenty-five percent (25%) from the city's tree mitigation fees;
  2. City signage placed on site naming the landowner and/or landowner representative as a green growth company or landowner;
  3. Certificate of recognition and appreciation from the Lower Colorado River Authority and Central Texas Soil and Water Conservation District;
  4. City notice of recognition and appreciation with certificate presented at City Council meeting.
- B. *Restoration of Native Habitat Incentives.* Any landowner or landowner representative submitting a required landscape plan for new subdivisions or other land development for landscaping which restores native habitat through a combination of nonnative invasive plant removal and installation of one hundred percent (100%) native plants, and which results in an increase of plants on the developed site will be eligible for all or part of the following incentives with eligibility based on the recommendations of the planning and zoning commission and final approval of the City Council:
1. A rebate of up to twenty-five percent (25%) from the city's tree mitigation fees;
  2. City signage placed on site naming the landowner and/or landowner representative as a green growth company or landowner;
  3. Certificate of recognition and appreciation from the Lower Colorado River Authority and the Central Texas Soil and Water Conservation District presented at a City Council meeting.

- C. *Single-Family Homes Incentives.* The incentives portion of this article does not apply to individuals submitting a limited landscape plan for one single-family home on one existing lot.

### **Section 3.2.6.35 Education**

The city recognizes that education of its citizens on the benefits of appropriate native vegetation and the need for the use of more efficient landscaping practices is essential in order to protect the city's most valuable resources, including water, wildlife, and native plants.

- A. *Public Workshops.* To increase public awareness on the requirements of this article, promote the protection of native plants, and educate its citizens on local native ecosystems and appropriate native plants, the city will conduct, at minimum, one public workshop every year. The costs of the workshops will be borne by the city. The city may partner with a public agency such as the Central Texas Soil and Water Conservation District, the Lower Colorado River Authority, Balcones Canyonlands Wildlife Preserve, or a nonprofit organization such as Tree Folks or the local chapter of the Native Plant Society of Texas to provide the workshops.
- B. *Residential Subdivision Education Required.* The developer or POA, as applicable, with guidance from the city, will also design and supply each new subdivision homeowner with educational materials about the subdivision's landscape plan, including information on the appropriate native plants, soils, wildlife habitat, fertilizers, and water usage within their subdivision. The costs for the printing of the educational materials will be borne by the developer or POA, as applicable.

### **Section 3.2.6.36 Landscaping Standards**

- A. *Installation.* A common cause of landscape failure is planting too deep and failing to manage circling roots. All landscape materials shall be installed and maintained according to best practices for the Central Texas region. Low water demanding landscapes are encouraged and shall include use of native plants and adapted plants as included in appendix A and appendix B.
- B. *Maintenance.* The owner of landscaped property shall be responsible for the maintenance of all landscape areas. Said areas shall be maintained so as to present a healthy appearance at all times and shall be kept free of refuse and debris. Native plants shall be maintained in their naturally occurring shapes with minimal pruning. All planted areas shall be provided with a readily available water supply and watered as necessary to ensure healthy establishment. Limit water and fertilizer for native plants once established. Landscape irrigation systems shall not be mandatory with low water demanding landscapes. Drip irrigation or soaker hose systems and landscape designs for low impact stormwater management that keep stormwater runoff on-site are encouraged. Maintenance shall include the removal of dead plant material and its replacement if that material was used to meet the requirements of this section.



- C. *Quality.* Trees, shrubs, vines and ground cover planted pursuant to this section shall be healthy nursery stock that meets or exceeds the American Standard for Nursery Stock (ANSI Z60.1).
- D. *Turf Grass and Alternatives.*
1. All turf grass installed shall have summer dormancy capabilities. Recommended varieties can be found in the plant reference resources appendix A. St. Augustine and common Bermuda shall not be used.
  2. Alternative options to turf grass shall use native and adapted landscape plants for planting such as wildflower prairies, ground cover, flower and shrub beds, or mulch. No more than thirty (30%) percent of the landscaped portion of residential lots may consist of non-degradable pervious material such as river rock, gravel, decomposed granite, tumbled glass or pervious pavers.
  3. The maximum landscape that may be planted in turf grass for nonresidential development shall be limited to forty (40%) percent of the required landscape area. No more than fifty (50%) percent of the landscaped portion of nonresidential lots may consist of non-degradable pervious material.
  4. Turf grass in nonresidential developments shall be located in strips no less than ten (10) feet wide. Landscaped areas smaller than ten (10) feet in width shall use ground covers or pervious materials.
- E. *Tree Diversification During Development.* No more than fifty percent (50%) of the same species may be planted as street trees or individual lot trees on the same street when subdivision lots are first developed to avoid potential loss of entire plantings due to disease.
- F. *Non-Disturbance Zone.* A non-disturbance zone shall be maintained on single-family and two-family lots during the subdivision construction and building permit phases of development. A disturbance area no more than five feet (5') from the foundation necessary for construction and grade transitions shall be permitted. This disturbance area shall be no more than ten feet (10') from the foundation for properties on lots larger than one-half (1/2) acre. The trees located on the remainder of the lot shall not be removed unless a unique situation is approved by the city.
- G. *Pruning Oak Trees.*
1. To help prevent the spread of oak wilt, pruning of any type of oak tree shall be prohibited from February 1st through June 30th unless approved in advance by, and performed under the supervision of a licensed arborist for a tree showing signs of disease, damage through a storm, reasons related to public safety or protection of property, or other extenuating circumstances where maintenance is deemed necessary by the city's arborist.

- a. At all times of the year, suspected disease of any oak tree shall be reported to the city for review by the city arborist before the pruning is performed to minimize the risk of oak wilt spread.
  - b. For the period outside February 1st through June 30th, pruning for maintenance or removal of branches of any protected or heritage oak tree shall be performed under the supervision of a ISA-certified arborist. If the property owner uses an ISA-certified arborist of their choice for pruning of a protected or heritage oak tree, the property owner may apply for a small reimbursement from the city's tree mitigation fund.
  - c. TexasOakWilt.org guidelines shall be followed for correct pruning techniques and disposal methods to prevent spread of oak wilt. Any oak suspected to have oak wilt shall be reported to the city for proper identification by the city's arborist. The property owner shall follow the city arborist's direction for immediate removal or correct treatment of all trees confirmed to have oak wilt.
  - d. There is no charge to the property owner for services provided by the city's arborist.
2. Pruning protected trees of non-oak species may occur as needed throughout the year. Any brush and tree removal must be permitted through the city development services office.
- H. *Artificial Materials.* Synthetic or artificial lawns or plants, if allowed by state law and property owner's association rules, shall not be used in lieu of plant requirements.
  - I. *Planters.* The use of architectural planters may be permitted in fulfillment of fifty percent (50%) of the landscape requirements for commercial or industrial landscapes.
  - J. *Pervious Materials.* Any approved decorative aggregate or pervious brick pavers shall qualify for up to ten percent (10%) of the required landscaping if contained in planting areas, but no credit shall be given for concrete or other impervious surfaces.
  - K. *Mulch.* All exposed soil surfaces of disturbed non-turf areas within the developed landscape area must be mulched with a minimum two-inch layer of organic material. Examples of organic material include first-pass chopped native hardwoods, shredded cedar, composted leaves, and shredded landscape clippings. Natural areas are exempt from additional placed mulch.
  - L. *Lighting.* Landscape lighting of all types shall meet the city's lighting standards and requirements for night-time light control to preserve dark skies.

- M. *Tree Preservation Markings.* All trees to be preserved as shown in an approved landscape plan shall be clearly marked prior to the commencement of construction activities.
- N. *WaterWise Landscape Principles.* WaterWise landscape principles shall be an integral component of the landscape design and plan. Home builders shall be required to offer a WaterWise landscape option using drought-tolerant and drought-resistant native plants in any series of landscape options offered to home buyers. The seven basic principles of WaterWise landscaping include:
1. Proper planning and design, including grouping plants by their water needs, grouping plants by their microclimate needs;
  2. Proper soil preparation (compost-improved topsoil);
  3. Practical turf grass selection of drought resistant-species;
  4. Appropriate plant selection. The plants listed as invasive plants shall not be offered as part of a WaterWise landscape option;
  5. Efficient irrigation systems;
  6. Use of mulches;
  7. Appropriate maintenance.
- O. *Excluded Items.* The following may not be counted toward the above landscape area requirements:
1. Detention and water quality ponds unless such ponds are designed as follows:
    - a. The ponds shall utilize earthen berms.
    - b. Any structural stabilization shall be limited to the use of native stone (except for outlet structures) and shall be limited to not more than thirty percent (30%) of the perimeter of the pond.
    - c. Such ponds shall be seamlessly integrated with the landscaping.
    - d. Such ponds shall be not greater than eighteen inches deep.
    - e. Such ponds shall not comprise more than twenty-five percent (25%) of the required landscape area.
  2. Utility, mechanical and electrical facilities.

3. Sidewalks or other paved surfaces except for any decorative aggregate or pervious brick pavers if contained in planting areas and comprising less than ten percent (10%) of the required landscape area.
  4. Landscaped areas less than four feet in width.
- P. *General Landscape Minimums.* A minimum percentage of the total lot area of property on which development occurs shall be devoted to landscape development in accordance with the following schedule. Such percentages may include setback areas. All non-single-family and non-two-family setback areas are required to be landscaped in accordance with this article even if they exceed the following percentages:
1. Multifamily dwellings (tri-plex, four-plex, condominiums or apartments): 20%.
  2. Office and professional uses: 15%.
  3. Commercial uses: 15%.
  4. Industrial or manufacturing: 10%.
  5. Single-family and two-family dwelling housing developments: 15% preserved in perpetuity as native habitat (may include greenbelts and steep slope environmental overlays).
  6. Schools, churches, city centers and parks: 15%.

#### **Section 3.2.6.37 Landscape Requirements for Multifamily, Industrial and Commercial Developments**

- A. Trees and shrubs identified on appendix A or appendix B shall be utilized within the required landscaping as described below.
1. For every six hundred (600) square feet of landscape area and setback area required by this article, two (2) canopy shade trees two (2) inch caliper or larger and four (4) shrubs, five (5) gallon container size or larger) shall be planted. Two ten (10) gallon container sized ornamental trees may be substituted for every one (1) required shade tree as long as at least half of the required number of shade trees is installed.
  2. Trees shall be credited on a caliper-inch basis.
    - a. For every one (1) caliper-inch of a tree that is saved, credit shall be given for one (1) caliper-inch of a tree required to be planted.

- b. For every one (1) caliper-inch of a protected or heritage tree over eighteen inches (18") caliper that is saved, credit shall be given for two (2) caliper-inches of a tree required to be planted.
  3. At least seventy five percent (75%) of the planted trees are required to be large trees/shade trees.
  4. The remaining trees may be small ornamental understory trees, all of which shall be selected from appendix A or appendix B. Existing protected trees and shrubs that are retained in healthy condition may count toward fulfillment of these requirements.
  5. In calculating the credit from existing protected trees and shrubs that are retained, shrubs shall be credited on a one-for-one basis if such shrub is equivalent or greater in size to a comparable five-gallon container-grown shrub.
- B. To allow for larger landscaped activity areas at school facilities, for every six hundred (600) square feet of landscaping required by this section, one (1) tree and three (3) shrubs (five (5) gallon container size or larger) shall be planted.
- C. To reduce the thermal impact of unshaded parking lots, additional trees shall be planted as necessary so that the center point of each parking space is no more than seventy-five (75) feet away from the trunk of a tree.
1. Appendix A includes a list of native shade trees acceptable for use as parking lot trees or street trees.
  2. If used, street trees shall be planted between the sidewalks and back of curb (or edge of pavement) if the public utility easement is more than five (5) feet from the back of curb or edge of pavement. If the public utility easement is adjacent to the back of curb or edge of pavement, the tree designated as a street tree shall be planted on the lot side of the easement. A street tree shall be a large tree species and shall be specified in the construction plans for the subdivision (if applicable). Street tree spacing shall average thirty (30) feet on center between trees on the same side of the street. Street trees may be counted toward the required tree plantings within the front or street side setback area. Caution should be taken to avoid planting street trees of the same species that come from the same tissue culture to minimize later mass failure from disease.
- D. Other than single-family and two-family development, setback areas shall be landscaped per the standards of this section.

### **Section 3.2.6.38 Landscape Requirements for Residential Districts Other Than Multifamily**

- A. Shrubs shall be five (5) one-gallon shrubs, three (3) five-gallon shrubs, and a mix of ground cover and turf grass or an alternative material as defined in this section from the front property line to the front two (2) corners of the structure. If rain gutters are not used, a minimum area extending three feet (3') from the slab/ foundation shall be covered with ground cover plants, turf grass or French drain with gravel to encourage water infiltration.
- B. Each residential lot or building envelope shall be required to plant at least two (2) trees measuring at least two (2) caliper-inches selected from the city's plant reference resources (appendix A). At least one of the required trees shall be a street tree planted between the sidewalk and the back of curb (or edge of pavement) in accordance with The Urban Tree Foundation planting details. Street tree spacing shall average thirty (30) feet on center between trees on the same side of the street which may require two (2) or more street trees to be planted per lot to achieve the required spacing.
- C. Lots less than thirty (30) feet wide and with less than a fifteen (15) foot deep front yard are only required to plant one (1) large tree which shall be the street tree. One small ornamental tree shall be planted in the front yard of the lot. Corner lots shall plant street trees on both streets. Existing trees and shrubs that are retained in healthy condition may count toward fulfillment of these requirements.
- D. Seventy-five percent (75%) of the landscape understory shall be native plants

### **Section 3.2.6.39 Required Area to be Landscaped**

The landscaping shall be placed upon that portion of a tract or lot that is being developed. Thirty percent (30%) of the required landscaped area and required plantings contained in the landscape requirements listed in this section shall be installed between the front property lines and the building being constructed. Undeveloped portions of a tract or lot shall not be considered landscaped, except as specifically approved by the city.

### **Section 3.2.6.40 Intersection Landscaping**

No landscaping that will be over three (3) feet in height at maturity shall be planted within forty (40) feet of the intersection of any street pavement. Any planted or existing vegetation within this area shall be kept pruned so that foliage shall not grow or exist within three (3) and eight (8) feet above the elevation of the curb closest to the vegetation.

### **Section 3.2.6.41 Replacement Landscaping Required**

In cases of death or removal of a tree planted pursuant to the terms of this article within ten (10) years of installation, a replacement tree of equal size and type shall be required to be planted. A smaller tree that will have a mature crown similar to the tree removed may be substituted if the planting area or pervious cover provided for the larger tree in this section is retained.

**Section 3.2.6.42 Riparian Buffers**

Waterfront property along Lake Travis or any of its tributaries shall preserve a thirty-five foot (35') buffer from the water's edge at normal high water mark or landward side of floodplain boundary maintained in native woody vegetation for water quality including control of sediment and for wildlife habitat unless a higher standard is required by the Lower Colorado River Authority to meet environmental regulations.

**Section 3.2.6.43 Screening Buffers**

- A. *General.* Screening buffers are required to reduce the visual impact between one type of land use and another.
- B. *High Impact Screening.* A one hundred percent (100%) opaque screen is required between dissimilar land uses per the chart below. Both of the following elements are required to be installed within the buffer area: (1) an eight-foot (8') masonry wall or wood fence; and (2) a low-impact landscape screen on one side of the fence. The high-impact screen shall be regularly maintained to ensure wall or fence and landscaping remain in excellent condition.
- C. *Medium Impact Screening.* A seventy percent (70%) semi-opaque screen is required between dissimilar land uses per the chart below. Semi-opaque screening should partially block views from adjoining land use and create a separation between the adjoining land uses. Medium-impact screening may consist of a wood or metal fence with landscape screening of shrubs and ornamental trees, or solely landscape screening of canopy trees, ornamental trees, evergreen trees and shrubs, with 25% canopy trees.
- D. *Low Impact Screening.* A partially open screen of plants is required between somewhat similar land uses. Open screening should provide an attractive separation between land uses. This landscape screen shall consist of 15% canopy trees, 10% ornamental trees, 15% evergreen trees and 30% shrubs.

<b>Visual Screening Chart Adjoining Use and Impact Level</b>					
<b>Proposed Use</b>	<b>Single Family</b>	<b>Multifamily</b>	<b>Commercial</b>	<b>Office</b>	<b>Industrial</b>
<b>Single-Family</b>	None	High	High	High	High
<b>Multifamily</b>	High	None	High	Medium	High
<b>Commercial</b>	High	High	None	None	Low
<b>Office</b>	High	Medium	None	None	Low
<b>Industrial</b>	High	High	Low	Low	None

#### **Section 3.2.6.44 Tree Mitigation Fund**

There is hereby created a tree mitigation fund, a separate fund of the city that shall receive all funds collected under this article and which shall be received and administered by the city for purposes outlined in this article.

#### **Section 3.2.6.45 Violation**

It shall be unlawful for any person or entity, to permit, cause or allow a protected or heritage tree to be cut down, destroyed, removed, topped or moved, whether directly or indirectly without first obtaining a tree removal permit or an approved landscape plan that includes the right to remove protected or heritage trees.

#### **Section 3.2.6.46 Variance Procedures**

- A. *Petition.* Any landowner whose property is regulated by this article may petition the city for a variance from the requirements of this article. Any landowner who intends to remove a heritage tree shall be required to petition and receive a variance to this article. The petition must include:
1. The name and address of the applicant;
  2. A detailed description of the exigent circumstances that warrant variance from the requirements;
  3. A proposed landscape plan;
  4. The requested variance; and
  5. Any other relevant information that staff requests of the applicant.
- B. *Consideration and Decision.* The commission shall recommend and the City Council shall consider and take action on the variance request at a public hearing. Following the public hearings and action by the commission and City Council, the city will notify the landowner in writing of the city's decision to either approve or deny the petition.
- C. *Appeal.* If the planning and zoning commission recommends denial of the variance petition, the landowner may appeal such recommendation to the City Council by submitting a written notice of appeal to the city within thirty (30) days after the date of determination by the planning and zoning commission. Failure of the applicant to request an appeal within the thirty (30) day period concludes the variance request.

#### **Section 3.2.6.47 Inspections**

City staff, or city designated representatives, shall have the authority to make inspections at reasonable hours of all areas landscaped pursuant to this article at any time during the



development of a site, installation of the landscape plan at the site, and within the first year after the date that the landscaping is completely installed. The inspections may be made without notice, and refusal to allow such inspection will be a violation of this article. Refusal to allow inspection will constitute grounds for a court of competent jurisdiction to issue an administrative warrant for the purposes of inspecting the landscaped area. The city may utilize knowledgeable volunteers from the local native plant society, the local soil and water conservation district and university extension offices for the purposes of completing the inspections.

#### **Section 3.2.6.48 Fees**

The city may charge an applicant reasonable fee for any permits and applications required by this article, which fees may from time to time be amended by the city.

#### **Section 3.2.6.49 Penalty**

Violations of these requirements shall be enforced in accordance with specific sections of this article and in accordance with section 1.01.009, general penalty for violations of code; continuing violations, of the city's code and as otherwise set out in this chapter.

### **Section 3.2.7 Fencing**

#### **Section 3.2.7.1 Fences and Walls**

- A. *Generally.* The requirements of this Section apply to both residential and nonresidential fences and walls constructed for the purposes of screening, privacy, and property protection. These requirements are intended to allow for fence construction in a manner that protects property and the health and safety of people and animals, while ensuring compatibility with, and contribution to, a quality-built environment.
- B. *Applicability.* This Section shall apply to the following situations within the City limits, except for fences or walls in support of farm or ranch uses and accept as otherwise expressly authorized or required within other Sections of the Code of Ordinances:
  - 1. All new development or redevelopment; or
  - 2. Where 50 percent or more of an existing fence, wall, or screen is being replaced.
- C. *General Standards for all Fences and Walls.* All fences and walls within the City limits shall comply with the following, unless otherwise exempted herein:
  - 1. Permit Required. The construction of a fence or wall shall require a permit.
    - a. Fencing Permits shall be considered for approval in conjunction with Site Plan approval for new development or redevelopment; or
    - b. Fencing Permits shall be required for an individual lot, tract or parcel when site plan approval for the lot, tract, or parcel is not otherwise required.

2. Street Visibility. Fences and walls shall not be located within the sight visibility triangle.
3. Easements. Fences and walls authorized by the City to be located within drainage easements shall be designed in a manner to avoid limiting or obstructing the flow of water.
4. Location, Height, and Setback Requirements. All fences and walls shall comply with the height and setback requirements set out in Table 3.2.7, Location, Fence, and Wall Height and Setback Requirements.

Table 3.2.7 Location, Fence, and Wall Height and Setback Requirements			
Location	Height <sup>1, 2</sup>	Setback <sup>3</sup>	Additional Standards
Front Yard	4'	0'	Fences and walls shall have a maximum 50% opacity.
	6'	Front building line	Six-foot fencing shall not be located any closer to the front property line or street than the primary structure.
Street Side Yard	6'	0'	Six-foot street side yard fencing shall not encroach into the front yard setback requirement.
Interior Side Yard	6'/8'	0'	Where the use of the property or one the abutting properties is non-residential, industrial, or mixed-use, the maximum height is eight feet. If both are residential, the maximum height is six feet.
Rear Yard			
Double Frontage Rear Yard	4'	0'	Fences and walls shall have a maximum 50% opacity.
	6'	10'	10' setback is from street right-of-way and shall be landscaped green space.
Arterial Street Frontage	8'	5'	Frontage abuts a major or minor arterial.
<p>Table Notes:</p> <p><sup>1</sup> Decorative columns, pilasters, stone caps, sculptural elements, and other similar architectural features may exceed the maximum height by up to one foot, provided that such taller elements comprise no more than 10 percent of the total wall length in elevation view.</p> <p><sup>2</sup> Fences and walls meeting the criteria for outdoor storage may be allowed additional height as set out in Section 3.2.9 Outdoor Storage and Display of Merchandise.</p> <p><sup>3</sup> All fences and walls shall be set back a minimum of two feet from an existing public sidewalk and three feet from an alley right-of-way.</p>			

5. Materials.
  - a. Generally. Materials shall be durable and in character for the use of development it is serving (i.e., residential fencing shall be of a material commonly made and sold for residential fencing or wall construction uses).
  - b. Materials Allowed. Permitted materials include weather resistant wood species, split rail, PVC/vinyl, wood treated with U.S. Environmental Protection Agency approved preservatives, painted wood, ornamental iron or powder-coated aluminum, brick, stone, or masonry.
  - c. Materials Allowed with Limitations.
    - (1) Barbed-wire fences and electric fences are prohibited in residential districts, except for public utility buildings or wherever the Planning Director finds that such are necessary to address a security interest.
    - (2) Chain link fences are prohibited in the front yards in all districts but are permitted in interior side and rear yards that do not abut or directly face a public street.
  - d. Prohibited Materials. Prohibited fence and wall materials include scrap lumber, plywood, tree branches, tree trunks, sheet metal, plastic, fiberglass sheets, and spikes, nails, or other injurious sharp points on the tops or sides of the fence.
6. Orientation. The finished side of all fences along front yards, street side yards, and public parks shall face outward toward the abutting right-of-way.
7. Maintenance.
  - a. Fences and walls shall be maintained in an upright position and in good condition.
  - b. Fences and walls that are partially destroyed or damaged shall be either completely replaced with a new fence or repaired with the same materials so that its appearance is restored to its prior appearance. New replacement fences require a new fence permit.
  - c. Fences that require periodic maintenance, such as natural wood material, shall be cleaned, sealed, or otherwise kept in good condition and appearance.

D. *Special Fences.*

1. Properties Along FM 1431. Fences and walls constructed on the front property line of lots along State Highway 1431 shall be a maximum height of eight feet. The fence or wall must be constructed to have a minimum of 40 percent of the surface area of the fence or wall be stucco, stone, brick, or any combinations thereof and the remaining surface area must be wood, iron or other similar material. The entryway or gate shall have a minimum opening of 15 feet and must be positioned no less than 35 feet from the edge of pavement on FM 1431.
  2. Sport Courts and Fields. Fencing for sport courts and fields (e.g., around tennis courts) is permitted but shall not exceed 15 feet.
  3. Swimming Pools. Pool fences around swimming pools shall comply with state standards and the City's adopted building codes.
- E. *Residential Perimeter Screening.* To provide buffer protection and a pleasing, sustainable aesthetic appearance, screening shall be required for single-family detached, single-family attached, cottage, duplex, manufactured house, and townhouse subdivisions, manufactured home parks, and RV parks along the perimeter boundary adjacent to arterial and major collector roadways.
1. Screening Standard.
    - a. Material. Materials shall consist of brick, stone, stucco, decorative concrete, or other material of similar quality and durability.
    - b. Wall Height. Each wall shall be a minimum of six feet in height to a maximum of eight feet in height from finished grade.
    - c. Column Spacing and Height. Decorative masonry columns shall be located generally every 40 feet. Decorative columns, pilasters, stone caps, sculptural elements, and other similar features may exceed the maximum eight-foot wall height by one foot, provided that such taller elements comprise no more than 10 percent of the total wall length in elevation view.
  2. Alternative Standard. An alternative screening standard may be considered by the Director if it is demonstrated that it materially complies with the intent of this subsection and that it results in a screening wall that is generally low-maintenance, durable, and of similar aesthetic appearance. Meeting this alternative standard could include, but not be limited to, a combination of one or more of the following:
    - a. Living/landscaped screen with decorative metal (e.g., wrought iron) fence sections with masonry columns; or

- b. A combination of berms and living/landscaped screening with decorative metal and masonry columns; or
  - c. A combination of berms, and living/landscaped screening, decorative masonry retaining walls.
3. Easement Required. A maintenance easement shall be required at least five feet in width located on the residential side of the screening wall, opposite of the street. The easement shall be dedicated to a property owners' association.
  4. Timing of Compliance. Perimeter screening walls shall be included as part of the Construction Plans and installed prior to final acceptance of the public improvements for the subdivision (or appropriate surety provided, per Article 6, Subdivision Design and Land Development).

### **Section 3.2.8 Boat Docks**

#### **Section 3.2.8.1. Criteria for Boat Docks**

- A. *Boat Dock.* Boat Docks must comply with all the following specific criteria as well as any applicable general criteria:
  1. Boat docks may not be constructed prior to the construction of a primary structure or exist on a lot without a primary structure.
  2. The owner of a boat dock must apply for a boat dock number from the city and the boat dock number must be displayed on the dock in a location prominent and visible from the water in minimum of three-inch-tall characters made of noncorrosive material, within six months of the time this article is in effect.
  3. A boat dock must be constructed in accordance with the city's building codes and regulations and applicable LCRA standards and the dock footprint must not exceed 1500 square feet. Ramps shall be excluded from total square footage of boat docks.
  4. All existing boat docks must be brought up to applicable LCRA standards and the city's building codes and regulations and Division 3.4 of this code, as amended, within five years of the date this article is in effect.
  5. Dilapidated boat docks that cannot be brought into compliance with LCRA standards must be removed at the owner's expense, within 60 days of notification by the city. Any boat dock deemed to be dangerous by the building official may be abated by repair, rehabilitation, demolition or removal pursuant to the procedures for dangerous building abatement set forth in chapter 214, Texas Local Government Code, as amended, or Division 3.4 of this code, as amended.

6. Boat docks are considered to be accessory structures and therefore must comply with all requirements governing accessory structures, notwithstanding any stated exceptions.
7. A city building permit must be obtained for all construction, alteration, and demolition of boat docks. Any electrical or plumbing work on a boat dock will require an additional permit. No building permit is required for minor repairs that do not involve electrical or plumbing work provided they do not violate any provision of this section.
8. The owner or applicant authorized to represent the owner shall submit an application for approval containing plans and specifications of the proposed dock and a site plan showing the dock's location on the owner's property to the building official for review. Permits will be issued at the city office by the building official if the application meets all city requirements and permit fees are paid.
9. A permit shall not be issued for a boat dock if the applicant does not have sufficient room to locate the dock and any attachments (such as anchors, cables, or ramps) on/over his or her own property.
10. A dwelling unit is prohibited on a boat dock.

### **Section 3.2.9 Outdoor Storage and Display of Merchandise**

- A. *Generally.* Except as otherwise authorized by this Development Code, Outdoor storage and display areas are permitted on properties used for nonresidential purposes subject to the standards of this Section.
- B. *Applicability.* This Section applies to outdoor storage areas of equipment, materials, or goods that are not for sale, and also to outdoor display of merchandise for sale. This Section does not apply to outdoor storage areas needed to support farm or ranch uses or for outdoor residential storage normally associated with residential uses.
- C. *Requirements for Outdoor Storage Areas.*
  1. Permitted Uses. Outdoor storage areas may be used to store materials, goods, and merchandise associated with the primary use of the site, subject to the following:
    - a. Materials, goods, and merchandise shall not be actively for sale.
    - b. Vehicles or equipment shall be in working condition and used to support operations of the principal use.
  2. Limited Uses. Vehicles or equipment, in working condition or inoperable, that are temporarily stored for repair, impounding, or similar short-term containment are allowed within a designated outdoor storage area if such activity is directly associated with the principal use.

3. Prohibited Uses. Outdoor storage areas shall not be used to dispose of waste, vehicles, or machines; store or dispose of hazardous materials; or store or dispose of materials that will create windblown dust or debris or stormwater contaminants.
4. Location. All outdoor storage areas shall only be located in the buildable area of the rear yard or interior side yard and shall not be located in a required setback, bufferyard, or areas that are required or used for access, parking, loading, stacking, or vehicular circulation.
5. Height of Outdoor Storage Materials. The maximum height of stored materials shall be one foot below the required screening, except for vehicles or equipment.
6. Additional Outdoor Storage Requirements. All outdoor storage areas shall comply with the height and setback requirements set out in Table 3.2.9, Additional Outdoor Storage Requirements.

Table 3.2.9 Additional Outdoor Storage Requirements		
Use	Maximum Area	Additional Standards
Farm and Ranch Uses	N/A	N/A
Residential Uses	N/A	N/A
Civic and Commercial Uses	15% of the floor area of principal building	Enclosed by a wall for street/public right-of-way frontage that is designed to the principal building's façade and composed of the same materials as the principal building.
	10% of the floor area of principal building	Enclosed by a durable wall or opaque fence of sufficient height to completely screen the stored materials from public view and rights-of-way.
Industrial	N/A	The outdoor storage is located within the buildable area and enclosed by a wall or opaque fence and gate of sufficient height to completely screen the stored materials from public view and rights-of-way.
Office Uses	N/A	Outdoor storage of materials is not allowed.

7. Site Development Plan Required. All outdoor storage areas shall be clearly shown on the Site Development Plan for the property. Where no Site Development Plan exists, all required information shall be shown on a scaled drawing or property survey submitted with the Building Permit or the Certificate of Occupancy.

D. *Requirements for Outdoor Merchandise Display Areas.*

1. Outdoor display areas shall not be located in required bufferyards, sight visibility triangles, easements, street rights-of-way (except for public sidewalks) or areas that are required or used for access, parking, loading, stacking, or vehicular circulation. New display areas may be located in a parking lot but shall not occupy required parking spaces unless otherwise approved by the Director.
2. If the outdoor display area is located on a public sidewalk, it shall not impede a pedestrian clear zone that shall be a minimum of four feet wide.
3. Designated outdoor display areas shall be denoted on the Site Development Plan for the property.

### **Section 3.2.10 Criteria for Home-Based Business**

- A. A home-based business must comply with the following specific criteria as well as any applicable general criteria:
  1. The home-based business shall produce no alteration or change in the character or exterior appearance of the principal building from that of a dwelling unit for human habitation;
  2. The home-based business shall be an accessory use to a primary residential use and will not occupy more than 25% of the residence floor area;
  3. The home-based business shall be conducted entirely within a dwelling unit, which is the bona fide residence of the person operating the business;
  4. The residential character of the lot and dwelling shall be maintained;
  5. The home-based business shall not produce external noise, vibration, smoke, odor, fumes, electrical interference or waste runoff outside the dwelling unit or on the property surrounding the dwelling unit;
  6. No vehicle used in connection with the home-based business, which requires a commercial driver's license to operate, shall be parked on any street adjacent to the property;
  7. No signs advertising the home-based business shall be permitted on the premises;
  8. No merchandise or materials may be displayed or stored where visible;
  9. The home-based business shall not create a significant increase in pedestrian or vehicular traffic; and



10. No home-based business use shall be allowed which creates a hazardous risk or condition on the premises or to surrounding neighbors or their property.

### **Section 3.2.11 Criteria for Alcoholic Beverage Sales, On-Premises and Off-Premises**

- A. Where permitted under this article, a building or structure used or proposed to be used for alcoholic beverages, on-premises or off-premises, shall be located no closer than 300 feet from any church, public or private school, or public hospital as measured by state law.
- B. Where permitted under this article, a building or structure that is used or proposed to be used for alcoholic beverages, on-premises or off-premises, is operated under a license issued under chapter 25, 28, 32, 69, or 74, Texas Alcoholic Beverage Code, as amended, and is not operated under a food and beverage certificate, shall be located no closer than 300 feet from any childcare center or child development facility. This subsection does not apply to alcoholic beverages, on-premises or off-premises, and childcare centers or child development facilities that are located on different stories of a multistory building or that are located in separate buildings and the childcare center or child development facility is located on the second story or higher of a multistory building.

## *DIVISION 3.3 SITE DEVELOPMENT AND CONCEPT PLANS*

### **Section 3.3.1 Generally**

#### **Section 3.3.1.1 Title**

This Division shall be known and may be cited as the site development and concept plans regulations.

#### **Section 3.3.1.2 Purpose and Intent**

The city council does hereby adopt the following regulations, as authorized by Tex. Local Gov't Code chapter 212, subchapter B, to hereafter control the development or improvement of land within the corporate limits and the extraterritorial jurisdiction of the city, so as to protect the public health, safety, morals, comfort, convenience and general welfare of the present and future citizens of the city; provide an attractive living environment; ensure safe, orderly, and healthful development and expansion of the city; and secure adequate provisions for traffic, water, wastewater, drainage and other public facilities.

#### **Section 3.3.1.3 Applicability**

Except as otherwise specifically provided in this article, this article shall, from and after passage hereof, govern every person owning, occupying, or controlling any tract of land within the corporate limits and extraterritorial jurisdiction of the city.

#### **Section 3.3.1.4 Violations; Penalty; Enforcement**

- A. Violation of any provision of this article or failure to comply with any requirement of this article by any land owner, occupant or owner's agent, or person in control of property subject to this article shall constitute a misdemeanor, and upon conviction of such violation in the city's municipal court a fine not exceeding five hundred dollars (\$500.00) may be imposed for each violation. Each action violating this article shall be a separate violation and each day that such violation continues shall be a separate offense. In case a corporation is the violator of any provision of this article, each officer, agent and/or employee responsible for such violation thereof shall be individually and severally liable for the penalties herein prescribed.
- B. No convictions under the penal provision of this article, or under the Texas Penal Code, shall ever be considered as any bar to any injunctive or other legal remedy, right or power available under law to the city.
- C. The city engineer, city building official, and/or city administrator shall enforce this article by appropriate administrative action, including but not limited to the rejection of development plats not found to be in compliance with this article and good engineering practice, the suspension and/or revocation of building permits, and the issuance of stop work orders.
- D. Prior to the issuance of a certificate of occupancy, residential and commercial properties will be inspected to insure compliance with any approved development plat for the development and with this article. Failure to comply with the approved development plat or the provisions of this article will result in a denial of the certificate of occupancy by the city.

### **Section 3.3.2 Development Plat**

#### **Section 3.3.2.1 Purpose**

Development plats provide detailed graphic information and associated text indicating property boundaries, easements, land use, street access, utilities, drainage, off-street parking, lighting, signage, landscaping, vehicle and pedestrian circulation, open spaces, and general conformance with the master plan and ordinances of the city.

#### **Section 3.3.2.2 Applicability; Exceptions**

This division shall govern every person owning, occupying, or controlling any tract of land within the corporate limits or the extraterritorial jurisdiction of the city who may hereafter develop or improve or cause to be developed or improved property within the city. Persons who are expanding, repairing, or remodeling single-family residences, and persons who are required to file a subdivision plat under Article 5 of the Code, as amended, for the property proposed to be improved or developed shall be exempt from this division.

### **Section 3.3.2.3 Required**

A development plat shall be approved by the city council in accordance with this article prior to the commencement of any development or improvement of land, including clearing and/or rough grading, within the corporate limits or the extraterritorial jurisdiction of the city, and such development or improvement shall be done in compliance with the approved development plat.

### **Section 3.3.2.4 Issuance of Building Permits**

No building permit shall be issued unless a development plat has been submitted and approved pursuant to this division.

### **Section 3.3.2.5 Procedures**

- A. *Submission.* Prior to the development or improvement of any property within the corporate limits or the extraterritorial jurisdiction of the city, two complete sets of development plats, containing all of the items outlined in section 3.3.2.7 of this Division, shall be submitted to the commission and the council for their approval, along with the following:
1. Completed application forms and the payment of all applicable fees.
  2. A letter requesting any variances from the provisions of this article.
  3. Any attendant documents needed to supplement the information provided on the development plat.
- B. *Staff Review.* City staff shall review all development plat submittals for completeness at the time of application. If, in the judgment of city staff, the development plat submittal substantially fails to meet the minimal informational requirements as outlined above, it will not be accepted for review. Prior to the commission meeting at which the development plat is to be heard, city staff and the city engineer shall review the development plat for consistency with city codes, policies and plans.
- C. *Rejection; Withdrawal.* The development plat may be rejected at any time subsequent to submittal and prior to final approval for failure to meet the minimum informational requirements of this article. If the applicant chooses to withdraw the development plat, he/ she may do so in writing delivered by noon of the third working day preceding the commission meeting. A withdrawn development plat may be resubmitted and appear on the next commission agenda after repayment of the applicable fees.
- D. *Notice of Hearing.*
1. All owners of property (as determined by the most recent tax rolls from the county appraisal district), any part of which is located within three hundred (300) feet of the perimeter of the land to be developed, shall be notified by mail prior to the

commission hearing.

2. The developer shall post signs along contiguous rights-of-way at each corner of the development and at intervals that do not exceed three hundred (300) feet between said corners. Signs must be in accordance with the city standard details and specifications.
3. The city shall publish a public notice at least once in a newspaper of general circulation in the city not fewer than fifteen (15) or more than thirty (30) days prior to said public hearing.
4. The city shall mail public notification forms, postmarked no fewer than fifteen (15) days prior to the appropriate commission hearing, to the owners of all property, any part of which is located within three hundred (300) feet of the perimeter of the property included within the development plat.

E. *Approval.*

1. The commission and council, after holding public hearings in accordance with city ordinances and codes, shall act on the request for development plat approval.
2. Zoning of the tract, if applicable, that shall permit the uses proposed by the development plat, or any pending zoning amendment necessary to permit the proposed uses, shall have been adopted by the council prior to approval of the development plat.
3. Development plat approval by the city council, as authorized herein, shall be evidenced by the authorized signature of the mayor, city administrator and city engineer on the development plat. Approval by the city council shall become effective immediately.
4. All improvements shown in the approved development plat shall be constructed pursuant to and in compliance with the approved plans, except as otherwise specifically approved.
5. Specific approvals required from other agencies shall be obtained by the owner.
6. Approval of a development plat shall authorize a developer to begin constructing site improvements. However, no building shall be constructed until a building permit, if required, has been issued.
7. Development plat approval pursuant to this division shall run with the land and shall continue to be valid upon a change of ownership of the site or structure which was the subject of the application.

F. *Revision.* Where necessary, due to unforeseen circumstances, for corrections to be made

to the development plat for which approval has already been obtained, the building official or city engineer shall have the authority to approve such corrections when, in his/her opinion, such changes are warranted and also in conformance with city requirements. Approval of such changes agreed to between the developer and city engineer shall be noted by initialing and dating by both parties on the two (2) original signed copies of the development plat.

- G. *Responsibility for Adequacy of Design.* Notwithstanding the approval of any development plat by the city engineer, city staff, the commission or the council, the developer and the engineer that prepare and submit such plans and specifications shall be and remain responsible for the adequacy of the design of all such improvements, and nothing in this article shall be deemed or construed to relieve or waive the responsibility of the developer and his/her engineer for or with respect to any design, plans and specifications submitted.
- H. *Expiration.* Unless a longer time shall be specifically established as a condition of approval, development plat approval shall expire twelve (12) months following the date on which such approval became effective, unless, prior to the expiration, a building permit is issued and construction is commenced and diligently pursued toward completion.
- I. *Extension of Approval.* Development plat approval may be extended if the developer submits a written request for extension and continuance of the plat to the council thirty (30) days prior to expiration. The council, at its sole discretion, may or may not approve an extension of up to one hundred and eighty days (180) days after the original expiration date.

### **Section 3.3.2.6 Compliance with Zoning and Subdivision Requirements**

An application will not be approved unless it has been determined that the land has been zoned in accordance to the city's zoning ordinance and declared a legal lot or tract pursuant to the city's subdivision ordinance. If it cannot be determined that the land is zoned appropriately for its intended use, or is a legal lot or tract, the applicant will be required to fulfill zoning and/or subdivision requirements prior to approval of the application.

### **Section 3.3.2.7 Form and Contents**

- A. *Format.* The development plat shall be prepared by a registered professional land surveyor as a boundary survey and shall be drawn on twenty-four-inch by thirty-six-inch (24" x 36") sheets at a generally accepted engineering scale, and sufficient to thoroughly meet the informational requirements herein.
- B. *Contents.* The development plat shall include all of the land proposed to be developed or improved, and any off-site improvements required to accommodate the project. The development plat shall contain, or have attached thereto:
  - 1. A cover sheet, showing:

- a. Names, addresses and phone numbers as applicable of the record owner and developer, if any, and all authorized agents including the architect, engineer, landscape architect, and surveyor.
  - b. The proposed name of the project.
2. A location map showing the relation of the project to streets and other prominent features in all directions for a radius of at least one (1) mile using a scale of one inch equals two thousand feet (1" = 2,000'). The latest edition of the USGS 7.5-minute quadrangle map is recommended.
3. Certification, revision and signature blocks as required by the city.
4. The total acreage of the property to be developed.
5. The current zoning district.
6. An existing conditions plan, showing as follows:
  - a. Boundary of existing zoning districts, if applicable.
  - b. The existing property lines, including bearings and distances, of the land being developed or improved. Property lines shall be drawn sufficiently wide to provide easy identification.
  - c. The location of existing structures and improvements, if applicable.
  - d. A tree survey showing the accurate location, caliper and critical root zone of protected and significant trees in relation to the property boundary and, if applicable, within the limits of the proposed off-site improvements.
  - e. Centerline of watercourses, creeks, existing drainage structures and other pertinent data shall be shown.
  - f. Lines delineating the regulatory 100-year floodplain, if applicable.
  - g. Topographic data indicating one-foot contour intervals for all intervals above 685 MSL.
  - h. The locations, sizes and descriptions of all existing utilities, including but not limited to sewer lines, lift stations, sewer and storm sewer manholes, water lines, water storage tanks, and wells within the property, and/or adjacent thereto. Existing overhead and underground electric utilities shall also be shown.
  - i. The location, dimensions, names and descriptions of all existing or

recorded streets, alleys, reservations, railroads, easements, building setbacks or other public rights-of-way within the property, intersecting or contiguous with its boundaries or forming such boundaries, as determined from existing deed and plat records. The existing right-of-way width of any boundary street to the property shall also be shown.

- j. Location of city limit lines, as depicted on the city's most recent base map, if the city limit lines traverse or are contiguous to the property boundary.

7. An erosion and sedimentation control plan, showing as follows:

- a. Proposed fill or other structure-elevating techniques, levees, channel modifications and detention facilities.
- b. Existing and proposed topographic conditions with vertical intervals not greater than one (1) foot referenced to a United States Geological Survey or Coastal and Geodetic Survey benchmark or monument.
- c. The location, size, and character of all temporary and permanent erosion and sediment controls with specifications detailing all on-site erosion control measures which will be established and maintained during all periods of development and construction.
- d. Contractor staging areas, vehicle access areas, and temporary and permanent spoils storage areas.
- e. A plan for restoration and for the mitigation of erosion in all areas disturbed during construction.

8. A site plan, showing all visible improvements to the land, including the following:

- a. The location, dimensions, square footage, height, and intended use of existing and proposed buildings on the site.
- b. The location, number and dimensions of existing and proposed parking spaces, distinguishing between standard, handicap and van handicap spaces, and calculation of applicable minimum requirements in accordance with the city's zoning ordinance.
- c. The location, type and dimensions of proposed driveways, signs and traffic-control devices.
- d. The dimensions of each street, sidewalk, alley, square, park, or other part of the property intended to be dedicated to public use or for the use of purchasers or owners of lots fronting on or adjacent to the street, sidewalk, alley, square, park, or other part.

- e. Compliance with the city's transportation policies and regulations provided in the city's subdivision ordinance, as applicable.
9. A grading and drainage plan, showing as follows:
- a. A drainage area map delineating areas to be served by proposed drainage improvements.
  - b. Detailed design of all drainage facilities, including typical channel or paving section, storm sewers, detention ponds and other stormwater control facilities.
  - c. Accurate cross-sections, plan and profiles of every drainage improvement proposed in a public utility easement and/or public right-of-way.
  - d. Existing and proposed topographic conditions with vertical intervals not greater than one (1) foot referenced to a United States Geological Survey or Coastal and Geodetic Survey benchmark or monument.
  - e. Attendant documents containing design computations and any additional information required to evaluate the proposed drainage improvements.
  - f. Compliance with the city's drainage policies and regulations provided in the city's subdivision ordinance.
10. A utility plan, showing as follows:
- a. The location of existing and proposed water and wastewater utilities, both public and private, including points of connection, water mains, wastewater lines, manholes, fire hydrants, valves, meters, cleanouts, grease traps, and other appurtenances.
  - b. Plan and profile drawings for each line in public right-of-way or public utility easements, showing existing ground level elevation at centerline of pipe, pipe size and flow line elevation at all bends, drops, turns, and station numbers at fifty-foot intervals.
  - c. Compliance with the city's utility policies and regulations provided in the city's subdivision ordinance.
11. A building plan, including floor, building, foundation, and roof plans, and elevations.
12. A tree protection plan providing the information required by division 5 of this article.



13. A landscape plan, showing as follows:
  - a. Dimensions, types of materials, size and spacing of proposed vegetative materials, planting details and irrigation appurtenances in relation to proposed structures or other significant improvements.
  - b. The following maintenance note: "The developer and subsequent owners of the landscaped property, or the manager or agent of the owner, shall be responsible for the maintenance of all landscape areas. Said areas shall be maintained so as to present a healthy, neat and orderly appearance at all times and shall be kept free of refuse and debris. All planted areas shall be provided with a readily available water supply and watered as necessary to ensure continuous healthy growth and development. Maintenance shall include the replacement of all dead plant material if that material was used to meet the requirements of the subdivision regulations."
  - c. Compliance with the city's landscaping and screening requirements of this article.
  
14. Construction details, showing, when applicable, as follows:
  - a. Structural retaining walls and/or detention outlet structures.
  - b. Storm sewer manhole and covers, typical channel sections, inlets, safety end treatments and headwalls.
  - c. Wastewater manholes and covers, cleanouts, grease traps, pipe bedding and backfill.
  - d. Water valves, water meters, fire hydrants, thrust blocks, backflow prevention and concrete encasement.
  - e. Driveways, curb and gutter, sidewalks, curb ramps, pavement sections and pavement repair.
  - f. Silt fence, rock berms, stabilized construction entrance, and inlet protection.
  - g. Traffic controls when working in public right-of-way.
  
15. Lighting plan showing:
  - a. The lighting zone applicable to the property, as defined in Section 3.2.5 of this article.

- b. The location of planned exterior luminaires and already existing luminaires, including those in adjacent rights-of-way, including the heights of any pole-, column-, or building-mounted lights, and indicating all exempted fixtures, if applicable.
  - c. Compliance with the curfew requirements and lighting requirements set forth in division 3 of this article.
16. Where applicable, the development plat shall include sufficient information to show compliance with the development regulations set forth section 5.3.7 of the code, as amended.

### **Section 3.3.2.8 Development Standards**

- A. The development standards for flood hazard and drainage improvements, transportation improvements, water utility improvements, and wastewater utility improvements set forth in article 5 of the code shall apply to the development and improvement of property subject to this division.
- B. Property that is located in the land area that was released from Austin’s ETJ and is further described in section 5.3.7(a) of the code, as amended, shall be developed in compliance with the standards set forth in section 5.3.7 of the code, as amended.

### **Sec. 3.3.2.9 Fees**

To defray the costs of administering this article, the applicant seeking development plat approvals shall pay to the city, at the time of submittal, the prescribed fees as set forth in the current administrative fee schedule approved by the council, and on file with the city.

### **Sec. 3.3.2.10 Violations**

It shall be unlawful for any land owner, or agent of any land owner, occupant, or person in control of property within the jurisdictional limits of this article to develop or improve such property without first obtaining the approval of a development plat as required by this article.

### **Section 3.3.3 Concept Plan**

- A. *Generally.* A Concept Plan is a general plan for the development of property which demonstrates the nature of the parcel proposed for development to evaluate the impacts of the development on abutting uses and compliance with the City's long-range plans. A Concept Plan is not an individual application type but rather a required component of the following zoning applications:
  - 1. Conditional Use Permit;
  - 2. Planned Development District; and
  - 3. Commercial Use Adjacent to Residential Use.

4. Restricted Use Permit.
- B. *Initiation of Concept Plan.* A Concept Plan may be filed as a component of one of the application types in Subsection 3.3.3 A above by the property owner(s), a person having a contractual interest in the subject property and consent of the property owner(s), or their authorized representative.
- C. *Concept Plan Requirements.* The Director shall ensure that a completed application for which the Concept Plan is a component has been submitted by the applicant pursuant to Section 7.1.1 General Application Procedures, and includes the information and materials necessary for City Council to render an informed decision. In addition to the requirements necessary for review of the associated application, a Concept Plan must also include the following:
1. *Concept Plan Components.* Concept Plans themselves are a component of an application intended to demonstrate compliance. As such, the Concept Plan shall include plans and documents that demonstrate compliance with the requirements of that application. This may include, but is not limited to, conceptual layout of the property, proposed layout of streets, blocks, drainage, general utilities, legend requirements, and other improvements and uses. The Director shall clearly describe and publish such required information for each application type in a form or checklist.
  2. *Site Development Plan in lieu of Concept Plan.* A Site Development Plan may be submitted with an application in lieu of a Concept Plan if the Planning Director determines that the Site Development Plan demonstrates the intent of a Concept Plan.
- D. *Review Criteria.* In the review and consideration of a proposed Concept Plan, the Director, Planning and Zoning Commission, and City Council shall consider the following criteria:
1. Consistency with the City's Comprehensive Plan, Future Land Use Plan, Thoroughfare Plan, and other applicable adopted City plans, regulations, policies, and technical manuals.
  2. Compliance with any approved and valid plat, zoning, and other agreement or ordinance applicable to the subject property.
  3. The impact of the development relating to the preservation and conservation of existing natural resources on the site and the impact on the natural resources of the abutting properties and neighborhood, including trees, environmentally-sensitive areas, watercourses and areas subject to flooding.
  4. The relationship of the development to abutting properties in terms of harmonious design, facade treatment, setbacks, maintenance of property values, and any possible negative impacts.

5. The provision of a safe and efficient vehicular and pedestrian circulation system, consistent with the Thoroughfare Plan and providing access for public safety.
  6. The location, size, accessibility, and configuration of open space areas to ensure that such areas are suitable for intended recreation and conservation uses.
  7. The adequacy of water, sewer, drainage, solid waste disposal, and other utilities necessary for essential services to residents and occupants. If utilities are to be extended from off site, then the location and expected route of such utilities.
- E. *Effect of Approval.* Any proposed use or development depicted on the Concept Plan shall not be deemed as formally authorized or approved by the City until a final Site Development Plan is approved for the development. The Concept Plan approval is a general acknowledgment by the City that the proposed development conforms to the City's zoning regulations and that it can be adequately served by required public facilities or services. The City's approval of a particular Concept Plan is approval of a specific project. Once a project is constructed in accordance with the Concept Plan, any use permitted in the zoning district (but not including conditional uses) is an authorized use within the project, unless such use or uses are expressly prohibited in the zoning ordinance approving the project.
- F. *Amendments to Approved Concept Plans.* Except for Minor Amendments as described in Subsection 3.3.4.H.1 modifications to an approved Concept Plan shall be processed in the same manner as a zoning amendment for the associated application for which the Concept Plan is a component.
- G. *Expiration of Approved Concept Plans.* Concept Plan approval shall expire as follows:
1. The approval of a Concept Plan shall expire five (5) years after the approval date of the Concept Plan or five (5) years from the date of any subsequent approval in connection with the project if no progress towards completion of the project has occurred.
  2. *Extension Procedure.*
    - a. Prior to the expiration of an approved Concept Plan, the applicant may petition the City, in writing, to extend the plan approval. Such petition shall be considered at public meetings before the Planning and Zoning Commission and the City Council and an extension may be granted by the City Council. Any such extension must be approved prior to the expiration of the approval and if not approved then the Concept Plan will expire as set out in Subsection 3.3.3.G.1 above, unless the applicant demonstrates that progress toward completion of the project has occurred as set out in herein.

- b. In determining whether to grant a request for extension, the City Council shall take into account the requirements of Chapter 245 of the Texas Local Government Code and the reasons for the lapse, and the ability of the property owner to comply with any conditions attached to the original approval. The City Council shall either extend the approval of the Concept Plan or deny the request. The City Council may extend the approval subject to additional conditions as are necessary to ensure compliance with the original conditions of approval and to protect the public health, safety and welfare. The City Council may also specify a shorter time for extension of the approval than the original approval period.

### **Section 3.3.4 Site Development Plan**

- A. *Generally.* A Site Development Plan is intended to demonstrate compliance with the development standards and other requirements, as applicable, of these regulations. Approval of the Site Development Plan shall be the basis for site development and issuance of a Building Permit but does not release the applicant of the responsibility to submit plans for a Building Permit. A Site Development Plan may be submitted concurrently with application for a Building Permit.
- B. *Applicability.*
  - 1. Approval of a Site Development Plan shall be required for the development of any property within the City limits, except as identified in Subsection 3.3.4 C, Exceptions, below.
  - 2. For property located in the City's extraterritorial jurisdiction, approval of a Site Development Plan may be required in accordance with Chapter 28, Nonpoint Source Pollution Control, of the City's Code of Ordinances.
- C. *Exceptions.* Other than nonpoint source pollution control plan review, a Site Development Plan shall not be required for:
  - 1. A single-family detached or duplex dwelling unit located on an individually platted lot in an improved subdivision that has applied and received individual permits from the city for trees, lighting, walls, landscaping, blasting and flood control as provided by this Code of Ordinances and does not propose any cut or fill within the lot greater than 3 feet, or construction of improvements on slopes great than 15%.
  - 2. Construction of an individual single-family detached or duplex dwelling that does not meet the restrictions in subsection C.1. shall be required to obtain a site development plan permit prior to or in conjunction with a building permit.

D. *Application Requirements.*

1. *Generally.* The Planning Director shall ensure that a completed application has been submitted by the applicant pursuant to Section 7.1.1 General Application Procedures, and includes the information and materials necessary for the Director to render an informed decision.
2. *Plan Components.* A completed Site Development Plan application shall be comprised of the following components, unless determined by the Planning Director ahead of the application to not be applicable to a particular site. The details of each component shall be further described in forms approved by the Director and made publicly available. Compliance plans for architecture, lighting, and signage (if necessary) may be deferred to the submission of the Building Permit.
  - a. Cover sheet;
  - b. Dimensional site plan with legend showing sidewalks;
  - c. Utility and Septic plan, as applicable;
  - d. Tree preservation/mitigation plan;
  - e. Landscape plan;
  - f. Lighting plan;
  - g. Grading and drainage plan;
  - h. Flood study; and
  - i. Phasing plan.
  - j. Fencing or Wall plans.
  - k. Traffic Impact Study.

E. *Site Development Plan Review.*

1. *Review Criteria.* The Planning and Zoning Commission and City Council shall approve the Site Development Plan as long as it is determined that the plan is in compliance with these regulations, the City's Comprehensive Plan, and any other adopted City plans, regulations, policies, and technical manuals. Specific Site Development plan requirements are set in Chapter 5 subdivision requirements.
2. Site Development Plan review and evaluation shall be performed with respect to one or more of the following matters within the city limits:
  - a. The impact of the development to natural resources and the environment, including grading and cut and fill;
  - b. A safe and efficient vehicular and pedestrian circulation system per a Traffic Impact Analysis, if applicable;
  - c. The location and configuration of parks and open space areas; and

- d. The adequacy of public utilities essential for occupants of the site.
  - e. Tree Mitigation Plan and Landscape Plan.
  - f. Lighting Plan.
  - g. storm water management and control plan.
  - h. water quality management and control plan (per LCRA permit).
  - i. On-Site sewage permit.
3. Site Development review and evaluation shall be performed with respect to one or more of the following matters within the extraterritorial jurisdiction:
- a. A safe and efficient vehicular and pedestrian circulation system per a Traffic Impact Analysis, if applicable.
  - b. The adequacy of public utilities essential for occupants of the site.
  - c. storm water management and control plan.
  - d. water quality management and control plan (per LCRA permit).
  - e. On-site sewage permit.
- F. *Effect of Approval.* The approval of the Site Development Plan shall be considered authorization to proceed with site development work and to proceed with the application for a Building Permit and other applicable construction permits.
- G. *Expiration of Approved Site Development Plans.*
- 1. Generally.
    - a. Site Development Plan approval shall expire two years after the date of approval of the Site Development Plan. If the Site Development Plan includes a phasing plan, each phase shall expire two years from the approval of the prior phase and in no case shall the overall phasing plan exceed 10 years.
    - b. Any existing Site Plan that has an approval date that is prior to May 11, 2000 and that does not have an expiration date, and for which no progress has been made toward completion of the project as of May 11, 2000, is hereby deemed to have expired as of May 11, 2004, and shall no longer be considered as a valid project. Any other Site Plan approval that does not have an expiration date, and for which no progress has been made toward

completion of the project has occurred shall have expired on December 18, 2014.

2. Extension of Approved Site Development Plan.

- a. Prior to the expiration of an approved Site Development Plan, an applicant may petition the City, in writing, for a one-time extension of the Site Development Plan approval for a period of one year.
- b. The extension shall be considered and approved in the same manner and under the same approval authority as that of the original Site Development Plan (Site Plan) approval.
- c. In determining whether to grant a request for extension, the Director of Planning or City Council shall take into account the requirements of Chapter 245 of the Texas Local Government Code and the reasons for the lapse, and the ability of the property owner to comply with any conditions attached to the original approval and ensure that the extension will have no negative impacts on the property, abutting uses, nearby public infrastructure, and will not be contrary to the public interest.
- d. Additional conditions as are necessary to ensure compliance with the original conditions of approval and to protect the public health, safety and welfare may be applied to the extension.
- e. Any such extension must be approved prior to the expiration of the approval, and if not approved then the Site Development Plan (Site Plan) will expire as set out in Subsection 3.3.4 G.1 above, unless the applicant demonstrates that progress toward completion of the project has occurred as set out in herein.

H. *Amendments to Approved Site Development Plans.*

1. Minor Amendments. Minor amendments to approved Site Development Plans do not require further applications and may be administratively approved provided that such amendments do not substantially change the design or nature of the original Site Development Plan, have an adverse impact on the public, abutting properties, or persons who would occupy or use the property, and would not otherwise result in a violation of these regulations, or other adopted City regulations, policies, and technical manuals. The Director shall determine whether an amendment is considered minor but shall generally be limited as follows:
  - a. Minor adjustments to the location or configuration of roadways, sidewalks, utilities, parking areas, buildings, landscape features, ponds and any other improvements depicted on the Site Development Plan;



- b. Adjustments of 25 percent or less of total building square footage from the approved Site Development Plan;
  - c. Adjustments of 25 percent or less of the total square footage of any landscape areas on the Site Development Plan;
  - d. The proposed adjustments do not increase the site's overall parking lot area; and
  - e. The proposed adjustments do not increase the site's approved lot cover.
  - f. The proposed amendment does not include any changes of use.
2. Other Amendments. All other amendments to an approved Site Development Plan shall require the submission of a new Site Development Plan application. Approval of a new Site Development Plan shall void the previously approved Site Development Plan.
- I. *Revocation of Approved Site Development Plan.* The Director may revoke approval of a Site Development Plan if the Director determines that:
- 1. The conditions of the approval have not been met;
  - 2. The plan contains, or is based upon, incorrect information or if it is determined that it was obtained using fraud or deceit; or
  - 3. The site is developed in a manner that adversely affects the health, safety, or welfare of persons residing or working on or in proximity to the site in a way that is detrimental to the public welfare or injurious to property or improvements.

#### *DIVISION 3.4 BUILDING REGULATIONS*

##### **Section 3.4.1 Generally**

- A. The City Council hereby acknowledges the provisions of the act [HB 3167] and suspends the application of any ordinance or process contained in the City's Code of Ordinances, as it now exists or as it may be amended, that conflict with the provisions and requirements of the act.
- B. The City Council further directs the city's planning and zoning commission, city staff and outside consultants to process, approve, approve with conditions or disapprove all plats, site plans related to plats and other plans, as defined in the act, in accordance with the provisions and requirements of the act.

### **Section 3.4.1.1 Suspension of certain regulations**

- A. The city council hereby acknowledges the provisions of the act [HB 3167] and suspends the application of any ordinance or process contained in the City's Code of Ordinances, as it now exists or as it may be amended, that conflict with the provisions and requirements of the act.
- B. The city council further directs the city's planning and zoning commission, city staff and outside consultants to process, approve, approve with conditions or disapprove all plats, site plans related to plats and other plans, as defined in the act, in accordance with the provisions and requirements of the act.

### **Section 3.4.2 Construction Codes and Standards**

#### **Section 3.4.2.1 Title**

This Section shall be known and may be cited as the Building Code.

#### **Section 3.4.2.2 Purpose**

The purposes of this article are to provide minimum standards to safeguard life, limb, health, property, and public welfare by regulating and controlling the design, construction, quality of materials, use, occupancy, location, and maintenance of all buildings and structures, and certain equipment, located within the city.

#### **Section 3.4.2.3 Applicability**

- A. The provisions of this article apply to the construction, grading, excavation, site clearance, alteration, movement, demolition, repair, and use of:
  - 1. All buildings and structures within the city;
  - 2. Work located in a public right-of-way;
  - 3. Public utility towers and poles;
  - 4. Hydraulic flood control structures; and
  - 5. Transmission lines.
- B. Additions, alterations, repairs, and changes of use or occupancy for all buildings and structures shall comply with the provisions for new buildings and structures except as otherwise provided in this article.
- c. If more than one section of this article is applicable to a specific situation and specifies different materials, methods of construction, or other requirements, the most restrictive of the applicable sections shall govern.

#### **Section 3.4.2.4 Compliance with Environmental Protection Laws**

Regardless of any other provision in this article, no person shall erect, place, or maintain a structure or building in violation of any state or federal pollution control or environmental protection law or regulation.

#### **Section 3.4.2.5 Conflicting Regulations**

When regulations or restrictions imposed by this article are more or less restrictive than regulations or restrictions imposed by another governmental authority by legislation, rule, or regulation, the regulations, rules, or restrictions that are more restrictive or that impose higher standards or requirements shall govern.

#### **Section 3.4.2.6. Powers and Duties; Liability of Enforcement Officers**

##### **A. *Right of Entry.***

1. The building inspector, or his or her authorized deputy, may enter a building or premises at reasonable times to inspect the building or premises or to perform any other duty imposed upon the building inspector by this article, including, but not limited to, the inspection of a building or premises upon which the building inspector, or his or her authorized representative, has reasonable cause to believe a condition exists which makes such building or premises unsafe.
2. If the building or premises are occupied, before the building inspector, or his or her authorized representative, may initiate entry, the building inspector, or his or her representative, shall first present proper credentials and demand entry. If the building or premises are unoccupied, before the building inspector, or his or her authorized representative, may initiate entry, the building inspector, or his or her representative, shall first make a reasonable effort to locate the owner or other persons having charge, care, or control of the building or premises and demand entry.
3. If an owner, occupant, or other person having charge, care, or control of the building or premises refuses to allow entry, the building inspector, or his or her authorized representative, shall have recourse to every remedy provided by law to secure entry.

##### **B. *Stop Work Orders.*** The building inspector may order the discontinuance of unauthorized building work by serving written notice of a stop work order to any person engaged in or authorizing the work or by posting a stop work order on the property adjacent to the posted building permit. In addition, the building inspector may halt all construction and development on any site upon which he or she finds a violation of this article by posting a stop work order on the premises. All unauthorized building work, construction, and development shall cease until the building inspector authorizes the continuance of the work.

- C. *Occupancy Violations.* The building inspector may order the discontinuance of an unauthorized occupancy of a structure and the vacation of the structure by serving notice on any person causing or allowing the unauthorized use to continue. The person in violation of this section shall discontinue the unauthorized occupancy use or make the structure, or portion thereof, comply with the requirements of this article within 10 days after receipt of the notice. If, however, the unauthorized occupancy of the structure constitutes an unsafe building, then the provisions of this article that apply to unsafe buildings shall apply.
- D. *Liability.* The building inspector, or any city employee charged with the enforcement of this article, acting in good faith and without malice for the city, shall not be personally liable for any damage that may accrue to persons or property as a result of an act or omission in the discharge of their duties. Any suit brought against the building inspector, or such city employee, as a result of any act or omission in the discharge of their duties under this article, shall be defended by the city's legal department until final termination of the proceedings.
- E. *Permits, Certificates and Inspections.*
1. Generally. The building inspector shall receive applications required by the technical codes, issue permits and furnish the prescribed certificates. He or she shall examine the premises for which permits have been issued and shall make necessary inspections to see that the provisions of law are complied with and that construction is conducted safely. He or she shall enforce all provisions of the building code and, when requested by proper authority, or when the public interest so requires, make investigations in connection with matters referred to in the codes and render written reports on the same. To enforce compliance with the law to remove illegal or unsafe conditions, to secure the necessary safeguards during construction, or to require adequate exit facilities in buildings and structures, he or she shall issue such notices or orders as may be necessary.
  2. Inspections. Inspections required under the provisions of the technical codes shall be made by the building inspector or a duly appointed assistant. The building inspector may accept reports of inspectors or recognized inspection services, after investigation of their qualifications and reliability. No certificate called for by any provision of the technical codes shall be issued on such reports unless the same are in writing and certified to by a responsible officer of such service.
  3. Records of work. The building inspector shall keep permanent comprehensive records of applications, all permits issued, any and all fees collected, certificates issued, inspections made, and reports rendered and of notices or orders issued for each property accurately reflecting the names, physical location of the property and dates on each document.

4. Records to be open to public inspection. All such records shall be open to public inspection for good and sufficient reasons at the stated office hours, but shall not be removed from the office of the building inspector without written consent.
  5. Monthly reports. The building inspector shall make written reports to his/her immediate superior once each month, or more often if requested, including statements of permits and certificates issued and orders promulgated.
  6. Fees. The building inspector shall keep a permanent, accurate account of all fees and other monies collected and received under this article, the names of the persons upon whose account the same were paid, and the date and amount thereof, together with the location of the building or premises to which they relate.
- F. *Permits for Work in R-1 Districts.* The building inspector shall have final approval authority for new structures and alterations of old structures in districts zoned R-1 residential.
- G. *Permits and Variances for Work in Districts Other Than R-1.* The building inspector shall process all variance requests and building permit applications for non R-1 residential zoning districts in the usual manner. If the building inspector determines that the variance request or building permit is in exact compliance with all of the building code requirements, then the building inspector shall approve the request or issue the permit.

#### **Section 3.4.2.7 Minimum Standards for Residential Buildings**

- A. In addition to the requirements in the building code, every building, structure, or part thereof erected or altered, moved or relocated for residential use in the city containing one or more dwelling units shall conform to the following standards, which are deemed to be minimum standards necessary for the health and general welfare of the residents of this community:
1. Sewage disposal. Each plumbing fixture shall be connected by adequate water and drainage lines to a licensed private sewage facility or organized disposal system.
  2. Utility connections.
    - a. No person shall connect any utilities until the lot on which the utilities are to be connected has been properly platted.
    - b. A person shall obtain the building inspector's and public utility's prior written authorization before connecting any building, structure, or part thereof to a public utility or providing public utility service to any building, structure, or part thereof.
    - c. After the initial connection of a building, structure, or part thereof to water utility service, no person, including, without limitation, a property owner,

occupant, water utility, plumber, or contractor, shall reconnect the building, structure, or part thereof to water utility service without the building inspector's prior written approval.

3. Swimming pools; swimming pool enclosures. No outdoor private swimming pool constituting an amenity to a residential building shall be constructed without an enclosure device of a minimum height of four feet (4') that completely surrounds such swimming pool. Every gate or opening through the enclosure device shall be equipped with a self-closing latch that keeps the gate or door securely closed at all times when not in use; provided, however, that any residential building door that forms a part of the enclosure device need not be so equipped. Swimming pools are prohibited from being constructed in a front yard.
4. Absorption fields and evapotranspiration beds. All absorption fields and/or evapotranspiration beds shall be located upon lots that provide convenient access for inspection, servicing, replacement, and modification.
5. Water closet flushing capacity. Water closet tanks shall have a flushing capacity sufficient to properly flush the water closet bowl but shall not exceed 1.6 gallons per flush.
6. Smoke detectors. Each standard dwelling shall be provided with smoke detector(s) conforming to the building code.
7. Excavation, grading and filling.
  - a. Open cuts and fills are those which will not contain any form of permanent erosion control other than the planting of ground cover vegetation.
  - b. Closed cuts and fills are those which prevent erosion by some permanent erosion control structure such as a reinforced concrete retaining wall, dry stacked stone, or other permanent erosion control device approved by the city.
  - c. The following minimum site disturbance standards for earth cuts and fills are as follows:

**Maximum Depth of Cut and Height of Fill**

<b>Slope</b>	<b>Open Cuts and Fills</b>	<b>Closed Cuts and Fills</b>
Over 25%	None	6 feet
15 - 25%	1 foot	8 feet
0 - 15%	3 feet	10 feet

- d. Finished open cuts of an excavation shall not exceed the 1:1-1/2 ratio (vertical to horizontal) in undisturbed earth, 1:2 ratio in earth fill.
  - e. Excavation shall not interfere with public or private utility systems and shall not create or aggravate any condition detrimental to the public health and safety.
  - f. Excavation, grading, or filling shall not be permitted within twenty feet (20') of a street except to conform to approximately street grade for an approved driveway.
8. Roofing materials; no highly reflective roof surfaces. A high gloss finish has the potential to reflect nuisance levels of light into nearby properties. Specular gloss is a measure of the degree to which a surface functions as a mirror. No person may install or replace existing roofing material or painted exterior roofs that produce reflective gloss that interferes with traffic on city streets or that is evident beyond the property line on which they are installed. All new metallic roof surfaces that produce reflective gloss beyond property lines shall be painted in such a manner as not to affect adjoining and other property owners.

The ISO and ASTM specular gloss scales include <10 (Flat) and >85 (High Gloss). In descriptive terms, the scale runs as follows:

<u>Description</u>	<u>Gloss</u>
Flat (matte, velvet)	<10
Eggshell (suede)	10-20
Satin/Silk	20-45
Semi-gloss	45-65
Gloss	65-85
High Gloss	85 or higher

All roofing material shall have a “flat” appearance. Finishes with a flat, eggshell, or satin designation are usually acceptable. Finishes with a semi-gloss or gloss designation are not acceptable. This gloss or sheen selection criteria especially applies to metal roofs. The gloss of a proposed material may be verified by the manufacturer’s data sheets or by comparison to a sample produced to City staff. Wood shingles are prohibited as roofing material on all structures.

- 9. Shielding of exterior equipment. All exterior compressors and other mechanical equipment or devices shall be shielded and insulated to insure that emanating sounds do not interfere with the use and enjoyment of surrounding property.
- 10. Culverts and ditches. Owners of property abutting a street or roadway that is not furnished with a curb and gutter that is connected to a storm sewer, ditch, or waterway for drainage shall furnish drainage ditches along such streets and

roadways. No person shall construct or maintain any driveway over a ditch without furnishing a culvert to provide drainage, in accordance with specifications approved by the city. Property owners under this section shall keep such culverts and ditches free of obstruction.

11. Privacy fences. Privacy fences or walls not exceeding six feet (6') in height must be constructed in accordance with a design approved by the city. In approving fences and/or walls, the city shall be guided by the proposed structure's appropriateness to the character of the neighborhood and the rights of adjacent landowners to views and prevailing breezes. Privacy fences and/or walls may be built on side and rear property lines and within five feet (5') of the front property line.
12. Skirting on buildings with pier and beam foundations. Buildings with pier and beam foundations shall have metal, wood, concrete, rock or plaster skirting around or along the border or edge of the base of the building so that the space between it and the ground is completely enclosed.
13. Engineered foundation. Engineered foundation plans shall be submitted for a slab that will be supporting any habitable structure
14. Front doors. The front door of any residential building must be facing the street or other public right-of-way to ensure adequate ease of access for emergency management services and to preserve conformity of neighborhoods.

#### **Section 3.4.2.8 Minimum Standards for Nonresidential Buildings**

- A. In addition to the requirements in the building code, every building, structure, or part thereof erected or altered, moved or relocated for nonresidential use in the city shall conform to the following standards, which are deemed to be minimum standards necessary for the health and general welfare of the residents of the community:
  1. Sewage disposal. Each plumbing fixture shall be connected by adequate water and drainage lines to a licensed private sewage facility or organized disposal system.
  2. Solid waste container. Each nonresidential building shall have a solid waste structure and/or container which is inaccessible to dogs and other animals and which must be of a design and in a location approved in advance by the building inspector.
  3. Utility connections.
    - a. No person shall connect any utilities until the lot on which the utilities are to be connected has been properly platted.
    - b. A person shall obtain the building inspector's and public utility's prior written authorization before connecting any building, structure, or part



thereof to a public utility or providing public utility service to any building, structure, or part thereof.

- c. After the initial connection of a building, structure, or part thereof to water utility service, no person, including, without limitation, a property owner, occupant, water utility, plumber, or contractor, shall reconnect the building, structure, or part thereof to water utility service without the building inspector's prior written approval.
4. Swimming pool enclosures. No outdoor public swimming pool or private swimming pool constituting an amenity to a nonresidential building shall be constructed without an enclosure device of a minimum height of four feet (4') that completely surrounds such swimming pool. Every gate or opening through the enclosure device shall be equipped with a self-closing latch that keeps the gate or door securely closed at all times when not in use; provided, however, that any nonresidential building door that forms a part of the enclosure device need not be so equipped.
5. Absorption fields and evapotranspiration beds. All absorption fields and/or evapotranspiration beds shall be located upon lots that provide convenient access for inspection, servicing, replacement, and modification.
6. Water closet flushing capacity. Water closet tanks shall have a flushing capacity sufficient to properly flush the water closet bowl but shall not exceed 1.6 gallons per flush.
7. Excavation, grading and filling.
  - a. Open cuts and fills are those which will not contain any form of permanent erosion control other than the planting of ground cover vegetation.
  - b. Closed cuts and fills are those which prevent erosion by some permanent erosion control structure such as a reinforced concrete retaining wall, dry stacked stone, or other permanent erosion control device approved by the city.
  - c. The following minimum site disturbance standards for earth cuts and fills are as follows:

### Maximum Depth of Cut and Height of Fill

Slope	Open Cuts and Fills	Closed Cuts and Fills
Over 25%	None	6 feet
15 - 25%	1 foot	8 feet
0 - 15%	3 feet	10 feet

- d. Finished open cuts of an excavation shall not exceed the 1:1-1/2 ratio (vertical to horizontal) in undisturbed earth, 1:2 ratio in earth fill.
  - e. Excavation shall not interfere with public or private utility systems and shall not create or aggravate any condition detrimental to the public health and safety.
8. Shielding of exterior equipment. All exterior compressors and other mechanical equipment or devices shall be shielded and insulated to insure that emanating sounds do not interfere with the use and enjoyment of surrounding property.
9. Screening.
- a. Planting screens of sufficient length shall be constructed to shield the view of parking lots, solid waste containers, outdoor storage areas, compressors or other mechanical equipment, merchandising or service areas that lie within 100 feet of a residential district from adjoining districts, except when the view is already shielded by a change in grade or other natural or man-made feature.
  - b. When a planting screen cannot be expected to thrive due to intense shade or soil conditions, the city may require the substitution of a wooden fence, masonry wall, or combination to shield the view.
  - c. In lieu of a planting screen, a landscaped earth berm of at least four (4) feet in height, measured from the surface of the area to be screened, and 30 feet in width may be installed.
10. Grease traps.
- a. Waste pipes from kitchen sinks and dishwashers in any hotel, restaurant, clubhouse, boardinghouse, public institution, hospital or other similar place shall run into an approved type grease trap that is adequate in size, properly vented, and constructed in such a manner as to remove all grease before it reaches the sanitary sewer or private sewage facility. Grease traps must be constructed by a manufacturer for the specific purpose of

trapping grease or constructed of concrete. Plans of a typical concrete grease trap may be obtained from the building inspector. Food grinders shall not discharge into a grease trap. If a grease trap is set more than thirty (30) inches from the sink which it serves, the sink shall be locally vented and run independently through the roof.

b. The sizing of grease traps shall be based on the flow rate as determined in the following manner:

(1) The cubic content of the fixture in cubic inches divided by two hundred thirty-one, multiplied by seventy-five percent, equals drainage load in gallons. The drainage load divided by the drainage period in minutes equals the flow rate in gallons per minute. The average drainage period of receptacles is one minute.

(2) Grease traps serving dishwashers shall be sized with each gallon of tank capacity of the dishwasher equal to one gallon per minute flow rate; i.e., a twenty-gallon tank equals twenty gallons per minute flow rate.

(3) Manufactured grease traps shall be selected to fit the flow rate requirements of the connected fixtures from the published manufacturer's rating charts.

(4) Concrete grease traps shall be selected as follows:

(a) The minimum size for up to seven gallons per minute flow rate shall be eighteen inches diameter by twenty-four inches deep.

(b) For each gallon per minute of flow rate in excess of seven gallons per minute the concrete grease trap shall be increased one cubic foot in size.

(c) When one grease trap serves more than one fixture, the simultaneous usage flow rate (not the sum of connected fixtures) shall be used to determine the size of the grease trap.

11. Roofing materials. No highly reflective roof surfaces. A high gloss finish has the potential to reflect nuisance levels of light into nearby properties. Specular gloss is a measure of the degree to which a surface functions as a mirror. No person may install or replace existing roofing material or painted exterior roofs that produce reflective gloss that interferes with traffic on city streets or that is evident beyond the property line on which they are installed. All new metallic roof

surfaces that produce reflective gloss beyond property lines shall be painted in such a manner as not to affect adjoining and other property owners.

The ISO and ASTM specular gloss scales include <10 (Flat) and >85 (High Gloss). In descriptive terms, the scale runs as follows:

<b>Description</b>	<b>Gloss</b>
Flat (matte, velvet)	<10
Eggshell (suede)	10-20
Satin/Silk	20-45
Semi-gloss	45-65
Gloss	65-85
High Gloss	85 or higher

All roofing material shall have a "flat" appearance. Finishes with a flat, eggshell, or satin designation are usually acceptable. Finishes with a semi-gloss or gloss designation are not acceptable. This gloss or sheen selection criteria especially applies to metal roofs. The gloss of a proposed material may be verified by the manufacturer's data sheets or by comparison to a sample produced to City staff. Wood shingles are prohibited as roofing material on all structures.

- 12. Smoke detectors. Each building shall be equipped with smoke detectors that conform to the building code. The detectors shall be mounted on the ceiling or wall at a point centrally located with respect to electric or gas appliances or cooking equipment. The detectors shall be installed within twelve inches (12") of the ceiling and tested for proper operation by the building inspector.
- 13. Culverts and ditches. Owners of property abutting a street or roadway that is not furnished with a curb and gutter that is connected to a storm sewer, ditch, or waterway for drainage shall furnish drainage ditches along such streets and roadways. No person shall construct or maintain any driveway over a ditch without furnishing a culvert to provide drainage, in accordance with specifications approved by the city. Property owners under this section shall keep such culverts and ditches free of obstruction.
- 14. Privacy fences. Privacy fences or walls not exceeding six feet (6') in height must be constructed in accordance with a design approved by the city. In approving fences and/or walls, the city shall be guided by the proposed structure's appropriateness to the character of the neighborhood and the rights of adjacent landowners to views and prevailing breezes. Privacy fences and/or walls may be built on side and rear property lines and within five feet (5') of the front property line.
- 15. Automatic sprinkler systems. Automatic sprinkler systems shall be provided in each building as required by the adopted code. The sprinkler system shall be designed by a sprinkler engineer, conform to NFPA Standard No. 13, and be approved in advance of installation by the city.

16. Skirting on buildings with pier and beam foundations. Buildings with pier and beam foundations shall have metal, wood, concrete, rock or plaster skirting around or along the border or edge of the base of the building so that the space between it and the ground is completely enclosed (Previously Chapter 3)
17. Engineered foundation. Engineered foundation plans to be submitted for a slab that will be supporting any structure to which the public has access.

#### **Section 3.4.2.9 Access to Gated Communities for Emergency Vehicles**

- A. Gated communities protected by electronically operated or automatic gates or other control circuits, having an irrevocable public safety easement or a platted public safety easement over the streets of the gated community, shall, within six (6) months of the effective date of this provision, be equipped with a strobe switch to detect the approach of an emergency vehicle which opens the gate. All subdivisions platted after the effective date of this section shall as a condition of approval comply with this subsection.
- B. Gated communities protected by electronically operated or automatic gates or other control circuits, not having a public utility easement, may voluntarily coordinate with the emergency services providers to install a strobe-activated switch as provided in subsections (c) and (d), provided the property owners' association enters a release of liability in a format approved by the city attorney.
- C. The strobe switch shall be mounted at the height specified by the fire chief to promote proper functioning but no higher than is absolutely necessary to function in order to maintain the aesthetic appearance of the gate area.
- D. Strobe switches shall be UL (Underwriters' Laboratories) certified and approved by the fire chief. The fire chief shall specify the make, brand, and model of each of these items to be used within the city. Such items shall be nationally recognized brands and shall be compatible with equipment specified by the emergency services providers within the city.

### *DIVISION 3.5 PERMITS*

#### **Section 3.5.1 Required Permits**

- A. *Generally.* No building or structure or part thereof shall be hereafter constructed, erected, altered, moved, or placed within the city unless all appropriate permits to comply with this article shall have first been issued for such work. No permit or certificate of occupancy shall be issued by the city for building or for connection to the city's utility services or private utility services upon any lot, tract or parcel of land for which the standards contained in the city's building and construction ordinance and the subdivision ordinance, as amended, or referred to therein have not been complied with in full. No site clearance, excavation, grading, or landfill on public or private land shall commence unless all applicable permits shall have first been issued for such work.

- B. *Site Clearance, Excavation, Grading, or Landfill Permit.* No person shall commence site clearance, excavation, grading, or landfills on public or private land until the city issues a permit for such work.
- C. *Blasting Permit.* No person shall commence blasting or use explosive materials on public or private land until the city issues a permit for such work. Blasting permits can only be approved by the council.
- D. *Building Permit.* No person shall erect, alter, move, or place a building or structure or part thereof within the city until the city issues a building permit for such work.
- E. *Private Sewage Facility Permit.* No person shall construct or alter a private sewage facility or part thereof until the city has issued a construction permit for such work pursuant to the provisions of article 13.03 of this code.
- F. *Moving Permit.* No person shall move a HUD-manufactured home or mobile home or part thereof onto or over the city streets until the city issues a permit for such move.
- G. *Street Use Permit.* No person shall place any building materials, barricade, covered walkway, or obstruction of any kind upon the streets, alleys, or sidewalks of the city until the city issues a permit for such street use.
- H. *Utility Development Permit.* No utility (electric, water, gas, cable television) shall construct, erect, move, enlarge, improve, remove, alter, or repair any of its transmission or distribution lines and/or equipment unless the city issues a utility development permit for such work.
- I. *Demolition Permit.* No person shall commence with demolishing a building or structure or part thereof within the city until the city issues a demolition permit for such work.
- J. *Permit for Boat Docks, Piers, Wharfs, Marinas.* No person shall construct, erect, locate, or install a boat dock, pier, wharf, or marina until the city issues a permit for such work. All boat docks shall comply with section 14.02.078(a) of this code. Within areas designated as a Lake Travis Critical Water Quality Zone, approval by the City Council of the chemicals used to treat building materials that will be submerged in the water is required before a permit may be issued or a site plan released. A list of approved chemicals may be kept on file in the planning services department.

### **Section 3.5.2 Minor Improvements and Ordinary Repairs**

Any owner may make minor improvements and ordinary repairs on any building or structure without a permit provided that such improvements and repairs conform to the provisions of this code. The building inspector shall determine in each instance whether or not a permit is required and shall have the right to inspect all improvements or repairs.

### Section 3.5.3 Conditions; Duties of Permittee

- A. *Representations Made by Applicant are Conditions of Permit.* All representations, whether oral or written, made by an applicant or his agent in support of an application for a permit under this article are conditions upon which the permit is issued. It is unlawful for any permittee to vary from such representations unless the permittee first makes an application to amend the permit and the city approves the amendment.
- B. *Applicant's Liability.* The provisions of this article do not relieve or limit the responsibility or liability of any person, firm, or corporation erecting or owning any structure or building for personal injury or property damage resulting from the erection of the structure or building or resulting from the negligence or willful acts of the person, firm, or corporation, its agents, employees, or workmen in the design, construction, maintenance, repair, operation, or removal of any structure or building in accordance with a permit issued under the provisions of this article. The provisions of this article do not impose any responsibility or liability on the city, its officers, employees, or commissions due to the approval of any structure or building under the provisions of this article.
- C. *Issuance.*
1. The application, plans, and specifications filed by an applicant for a permit shall be reviewed by the building inspector and may be reviewed by other departments of the city for compliance with the laws and provisions of this code.
  2. If the building inspector is satisfied that the work described in an application for a permit and the plans filed along with the application conform to the requirements of this article and other applicable laws, and if all fees have been paid, then he or she shall issue a permit to the applicant, provided that, if a bond, indemnification agreement, or certificate of insurance is required, it is filed prior to the issuance of the permit.
  3. When the building inspector issues the permit, he or she shall endorse in writing or stamp on both sets of plans and specifications the word "APPROVED."
  4. Approved plans and specifications shall not be changed, modified, or altered without the building inspector's authorization.
  5. All permitted work shall be done in accordance with the approved plans.
  6. The building inspector may issue a permit for the construction of part of a building or structure before the entire plans and specifications for the entire building or structure have been submitted or approved provided that the applicant files adequate information and detailed statements in compliance with this article. The holder of such permit shall proceed at his or her own risk without any assurance that the city will grant the permit for the entire building or structure.

- D. *Retention of Plans.* One set of approved plans, specifications, and computations shall be retained by the building inspector, and one set of approved plans and specifications shall be returned to the applicant. The applicant shall keep his or her set of approved plans and specifications at the site of the work during all times that the work approved in the plans and specifications is in progress.
- E. *Return of Unapproved Plans.* If the city does not issue a permit on plans that the applicant submits for city approval and if the applicant fails to take any action on the plans for ninety (90) days after the date the plans are submitted to the city, then the city shall return such plans to the last known address of the applicant.
- F. *Validity.*
1. The city's issuance or granting of a permit or approval of plans and specifications should not be construed to be a permit for, or an approval of, any person's violation of the provisions of this article.
  2. A permit purporting to give any person authorization to violate or cancel the provisions of this article shall not be valid, except insofar as the work or use which it authorizes is lawful and conforms to the requirements of this article, a variance, or a modification granted pursuant to this article.
- G. *Expiration.*
1. Every permit issued by the building inspector under the provisions of this article shall expire by limitation and become null and void if the building or work authorized by the permit is not commenced within six (6) months from the date such permit is approved, or if the building or work authorized by the permit is suspended or abandoned at any time after the work is commenced for a period of twelve (12) months.
  2. In addition, a permit expires if the structure or building authorized by the approved permit is not completed according to the approved plans and specifications within twenty-four (24) months from the date the permit is approved.
  3. Before work authorized by an expired permit can be resumed, the applicant must obtain a new permit. Instead of paying the full amount of the permit fees, the applicant may pay only one-half (1/2) of the amount required for the initial permit if:
    - a. No changes have been made or will be made in the original plans and specifications for the work;
    - b. Such suspension or abandonment has not exceeded eighteen (18) months; and



- c. The original plans and specifications do not conflict with any provisions of this article or other applicable laws of the city at the time that the new permit is sought.
  
- H. *Suspension or Revocation.* The building inspector may, in writing, suspend or revoke a permit issued under the provisions of this article when the permit is issued in error, on the basis of incorrect information, or in violation of any provision of this article as provided in this article.
  
- I. *Fees.*
  - 1. The city shall establish fees to cover the cost of applications, inspections, and other costs incurred by the city in the administration of this article.
  - 2. Permit fees shall be nonrefundable.
  - 3. Permit fees for unauthorized work shall be doubled if a person commences work that requires a permit without obtaining the permit(s) required by this article. A person's payment of doubled permit fees does not relieve that person, or any other person, from complying with the requirements of this article or from other penalties provided in this article.
  
- J. *Removal of Construction Material.*
  - 1. Construction material includes any broken or discarded material, machinery, trash, litter, rubbish, brush, garbage, paper, debris and concrete.
  - 2. For the purposes of this subsection, any construction material located within three hundred (300) feet of any construction site shall be presumed to be from that construction site.
  - 3. The permittee shall collect, remove, and place all broken or discarded construction material that has accumulated on any adjacent public or private from the construction site in an appropriate solid waste container. Construction material may be destroyed by burning it in the city after receiving the city's approval.
  - 4. If the building inspector is not satisfied with the removal of all construction material in accordance with this subsection, the city may elect to do any one or more of the following:
    - a. Issue a stop order until the site and adjacent public and private property is free of any discarded material, machinery, trash, rubbish, garbage, paper, debris and concrete;

- b. Take charge of the work and clean up the premises in accordance with this subsection (in this case, the city may recover the actual expenses incurred by the city in cleaning up the premises and adjacent public and private property, including but not limited to cost of labor, materials, overhead, rental of any equipment used by the city in cleaning up the site, and attorney fees, from the permit holder through all necessary civil actions; in addition, the city shall have a right of action against any bonds in effect running from the holder of the permit to the city); and/or
- c. Suspend and/or revoke the permit.

K. *Restoration of Public Streets (Including Rights-of-Way, Shoulders, and Barrow Ditches).*

- 1. Upon a permit holder's completion of any or all activity authorized by a permit on any public street, or in the event a permit is revoked, the permit holder shall restore the activity area within the street to its proper condition within twenty-four (24) hours. The permit holder shall restore the street, including any right-of-way, shoulders, and barrow ditches, to a condition at least as good as that existing before the permit holder's activities commenced. In addition, except as required to restore the activity area to its proper condition, the permit holder shall remove all equipment, materials, trash, and debris from the street.
- 2. If the permit holder does not restore the street to its proper condition as directed by the building inspector, the city may restore the premises to their proper condition and recover from the permit holder the actual expenses incurred by the city in restoring the premises, including but not limited to the cost of labor, materials, overhead, rental of any equipment used by the city in restoring the premises, and attorney fees, by civil action or by executing on any bond posted by or on behalf of the permit holder in favor of the city.

L. *Bond and Deposit.* Before the city may issue any permit, the applicant shall file a corporate surety bond that is approved by the city attorney with the city in the principal sum of ten thousand dollars (\$10,000.00), or deposit with the city the sum of two thousand dollars (\$2,000.00), which deposit shall be placed in an interest-bearing account with interest accruing to the permit holder. Such bond or deposit shall be conditioned upon the permit holder's compliance with the provisions of this article and other city laws, and shall secure and may be used for the payment of any and all damages to persons or property which arise from, or are caused or authorized by, any act or conduct of the permit holder upon which a legal judgment results. The building inspector may require a larger bond or deposit when, in his or her opinion, the nature of the permit indicates such need. Governmental agencies shall be exempt from this bond and deposit requirement. The building inspector may cancel or revoke a permit for any violation of this subsection.

M. *Insurance.*

1. Before the city may grant any permit under this article, each person applying for the permit shall furnish evidence that he or she has procured public liability and property damage insurance to the city in the following amounts:
  - a. For damages arising out of bodily injury to or death of one person in any one accident: \$250,000.00.
  - b. For damages arising out of bodily injury to or death of two or more persons in any one accident: \$500,000.00.
  - c. For injury to or destruction of property in any one accident: \$150,000.00.
2. Each person's insurance shall be kept in full force and effect during the period of time for which a permit shall be issued or the premises occupied.

N. *Correction of Errors.* The city's issuance of a permit based upon plans and specifications shall not prevent the building inspector from thereafter requiring the permit holder to correct any errors in the plans and specifications or from halting any and all building operations that are in violation of this article or any other applicable laws.

O. *Erosion Control.*

1. Site and construction plans. No site or construction plan shall be approved unless it shows all improvements reasonably required to prevent erosion during and after completion of development.
2. Plats. No plat shall be approved unless it shows all improvements reasonably required to prevent erosion.
3. Permits. No permit shall be issued under this article unless the plans and specifications show and adequately describe all measures and improvements both temporary and permanent which can reasonably be undertaken to control and eliminate erosion during development, along with appropriate schedules based on time and stage of construction which show that such measures and improvements will be undertaken at the earliest practicable time, and show existing and proposed topographic information with five-foot contours.
4. Other requirements.
  - a. Officials charged with approval of site plans or plats or issuance of building or grading permits shall:
    - (1) Require, where appropriate and reasonable under the circumstances, the construction of silt traps, the mulching and

temporary or permanent platting of areas exposed by grading, the construction of diversions, channel linings, grade stabilization structures, and bank protection structures;

- (2) Place limits on the area of land which may be exposed at any one time and the length of time that any area may be exposed;
  - (3) Require all other acts and impose all other limits and restraints which are necessary and reasonable to prevent erosion; and
  - (4) Require the furnishing of all technical information required to determine the adequacy of each proposal.
- b. The building inspector has the duty to impose any additional limits or restraints to prevent erosion after approval of any permit, whenever conditions arise during development or construction which require the taking of any additional measures or precautions.
- c. Where, during development or construction, it appears that measures or precautions previously required are unnecessary, the building inspector shall waive them in writing.
- d. The building inspector shall require certification of plans and specifications and supervision of work by a licensed professional engineer unless such is not necessary under the circumstances.

#### **Section 3.5.4 Denial, Suspension, or Revocation**

- A. For good cause, the building inspector may suspend, withhold or revoke a permit or license issued by the city. Good cause may include, but is not limited to, the following:
1. The permit holder makes a false statement or commits fraud in the permit application or in accompanying statements or studies required of the applicant.
  2. The permit holder fails to comply with material conditions of the permit, fails to maintain safety standards, or violates provisions of this article or article 3.03, 3.04, or 3.05.
  3. Failure or refusal to permit inspection of a site, location or building where work is being performed under a current permit.
  4. Failure or refusal to stop work and correct deficiencies when duly notified.
  5. Violation on more than one occasion, either willfully or maliciously, or by reason of incompetence of any provisions of the technical codes.

6. Refusal to comply with the lawful requirements of the building inspector, bad faith or unreasonable delay in the performance of any installation, alteration or changes required by the building inspector or the correction of any defect pointed out by the building inspector.
  7. Consumption of alcoholic beverages, intoxication or use of narcotics during construction which may create a dangerous work environment or workers being impaired by the use of narcotics on a permitted work site.
  8. Existing adjudication of insanity of the permittee or licensee.
  9. Conviction of the permittee or licensee, who are to be contractors on a site, of defrauding any person whom (s)he has rendered or contracted to render services.
  10. Securing a permit or license for work that is not actually performed or supervised, when permitted, by the permittee or licensee.
  11. Securing a permit under any pretext for construction or installation concerning which the applicant has no valid contract.
- B. Each permittee shall have a fiduciary duty to supervise any person performing work at a site for which the permittee holds a permit. The permittee shall be responsible for any violations of this article or technical codes by any person performing work at a site for which the permittee holds a permit.
- C. The building inspector may withhold the issuing or renewal of a license or permit to an applicant for the same reason and by the same process used for revocation or suspension described in this section.

### **Section 3.5.5 Variances**

- A. Any person may apply for a variance of any provision of this article related to permitting by submitting a written application to the building inspector that cites the specific provision for which a variance is sought and sets forth with particularity the reasons for the request. The building inspector shall review the variance application for completion and forward the completed application to the board of adjustments and appeals for consideration and approval or denial in accordance with the following procedures:
1. Before the board of adjustments and appeals grants or denies a variance application, the board shall give written notice to all property owners within two hundred (200) feet of the property on which the variance is requested that explains the variance request and states when and where the public hearing regarding the application will be held.

2. The board shall hold the public hearing regarding the application at least ten (10) days after written notice has been given to the property owners within two hundred feet (200') of the subject property.
  3. The board shall take all comments made at the public hearing into consideration when deciding to grant or deny the application.
  4. The board may vary the application of any provision of this article as to any particular case when, in its opinion, enforcement would do manifest injustice, or would be contrary to the spirit and purpose of this article, or public interest.
- B. If the board decides to vary the application of any provision of this article, the board shall specify in what manner the variance is made, the conditions upon which it is made, and the reasons for the variance.
- C. A person may not proceed with any operation for which a variance is required by this article unless and until he or she receives a variance authorizing the operation.

### **Section 3.5.6 Appeals**

- A. *Procedures.* Any person aggrieved by any decision of the building inspector revoking, suspending, or denying that person's permit may appeal the building inspector's decision to the board of adjustments and appeals in the accordance with the following procedures:
1. Notice of appeal. To appeal, the applicant shall file a notice of appeal with the building inspector in writing, accompanied by the appeal fee set by the City Council, that specifies the grounds for the appeal. The building inspector shall transfer the notice of appeal and all papers upon which the action was appealed to the board of adjustments and appeals as soon as possible.
  2. Time frame. To appeal, the applicant must file the notice of appeal with the building inspector within ten (10) days from the date of the decision that the applicant is appealing.
  3. Public hearing. Before the board of adjustments and appeals makes a decision on a notice of appeal, the officer, department, board or bureau from which the appeal is taken shall forthwith transmit to the board all of the papers constituting the record upon which the action appealed from is taken. The board shall fix a reasonable time for the hearing of the appeal or other matter referred to it, and shall give public notice of the hearing and due notice to the parties in interest.
    - a. The board shall take all comments made at the public hearing into consideration when making its appeal decision.
    - b. The board may vary the application of any provision of this article or article 3.03, 3.04, or 3.05 to any particular case when, in its opinion, enforcement

would do manifest injustice, would be contrary to the spirit and purpose of this article or article 3.03, 3.04, or 3.05, or public interest, or when, in its opinion, the interpretation of the building inspector should be modified or reversed.

- B. *Findings of Fact.* The board of adjustments and appeals shall file findings of fact within a reasonable time after the final decision of the board of adjustments and appeals is announced. The findings shall be in writing filed in the office of the city secretary. Filing of the minutes of the meeting of the board of adjustments and appeals meeting at which the appeal hearing was held shall constitute a filing of the findings of fact absent a more specific filing prior to filing the minutes.
- C. *Appeal of Decision of Board.* Any party aggrieved by the decision of the board of adjustments and appeals shall have ten (10) days from the date of the filing of the findings of fact to file an appeal with the district court of competent jurisdiction.

### **Section 3.5.7 Site Clearance, Excavation, Grading, and Land Fill Permit**

- A. *Application.* To obtain an excavation or grading permit, the applicant shall file an application in writing, accompanied by the application fee set by the City Council, that:
  - 1. Identifies and describes the work to be covered by the permit for which application is made;
  - 2. Describes the land on which the proposed work is to be done, by lot, block, tract, and house or structure and street address, or similar description that readily identifies and definitely locates the proposed work;
  - 3. Specifies the beginning and ending date of excavation or grading;
  - 4. Is signed by the permittee, or his or her authorized agent, who may be required to submit evidence to indicate such authority; and
  - 5. Includes such other information that may be reasonably required by the building inspector.
- B. *Standards.*
  - 1. Open cuts and fills are those which will not contain any form of permanent erosion control other than the planting of ground cover vegetation.
  - 2. Closed cuts and fills are those which prevent erosion by some permanent erosion control structure such as a reinforced concrete retaining wall, dry stacked stone or other permanent erosion control device approved by the city.

3. The following minimum site disturbance standards for earth cuts and fills shall be followed by all holders of excavation, grading, or fill permits:

**Maximum Depth of Cut and Height of Fill**

<b>Slope</b>	<b>Open Cuts and Fills</b>	<b>Closed Cuts and Fills</b>
Over 25%	None	6 feet
15 - 25%	1 foot	8 feet
0 - 15%	3 feet	10 feet

4. Finished open cuts of an excavation shall not exceed the 1:1-1/2 ratio (vertical to horizontal) in undisturbed earth, 1:2 in earth fill.
5. Excavation shall not interfere with public or private utility systems and shall not create or aggravate any condition detrimental to the public health and safety.

C. *Prohibited Activities.* No excavation, grading or filling shall be permitted:

1. In residential districts within twenty (20) feet of a street except to conform to approximate street grade for an approved driveway cut;
2. Which interferes with the natural drainage of the general area surrounding the site (all existing watercourses shall be preserved, except that such watercourses may be relocated or piped provided that they will not create any interference with the riparian or drainage rights or easements of other property owners, and provided that no drainage shall be made onto public land or connected with public facilities without the express approval of the city); or
3. That damages, destroys, or removes vegetation on a city right-of-way without the prior written approval of the building inspector. (Damaged, destroyed, or removed vegetation shall be restored.)

D. *Additional Requirements for Grading Permits.* The City Engineer may require each application for a grading permit to be accompanied by two sets of plans and specifications and supporting data consisting of a soil engineering report and engineering geology report. In addition, the City Engineer may require that the specifications contain information covering construction and material requirements, and that the plans and specifications are prepared and signed by a civil engineer.

1. Information on plans. Plans shall be drawn to scale upon substantial paper and shall be of sufficient clarity to indicate the nature and extent of the work proposed and show in detail that they will conform to the provisions of this article and all other applicable city laws. The first sheet of each set of plans shall give the location



of the work and the name and address of the owner and the person by whom they were prepared. The plans shall include the following information:

- a. General vicinity of the proposed site;
  - b. Property limits and accurate contours of existing ground and details of terrain and area drainage;
  - c. Limiting dimensions, elevations, or finish contours to be achieved by the grading, and proposed drainage channels and related construction;
  - d. Detailed plans of all surface and subsurface drainage devices, walls, cribbing, dams, and other protective devices to be constructed with, or as a part of, the proposed work together with a map showing the drainage area and the estimated runoff of the area served by any drains;
  - e. Location of any buildings or structures on the property where the work is to be performed and the location of any buildings or structures on land of adjacent owners which are within 100 feet of the property or which may be affected by the proposed grading operations.
2. Soil engineering report. The soil engineering report shall include data regarding the nature, distribution, and strength of existing soils, conclusions and recommendations for grading procedures and design criteria for necessary corrective measures, and opinions and recommendations covering adequacy of sites to be developed by the proposed grading. Recommendations included in the report and approved by the building inspector shall be incorporated in the grading plans or specifications.
  3. Engineering geology report. The engineering geology report shall include an adequate description of the geology of the site, conclusions and recommendations regarding the effect of geologic conditions on the proposed development, and opinions and recommendations covering the adequacy of sites to be developed by the proposed grading. Recommendations included in the report and approved by the building inspector shall be incorporated in the grading plans or specifications.
  4. Modifications due to delays caused by weather. The building inspector may require the modification of grading operations and project designs if delays occur that involve weather-generated problems not considered at the time the city issued the permit.
- E. *Destruction of Embankments Along Highways.* There shall be no unnecessary destruction of natural embankments along state highways.

### Section 3.5.8 Blasting Permit

- A. *Application.* To obtain a blasting permit, the applicant shall file an application in writing, accompanied by the application fee set by the City Council, that:
1. Identifies and describes the work to be covered by the permit for which application is made;
  2. Describes the land on which the proposed work is to be done, by lot, block, tract, and house or structure and street address, or similar description that readily identifies and definitely locates the proposed work;
  3. Names the licensed blaster who will engage in the use of explosives;
  4. Specifies the dates and times such blasting will occur;
  5. Is signed by the permittee, or his authorized agent, who may be required to submit evidence to indicate such authority; and
  6. Provides such other information that the building inspector may reasonably require.
- B. *Approval.* Blasting permits can only be approved by the council. Before a blasting permit is issued, the applicant shall:
1. File a bond and certificate of insurance with the city in the amounts specified by the council; and
  2. Appear before the council at its next regularly scheduled meeting to request the council's approval of the permit.
- C. *Denial.*
1. The council may deny a blasting permit based on the building inspector's or his or her designee's reasonable belief that:
    - a. There would be a danger to life, health, or property in the immediate area exposed to the proposed blasting; or
    - b. An affected utility, adjacent property owner, or franchise holder has a valid objection to the issuance of a permit.
  2. The building inspector or his or her designate may request written comments on each permit application from the various affected utilities, adjacent property owners, or franchise holders. Under subsection (1)(B), the council may only deny the blasting permit until the affected utility's, adjacent property owner's, or

franchise holder's objection has been resolved to the satisfaction of the building inspector.

D. *Blasting Requirements.*

1. Blasting mat. When blasting is done in a congested area or in close proximity to a building, structure, highway, vehicle, conveyance, or any other installation that may be damaged by material being thrown into the air, the blast shall be covered with an adequate blasting mat or shield. Proof that any building, structure, highway, vehicle, conveyance, or other installation was damaged to any degree by material which was thrown into the air shall raise a rebuttable presumption that the blast was not covered with an adequate blasting mat or shield. For purposes of this subsection, an otherwise adequate blasting mat used improperly shall not be considered to be an adequate blasting mat or metal shield.
2. Removal of lead wires. All exposed blasting cap lead wires in the ground from previous blasts shall be removed at the end of each working day.

E. *Prohibitions.*

1. License required. No person shall engage in the use of explosive materials within the city unless that person is a licensed blaster or is under the direct supervision of a licensed blaster.
2. Blasting for soil absorption beds. Soil absorption beds for private sewage facilities shall not be excavated by blasting, except that blasting may be used to dislodge shelf slab rock with the prior approval of the building inspector.
3. Blasting prohibited on weekends or holidays and during certain hours. No blasting shall be permitted on Saturdays, Sundays, or legal holidays or before 9:00 a.m. or after 4:00 p.m. on any other day.
4. Smoking in vicinity of blasting. No person shall smoke or carry matches while handling explosives or while in the vicinity thereof. The permit holder shall post "no smoking" signs in areas where explosives are being handled, and the signs shall be visible for at least twenty-five (25) feet.

**Section 3.5.9 Building Permit**

A. *Application.* To obtain a building permit, the applicant shall file an application in writing, accompanied by the application fee set by the City Council, that:

1. Identifies and describes the work to be covered by the permit for which application is made;

2. Describes the land on which the proposed work is to be done, by lot, block, tract, and house or structure and street address, or similar description that readily identifies and definitely locates the proposed work;
  3. Indicates the use or occupancy for which the proposed work is intended;
  4. Is accompanied by plans and specifications as required in subsections (b) and (c) of this section;
  5. States the valuation of the proposed work;
  6. Is signed by the permittee, or his or her authorized agent, who may be required to submit evidence to indicate such authority; and
  7. Provides such other information as the building inspector may reasonably require.
- B. *Site Plan.* All applications for building permits shall be accompanied by a site plan drawn to scale in duplicate, together with such additional copies as the building inspector may determine to be necessary for review by other city officials. The site plan shall contain the following:
1. A legal description of the land included on the site plan and of the lot; the addresses and telephone numbers of the owner, the builder, and the designer or architect;
  2. Lot and block number; and street number as approved by the U.S. Postal Service;
  3. The actual shape, location, and dimensions of the lot, an arrow pointing north and the lot area of the land included in the site plan;
  4. Floodplain elevations, showing the floodway and that portion of the lot which is subject to inundation by the 100-year flood;
  5. Location and dimensions of easements and setback requirements;
  6. Location and dimensions of all components of all private sewage facilities located on the lot and their distance from floodplains, wells, lakes, creeks, faults, and water lines within 100 feet of the lot;
  7. The existing and intended use of the lot and of all such structures upon it, including, in residential areas, the number of dwelling units the building is intended to accommodate;
  8. The architectural design, shape, size and location of all buildings or other structures to be erected, altered, or moved, and of any buildings or other structures already on the lot;

9. Site clearance and excavation plans;
  10. Exterior lighting plans; and
  11. Such other information concerning the lot or adjoining lots as may be essential for determining compliance with the provisions of this article.
- C. *Construction Plans and Specifications.* The applicant shall provide construction plans and specifications for all contemplated construction on the site to the building inspector. The construction plans and specifications shall include at least the following information:
1. Scaled floor plan of each floor and the basement, if any, for each building;
  2. Plan of all attached terraces, porches, or covered walkways, and/or attached or detached garage or carport and accessory buildings, parking lots and driveways, and all other structures as defined in this article. All setback dimensions shall be indicated on the plans;
  3. Location and size of all permanently installed construction and equipment, such as closets, storage, plumbing fixtures, appliances, etc.;
  4. Location and symbols of all electrical equipment, including switches, outlets, fixtures, etc.;
  5. Exterior elevations:
    - a. All exterior elevations;
    - b. Wall and roof finish materials;
    - c. Height from grade; and
    - d. Undisturbed natural grade.
  6. Structural section:
    - a. Cross-section of typical wall construction details; and
    - b. Scale plan of foundation and pertinent section of typical beams, footings, girders, etc.;
  7. Such other information as the building inspector may reasonably deem necessary.
- D. *Restrictions on Issuance.*
1. The city shall not issue a building permit for the construction of commercial buildings and multiple-dwelling units until the building inspector has approved the plans for the adequacy, location, and accessibility of solid waste containerization and storage facilities.

2. The city shall not issue a building permit for nonresidential buildings or structures until the applicant has obtained the city administrator's or building inspector's approval of the roofing material.
3. The city shall not issue a building permit for a building, structure, or the installation of a private sewage facility on any lot in a subdivision or conforming plat for which a final plat has not been approved by the city and filed for record or in which the standards contained in this code have not been complied with in full.

### **Section 3.5.10 Moving Permit**

A. *Application.* To obtain a moving permit to:

1. Replace a legally permitted mobile home with a HUD-manufactured home provided that the replacement is a newer HUD-manufactured home and is at least as large in living space as the prior mobile home, or
2. Move and install a HUD-manufactured home on a lot zoned for such home, into or through the city, the applicant shall file an application in writing, accompanied by the application fee set by the City Council, that provides the following information:
  - a. The name of the person, firm, partnership, or corporation who will move the HUD-manufactured home or mobile home;
  - b. The name of the owner of the HUD-manufactured home or mobile home;
  - c. The present location of the [HUD-manufactured home or mobile home;]
  - d. The proposed new location of the HUD-manufactured home or mobile home;
  - e. The route of moving, as approved by the city;
  - f. The exact date and time during which the HUD-manufactured home or mobile home will occupy the street;
  - g. The time that the HUD-manufactured home or mobile home is allowed to remain in the street;
  - h. The size and type of construction of the HUD-manufactured home or mobile home;
  - i. Evidence that arrangements have been made with utility companies and/or the city, when necessary to prevent damage;

- j. The receipt of the permit fee;
- k. The business address and home address of the applicant;
- l. Proof of a corporate surety bond and liability insurance with an insurance company licensed to do business in the state that the city deems acceptable;
- m. Such other information as reasonably may be required by the building inspector.

B. *City Approval and Oversight.*

- 1. The applicant must receive the city's written approval of the proposed route of moving before a moving permit may be issued.
- 2. The building inspector shall have the authority to establish and direct, as a condition to the issuance of the permit, the time when the HUD-manufactured home or mobile home moving shall start and the time when it shall be completed, the routes over which HUD-manufactured homes or mobile home of specified dimensions may be moved, and such other regulations and conditions which he or she may deem necessary. It shall be unlawful for any person to deviate from the building inspector's direction.
- 3. The city shall issue each permit in duplicate, and the permit holder shall post one copy on the HUD-manufactured home or mobile home to be moved.

C. *Building Standards.* HUD-manufactured homes moved into or within the city shall comply with all the provisions of this article.

D. *Bond and Indemnification.* Before a permit is issued, the applicant shall agree to indemnify the city for any damage that may occur to public or private property within the city by reason of the applicant's intended move, and shall file with the city a bond and certificate of insurance as the building inspector may require.

E. *Prohibitions.*

- 1. A moving permit shall not allow a HUD-manufactured home or mobile home to remain in a street for more than forty-eight (48) hours.
- 2. While a HUD-manufactured home or mobile home is occupying the street, or any portion thereof, the mover shall keep it continuously in motion toward its destination and shall not allow the work or moving to stop.

3. It shall be unlawful for the holder of the permit to disconnect any electrical light and power connection, gas connection, water connection, or telephone connection from any HUD-manufactured home or mobile home within the city which he or she proposes to move without the consent of the public utility owning such connection.
4. It shall be unlawful for the holder of the permit to remove, tear down, or destroy any pole or wire or other property belonging to the city or to any utility company furnishing gas, electrical light and power, or belonging to any telephone or telegraph company, without the consent of such utility or other person owning the same.
5. It shall be unlawful for the holder of the permit to remove any vegetation on private or public property without the consent of the person owning same.

F. *Inspections Upon Completion of Move; Repair of Property Damage.*

1. Whenever a permit holder has completed the moving of a HUD-manufactured home or mobile home under [a permit], he or she shall promptly notify the building inspector, who shall cause an inspection to be made of the route of moving and the installation of the HUD-manufactured home or mobile home.
2. If the permit holder has damaged the streets, curbs, gutters, sidewalks, or other public or private property, the city shall notify the permit holder of the damage by mailing to the permit holder written notification by certified mail at his or her business or home address listed in the permit application. The permit holder shall start the process of repairing the damage to the city's satisfaction within two (2) days from the date of receipt of notification.

G. *Return of Deposit or Release of Bond.* The city shall reimburse, release, or return any required deposit or bond to the applicant only after the moving operation is completed and the building inspector has written assurance from the permit holder that no damage to life or property has occurred or that the damage has been repaired and all claims arising out of any damage are settled.

**Section 3.5.11 Overhead Utility Development Permit**

- A. *Application.* To obtain an overhead utility development permit, the applicant shall file an application in writing with the city, accompanied by the application fee set by the City Council, that provides the following information:
1. At least two proposed routes;
  2. A description and identification of the work to be covered by the permit;



3. A description of the land or route on which the proposed work is to be done, by lot, block, tract and house or structure and street address or similar description that will readily identify and definitely locate the proposed work;
  4. The use for which the proposed work is intended;
  5. Plans and specifications required for the project and a site plan drawn to scale in duplicate, together with additional copies that the building inspector may determine are necessary for the City Council's review. The site plan shall include the following:
    - a. Natural features such as woodlots, watercourses, springs, and ponds;
    - b. All easement dimensions;
    - c. Floodplain elevations with the floodway and that portion of the route that is subject to inundation by the 100-year floodplain;
    - d. All existing roads, walks, and all structures; and
    - e. Restoration measures, as needed;
  6. A description of the route, site clearance and excavation plans, and blasting required, if any. In the event excavation and/or blasting is necessary, the applicant shall provide the information required for such permits as provided in this article;
  7. A statement evaluating the expected direct and indirect adverse human environmental impact of the alternative routes;
  8. A statement analyzing the direct and indirect economic impact of the proposed routes;
  9. A statement evaluating the adverse direct and indirect environmental effects which cannot be avoided or mitigated should the proposed route be accepted;
  10. Proof of a corporate surety bond and liability insurance with an acceptable insurance company licensed to do business in the state as provided in this article to protect the public and the city from any damage caused by the applicant.
- B. *Exceptions.* Utility development permits are not necessary to complete emergency repairs to restore service, as long as such repairs are immediately reported to the building inspector.
- C. *Inventory of Transmission Routes.* Before the city issues a utility development permit, the electrical utility serving the city shall present an inventory of transmission lines to the city in accordance with Division 3.2 (utility development standards).

## *DIVISION 3.6 INSPECTIONS*

### **Section 3.6.1 Generally**

The building inspector shall inspect all work for which a permit is required under this article. Certain types of construction, as specified in this division, shall be subject to continuous inspection by special inspectors.

### **Section 3.6.2 Required Inspections**

- A. The building inspector, upon notification from the permit holder or his agent and payment by the permit holder or his agent of the inspection fees set by the City Council, shall make the following inspections and shall either approve that portion of the construction as completed or shall notify the permit holder or his agent how the construction, structure, or building fails to comply with this code:
1. Foundation inspection. Shall be made after the trenches are excavated, forms erected, all materials for the foundation delivered, and all of the steel installed. When concrete from a central mixing plant is to be used, materials are not required to be on the job.
  2. Framing inspection. Shall be made after the roof, all framing, fire-blocking, and bracing are in place, and all pipes, chimneys, and vents are complete.
  3. Plumbing, electrical, gas, heating, ventilation and air-conditioning inspection. Shall be made after all pipes are in place, supports connected, meter located, and vent takeoff, water heater location, and trap arms are complete. The mechanical inspection shall be done when all ductwork and vents are in place and furnace closets and/or attic platforms and catwalks are completed.
  4. Final inspection. Shall be made after the building or structure is completed and ready for occupancy, all valves and fixtures are installed, and vents are in place, and when all equipment has been installed and ready for use, including dryer vents, stove hoods, furnace vents, and all supply and return air grills.

### **Section 3.6.3 Other Inspections**

- A. In addition to the required inspections provided for in this division, the building inspector shall make or require to be made any other inspections of any construction work to ascertain compliance with the provisions of this article, this code, and other city laws.
- B. Special inspections shall be conducted in accordance with the building code in effect.
- C. The permit holder or his or her agent shall pay the inspection fees set by the City Council for all other inspections.

#### **Section 3.6.4 Change in Use**

Changes in the character or use of a building or structure shall not be made except as specified in the codes.

#### **Section 3.6.5 Concealment of Reinforced Steel or Structural Work**

No person shall cover or conceal any reinforcing steel or structural framework of any part of any building or structure until the building inspector has given his or her approval.

#### **Section 3.6.6 Lot Survey**

The building inspector may require the permit holder to conduct a survey of the lot to verify the conformity of the building or structure to approved plans and specifications.

#### **Section 3.6.7 Certificate of Occupancy**

- A. *Required.* No person shall occupy, and the city shall not make any change in the existing occupancy classification of, any building or structure or portion thereof until the building inspector has issued a certificate of occupancy for the building or structure or portion thereof.
- B. *Conditions for Issuance.*
  - 1. The building inspector shall not issue a permanent certificate of occupancy unless the improvements shown on the site plan have been installed, constructed, or created and erosion has been effectively controlled.
  - 2. The building inspector shall not issue a permanent certificate of occupancy for commercial buildings or multiple-dwelling units until he or she has approved the plans for the adequacy, location, and accessibility of solid waste containerization and storage facilities.
  - 3. The building inspector shall not issue a certificate of occupancy for nonresidential buildings or structures until he or she determines that the smoke detectors were installed within twelve inches (12") of the ceiling and tests them for proper operation.
  - 4. The building inspector shall not issue a permanent certificate of occupancy until the city inspector makes a final inspection of the private sewage facility after construction is complete, but before the facility is buried, and finds that the facility complies with the sewage facility regulations, division 2 of article 13.03.
- C. *Contents.* After the building inspector has conducted a final inspection and he or she has determined that the building or structure complies with the provisions of this article and

code, the building inspector shall issue a certificate of occupancy that contains the following information:

1. A statement of the use and occupancy for which the certificate is issued;
  2. A certification that the building or structure complies with the provisions of this article and code;
  3. The permit number of the building or structure;
  4. The address of the building or structure;
  5. The name and address of the owner of the building or structure;
  6. A description of the portion of the building or structure for which the certificate is issued;
  7. A statement that the described portion of the building or structure complies with the requirements of this article and code for group and division of occupancy and the use for which the proposed occupancy is classified; and
  8. The name of the building inspector.
- D. *Temporary Certificate.* The building inspector may issue a temporary certificate of occupancy for the use of a portion or portions of a building or structure prior to the completion of the entire building or structure.

### *DIVISION 3.7 TECHNICAL CODES*

#### **Part I. General**

##### **Section 3.7.1.1 Conflicts with Adopted Codes**

In the event a conflict is determined to exist between a code as adopted in this article and the other provisions of this article, the latter provisions shall be construed as controlling and taking precedence over the former. Any codes referenced therein are not adopted hereby unless specifically adopted.

##### **Section 3.7.1.2 Availability of Copies of Adopted Codes**

The city administrator shall keep a copy of each code the city adopts by reference on file at city hall.

### **Section 3.7.1.3 Jurisdiction**

Each reference to jurisdiction or location for insertion of name of jurisdiction in this division shall mean the city.

## **Part II. Building Code**

### **Section 3.7.2.1 Adopted**

The International Building Code, year 2021 edition by the International Code Council, and all revisions thereof, published by the International Code Council and referred to as the "International Building Code," is hereby adopted and incorporated as fully as if set out at length in this article, and the provisions of such code shall be controlling on all premises, including but not limited to all buildings thereon, within the corporate limits of the city.

### **Section 3.7.2.2 References to Other Codes**

Any codes noted or mentioned in the International Building Code which are not formally adopted by this article shall be a guide only and are not subject to permit and enforcement.

## **Part III. Residential Code**

### **Section 3.7.3.1 Adopted**

The International Residential Code for One- and Two-Family Dwellings, 2021 edition, including all appendix chapters, published by the International Code Council, is hereby adopted as the residential building code of the city regulating and controlling the design, construction, quality of materials, erection, installation, alteration, repair, location, relocation, replacement, addition to, use or maintenance of one- and two-family dwellings and townhouses in the city, and providing for the issuance of permits and collection of fees, and each and all of the regulations, provisions, conditions and terms of such International Residential Code for One- and Two-Family Dwellings, 2021 edition, published by the International Code Council are adopted and made a part of this section as if fully set out in this article.

### **Section 3.7.3.2 Repairs or Remodeling; Accessory Buildings**

A permit is not required for repairs and remodeling unless structural supports or supporting walls are removed or modified, floor space is added, or a plumbing or electrical permit is required. A building permit is not necessary for accessory buildings having 120 square feet or less of floor space.

### **Section 3.7.3.3 References to Other Codes**

Any codes noted or mentioned in the International Residential Code for One- and Two-Family Dwellings which are not formally adopted by this article shall be a guide only and are not subject to permit and enforcement.

## **Part IV. Energy Conservation Code**

### **Section 3.7.4 Adopted**

The International Energy Conservation Code, 2021 edition, published by the International Code Council, is hereby adopted as the energy code of the city for regulating the design, construction, quality of materials, erection, installation, alteration, repair, location, relocation, replacement, addition to, use or maintenance of the building envelope, mechanical, lighting and power systems of the city and providing for the issuance of permits and collection of fees therefor, and each and all of the regulations, provisions, conditions and terms of such International Energy Conservation Code, 2015 edition, published by the International Code Council, are hereby referred to, adopted and made a part of this section as if fully set out in this article.

## **Part V. Plumbing Code**

### **Section 3.7.5 Adopted**

The International Plumbing Code, 2021 edition, and all revisions thereof, published by the International Code Council, and referred to as the “International Plumbing Code,” is hereby adopted and incorporated as fully as if set out at length in this article, and the provisions of such code shall be controlling on all premises, including but not limited to all buildings thereon, within the corporate limits of the city.

## **Part VI. Mechanical Code**

### **Section 3.7.6 Adopted**

The International Mechanical Code, 2021 edition, and all revisions thereof, published by the International Code Council, and referred to as the “International Mechanical Code,” is hereby adopted and incorporated as fully as if set out at length in this article, and the provisions of such code shall be controlling on all premises, including but not limited to all buildings thereon, within the corporate limits of the city.

## **Part VII. Electrical Code**

### **Section 3.7.7.1 Adopted**

The National Electrical Code, NFPA 70, 2020 edition, and all revisions thereof, published by the National Fire Protection Association, and referred to as the “electrical code,” is hereby adopted and incorporated as fully as if set out at length in this article, and the provisions of such code shall be controlling on all premises, including but not limited to all buildings thereon, within the corporate limits of the city.

### **Section 3.7.7.2 Licensing of Electricians**

- A. *Required.* It shall be unlawful for anyone to perform electrical work for which a permit is required unless he or she holds one of the following licenses:
  - 1. Unrestricted master electrical license. A person who holds a valid unrestricted master license issued by the state and obtained said license by passing an examination, upon providing proof of same and paying the prescribed fee, if any.
  - 2. Journeyman electrical license. A person who holds a valid journeyman electrical license issued by state and obtained said license by passing an examination, upon providing proof of same and paying the prescribed fee, if any.
- B. *Homeowner Exemption.* A homeowner performing electrical work on his own residence with his own hands, upon providing proof of ownership, and after filling out and signing the proper request, may be exempted from the license requirement. Anyone else performing electrical work on property permitted under a homeowner permit shall hold a valid state electrical license.

### **Section 3.7.7.3 Persons Authorized to Obtain Permits; Responsibility for Work**

- A. All electrical work shall be permitted by an unrestricted master electrician.
- B. An unrestricted master electrician who employs a licensed journeyman electrician who is a bona fide employee of the master may, by presenting a letter to the building inspector, authorize the named journeyman to pull permits under the master's license. The unrestricted master is responsible for all permits issued under his license.
- C. A homeowner performing electrical work on his own residence with his own hands, upon providing proof of ownership, and after filling out and signing the proper request, may be exempted from the license requirement.
- D. The unrestricted master electrician shall be responsible for all work, permit requirements, inspections and fees performed under this license. All work performed by any helper on a job permitted by an unrestricted master electrician shall be under the direct supervision of the unrestricted master or a licensed journeyman electrician on the job site at all times. All persons who fail to present a valid state electrical license as required by this article to the building inspector on request shall leave the job site immediately and be subject to the penalty provisions of this code for such violations.

### **Section 3.7.7.4 Additional Standards**

- A. *Compliance with Applicable Regulations.* All electrical work must be performed in accordance with the current adopted edition of the National Electrical Code and city ordinances. After the effective date of this article, no electrical service shall be provided, and no electric meter shall be set at any location requiring a permit until an inspection

has been requested and the inspection has been passed by the building inspection department.

B. *Commercial Buildings.*

1. All wiring rated at 120 volts or more installed in all commercial buildings shall be in conduit.
2. All low voltage and control wiring installed in plenums shall be plenum rated wire, and shall be stamped plenum rated on the outer coating.
3. House wired smoke detectors with battery backup shall be required on each level above the main floor.
4. The minimum wire size for branch circuit wiring shall be #12 copper with a maximum of 12 outlets per circuit.
5. Every commercial building that is constructed or structurally altered where an electrical permit is required shall be provided with an outside main disconnect meeting the requirements of the National Electrical Code, and labeled with the building address or suite number.

C. *Residential Buildings.*

1. A house wired battery backup smoke detector shall be provided in every sleeping room and centrally located outside each sleeping room and at each floor above the main floor of the residence.
2. All branch circuit wiring shall be a minimum of #12 copper with a maximum of 12 outlets per circuit.
3. All motor-driven indoor appliances shall be provided with an individually designated circuit.
4. Cord and plug shall be accepted as an appliance disconnect.
5. In addition to the washing machine circuit, a separate designated 120-volt circuit shall be provided to operate the motor on a gas dryer.
6. On kitchen islands, no part of the countertop, measured along the length, shall be further to a GFCI outlet than 24 inches.
7. Every residence, including mobile homes, where an electrical permit is issued as part of a new construction permit shall be provided with an outside main disconnect for fire protection.



D. *General Requirements.*

1. Electrical lines must be located in a separate trench from water and sewer lines.
2. Aluminum wire shall not be used in any electrical use for any residential or commercial application.

E. This section shall control in the event of a conflict with the edition of the NEC adopted by this code, and said edition of the NEC shall be amended to the extent of any conflict with this section.

**Part VIII. Fuel Gas Code**

**Section 3.7.8.1 Adopted**

The International Fuel Gas Code, 2021 edition, and all revisions thereof, published by the International Code Council, and referred to as the “International Fuel Gas Code,” is hereby adopted and incorporated as fully as if set out at length in this article, and the provisions of such code shall be controlling on all premises, including but not limited to all buildings thereon, within the corporate limits of the city. The provisions of this code shall apply to the installation of undiluted liquefied petroleum gases (butane and propane).

**Part IX. Fire Code**

**Section 3.7.9.1 Definition**

When used in this part IX, the following term has the meaning indicated:

Fire code or fire prevention code of the city. The International Code Council’s International Fire Code, 2021 Edition, as published without exceptions or modifications, and any such future edition of the International Fire Code adopted or amended by the Travis County Emergency Services District No. 1.

**Section 3.7.9.2 Fire Code Official to Administer**

The fire marshal’s office of the Travis County Emergency Services District No. 1, is hereby designated as the fire code official of the city and authorized to enforce this part IX and the fire code of the city, to take all actions required or authorized in provisions incorporated in this part IX or the fire code of the city by reference, and to conduct all inspections, review all plans, and accept all applications and/or fees for a permit or approval authorized or required by the terms of this part IX or the fire code of the city. The city administrator is hereby authorized to enter into any necessary interlocal cooperation agreement with the district and/or any other proper authority to give effect to this part IX.

### **Section 3.7.9.3 Application Within Corporate Limits of City**

This part IX and the fire code of the city as adopted are applicable and in full force and effect within the corporate limits of the city.

### **Section 3.7.9.4 Interpretation**

This part IX will, to the extent reasonable, be construed in a manner consistent with the International Fire Code as adopted by the city herein. If there is a conflict between this part IX and the International Fire Code, this part IX will prevail.

### **Section 3.7.9.5 Enforcement**

The fire code official shall be able to enforce criminal violations of this part IX or the fire code of the city in the municipal court of the city through the city attorney or in a court of competent jurisdiction. Any civil violation of this part IX or the fire code may be enforced by the city attorney in a court of competent jurisdiction.

### **Section 3.7.9.6 Fire Marshal**

The fire marshal's office of Travis County Emergency Services District No. 1 is hereby designated as the fire marshal of the city and authorized to perform the duties of a fire marshal within the corporate limits of the city.

## **Part X. Swimming Pool and Spa Code**

### **Section 3.7.10 Adopted**

The International Swimming Pool and Spa Code, 2021 edition, and all revisions thereof published by the International Code Council and referred to as the "International Swimming Pool and Spa Code," is hereby adopted and incorporated as fully as if set out at length in this article, and the provisions of such code shall be controlling as to all swimming pools and spas within the corporate limits of the city.

## **Part XI. Existing Building Code**

### **Section 3.7.11 Adopted**

The International Existing Building Code, 2021 edition, and all revisions thereof, published by the International Conference of Building Officials, and referred to as the "International Existing Building Code," is hereby adopted and incorporated as fully as if set out at length in this article, and the provisions of such code shall be controlling on all premises, including but not limited to all buildings thereon, within the corporate limits of the city.

## **Part XII. Property Maintenance Code**

### **Section 3.7.12 Adopted**

The 2021 International Property Maintenance Code is hereby adopted and incorporated as fully as if set out at length in this article, and the provisions of such code shall be controlling on all premises, including but not limited to all buildings thereon, within the corporate limits of the city.

## **Part XIII. Utility Construction Code**

### **Section 3.7.13 Adopted; References to Other Codes**

The standards in the City of Austin Utilities Criteria Manual, as amended, are adopted as the city utility construction code, of which not less than one copy has been and is now filed in the office of the city secretary. In the event a conflict is determined to exist between said code as adopted and the other provisions of this article or the subdivision requirements, the latter provisions shall be construed as controlling and taking precedence over the former. Any codes referenced therein are not adopted hereby unless specifically adopted. Such code is hereby adopted and incorporated as fully as if set out at length in this article, and the provisions of such code shall be controlling on all premises, including but not limited to all utility facilities thereon, within the corporate limits of the city. Any codes referenced therein are not adopted hereby unless specifically adopted.

### *DIVISION 3.8 DEMOLITION OF STRUCTURES*

#### **Section 3.8.1 Violations; Penalty**

- A. It is unlawful to demolish a structure without first obtaining a permit.
- B. It is unlawful to demolish a structure without complying with any conditions set by the permit.
- C. It is unlawful to fail to dispose of the remains of a demolished structure in a manner inconsistent with section 3.8.5.
- D. A violation of this division is punishable by a fine not to exceed \$2,000.00. Each day of violation constitutes a separate violation.

#### **Section 3.8.2 Permit Required; Fee**

- A. This provision applies to any person who wishes to demolish, destroy, or remove any structure or any portion of a structure that is located on property within the city and:
  - 1. Is larger than 200 square feet;
  - 2. Is used for commercial purposes; or

3. Contains one or more water connections, sewer connections, or electrical connections, regardless of whether the connections are believed to be located in the portion of the structure being demolished.
- B. A demolition permit shall be obtained prior to demolition, destruction, or removal of the structure or part of the structure.
  - C. The application shall be submitted to the building official on a form provided by the city. Each application shall be accompanied by the application fee set forth in the appendix. Incomplete applications may be rejected.

### **Section 3.8.3 Application for Permit; Granting or Denial**

- A. Applications must describe the method of demolition and the method of cleanup. Applications must be filed not later than ten (10) days before the demolition is to take place. The building inspector shall examine the premises that are the subject of the application and shall make necessary inspections to see that all provisions of law are complied with and that demolition may be safely conducted. The building inspector may grant a permit with appropriate conditions. The building inspector must approve (with or without conditions) or deny the application within five business days of receipt of the application.
- B. Applications may be denied if they are incomplete or otherwise do not give the building inspector sufficient information to determine whether to approve or deny the application. If an application is denied for that reason, the building inspector must specify such deficiencies in denied applications in writing and allow such applications to be corrected and resubmitted to the building inspector within three business days without an additional application fee. Such corrected [application] must be acted on within three (3) business days.
- C. Applications which are denied must be denied in writing and with a written explanation of the reasons for denial. Applicants may appeal the denial of an application or conditions attached to a permit to the board of adjustments and appeals by filing a written appeal within five (5) business days of receipt of a written denial or a permit with conditions.

### **Section 3.8.4 Stop Work Order**

The building inspector may issue a stop work order on demolitions that are being performed without a permit, in violation of conditions set by a permit, or in violation of any law.

### **Section 3.8.5 Cleanup of Site**

- A. The remains of demolished structures must be removed from the premises within seven (7) days of demolition, or other period specified in the permit. The method of cleanup

must be specified in the application. Remains must be removed in one of the following methods:

1. By a garbage collector with a contract with the city; or
2. By disposal in a licensed legal landfill, with a receipt for such disposal provided to the building inspector within 72 hours of disposal.

### *DIVISION 3.9 SUBSTANDARD BUILDINGS*

#### **Section 3.9.1 Generally**

##### **Section 3.9.1.1 General Provisions**

The purpose, application, standard building codes, and relationship to other laws provisions provided in Article 3 of this code are adopted by reference in this article and shall be applicable to the provisions in this article.

##### **Section 3.9.1.2 Substandard Residential Buildings**

- A. A substandard residential building is any part or all of a building used, designed, or intended to be used for human habitation, including any dwelling unit, guest room, or suite of rooms, or the premises on which the same is located, in which there exist any conditions that endanger the life, limb, health, property, safety, or welfare of the public or the building occupant(s). Conditions that endanger the life, limb, health, property, safety, or welfare specifically include, but are not limited to, the following:
1. Inadequate sanitation.
    - a. Lack of approved water closet, lavatory, and bathtub or shower in a dwelling unit or lack of approved water closets, lavatories, and bathtubs or showers per number of guests in hotels or clubs;
    - b. Lack of an approved kitchen sink;
    - c. Lack of hot and cold running water to plumbing fixtures in a dwelling unit, hotel or club;
    - d. Lack of adequate heating facilities;
    - e. Lack of or improper operation of approved ventilating equipment;
    - f. Lack of minimum amounts of natural light and ventilation required by this article;
    - g. Lack of required electrical lighting;

- h. Infestation of insects, vermin, or rodents;
  - i. Dampness of habitable rooms;
  - j. General dilapidation or improper maintenance;
  - k. Lack of connection to a licensed private sewage facility.
2. Structural hazards.
- a. Deteriorated foundations;
  - b. Defective or deteriorated flooring or floor supports;
  - c. Flooring or floor supports of insufficient size to carry imposed loads with safety;
  - d. Structural members of walls, partitions or other vertical supports that split, lean, or buckle due to defective materials or deterioration;
  - e. Structural members of walls, partitions, or other vertical supports that are of insufficient size to carry imposed loads with safety;
  - f. Ceilings, roofs, and ceiling and roof supports which sag, split, or buckle due to defective materials or deterioration;
  - g. Ceilings, roofs, and ceiling and roof supports which are of insufficient size to carry imposed loads with safety;
  - h. Fireplaces or chimneys which leak, list, bulge, or settle due to defective materials or deterioration;
  - i. Fireplaces or chimneys which are of insufficient size or strength to carry imposed loads with safety.
3. Hazardous plumbing. Plumbing that has not been maintained in good condition and which is not free of cross-connections and back siphonage features endangering the potable water supply.
4. Hazardous wiring. Wiring that has not been maintained in good condition and which is not being used in a safe manner.
5. Hazardous mechanical equipment. Mechanical equipment, including vents, which has not been maintained in good and safe condition.

6. Faulty weather protection.
  - a. Deteriorated or ineffective waterproofing of exterior walls, roof, foundation or floors, including broken windows or doors;
  - b. Defective or insufficient weather protection for exterior wall coverings, including lack of paint, or weathering due to lack of paint or other approved protective covering;
  - c. Broken, rotted, split, or buckled exterior walls or roof covering.
7. Fire hazards. Any building or portion thereof, device, apparatus, equipment, combustible waste or vegetation which, in the judgment of the code enforcement officer, is in such a condition as to cause a fire or explosion or provide a ready fuel to augment the spread and intensity of fire or explosion arising from any cause.
8. Hazardous or unsanitary premises. Those premises on which [there exists] an accumulation of weeds, vegetation, junk, dead organic matter, litter, debris, garbage, offal, rat harborages, stagnant water, combustible materials and similar materials, including the accumulation and storage of lumber and other construction materials not currently being used for construction on the premises, or other conditions constituting undue fire, health, or safety hazards.
9. Improper occupancy. All buildings or portions thereof occupied for living, sleeping, and cooking or eating purposes which were not designed or intended to be used for such purposes.

### **Section 3.9.1.3 Substandard Nonresidential Buildings and Structures**

- A. A substandard nonresidential building or structure is any building or structure used or designed to be used, in whole or in part, for retail, wholesale, industrial, manufacturing, storage, professional, office, or other business purposes, or religious, educational, amusement, or entertainment purposes, where there exist conditions that endanger the life, limb, health, property, safety, or welfare of the public or the building occupant(s). Conditions that endanger the life, limb, health, property, safety, or welfare specifically include, but are not limited to, the following:
  1. Interior walls or other vertical structural members which split, list, lean, or buckle;
  2. Damage or deterioration to the extent that the building is unsafe;
  3. Loads on floors or roofs that are improperly distributed, or the floors or roofs are of insufficient strength to be reasonably safe for the purpose used;

4. Damage by fire, wind, or other cause that has rendered the building or structure dangerous to life, safety, morals, or the general health and welfare of city occupants;
5. A building or structure that is so dilapidated, decayed, unsafe, unsanitary or otherwise lacking in the amenities essential to decent living that the same is unfit for human habitation or is likely to cause sickness, disease, or injury or otherwise to constitute a detriment to the health, morals, safety or general welfare of those persons assembled, working, or living therein;
6. Light, ventilation and sanitation facilities that are inadequate to protect the health, morals, safety or general welfare of persons who assemble, work, or live therein;
7. Stairways, fire escapes, and other facilities for egress in case of fire or panic which are inadequate;
8. Parts or appendages of the building or structure that are so attached so that they might fall and injure persons or property;
9. A condition which exists in violation of any provision of this article or any other applicable provisions of this code which renders the building or structure unsafe, unsanitary, or otherwise detrimental to the health, safety, morals, or welfare of city residents;
10. Occupancy of all buildings or portions thereof for living, sleeping, and cooking or eating purposes which were not designed or intended to be used for such purposes.

#### **Section 3.9.1.4 Declaration of Nuisance; Abatement**

- A. Substandard residential and nonresidential buildings and structures are nuisances.
- B. It is unlawful to own or maintain a substandard residential or nonresidential building or structure.

#### **Section 3.9.2 Dangerous Building Abatement**

##### **Section 3.9.2.1 Application of International Property Maintenance Code**

- A. That certain document, one copy of which is on file in the office of the city secretary, being marked and designated as the "International Property Maintenance Code," or "IPMC", 2021 edition, including all appendix ordinances, published by the International Code Council, Inc., in addition to other sections of the code, establishes minimum regulations governing the conditions and maintenance of all property, buildings and structures in the city; by providing the standards for supplied utilities and facilities and



other physical things and conditions essential to ensure that structures are safe, sanitary and fit for occupation and use; and provides for the condemnation of buildings and structures unfit for human occupancy and use and the demolition of such structures in connection with the city's dangerous building regulations and chapter 214, Tex. Local Gov't Code.

- B. The 2021 International Property Maintenance Code is further amended as follows:
1. Each reference to "board of adjustments and appeals" is hereby amended, to the extent necessary, to provide that the composition of the board of adjustments and appeals of the City of Jonestown shall be the board appointed by the City Council for the City of Jonestown.
  2. Each reference to the qualification requirements for members of the "board of adjustments and appeals" is hereby repealed.
  3. The IMPC is amended to delete any reference or requirement that requires a written application for appeal to be filed within 20 days after the decision of a code official.
  4. Section 111.3 is deleted.

- C. The following numbered section is deleted and replaced in full with the text indicated:

Section 112.4 Failure to comply. Any person who violates a provision of this code, or fails to comply therewith, or with any of the requirements thereof, shall be guilty of a misdemeanor, and subject to a fine of between \$1.00 and \$2,000.00. Each day a violation occurs constitutes a separate offense.

### **Section 3.9.2.2 Chapter 214 Adopted**

Texas Local Gov't Code Chapter 214, is hereby adopted by the city and made a part of this division. In the event of any conflict or inconsistency between the terms and provisions of this division and chapter 214, the terms and provisions of chapter 214 shall govern and control.

### **Section 3.9.2.3 Substandard Building Regulations Adopted**

The City Council hereby adopts the "substandard building regulations" as set forth below.

### **Section 3.9.2.4 Dangerous Buildings Declared a Nuisance**

- A. It shall be unlawful for any person to maintain or permit the existence of any dangerous building in the city; and it shall be unlawful for any person to permit same to remain in such condition.

- B. All dangerous buildings, unsafe buildings, and substandard buildings are hereby declared to be public nuisances and shall be abated by repair, rehabilitation, demolition, or removal in accordance with the procedures provided in this division.
- C. The code enforcement authority shall enforce the provisions of this division.

### **Section 3.9.2.5 Inspections and Duties of the Code Enforcement Authority**

- A. The code enforcement authority shall inspect, or cause to be inspected, every building, or portion thereof, reported to be dangerous. If such building, or any portion thereof, is determined to be dangerous, the code enforcement authority shall give the responsible parties notice in accordance with the requirements set forth in section 3.03.037 of this division. The code enforcement authority shall also:
  - 1. Inspect or cause to be inspected, when necessary, any building or structure within the incorporated limits of the city, including public buildings, schools, halls, churches, theaters, hotels, tenements, or apartments, multifamily residences, single-family residences, garages, warehouses, and other commercial and industrial structures of any nature whatsoever for the purpose of determining whether any conditions exist which render such places a “dangerous building” as defined herein.
  - 2. Inspect any building, wall or structure about which complaints have been filed by any person to the effect that a building, wall or structure is or may be existing in violation of this division.
  - 3. Report to the board of adjustments and appeals any noncompliance with the minimum standards set forth in this division. The city code enforcement authority shall obtain from the secretary of the board of adjustments and appeals a hearing date for a public hearing by the board of adjustments and appeals on any building believed to be a dangerous building and shall provide the secretary of the board of adjustments and appeals with copies of the written notice to persons with interests in the property as required under this article.
  - 4. Appear at all hearings conducted by the board of adjustments and appeals and testify as to the conditions of dangerous buildings within the city.
  - 5. Place a notice on all dangerous buildings reading as follows: “This building has been found to be a dangerous building by the City of Jonestown Code enforcement authority. This notice is to remain on this building until it is repaired, vacated, or demolished in accordance with the notice which has been given to the owner(s), occupant(s) and person(s) with interests in the property as shown by the records of the city secretary and the tax appraisal district. It is unlawful to remove this notice until such notice is complied with.”

6. Request the mayor, city administrator, or city manager, as applicable, to have the building inspector, or an appropriate engineer or building inspector, provide additional inspections, reports and act as an expert witness at hearings for buildings that appear marginally dangerous.
7. Make a diligent effort to determine the identity and address of each owner, lienholder, or mortgagee. The code enforcement authority satisfies the requirements of this subsection to make a diligent effort, to use best efforts, or to make a reasonable effort to determine the identity and address of an owner, a lienholder, or a mortgagee if the code enforcement authority searches the following records:
  - a. County real property records of the county in which the building is located;
  - b. Appraisal district records of the appraisal district in which the building is located;
  - c. Records of the secretary of state;
  - d. Assumed name records of the county in which the building is located;
  - e. Tax records of the city; and
  - f. Utility records of the city.
8. Perform the other requirements with respect to notification of public hearings as are set forth more specifically in this division.

### **Section 3.9.2.6 Notice of Dangerous Building or Dangerous Condition of Property**

- A. Should the code enforcement authority determine that a building within the city is a dangerous building, he/she shall, in the manner provided for in this article, attempt to identify all the responsible parties that have an interest in the building, and give written notification of the dangerous building or condition by certified mail return receipt requested and regular U.S. mail to each of the identified responsible parties that are identified by the search made pursuant to subsection (4) below. Such notice shall include:
  1. The address or legal description of the property where the building or structure deemed unsafe is located;
  2. A statement of the specific conditions, violations, or defects which make the building or structure a dangerous building;
  3. Notice of the date and time of a public hearing before the board of adjustments and appeals to determine whether the building complies with the standards set out in this division; and

4. A statement that the owner, lienholder, mortgagee, or persons with a legal interest in the building will be required to submit at the hearing proof of the scope of any work that may be required to comply with the division and the amount of time it will take to reasonably perform the work.
- B. The notice required under this section must be either personally delivered or mailed on or before the 10th day before the date of the hearing unless the code enforcement authority determines that the property, building, or structure is in immediate need to be secured, repaired, or abated and the property, building, or structure presents an immediate threat to the health, safety, and welfare of the public. For purposes of providing the minimum notice under this subsection, the notice of dangerous building or dangerous condition of property shall be deemed served upon the responsible parties on the date the notice is deposited with the U.S. Postal Service.
  - C. Such notice shall be served upon the responsible parties both by certified mail and regular U.S. mail as required in this section.

#### **Section 3.9.2.7 Sufficiency of Notice**

- A. A notice of dangerous building or dangerous condition of property as required under this division shall include notice of the date and time of a public hearing and shall be deemed properly served upon the responsible parties if a copy thereof is:
  1. Served upon him/her personally;
  2. Sent by registered or certified mail, return receipt requested, and regular U.S. mail to the last known address of such person as shown on the records of the city; or
  3. Posted in a conspicuous place in or about the building affected by the notice.
- B. When the city mails a notice in accordance with this section to a property owner, lienholder, or mortgagee, and the United States Postal Service returns the notice “refused” or “unclaimed,” the validity of the notice is not affected, and the notice is considered delivered.
- C. The city shall file notice of the hearing in the public records of real property of the county.

#### **Section 3.9.2.8 Securing Dangerous Building**

- A. Should the code enforcement authority determine that any building or structure within the incorporated limits of the city is a dangerous building, or is unoccupied and unsecured, or is occupied only by persons who do not have a right of possession of the building, he/she shall cause the building to be secured.

- B. Before the 11th day after the date the building is secured, the municipality shall give notice to the owner by:
1. Personally serving the owner with written notice;
  2. Depositing the notice in the United States mail addressed to the owner at the owner's post office address;
  3. Publishing the notice at least twice within a 10-day period in a newspaper of general circulation in the county in which the building is located if personal service cannot be obtained and the owner's post office address is unknown; or
  4. Posting the notice on or near the front door of the building if personal service cannot be obtained and the owner's post office address is unknown.
- C. The notice must contain:
1. Identification, which is not required to be a legal description, of the building and the property on which it is located;
  2. A description of the violation of the city standards that is present at the building;
  3. A statement that the city will secure or has secured, as the case may be, the building; and
  4. An explanation of the owner's entitlement to request a hearing about any matter relating to the municipality's securing of the building.
- D. The board of adjustments and appeals shall conduct a hearing at which any of the responsible parties may testify and present witnesses and written information about any matter relating to the city's securing of the building, if, within 30 days after the date the code enforcement authority secures or causes to be secured the building, a responsible party files a written request for the hearing. The board of adjustments and appeals shall conduct the hearing within 20 days after the date the request is filed with the city.
- E. The city shall impose a lien against the land on which the building stands, unless it is a homestead, to secure the payment of the cost of securing the building. Promptly after the imposition of the lien, the city shall file for record, in recordable form in the official public records of the county, a written notice of the imposition of the lien. The notice shall contain a legal description of the land.

#### **Section 3.9.2.9 Duties of the Board of Adjustments and Appeals**

- A. The board of adjustments and appeals shall:

1. Schedule and conduct a hearing and hear testimony from the code enforcement authority, the owner and other persons having an interest in the dangerous building, and any person desiring to present factual evidence relevant to the dangerous building. Such testimony shall relate to the determination of the question of whether the building or structure in question is a dangerous building and the scope of any work that may be required to comply with this division and the amount of time it will take to reasonably perform the work. The owner or a person having an interest in the dangerous building shall have the burden of proof to demonstrate the scope of any work that may be required to comply with this division and the time it will take to reasonably perform the work.
2. Upon conclusion of the hearing, the board of adjustments and appeals shall determine by majority vote whether the building or structure in question is a dangerous building. Upon a determination that the building or structure in question constitutes a dangerous building, the board of adjustments and appeals shall issue a written order:
  - a. Containing an identification of the building and the property on which it is located;
  - b. Making written findings of the minimum standards violations that are present at the building;
  - c. Requiring the owner and persons having an interest in the building to secure, repair, vacate, and/or demolish the building within 30 days from the issuance of such order, unless the owner or a person with an interest in the building establishes at the hearing that the work cannot reasonably be performed within 30 days, in which instance the board of adjustments and appeals shall specify a reasonable time for the completion of the work; and further provided that the board of adjustments and appeals may require the owner and occupants to vacate the building within a shorter period of time if the building has fallen, is at risk of immediate collapse, or is in such a condition that life is endangered by further occupation of the building; and
  - d. Containing a statement that the city will vacate, secure, remove or demolish the dangerous building and relocate the occupants of the building if the ordered action is not taken within the time specified by the board of adjustments and appeals and it is found and determined by the board of adjustments and appeals in its order that there is an immediate clear and present danger to other property or the public.
3. If repair or demolition is ordered, the board of adjustments and appeals shall send a copy of the order by certified mail to the owner and all persons having an interest in the property, including all identifiable mortgagees and lienholders

within a reasonable period of time after the hearing. Within 10 days after the date that the order is issued, the city shall:

- a. File a copy of the order in the office of the municipal secretary or clerk; and
  - b. Publish in a newspaper of general circulation in the municipality in which the building is located a notice containing:
    - (1) The street address or legal description of the property;
    - (2) The date of the hearing;
    - (3) A brief statement indicating the results of the order (may be a copy of the order); and
    - (4) If not provided in the notice, instructions stating where a complete copy of the order may be obtained.
4. If repair or demolition is ordered and notice of public hearing was not filed in the official public records of real property of the county, the city may file and record a copy of the order in such records of the county.
  5. If the board of adjustments and appeals allows the owner or a person with an interest in the dangerous building more than the 30 days to repair, remove, or demolish the building, the board of adjustments and appeals in its written order shall establish specific time schedules for the commencement and performance of the work and shall require the owner or person to secure the property in a reasonable manner from unauthorized entry while the work is being performed. The securing of the property shall be in a manner found to be acceptable by the city code enforcement authority. Any required permits or approvals shall be obtained prior to commencing the repair, removal, or demolition of the building.
  6. The board of adjustments and appeals may not allow the owner or person with an interest in the dangerous building more than 90 days to repair, remove, or demolish the building or fully perform all work required to comply with the written order unless the owner or person:
    - a. Submits a detailed plan and time schedule for the work at the hearing; and
    - b. Establishes at the hearing that the work cannot reasonably be completed within 90 days because of the scope and complexity of the work.
  7. If the board of adjustments and appeals allows the owner or person with an interest in the dangerous building more than 90 days to complete any part of the work required to repair, remove, or demolish the building, the board of adjustments and appeals shall require the owner or person to regularly submit progress reports to the board of adjustments and appeals to demonstrate that the owner or person has complied with the time schedules established for commencement and performance of the work. The written order may require that

the owner or person with an interest in the building appear before the city code enforcement authority to demonstrate compliance with the time schedules.

8. In the event the owner or a person with an interest in a dangerous building fails to comply with the order within the time specified therein, the city may cause any occupants of the dangerous building to be relocated, and may cause the dangerous building to be secured, removed, or demolished at the city's expense. The city may assess the expenses on, and the city has a lien against, unless it is a homestead as protected by the Texas Constitution, the property on which the dangerous building was located. The lien is extinguished if the property owner or a person having an interest in the building reimburses the city for the expenses. The lien arises and attaches to the property at the time the notice of the lien is recorded and indexed in the office of the county clerk in the county in which the property is located. The notice of lien must contain:
  - a. The name and address of the owner of the dangerous building if that information can be determined by a diligent effort;
  - b. A legal description of the real property on which the building was located;
  - c. The amount of expenses incurred by the city; and
  - d. The balance due.
9. Such lien is a privileged lien subordinate only to tax liens and all previously recorded bona fide mortgage liens attached to the real property.
10. In addition to the authority set forth in subsection (8) above, after the expiration of the time allotted in the order for the repair, removal, or demolition of a dangerous building, the city may repair the building at its expense and assess the expenses on the land on which the building stands or to which it is attached. The repairs contemplated by this section may only be accomplished to the extent necessary to bring the building into compliance with the minimum standards established by city ordinance, and to the extent such repairs do not exceed minimum housing standards. This section shall be applicable only to residential buildings with 10 or fewer dwelling units. The city shall follow the procedures set forth in subsection (8) above for filing a lien on the property on which the building is located.

#### **Section 3.9.2.10 Appeal of the Board of Adjustments and Appeals Order**

- A. Any responsible party affected by a board of adjustments and appeals order who desires to appeal the decision of the board of adjustments and appeals or the findings set forth in the board of adjustments and appeals order, must appeal the order of the board of adjustments and appeals to City Council in accordance with the following procedures:



1. The responsible party shall file a written notice of appeal with the board of appeals and the code enforcement authority within 30 calendar days of receiving the board of adjustments and appeals order.
  2. The notice of appeal must set forth and describe the factual and legal grounds why the board of adjustment and appeals decision is in error, wrong, or incorrect.
  3. The responsible party must request a public hearing before the City Council.
  4. The responsible party has the burden of proof of demonstrating at a public hearing before City Council that the board of adjustment and appeals order is in error, wrong, or incorrect.
  5. City council shall only consider evidence that was available to the board of adjustments and appeals at the time of the hearing before the board of adjustments and appeals.
  6. The board of adjustments and appeals order shall be deemed final and non-appealable if a responsible party fails to timely submit an appeal in accordance with this section.
- B. In conducting its review of a board of adjustments and appeals order, the City Council shall by ordinance either affirm the order or modify or reverse the order.
- C. If the City Council affirms the board of adjustments and appeals order, the findings and decision set forth in the board of adjustments and appeals order shall be deemed final and the City Council's ordinance shall include the following:
1. Findings of fact as to the specific conditions which make the building or structure a dangerous building;
  2. If City Council orders the demolition of the dangerous building, the ordinance ordering the demolition of the dangerous building must include:
    - a. A finding that there is an immediate clear and present danger to other property or the public; and
    - b. The ordinance must specify that the demolition of the dangerous building cannot occur earlier than 35 calendar days from the date of the City Council's order affirming the board of adjustments and appeals.
- D. If the City Council reverses the board of adjustment and appeals order, the City Council shall set forth in factual findings in the ordinance the grounds and reasons for the reversal.
- E. The board of adjustments and appeals order shall be deemed final:

1. In the absence of a timely filed appeal in accordance with the appeal procedures established in this section; or
2. Due to a failure of an appealing party to comply with the appeal procedures set forth in this section.

#### **Section 3.9.2.11 Same-City Council Action**

- A. If the responsible parties that have an interest in a building or structure that is ordered to be repaired, rehabilitated, demolished, or removed, fail to timely comply with such order, the City Council may:
  1. Authorize the code enforcement authority to obtain the repair and/or securing of the building or structure, and to file a lien against such property for the cost and expense of such work;
  2. By ordinance, assess a civil penalty of up to \$1,000.00 per day against the owners and persons having an interest in the property; and
  3. Authorize and take such other action as contemplated by this division, or chapter 214, as is necessary or advisable in the judgment of the City Council to protect the public health, safety or welfare.

#### **Section 3.9.2.12 Same-Judicial Review**

- A. Any owner, lienholder, or mortgagee of record of property jointly or severally aggrieved by an order of a City Council issued under this division and section 214.001 of the Tex. Loc. Gov't code may file in district court a verified petition setting forth that the decision is illegal, in whole or in part, and specifying the grounds of the illegality. The petition must be filed by an owner, lienholder, or mortgagee within 30 calendar days after the respective dates a copy of the final decision of the municipality is personally delivered to them, mailed to them by first class mail with certified return receipt requested, or delivered to them by the United States Postal Service using signature confirmation service, or such decision shall become final as to each of them upon the expiration of each such 30 calendar day period.
- B. On the filing of the petition, the court may issue a writ of certiorari directed to the municipality to review the order of the municipality and shall prescribe in the writ the time within which a return on the writ must be made, which must be longer than 10 days, and served on the relator or the relator's attorney.
- C. The city may not be required to return the original papers acted on by it, but it is sufficient for the municipality to return certified or sworn copies of the papers or of parts of the papers as may be called for by the writ.

- D. The return must concisely set forth other facts as may be pertinent and material to show the grounds of the decision appealed from and shall be verified.
- E. The issuance of the writ does not stay proceedings on the decision appealed from.
- F. Appeal in the district court shall be limited to a hearing under the substantial evidence rule. The court may reverse or affirm, in whole or in part, or may modify the decision brought up for review.
- G. Costs may not be allowed against the city.
- H. If the decision of the municipality is affirmed or not substantially reversed but only modified, the district court shall allow to the city all attorney's fees and other costs and expenses incurred by it and shall enter a judgment for those items, which may be entered against the property owners, lienholders, or mortgagees as well as all persons subject to the proceedings before the city.

#### **Section 3.9.2.13 Assessment of Expenses and Penalties**

- A. If the time allotted for the repair, removal or demolition of a building under this division has expired, then the City Council may, in addition to the authority granted under chapter 214, and the foregoing sections of this division:
  - 1. Order the repair of the building at the city's expense and assess the expenses on the land on which the building stands or to which it is attached;
  - 2. Assess a civil penalty of up to \$1,000.00 per day against the responsible party for failure to repair, remove, or demolish the building; or
  - 3. Authorize the city code enforcement authority to invite at least 2 or more building contractors to make estimates pertaining to the needed repair, removal or demolition of a building. The code enforcement authority shall cause to be made an assessment of expenses, and may also recommend civil penalties, based on such estimates. The code enforcement authority shall endeavor to minimize the expenses of any building repairs, removal or demolitions order pursuant to this division.
- B. The city shall impose a lien against the land on which the building stands or stood, unless it is a homestead as protected by the Texas Constitution, to secure the payment of the repair, removal, or demolition expenses or the civil penalty. Promptly after the imposition of the lien, the city shall file for record, in recordable form in the office of the county clerk, a written notice of the imposition of the lien. The notice shall contain a legal description of the land.
- C. The city's lien to secure the payment of a civil penalty or the costs of repairs, removal, or demolition is inferior to any previously recorded bona fide mortgage lien attached to the

real property to which the city's lien attaches if the mortgage lien was filed for record in the office of the county clerk before the date the civil penalty is assessed or the repair, removal, or demolition is begun by the city. The city's lien is superior to all other previously recorded judgment liens.

- D. Any civil penalty or other assessment imposed under this section accrues interest at the rate of 10 percent a year from the date of the assessment until paid in full. The city may further file with the district clerk a copy of an ordinance assessing a civil penalty pursuant to this division.
- E. In any judicial proceeding regarding enforcement of the city's rights under this section, the prevailing party is entitled to recover reasonable attorney's fees as otherwise provided by statute.
- F. A lien acquired under this section by the city for repair expenses may not be foreclosed if the property on which the repairs were made is occupied as a residential homestead by a person 65 years of age or older.

#### **Section 3.9.2.14 Violations**

- A. The owner of any dangerous building who shall fail to comply with any notice or order to repair, secure, vacate or demolish said building or structure, such notice or order given by the authority of the board of adjustments and appeals, or the City Council, shall be guilty of a misdemeanor.
- B. An occupant or lessee in possession of any dangerous building who fails to comply with any notice or order to vacate such building and fails to repair such building in accordance with an order given by the board of adjustments and appeals shall be guilty of a misdemeanor.
- C. Any person removing the notice of a secured building as provided for in Section 3.9.2.8 (b)(4), and/or a notice of dangerous building as provided in section 3.9.2.7(a)(3) of this division, shall be guilty of a misdemeanor.

#### **Section 3.9.2.15 Penalty**

Any person who shall violate any of the provisions of this division, or shall fail to comply therewith, or with any of the requirements thereof, within the city limits shall be deemed guilty of an offense and shall be liable for a fine not to exceed the sum of two thousand dollars (\$2,000.00). Each day the violation exists shall constitute a separate offense. Such penalty shall be in addition to all the other remedies provided herein. To the extent of any conflict between this section and a penalty provision in the codes adopted herein, such penalty provision shall be amended and this section shall control.

### **Section 3.9.2.16 Enforcement of Regulations.**

- A. No building permit, certificate of occupancy, plumbing permit, electrical permit, or utility tap shall be issued by the city for or with respect to any lot, tract or parcel of land within the city limits, after the effective date of this division, except in compliance with all then applicable requirements of this division and the above codes.
- B. Whenever any building work is being done contrary to the provisions of this division, another controlling ordinance or statute governing the building, the building official or code enforcement officer designated by the city manager may order the work stopped by notice verbally or in writing served on any persons engaged in the doing or causing such work to be done and the city shall post a stop-work order on the property adjacent to the posted building permit, and any such persons shall forthwith stop such work until authorized by the building official or code enforcement officer to proceed with the work. If no permit has been issued, all work shall stop until a permit has been properly issued and all errors corrected to the satisfaction of the building official or code enforcement officer. The building official or code enforcement officer may also issue a work correction order, which shall be served upon any persons who are working on a certain aspect of the construction project. The work on other aspects of the construction not in violation of the city's ordinances may proceed, but work shall cease as to that aspect in violation of the city's ordinances.
- C. This division and any code or provision adopted by this division may be further enforced by injunction and other judicial proceedings, either at law or in equity; and, in lieu of or in addition to any other authorized enforcement or action taken, any person who violates any term or provision of this division, with respect to any land, building or development within the city, by fine and penalties as provided herein.

### *DIVISION 3.10 UTILITY DEVELOPMENT STANDARDS*

#### **Section 3.10.1 General Provisions**

The purpose, application, standard building codes, and relationship to other laws provisions provided in Sections 3.4.2.2 through 3.4.2.4 and Division 3.7 of this article are adopted by reference in this article and shall be applicable to the provisions in this article.

#### **Section 3.10.2 Policy**

It is the city's policy to locate and route transmission or distribution lines in an orderly manner compatible with environmental preservation and the efficient use of resources. In accordance with this policy, the city shall choose locations that minimize adverse human and environmental impact while insuring continuing system reliability and integrity and insuring that all of the city's needs are met and fulfilled in an orderly and timely fashion.

### **Section 3.10.3 Forecast reports**

- A. *Required.* Each utility which owns or operates or plans within the next fifteen (15) years to own or operate transmission lines in the city shall develop forecasts as specified in this section.
- B. *Contents.* On or before July 1 of each even-numbered year, each utility shall submit a forecast report to the city. The report may consist of appropriate portions of a single regional forecast and may be jointly prepared and submitted by two or more utilities. However, the report shall contain the following information:
  - 1. A description of the tentative regional location and general size of all transmission lines to be owned or operated by the utility during the ensuing fifteen (15) years or any longer period the city deems necessary;
  - 2. An identification of all existing transmission lines projected to be removed from service during any fifteen-year period or upon completion of construction of any transmission lines;
  - 3. A statement, based on information as geographically specific as possible, of the projected demand for services in the city for the ensuing fifteen (15) years and the underlying assumptions for the projected demand;
  - 4. A description of the capacity of the system to meet projected demands during the ensuing fifteen (15) years;
  - 5. A description of the utility's relationship to other utilities and regional associations, power pools or networks; and
  - 6. Other relevant information as the city may reasonably request.
- C. *Verification or Revision.* On or before July 1 of each odd-numbered year, a utility shall verify or submit revisions to subsections (1) and (2) of subsection (b).

### **Section 3.10.4 Planning Process**

- A. *Generally.* The city shall promptly initiate a public planning process for all interested persons to participate in developing the criteria and standards to be used by the city in preparing an inventory of large transmission lines and to guide the site and route suitability evaluation and selection process. The participatory process shall include, but should not be limited to, public hearings. In addition, before the city adopts substantial modifications of the initial criteria and standards, the city shall hold additional public hearings.
- B. *Inventory of Electrical Transmission Routes.* Before the city issues a utility development permit under Division 3.5 of this Article, the electrical utility serving the city shall present

an inventory of transmission lines to the city.

C. *Advisory Committees; Staff Advisor.*

1. Advisory committee. The city shall appoint one or more advisory committees to assist it in carrying out its duties under this article. Committees appointed to evaluate routes considered for designation under this section shall be comprised of as many persons as may be designated by the city. No officer, agent, or employee of a utility may serve on an advisory committee.
2. Staff advisor. The city shall designate one staff person for the purpose of assisting and advising those affected and interested citizens on how to participate effectively in route proceedings.
3. Scientific advisory committee. The city may appoint one or more advisory committees composed of technical and scientific experts to conduct research and make recommendations concerning generic issues such as health, safety, underground routes, double circuiting, and long-range route and site planning.

**Section 3.10. 5 Issuance of Permit; Emergency Permit; Considerations in Designating Routes**

A. *Issuance of Utility Development Permit.*

1. The city shall study and evaluate the type, design, routing, right-of-way, preparation, and facility construction of any route an applicant proposes in a utility development permit application and any other route the city deems necessary.
2. Within six (6) months after the city receives a completed utility development permit [application], the city shall decide which proposed route to designate. The city may extend the six-month time limitation for a period not to exceed one hundred eighty (180) days for just cause.
3. When the city designates a route, it shall issue a permit in accordance with section 3.5.11 that specifies the type, design, routing, right-of-way preparation, and facility construction it deems necessary, along with any other appropriate conditions.
4. The city may order the construction of transmission line facilities that are capable of expansion in transmission capacity through design modifications.
5. No transmission lines shall be constructed except on a route designated by the city.

B. *Emergency Permit.*

1. Any utility whose system requires the immediate construction of a transmission line may make application to the city for an emergency permit for the construction of transmission lines.
  2. The city shall issue an emergency permit in a timely manner no later than 195 days after the city receives a completed application if the city finds that a demonstrable emergency exists which requires immediate construction and that adherence to the procedures and time schedules specified in sections 3.10.3, 3.10.4, and 3.10.5 would jeopardize the utility's system or would jeopardize the utility's ability to meet the needs of its customers in an orderly and timely manner.
  3. The city shall hold a public hearing to determine if an emergency exists within ninety (90) days of the application. The city shall promulgate rules specifying the criteria for emergency certification after it gives the applicant notice and holds the public hearing.
- C. *Considerations in Designating Routes.* To facilitate the study, research, evaluation and designation of routes, the city shall be guided by, but not limited to, the following responsibilities, procedures, and considerations:
1. Transmission line route research and investigations, including water and air discharges and electric fields and their effects on land, water, air resources, public health and welfare, vegetation, animals, materials and aesthetic values, including base line studies, predictive modeling, and monitoring of the water and air mass at proposed and operating routes, and evaluation of new or improved methods for minimizing adverse impacts of water and air;
  2. Environmental evaluation of routes proposed for future development and expansion and their relationship to the land, water, air, and human resources of the city;
  3. Evaluation of the effects of new transmission technologies and systems to minimize adverse environmental effects;
  4. Analysis of the direct and indirect economic impact of proposed routes to residential land lost or impaired;
  5. Evaluation of adverse direct and indirect environmental effects which cannot be avoided should the proposed route be accepted;
  6. Evaluation of alternatives to the applicant's proposed route proposed pursuant to subsections (a) and (b);
  7. Evaluation of potential routes which would use or parallel existing highway rights-of-way;



8. Evaluation of governmental survey lines and other natural division lines so as to minimize interference with residential use;
9. Evaluation of the future needs for additional transmission lines in the same general area as any proposed route, and the advisability of ordering the construction of structures capable of expansion in transmission capacity through multiple circuiting or design modifications;
10. Evaluation of irreversible and irretrievable commitments of resources should the proposed site or route be approved;
11. When appropriate, consideration of problems raised by other state and federal agencies and local entities.

#### *DIVISION 4 ENVIRONMENTAL PROTECTION*

##### **Section 4.1.1 Non Point Source**

###### *A. Ordinance and Fee Schedule Adopted by Reference.*

1. The City Council adopts the Lower Colorado River Authority Highland Lakes Watershed Ordinance Manual, as adopted on February 1, 1990, as amended on August 19, 1992, and as amended in the future.
2. The City Council adopts the fee schedule for the Lower Colorado River Authority Highland Lakes Watershed Ordinance Manual as adopted on February 1, 1990, as amended on August 19, 1992, and as amended in the future.
3. Compliance with the LCRA ordinance is required for the issuance or approval of concept plans, site development, building permits, and subdivision approval.

###### *B. Administration and Enforcement.* The City Council designates the Lower Colorado River Authority as its agent for the administration and enforcement of the Lower Colorado River Authority Highland Lakes Watershed Ordinance Manual, as amended, within the city and within the extraterritorial jurisdiction.

##### **Section 4.1.2 Flood Damage Prevention**

###### **Section 4.1.2.001 Short Title**

This article shall be known and may be cited to as the flood damage prevention regulations.

###### **Section 4.1.2.002 Statutory Authorization**

The legislature of the state, has in the Flood Control Insurance Act, Texas Water Code, section 16.315, delegated the responsibility of local government units to adopt regulations designed to

minimize flood losses thereby promoting the public health, safety, and general welfare of its citizenry. Therefore, the City Council does hereby adopt and ordain the following floodplain management regulations.

#### **Section 4.1.2.003 Findings of Fact**

- A. The flood hazard areas of the city are subject to periodic inundation which can result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.
- B. These flood losses are caused by uses that are inappropriately placed and/or inadequately elevated, floodproofed, or protected from flood damage. The cumulative effect of obstructions in areas of special flood hazards that increase flood heights and velocities, also contribute to the flood loss.

#### **Section 4.1.2.004 Statement of Purpose**

It is the purpose of this article to promote the public health, safety, and general welfare and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

- A. Protect human life and health;
- B. Minimize expenditure of public money for costly flood control projects;
- C. Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- D. Minimize prolonged business interruptions;
- E. Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets, and bridges located in floodplains;
- F. Help maintain a stable tax base by providing for the sound use and development of flood-prone areas in such a manner as to minimize future flood blight areas;
- G. Insure that potential buyers are notified that property is in a flood area; and
- H. Ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.

#### **Section 4.1.2.005 Methods of Reducing Flood Losses**

In order to accomplish its purposes, this article includes methods and provisions to:

- A. Restrict or prohibit uses which are dangerous to health, safety, and property due to water or erosion hazards, or which result in damaging increases in erosion or flood heights or velocities;
- B. Require that uses vulnerable to floods, including facilities that serve such uses, be protected against flood damage at the time of initial construction;
- C. Control the alteration of natural floodplains, stream channels, and natural protective barriers, which are involved in the accommodation of floodwaters;
- D. Control filling, grading, dredging, and other development which may increase flood damage; and
- E. Prevent or regulate the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards in other lands.

#### **Section 4.1.2.006 Lands to Which This Article Applies**

This article shall apply to all areas of special flood hazard within the jurisdiction of the city.

#### **Section 4.1.2.007 Basis for Establishing Areas of Special Flood Hazard**

The areas of special flood hazard identified by the Federal Insurance and Mitigation Administration (FIMA) of the Federal Emergency Management Agency (FEMA) in the current scientific and engineering report entitled, "The Flood Insurance Study (FIS) for Travis County, Texas and incorporate areas," dated January 22, 2020, with accompanying flood insurance rate maps (FIRM) dated January 22, 2020, and all subsequent amendments and/or revisions, are hereby adopted by reference and declared to be a part of this article. This FIS and attendant mapping are the minimum area of applicability of this article and may be supplemented by studies for other areas which allow implementation of this article and which are recommended to the city by the floodplain administrator. The study, FIRMs and FBFMs are on file at city hall.

#### **Section 4.1.2.008 Compliance**

No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the term of this article and other applicable regulations. Violation of the requirements (including violations of conditions and safeguards established in connection with conditions) shall constitute a misdemeanor. Nothing herein shall prevent the city from taking such lawful action as is necessary to prevent or remedy any violation.

#### **Section 4.1.2.009 Abrogation and Greater Restrictions**

This article is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this article and another ordinance, easement, covenant, or

deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

#### **Section 4.1.2.010 Interpretation**

In the interpretation and application of this, all provisions shall be:

- A. Considered as minimum requirements;
- B. Liberally construed in favor of the governing body; and
- C. Deemed neither to limit nor repeal any other powers granted under state statutes.

#### **Section 4.1.2.011 Warning and Disclaimer of Liability**

The degree of flood protection required by this article is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by human-made or natural causes. This article does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This article shall not create liability on the part of the city, any officer or employee thereof, the state, or the Federal Insurance and Mitigation Administration, Federal Emergency Management Agency, for any flood damages that result from reliance on this article or any administrative decision lawfully made hereunder.

#### **Section 4.1.2.012 Declaration of Nuisance**

Any construction, modification, improvement, land cut or fill in violation of this article is declared a public nuisance, and the continuation of such activity may be enjoined by a court of competent jurisdiction. (Ordinance

#### **Section 4.1.2.013 Penalties for Noncompliance; Enforcement**

- A. No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this article and other applicable regulations. Violation of the provisions of this article by failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with conditions) shall constitute a misdemeanor. Any person who violates this article or fails to comply with any of its requirements shall upon conviction thereof be fined not more than \$500.00 for each violation, and in addition shall pay all costs and expenses involved in the case. Each day the violation exists shall constitute a separate offense. Nothing herein contained shall prevent the city from taking such other lawful action as is necessary to prevent or remedy any violation.
- B. Any person who shall knowingly or intentionally provide false information on any application required pursuant to this article shall be deemed guilty of a misdemeanor offense.

- C. No building permit, certificate of occupancy, plumbing permit, electrical permit, or utility tap shall be issued by the city for or with respect to any lot, tract, or parcel of land within the city limits that does not comply with this article and other applicable regulations.
- D. The building official or floodplain administrator may order the discontinuance of unauthorized construction or development by serving written notice of a stop work order to any person engaged in or authorizing the work or by posting a stop work order on the property adjacent to the unauthorized construction or development. In addition, the building official or floodplain administrator may halt all construction and development on any site upon which he or she finds a violation of this article by posting a stop work order on the premises. All unauthorized construction and development shall cease until the building official authorizes continuance of the work.
- E. Any person who removes a notice of violation or stop work order posted pursuant to this article prior to correction of the deficiencies indicated thereon shall be deemed guilty of a misdemeanor offense.
- F. This article may be further enforced by civil injunction and other civil and criminal judicial proceedings, either at law or in equity; and, in lieu of or in addition to any other authorized enforcement or action taken. Any person who violates any term or provision of this article, with respect to land, property, building, or development within the city, may also be fined as well as charged all other penalties, civil and criminal as provided herein and by applicable law.
- G. Upon the request of the City Council, the city attorney or other authorized attorney shall file an action in the district courts to enjoin the violation or threatened violation of this article, or to obtain declaratory judgment, and to seek and recover court costs and attorneys' fees, and/or recover damages in an amount sufficient for the city to undertake any demolition, construction or other activity necessary to bring about compliance with a requirement regarding the property and established pursuant to this article.

#### **Section 4.2.1.1 Establishment of Floodplain Development Permit**

A floodplain development permit shall be required to ensure conformance with the provisions of this article. A development permit shall be obtained before any construction or other development begins within any area of the jurisdiction of the city. Application for a development permit shall be made on forms furnished by the floodplain administrator and for sites located in the special flood hazard area established in [Section 4.1.2](#), may include, but not be limited to: plans in duplicate drawn to scale showing the nature, location, dimensions, and elevation of the area in question; existing or proposed structures, including the placement of manufactured homes, fill, storage of materials, drainage facilities; and the location of the foregoing in relation to areas of special flood hazard specifically, the following information is required.

- A. Site plan, including but not limited to:

1. For all proposed structures, spot ground elevations at building corners and one foot contour elevations throughout the building site;
  2. Proposed locations of water supply, sanitary sewer, and utilities;
  3. If available, the base flood elevation from the Flood Insurance Study and/or Flood Insurance Rate Map;
  4. If applicable, the location of the special flood hazard area and floodway;
- B. Foundation design detail, including but not limited to:
1. Proposed elevation in relation to mean sea level, of the lowest floor (including basement) of all structures and substantially improved structures;
  2. For a crawl-space foundation, location and total net area of foundation openings as required in Subsection 4.3.1.1.6.C of this article and FEMA Technical Bulletins 1-93 and 7-93 or subsequent replacement bulletins; and
  3. For foundations placed on fill, the location and height of fill, and compaction to be achieved (compacted to a minimum of 95 percent using the Standard Proctor Test method);
- C. Proposed elevation in relation to mean sea level to which any nonresidential structure will be floodproofed, as required in Subsection 4.3.1.1.6 of this article and FEMA Technical Bulletin TB 3-93 or subsequent replacement bulletin;
- D. A certificate from a registered professional engineer or architect that the nonresidential floodproofed structure shall meet the floodproofing criteria of Subsection 4.3.1.1.6 of this article;
- E. All appropriate certifications listed in Subsection 4.2.1.4 of this article;
- F. Description of the extent to which any watercourse will be altered or relocated as a result of proposed development; and
- G. Any other information required by the floodplain administrator to maintain a record of all such information in accordance with Subsection 4.2.1.4 of this article.

#### **Section 4.2.1.2 Approval or Denial of a Development Permit**

Approval or denial of a development permit by the floodplain administrator shall be based on all of the provisions of this article and the following relevant factors:

- A. The danger to life and property due to flooding or erosion.

- B. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.
- C. The danger that materials may be swept onto other lands to the injury of others.
- D. The compatibility of the proposed use with existing and anticipated development.
- E. The safety of access to the property in times of flood for ordinary and emergency vehicles.
- F. The costs of providing governmental services during and after flood conditions including maintenance and repair of streets and bridges, and public utilities and facilities such as sewer, gas, electrical, and water systems.
- G. The expected heights, velocity, duration, rate of rise and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site.
- H. The necessity to the facility of a waterfront location, where applicable.
- I. The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use.
- J. The relationship of the proposed use to the comprehensive plan for that area.

#### **Section 4.2.1.3 Designation of the Floodplain Administrator**

The floodplain administrator is hereby appointed to administer, implement, and enforce this article by granting or denying development permits in accord with its provisions and other applicable sections of 44 CFR (Emergency Management and Assistance - National Flood Insurance Program Regulations) pertaining to floodplain management.

#### **Section 4.2.1.4 Duties and Responsibilities of the Floodplain Administrator**

The duties and responsibilities of the floodplain administrator shall include, but not be limited to the following.

- A. *Permit Review.* Review all development permits for the proposed building site project, including the placement of manufactured homes, to determine that:
  - 1. Permit requirements of this article have been satisfied;
  - 2. All other required state and federal permits have been obtained;
  - 3. The site is reasonably safe from flooding; and
  - 4. The proposed development does not adversely affect the carrying capacity of areas where base flood elevations have been determined but a floodway has not

been designated. For purposes of this article, “adversely affects” means that the cumulative effect of the proposed development when combined with all other existing and anticipated development will increase the water surface elevation of the base flood more than one foot at any point.

B. *Review, Use and Development of Other Base Flood Data.*

1. When base flood elevation data has not been provided in accordance with Section 4.1.2.007, the floodplain administrator may obtain, review, and reasonably utilize any base flood elevation and floodway data available from a federal or state agency, or other source, in order to administer Division 3. Any such information shall be submitted to the City Council for adoption; or
2. If no base flood elevation data is available from a federal or state agency or other source, then a base flood elevation shall be obtained using one of two methods from the FEMA publication “Managing Floodplain Development in Approximate Zone A Areas - A Guide for Obtaining and Developing Base (100-year) Flood Elevations” dated July 1995, or as later amended, in order to administer Division 3:
  - a. Simplified method.
    - (1) 100-year or base flood discharge shall be obtained using the appropriate regression equation found in a U.S. Geological Survey publication, or the discharge-drainage area method; and
    - (2) Base flood elevation shall be obtained using the Quick-2 computer program, or subsequent programs, developed by FEMA; or
  - b. Detailed method.
    - (1) 100-year or base flood discharge shall be obtained using the U.S. Army Corps of Engineers’ HEC-HMS computer program, or subsequent programs; and
    - (2) Base flood elevation shall be obtained using the U.S. Army Corps of Engineers’ HEC-RAS computer program, or subsequent programs.
    3. When a regulatory floodway has not been designated, the floodplain administrator must require that no new construction, substantial improvements, or other development (including fill) shall be permitted within zones A1-30 and AE on the community’s FIRM, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community.



- C. *Notification of Other Agencies.* In alteration or relocation of a watercourse:
1. Notify adjacent communities, the state commission on environmental quality, and U.S. Army Corps of Engineers prior to development approval;
  2. Submit evidence of such notification to the Federal Insurance and Mitigation Administration, Federal Emergency Management Agency;
  3. Assure that the flood carrying capacity within the altered or relocated portion of said watercourse is maintained; and
  4. Notify, in riverine situations, adjacent communities and the state coordinating agency, which is the Texas Water Development Board (TWDB), or successor agency, and also the Texas Commission on Environmental Quality (TCEQ), prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency.
- D. *Documentation of Floodplain Development.* Require and maintain for public inspection and make available as needed the following:
1. Certification required by Section 4.3.1.1.6.A (lowest floor elevations).
  2. Certification required by Section 4.3.1.1.6.B (elevation or floodproofing of nonresidential structures).
  3. Certification required by Section 4.3.1.1.6.C.ii (wet floodproofing standard).
  4. Certification of elevation required by Section 4.3.1.3.b (subdivision standards).
  5. Certification required by Section 4.3.1.6 (floodway encroachments).
- E. *Map Determinations.* Make interpretations where needed, as to the exact location of the boundaries of the areas of special flood hazard. Where there appears to be a conflict between a mapped boundary and actual field conditions, grade and base flood elevations shall be used to determine the boundaries of the special flood hazard area. The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in Division 4.
- F. *Approval of Certain Development.* Under the provisions of 44 CFR chapter 1, section 65.12, of the National Flood Insurance Program regulations, a community may approve certain development in zones A1-30, AE, AH, on the community's FIRM which increases the water surface elevation of the base flood by more than 1 foot, provided that the community first completes all of the provisions required by section 65.12 of the National Flood Insurance Program regulations.

- G. *Remedial Action.* Take action to remedy violations of this article as specified in Section 4.1.2.008.

#### **Section 4.2.1.5 Appeals**

The board of adjustments of the city shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the floodplain administrator in the enforcement or administration of this article.

#### **Sections Reserved**

#### **Section 4.3 Flood Hazard Reduction Standards**

##### **Section 4.3.1.1 Standards of Construction**

In all areas of special flood hazards the following standards are required:

- A. *No Rise of BFE in the Floodplain.* No new construction, substantial improvements, or other development (including cut and/or fill) shall be permitted within zones A and AO-A30 on the community's flood insurance rate maps unless it is first demonstrated by engineering data submitted by the applicant's engineer in accordance with the various requirements and procedures set forth in this division that the cumulative effect of the proposed development will not increase the water surface elevation of the base flood at any point within the community, or immediately adjacent to its territory.
- B. *Compensatory Storage.* Whenever any portion of a floodplain is authorized for use, the space occupied by the authorized fill or structure below the base flood elevation shall be compensated for and balanced by a hydraulically equivalent volume of excavation taken from below the base flood elevation. All such excavations shall be constructed to drain freely to the watercourse.
- C. New development or substantial improvement in the 100-year floodplain may not increase erosive water velocity on site or off site.
- D. *Anchoring.*
1. All new construction and substantial improvements shall be adequately anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.
  2. All manufactured homes shall meet the anchoring standards of Section 4.3.1.4.
- E. *Construction Materials and Methods.* All new construction and substantial improvement shall be constructed:

1. With flood resistant materials as specified in FEMA Technical Bulletin TB 2-93, or subsequent replacement Bulletin, and utility equipment resistant to flood damage;
2. Using methods and practices that minimize flood damage;
3. With electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding, located one foot above the base flood elevation; and
4. If within zones AH or AO, so that there are adequate drainage paths around structures on slopes to guide floodwaters around and away from proposed structures.

F. *Elevation and Floodproofing.* (See Division 9 for “basement,” “lowest floor,” “new construction,” “substantial damage” and “substantial improvement.”)

1. Residential construction, new or substantial improvement, shall have the lowest floor, including basement:
  - a. In an AO zone, elevated above the highest adjacent grade to a height equal to or exceeding one foot above the depth number specified in feet on the FIRM, or elevated at least one foot above the highest adjacent grade if no depth number is specified.
  - b. In an A zone, elevated to or above one foot above the base flood elevation; said base flood elevation shall be determined by one of the methods in Section 4.2.1.4 of this article.
  - c. In all other zones, elevated to or above one foot above the base flood elevation.

Upon the completion of construction of the foundation, and prior to any additional construction, the elevation of the lowest floor including basement shall be certified by a registered professional engineer or surveyor, and verified by the community building inspector to be properly elevated. Such certification and verification shall be provided to the floodplain administrator.

2. Nonresidential construction, new or substantial improvement, shall either be elevated to conform with subsection (5) or together with attendant utility and sanitary facilities:
  - a. Be floodproofed below the elevation recommended under subsection (A) so that the structure is watertight with walls substantially impermeable to the passage of water;

- b. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and
  - c. Be certified by a registered professional engineer or architect that the standards of this subsection (B) are satisfied. Such certification shall be provided to the floodplain administrator.
- 3. All new construction and substantial improvement with fully enclosed areas below the lowest floor (excluding basements) that are usable solely for parking of vehicles, building access or storage, and which are subject to flooding, shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwater. Designs for meeting this requirement shall follow the guidelines in FEMA Technical Bulletins TB 1-93 and TB 7-93, or subsequent replacement bulletins, and must exceed the following minimum criteria:
  - a. Have a minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding. The bottom of all openings shall be no higher than one foot above grade. Openings may be equipped with screens, louvers, valves or other coverings or devices provided that they permit the automatic entry and exit of floodwater; and
  - b. Be certified by a registered professional engineer or architect.
- 4. Manufactured homes shall also meet the standards in Section 4.3.1.4.

#### **Section 4.3.1.2 Standards for Utilities**

- A. All new and replacement water supply and sanitary sewage systems shall be designed and placed to minimize or eliminate:
  - 1. Infiltration of floodwaters into the systems; and
  - 2. Discharge from the systems into floodwaters.
- B. On-site waste disposal systems shall be located to avoid impairment to them, or contamination from them during flooding.

#### **Section 4.3.1.3 Standards for Subdivisions**

- A. All preliminary subdivision proposals shall identify the special flood hazard area and the elevation of the base flood.
- B. All subdivision plans will provide the elevation of proposed structure(s) and pad(s). If the site is filled above the base flood elevation, the lowest floor and pad elevations shall be

certified by a registered professional engineer or surveyor and provided to the floodplain administrator.

- C. All subdivision proposals shall be consistent with the need to minimize flood damage.
- D. All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage.
- E. All subdivisions shall provide adequate drainage to reduce exposure to flood hazards.
- F. All subdivision plans shall identify at least one surveyed, permanently installed monument. Additional monuments will be required for every 100 acres on the site described for development.

#### **Section 4.3.1.4 Standards for Manufactured Homes**

- A. All manufactured homes that are placed or substantially improved, within zones A1-30, AH, and AE on the community's Flood Insurance Rate Map, on sites located:
  - 1. Outside of a manufactured home park or subdivision;
  - 2. In a new manufactured home park or subdivision;
  - 3. In an expansion to an existing manufactured home park or subdivision; or
  - 4. In an existing manufactured home park or subdivision on a site upon which a manufactured home has incurred "substantial damage" as the result of a flood shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated to or above two feet above the base flood elevation and be securely fastened to an adequately anchored foundation system to resist flotation, collapse, and lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state and local anchoring requirements for resisting wind forces.
- B. All manufactured homes that are placed or substantially improved on sites located within zones V1-30, V, and VE on the community's Flood Insurance Rate Map will meet the requirements of subsection (a).
- C. All manufactured homes to be placed or substantially improved on sites in an existing manufactured home park or subdivision within zones A1-30, AH, AE, V1-30, V, and VE on the community's Flood Insurance Rate Map that are not subject to the provisions of subsection (a) will be securely fastened to an adequately anchored foundation system to resist flotation, collapse, and lateral movement, and be elevated so that either the:

1. Lowest floor of the manufactured home is at or above two feet above the base flood elevation; or
2. Manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade.

Upon the completion of construction of the foundation, and prior to any additional construction, the elevation of the lowest floor including basement shall be certified by a registered professional engineer or surveyor, and verified by the community building inspector to be properly elevated. Such certification and verification shall be provided to the floodplain administrator.

- D. All manufactured homes to be placed within zone A on a community's FHBM or FIRM shall be installed using methods and practices which minimize flood damage. For the purposes of this requirement, manufactured homes must be elevated and anchored to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state and local anchoring requirements for resisting wind forces.

#### **Section 4.3.1.5 Standards for Recreational Vehicles**

- A. All recreational vehicles placed on sites within zones A1-30, AH, and AE on the community's Flood Insurance Rate Map will either:
1. Be on the site for fewer than 180 consecutive days, and be fully licensed and ready for highway use - a recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions; or
  2. Meet the permit requirements of Division 2 and the elevation and anchoring requirements for manufactured homes in Section 4.3.1.4.
- B. Recreation vehicles placed on sites within zones V1-30, V, and VE on the community's Flood Insurance Rate Map will meet the requirements of subsection (a).

#### **Section 4.3.1.6 Floodways**

Located within areas of special flood hazard established in Section 4.1.2.007 are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of floodwaters, which carry debris, potential projectiles, and erosion potential, the following provisions apply:

- A. Encroachments, including fill, new construction, substantial improvement, and other new development are prohibited, unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the

proposed encroachment would not result in any increase in flood levels within the community during the occurrence of the base flood discharge.

- B. If subsection (a) above is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of division 3.
- C. Under the provisions of 44 CFR chapter 1, section 65.12, of the National Flood Insurance Program Regulations, a community may permit encroachments within the adopted regulatory floodway that would result in an increase in base flood elevations, provided that the community first completes all of the provisions required by section 65.12 of the National Flood Insurance Program regulations.

#### **Section 4.3.1.7 Flood-Related Erosion-Prone Area**

- A. The floodplain administrator shall require permits for proposed construction and other development within all flood-related erosion-prone areas as known to the community.
- B. Permit applications shall be reviewed to determine whether the proposed site alterations and improvements will be reasonably safe from flood-related erosion and will not cause flood-related erosion hazards or otherwise aggravate the existing hazard. If a proposed improvement is found to be in the path of flood-related erosion or would increase the erosion hazard, such improvement shall be relocated or adequate protective measures shall be taken to avoid aggravating the existing erosion hazard.
- C. Within zone E on the Flood Insurance Rate Map, a setback is required for all new development from the ocean, lake, bay, riverfront or other body of water to create a safety buffer consisting of a natural vegetative or contour strip. This buffer shall be designated according to the flood-related erosion hazard and erosion rate, in relation to the anticipated useful life of structures, and depending upon the geologic, hydrologic, topographic, and climatic characteristics of the land. The buffer may be used for suitable open space purposes, such as for agricultural, forestry, outdoor recreation and wildlife habitat areas, and for other activities using temporary and portable structures only.

#### **Section 4.3.1.8 Standards for Areas of Shallow Flooding (AO/AH Zones)**

Located within the areas of special flood hazard established in Section 4.1.2.007, are areas designated as shallow flooding. These areas have special flood hazards associated with flood depths of 1 to 3 feet where a clearly defined channel does not exist, where the path of flooding is unpredictable, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow; therefore, the following provisions apply:

- A. All new construction and substantial improvements of residential structures have the lowest floor (including basement) elevated to or above the base flood elevation or the highest adjacent grade at least as high as the depth number specified in feet on the community's firm (at least 2 feet if no depth number is specified).

- B. All new construction and substantial improvements of nonresidential structures:
  - 1. Have the lowest floor (including basement) elevated to or above the base flood elevation or the highest adjacent grade at least as high as the depth number specified in feet on the community's FIRM (at least 2 feet if no depth number is specified); or
  - 2. Together with attendant utility and sanitary facilities be designed so that below the base specified flood depth in an AO zone, or below the base flood elevation in an AH zone, level the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads of effects of buoyancy.
- C. A registered professional engineer or architect shall submit a certification to the floodplain administrator that the standards of this section, as proposed in Section 4.3.1.1 are satisfied.
- D. Require within zones AH or AO adequate drainage paths around structures on slopes, to guide floodwaters around and away from proposed structures.

#### **Sections 4.4–4.20 Reserved**

#### **Section 4.4 Variances**

##### **Section 4.4.1.1 Nature of Variances**

- A. The variance criteria set forth in this division are based on the general principle of zoning law that variances pertain to a piece of property and are not personal in nature. A variance may be granted for a parcel of property with physical characteristics so unusual that complying with the requirements of this article would create an exceptional hardship to the applicant or the surrounding property owners. The characteristics must be unique to the property and not be shared by adjacent parcels. The unique characteristic must pertain to the land itself, not to the structure, its inhabitants, or the property owners.
- B. It is the duty of the board of adjustments and appeals to help protect its citizens from flooding. This need is so compelling and the implications of the cost of insuring a structure built below flood level is so serious that variances from the flood elevation or from other requirements in this article are quite rare.

[NOTE: The long-term goal of preventing and reducing flood loss and damage can only be met if variances are strictly limited. Therefore, the variance guidelines provided in this article are more detailed and contain multiple provisions that must be met before a variance can be properly granted. The criteria are designed to screen out those situations in which alternatives other than a variance are more appropriate.]



#### **Section 4.4.1.2 Appeals**

- A. The Board of Adjustments shall hear and render judgment on requests for variances from the requirements of this article and appeals as provided herein. The Board of Adjustments shall hear and render judgment on an appeal only when it is alleged there is an error in any requirement, decision, or determination made by the floodplain administrator in the enforcement or administration of this article. Any person or persons aggrieved by the decision of the board of adjustments may appeal such decision in the courts of competent jurisdiction.
- B. In responding to requests for variances, the board of adjustments shall consider all technical evaluations, all relevant factors, standards specified in other sections of this article, and the:
1. Danger that materials may be swept onto other lands to the injury of others;
  2. Danger of life and property due to flooding or erosion damage;
  3. Susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the existing individual owner and future owners of the property;
  4. Importance of the services provided by the proposed facility to the community;
  5. Necessity to the facility of a waterfront location, where applicable;
  6. Availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;
  7. Compatibility of the proposed use with existing and anticipated development;
  8. Relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
  9. Safety of access to the property in time of flood for ordinary and emergency vehicles;
  10. Expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters expected at the site; and
  11. Costs of providing governmental services during and after flood conditions, including rescue services, maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water system, and maintenance and repair of streets and bridges.

- C. Any applicant to whom a variance is granted shall be given written notice over the signature of a community official that:
  - 1. The issuance of a variance to construct a structure below the base flood level may result in increased premium rates for flood insurance; and
  - 2. Such construction below the base flood level increases risks to life and property. It is recommended that a copy of the notice shall be recorded by the floodplain administrator in the Office of the Travis County Recorder and shall be recorded in a manner so that it appears in the chain of title of the affected parcel of land.
- D. The floodplain administrator will maintain a record of all variance actions, including justification for their issuance, and report such variances issued in its biennial report submitted to the Federal Insurance and Mitigation Administration, Federal Emergency Management Agency.

#### **Section 4.4.1.3 Conditions for Variances**

- A. Generally, variances may be issued for new construction, substantial improvement, and other proposed new development to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing that the procedures of this article have been fully considered. As the lot size increases beyond one-half acre, the technical justification required for issuing the variance increases.
- B. Variances may be issued for the repair or rehabilitation of “historic structures” (as defined in Article 9) upon a determination that the proposed repair or rehabilitation will not preclude the structure’s continued designation as an historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.
- C. Variances shall not be granted within any special flood hazard area if any increase in flood levels during the base flood discharge would result.
- D. Variances shall only be issued upon a determination that the variance is the “minimum necessary” considering the flood hazard, to afford relief. “Minimum necessary” means to afford relief with a minimum of deviation from the requirements of this article. For example, in the case of variances to an elevation requirement, this means the board of adjustments and appeals or other appropriate governing body need not grant permission for the applicant to build at grade, or even to whatever elevation the applicant proposes, but only to that elevation which the board of adjustments and appeals determines will both provide relief and preserve the integrity of the local chapter.
- E. Variances shall only be issued upon a:
  - 1. Showing of good and sufficient cause;

2. Determination that failure to grant the variance would result in exceptional “hardship” (as defined in Article 9) to the applicant; and
  3. Determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, or extraordinary public expense, create a nuisance (as defined in Article 9 - see “Public safety or nuisance”), cause fraud or victimization (as defined in Article 9) of the public, or conflict with existing local laws or ordinances.
- F. Variances may be issued for new construction, substantial improvement, and other proposed new development necessary for the conduct of a functionally dependent use provided that the provisions of subsection (a) through section (e) are satisfied and that the structure or other development is protected by methods that minimize flood damages during the base flood and does not result in additional threats to public safety and does not create a public nuisance.
- G. Upon consideration of the factors of Section 4.4.1.2 and the purposes of this article, the board of adjustments and appeals may attach such conditions to the granting of variances as it deems necessary to further the purposes of this article.

## **ARTICLE 5 SUBDIVISION DESIGN AND LAND DEVELOPMENT**

### *DIVISION 1 GENERALLY*

#### **Section 5.1.1 Short Title.**

This article shall be known and may be cited to as the Platting regulations.

#### **Section 5.1.2 Purpose.**

- A. The purpose of this Division is to provide for orderly, safe and healthful development to promote the health, safety and general welfare of the community. From and after the passage of this Division, all plats and subdivisions of land within the corporate limits of the city, and all plats and subdivisions of land outside the corporate limits of the city that the council may be petitioned to include within the corporate limits of the city by an extension of said corporate limits, and all tracts within the city’s extraterritorial jurisdiction, shall conform to the following rules and regulations.
- B. The system of improvements for thoroughfares, water and wastewater services, other utilities, drainage, public facilities and community amenities determines in large measure the quality of life enjoyed by the residents of the community. Health, safety, economy, amenities, environmental sensitivity and convenience are all factors which influence and determine a community’s quality of life and character. A community’s quality of life is of public interest. Consequently, the development of land, as it affects a community’s quality of life, is an activity whose regulation is a valid function of municipal government.

- C. The provisions contained herein are designed and intended to encourage the development of a quality urban environment by establishing standards for the provision of open space, stormwater drainage, transportation, public utilities and facilities, and other needs necessary for insuring the creation and continuance of a healthy, attractive, safe and efficient community that provides for the conservation, enhancement and protection of its human and natural resources. Through the application of this ordinance, the interests of the public as well as those public and private parties, both present and future, having interest in property affected by these regulations are protected by the granting of certain rights and privileges.
- D. This ordinance is designed and intended to achieve the following purposes, and shall be administered so as to:
1. Assist orderly, efficient and coordinated development within the city's jurisdiction.
  2. Provide neighborhood conservation and prevent the development of slums and blight.
  3. Harmoniously relate the development of the various tracts of land to the existing community and facilitate the future development of adjoining tracts.
  4. Provide that the cost of improvements to minimum standards which primarily benefit the tract of land being developed be borne by the owner or developers of the tract, and that the cost of improvements to minimum standards which primarily benefit the whole community be borne by the whole community.
  5. Provide the best possible design for each tract being subdivided.
  6. Provide the most attractive relationship between the land as developed and the circulation of traffic throughout the municipality, having particular regard to the avoidance of congestion in the streets and highways, and the pedestrian traffic movements appropriate to the proposed development, and to provide for the proper location and width of streets and building lines.
  7. Prevent pollution of the air, streams, and ponds; to assure the adequacy of drainage facilities; to safeguard both surface and ground water supplies; and to encourage the wise use and management of natural resources throughout the municipality in order to preserve the integrity, stability, and beauty of the community and the value of the land.
  8. Preserve the natural beauty and topography of the municipality and ensure appropriate development with regard to these natural features.
  9. As appropriate, reconcile any differences of interest among the developer, other property owners and the city.

10. Establish adequate and accurate records of land subdivision.
  11. Ensure that public or private facilities are available and will have a sufficient capacity to serve proposed subdivisions and developments within the city's jurisdiction.
  12. Standardize the procedure and requirements for developing property and submitting plans for review and approval.
  13. Protect and provide for the public health, safety and general welfare of the community.
  14. Provide a healthy environment for the present and future citizens; an environment designed to reasonably secure safety from fire, flood and other dangers; and to provide that land be subdivided in a manner to attain such goals and benefits for the community.
  15. Protect the character and the social and economic stability of all parts of the community and encourage the orderly and beneficial development of all parts of the community.
  16. Protect and conserve the value of land throughout the community and the value of buildings and improvements upon the land.
  17. Guide public and private policy and action in providing adequate and efficient transportation systems, public utilities, and other public amenities and facilities.
  18. Encourage the development of a stable, prospering economic environment.
- E. Certain minimum standards for land use, construction and development within the city limits are contained in the city's zoning ordinance, applicable building and plumbing codes, city standard details and specifications, and this ordinance. If only the minimum standards are followed, as expressed by this Development Code a standardization of development will occur. This will produce a monotonous urban setting. Subdivision design within both the city and its extraterritorial jurisdiction should be of a quality to carry out the purpose and spirit of the policies expressed in the master plan and in this ordinance, rather than be limited to the minimum standards required herein.

### **Section 5.1.3 Authority.**

- A. This ordinance is adopted pursuant to the police powers of general law cities, and under authority of the constitution and general laws of the State of Texas, including, but not limited to, Chapter 212, Tex. Loc. Gov't. Code.
- B. In accordance with the city's police powers and authority, and as specifically authorized by Chapter 212, Tex. Loc. Gov't. Code, and other applicable laws, the planning and zoning

commission, as a condition of subdivision plat or replat approval, shall require the owners and developers of land who desire to subdivide, plat or replat land within the city or its extraterritorial jurisdiction, for urban development, to provide for building setback lines, to dedicate streets, alleys, parks, easements or other public places or facilities of adequate width and size and to coordinate street layouts and street planning with the city's master plan, with other municipalities, and with county, state and federally designated highways, as they may deem best in the interest of the general public, in order to provide for the orderly development of the areas and to secure adequate provision for traffic, light, air, recreation, transportation, water, drainage, sewage and other facilities.

- C. The City Council hereby acknowledges the provisions of the state law related to the processing and procedures associated with platting and suspends the application of any ordinance or process contained in this Development Code, as it now exists or as it may be amended, that conflict with the provisions and requirements of the state law. The City Council further directs the city's planning and zoning commission, city staff and outside consultants to process, approve, approve with conditions or disapprove all plats, in accordance with the provisions and requirements of state law.

#### **Section 5.1.4 Jurisdiction.**

Except as specifically provided otherwise herein, these regulations shall apply to all subdivisions and all platting activities, as they are both defined by these regulations, and all land, any part of which is located within the jurisdiction of the city. The jurisdiction of the city shall be defined as follows

- A. The corporate limits of the City of Jonestown, Texas; and
- B. The extraterritorial jurisdiction of the City of Jonestown, Texas.

#### **Section 5.1.5 Policy.**

In order to carry out the purposes hereinabove stated, it is hereby declared to be the policy of the city to consider the subdivision and/or development of land as subject to the control of the municipality, pursuant to the master plan, if any and as adopted or amended from time to time, for the orderly, planned, efficient and economical development of the city and its jurisdiction. This section shall be administered such that:

- A. Land to be subdivided, platted and/or developed shall be of such nature, shape and location that with proper and careful design and development it can be safely used for building purposes without danger to health or risk of fire, flood, erosion, landslide or other menace to the general welfare.
- B. A final plat shall not be recorded until the necessary public utilities and facilities and other required improvements exist or arrangements are made for their provision.
- C. Buildings, lots, blocks and streets shall be arranged so as to provide for an attractive and healthful environment and to facilitate fire protection, and provide ample access to

buildings for emergency equipment.

- D. Land shall be subdivided and developed with due regard to topography and existing vegetation with the object being that the natural beauty of the land shall be preserved to the maximum extent possible.
- E. Existing features which would add value to development or to the city as a whole, such as scenic and special features, both natural and man-made, historic sites, and similar assets shall be preserved in the design of the subdivision whenever possible.

#### **Section 5.1.6 Application.**

- A. The provisions of this ordinance, including design standards and improvement requirements, shall, except as specifically provided otherwise in this Development Code, apply to all subdivisions and platting of land within the jurisdiction of the city, including but not limited to the following forms of land subdivision and development activity:
  - 1. The division of land into two (2) or more tracts, lots, sites, parcels, or building sites, any part of which shall contain less than five (5) acres in area when subdivided;
  - 2. The division of land into two (2) or more tracts, lots, sites or parcels, any part of which when subdivided shall contain five (5) acres or more in area and will require the dedication or conveyance of any access, public right-of-way, easement, or any public improvement;
  - 3. Land previously subdivided or platted into tracts, lots, sites or parcels, which subdivision was subject to, but not in accordance with, city or county ordinances in effect at the time of such subdividing or platting;
  - 4. The combining of two (2) or more contiguous tracts, lots, sites or parcels for the purpose of creating one (1) or more legal lots in order to achieve a more developable site, except as otherwise provided herein;
  - 5. Any development for which one (1) or more lots, tracts, or parcels are designed, established or created for occupancy, use or a building site, or for which a building permit, plumbing permit, electrical permit, floodplain permit, utility tap, or certificate of acceptance for required public improvements is required by the city;
  - 6. Prior to issuance of a building permit, a tract of land shall be designated as a legal lot;
  - 7. The platting of any existing legal deed-divided unplatted lot, parcel, site or tract;
  - 8. The voluntary platting and recording of a plat dividing any land within the jurisdiction of the city into lots, parcels, sites or tracts or combining one or more tracts into a single tract; or

9. Any plat having received approval from the commission or the council for which said approval has expired.
  10. The dedication of any street or alley through any tract of land, regardless of the area involved.
- B. The construction or placement, or the proposed construction or placement, of any structure over, or across a property boundary or lot line shall be deemed to be the combining of two or more contiguous tracts, lots, sites or parcels under section 5.1.6 (a)(4). It shall be unlawful for any person to construct or place, or to cause to be constructed or placed, a structure on, over or across a property boundary or lot line.
- C. There may be occasions when the City Council deems it appropriate to include a requirement that the landowner enter into a development or improvement agreement which shall be used to guarantee that onsite or off-site public improvements are constructed in accordance with this Development Code.

#### **Section 5.1.7 Exemptions.**

- A. The provisions of this ordinance shall not apply to:
1. Sales of land by metes and bounds in tracts of five (5) acres or more in area and not requiring the construction of public improvements required by this Code, nor the dedication of any easements, land or roadways for use of any purchaser or member of the public, except as otherwise specifically provided in this Development Code;
  2. Cemeteries complying with all state and local laws and regulations;
  3. Divisions of land created by order of a court of competent jurisdiction.
  4. Any subdivision or platting of land for which a concept plan, preliminary plan or final plat has been filed with the city on or before the effective date of this ordinance, excluding any such plan or plat for which approval has expired or hereafter expires; or
- B. The provisions of this Development Code shall not apply to the division of an existing legal lot, said division being caused by the city's acquisition of a part of said legal lot, when the council finds that the acquisition by the city is in the best interest of the public health, safety and welfare of the citizens of Jonestown and/or its extraterritorial jurisdiction. Upon the council so finding, the resulting parcels shall be deemed to constitute legal lots for the purposes of developing under the requirements of this ordinance and other applicable city regulations. In creating said division, the council is empowered to attach to the resulting parcels acquired by the city, and the remainder parcels not acquired by the city upon agreement with the owner, such conditions as it finds reasonable and necessary to



offset any adverse effects resulting from the city's acquisition as a part of the original legal lot, in so far as any such condition is not contrary to the spirit and intent of the ordinance.

#### **Section 5.1.8 Enforcement of Regulations.**

- A. No plat within the city or its extraterritorial jurisdiction may be recorded until a final plat, accurately describing the property to be subdivided or platted, has been approved by the city in accordance with this Code, signed and dated by the chair of the planning and zoning commission and/or other designated officers of the city, and filed in the official county records.
- B. No building permit, certificate of occupancy, plumbing permit, electrical permit, floodplain permit, utility tap or certificate of acceptance for required public improvements shall be issued by the city for or with respect to any land within the city limits; and no floodplain permit, utility tap or certificate of acceptance for required public improvements shall be issued by the city for or with respect to land within the ETJ limits until:
  - 1. All improvements, as required by this ordinance, have been constructed and accepted by the City of Jonestown; or
  - 2. Assurances for the completion of improvements have been provided in accordance with this Code.
- C. No excavation or clearing of land, or construction of any public or private improvements shall take place or commence, preceding the date of application for the approval of any development or subdivision; and no such excavation, clearing of land or construction shall begin within any proposed plat or subdivision until such time as the city engineer approves the construction plans and specifications for such plat or subdivision.

#### **Section 5.1.9 Types of Plats Established.**

The following types of plats are in accordance with Chapter 212 of the Texas Local Government Code.

- A. *Minor Subdivision Plat.* A subdivision resulting in four or fewer lots or that does not create any new street nor necessitate the extension of any municipal facilities, except sidewalks, to serve any lot within the platted area. The term "minor subdivision plat" or "minor plat" also includes "short form final plat".
  - 1. A minor subdivision plat does not require a Platting Plan.
  - 2. Minor plats may be administratively approved by the Director.
- B. *Preliminary Plat.* Preliminary plats are included in the City of Jonestown subdivision regulations to facilitate review by the Planning and Zoning Commission and City Council of the proposal's detailed layout of the proposed subdivision including street and

drainage systems, easements, utilities, development lots, and other lots, including parkland and open spaces.

- C. *Final Plat.* All other plats involving the subdivision of land, which are not exempted by this Section or by state or federal law. All steps in the Platting Process must be followed.
- D. *Amending Plat.* Providing an expeditious means of making minor revisions to a recorded plat, consistent with Section 212.016 of the Texas Local Government Code. Amending plats may be administratively approved by the Director.
- E. *Replat.* A replat is required when property is already platted and the intent is to alter or create new lot lines or make changes to the layout of the lots or reserves.
- F. *Development Plat.* A plat intended for persons who are developing, improving, or causing to be developed or improved property within the city that are not expanding, repairs, or remodeling single-family residences or persons who are required to file a subdivision plat under Division 5.2 of this Code.

#### *DIVISION 5.2 PROCEDURE*

##### **Section 5.2.1.1 General procedure.**

- A. Plans for the development of land within the scope of this Code shall be drawn and submitted to the city staff, city engineer, commission and council for their approval or disapproval, as provided by these regulations.
- B. Notwithstanding any provision of this ordinance to the contrary, a developer or land owner shall not commence development activities or construction activities within the city's jurisdiction, including clearing and/or rough grading, before first obtaining all the city approvals required by this Code.
- C. Generally, platting shall follow the permitting procedures set out in Section 7.1.1 General Application Procedures and the specific platting procedures and processes set out herein. Each step of the platting process has established deadlines and expirations that must be met in order for the application and any approval(s) granted to remain valid, in effect and eligible to continue to the next step of, or to complete, the development process. Compliance with each such established deadline constitutes a separate required performance and approval.
- D. The permit platting sequence should generally apply as follows:
  - 1. Pre-application meeting with city staff and review of the Platting Plan;
  - 2. Submission of plat application;
  - 3. Review of the application for administrative completeness;

4. Review of the application for technical completeness;
5. Platting application considered by Planning and Zoning Commission and then City Council;
6. Construction Permit Application approved by City Engineer prior to approval of Final Plat or other plat which includes construction of public improvements; Notwithstanding any term, provision or condition of this ordinance, save and except for a replat, the failure by the city to strictly comply with the issuance of any notice required to be made or provided by mail and/or by publication shall not:
  - a. Invalidate the approval, disapproval or other action taken with respect to any plat or subdivision; or
  - b. Give rise to any claim or cause of action by, or on behalf of, any person; provided that a replat shall in no event be finally approved and authorized prior to the mailing and publication of notice as required by this ordinance.

#### **Section 5.2.1.2.001 Platting Process**

The following Subsection describes the process of plat approval, including materials, fees, and timelines.

#### **Section 5.2.1.2.002 Stages of Subdivision Approval**

- A. *Platting Sequence.* Except for minor plats, amending plats, and certain replats described herein, the City's review and, where appropriate, approval of a subdivision is subject to three or four separate stages. Approval is required for each stage before the City will accept an application for the next stage of the sequence for filing. The stages occur in the following sequence:
  1. Pre-Application Conference (**Section 5.2.2**);
  2. Platting Plan (**Section 5.2.3**);
  3. Preliminary Plat (**Section 5.2.4**);
  4. Construction Plans (**Section 5.2.5**); and
  5. Final Plat Application (**Section 5.2.6**).
- B. *Sequence to be followed.*
  1. No required plat or subdivision plan may be submitted for filing simultaneously with another required plat or subdivision plan, except under the alternative procedure provided in Article 7. No required plat or subdivision plan may be approved unless a required prior plat or subdivision plan has been approved or

conditionally approved. Approval is required before the City will accept an application for the next stage of the sequence.

2. Unless otherwise indicated in the action taken on an application, conditional approval means that conditions shall be satisfied prior to the approval of a subsequent plat or subdivision plan. Disapproval of an application means that the applicant may not proceed to the next stage of subdivision approval until the grounds for disapproval have been satisfied.

C. *Thirty-Day Shot Clock Process for Approval of Plat Applications.* Pursuant to Texas State Law, and except as provided in Subsection (2), all platting applications identified in Section (a) above must be processed and approved, approved with conditions, or disapproved within 30 days of the date the application is filed.

1. This 30-day process applies to each step in the Platting Process except for the Pre-Application Meeting.
2. Notwithstanding these terms, the parties may extend the 30-day period for an additional period of time, not to exceed 30 days, if the applicant requests the extension in writing to the City and the City agrees to the extension request.
3. If a platting application is not approved with conditions or disapproved within these time frames, the application shall be deemed approved.
4. The City shall provide the applicant with a written statement of the conditions of any conditional approval or the reasons for disapproval.
5. Each condition or reason specified in the written statement must be directly related to the requirements set out in state law, federal law, or the City's Code of Ordinances and include a citation to the section(s) of such laws or plans that is the basis for the conditional approval or disapproval and may not be arbitrary.

D. *Post-Decision Procedures.*

1. Applicant's response. After the conditional approval or disapproval of a plat or subdivision plan under subsection (c)(4), above, the applicant may submit to the Commission or the responsible official, as the case may be, on an official submittal date, a written response that satisfies each condition for the conditional approval or remedies each reason for disapproval. The Commission or responsible official shall disapprove any response that does not address all of the conditions or reasons for disapproval. When the Director or City Engineer determine that a condition may be satisfied at the next stage of subdivision approval, the applicant need not submit a response before application is made for the next plat or subdivision plan in the sequence of approvals.

2. Reply to applicant's response. The Commission or the responsible official, as the case may be, that receives an applicant's response in accordance with subsection (d)(1), above, shall determine whether to approve or disapprove the plat or subdivision plan not later than the 15th day after the date the response was submitted. The Commission or the responsible official, as the case may be, shall approve the plat or subdivision plan if the response adequately addresses each condition of the conditional approval or each reason for the disapproval. If the Commission or responsible official disapproves the plat or subdivision plan, the Director shall then provide the applicant with a written statement that clearly articulates each reason for disapproval in the manner provided in subsection (d)(4), above. Following timely disapproval of the plat or subdivision plan, a new application for the plat or subdivision plan will need to be filed. If the response meets the criteria in subsection (d)(1), above, and the Commission or responsible official, as the case may be, fails to act upon the response as required by this subsection, the plat or subdivision plan shall be deemed approved.
3. Delegation and appeal. The Director is authorized, and hereby designated as a municipal authority, to take action on and prepare a reply to an applicant's response to conditional approval or disapproval of a plat or an adequate facilities plan in the event the Commission is unable to meet within the 15-day period required by subsection (d)(2), above. The City Engineer is authorized to take action on and prepare a reply to an applicant's response to conditional approval or disapproval of construction plans. An applicant may appeal the decision of the Director or the City Engineer to the Commission. An applicant may also elect to have the Commission take action on and make the reply by agreeing in writing to have the response considered at the next scheduled Commission meeting.

E. *Exceptions to Thirty-Day Shot Clock Process.* The 30-Day Shot Clock Process and Post-Decision Procedures described in subsections (c) and (d), above, do not apply to the following proceedings:

1. Any request for relief provided for in this Code, including an application for any waivers from the standards or procedures;
2. Any appeal provided for in these regulations, including an appeal from a vested rights determination;
3. Any action by the City Council on the City Engineer's rough proportionality determination, including an appeal taken by an applicant;
4. Any actions taken to modify an approved final plat;
5. Inspections of improvements;
6. Any actions taken after plat recordation, other than a replat or amending plat;

7. Any request to extend plat or subdivision plan approval beyond an expiration date; or
8. Any matter requiring authorization prior to submittal of a plat or subdivision plan application identified in subsection (a)(2), above.

F. *Official Submittal Dates.*

1. A person may only submit a subdivision application, documents for removal of conditions imposed on a plat or subdivision plan application, or documents for satisfaction of grounds for denial of a subdivision, on an official submittal date.
2. The City shall establish and publish annually on its website a monthly schedule of official submittal dates, which is subject to change.
3. An applicant shall schedule a meeting with the Director on the official submittal date in order to review the proposed subdivision application.
4. A subdivision application shall not be accepted for filing on an official submittal date and shall be returned to the applicant in the following circumstances:
  - a. Prerequisite authorizations have not been obtained;
  - b. A prior required application has not been approved;
  - c. A proposed major waiver is pending for decision;
  - d. The subdivision application is not complete; or
  - e. The applicant has not submitted the filing fee.
5. If a subdivision application has been returned to the applicant for incompleteness following an initial review, the application shall be accepted for filing on the next official submittal date that it is submitted by the applicant. If any of the items in subsection (b)(4), above, have not been resolved, the application shall be placed on the Commission agenda for summary denial. No further materials in support of the application shall be filed after the application has been accepted for filing. An applicant may elect to withdraw an application prior to the Commission decision on the application.

G. *Complete Application Determination.*

1. The Director shall perform a completeness determination for the application within 5 days of the official submittal date.
2. In addition to any requirements stated in this Code, the Director, in consultation with the City Engineer, shall promulgate standards for a complete application for each plat or subdivision plan, such standards to be in conformance with this Code and published on the City's website.

3. The Director shall accept the application as complete or provide a list of deficiencies to the applicant that render the application incomplete.
4. The Director shall deny and return any subdivision application that remains incomplete after acceptance for filing.

H. *Certification.*

1. If a plat or subdivision plan is approved, the Commission or the responsible official, as the case may be, shall endorse the approved plat or subdivision plan with a certificate indicating the approval. Where approved, the certificate shall be signed by the chair of the Commission. The City Engineer is responsible for approving all construction plans, technical notes, and/or the dedication of improvements and property interests.
2. If a plat or subdivision plan application is deemed approved pursuant to subsections (d)(1) or (e)(2), above, the Commission or the responsible official, as the case may be, shall issue a certificate stating the date that the plat or plan application was filed and that the Commission or the responsible official failed to act on the application within the prescribed period.

I. *Expiration and Extension of an Approved Plat or Subdivision Plan.*

1. Expiration date. Except as otherwise provided in this Code, unconditional approval of a plat or subdivision plan application or conditional approval where all conditions may be satisfied at a subsequent stage of subdivision approval, expire 2 years from the date of approval, unless the applicant submits and receives approval for a required subsequent application for approval. Unconditional approval of a preliminary plat expires 2 years from the date of approval, if a final plat has not been submitted to the City.
2. New application required. Following expiration of an approved plat or subdivision plan, a new subdivision application is required unless the date for expiration has been extended in accordance with this section.
3. Project expiration. Following expiration of an approved plat or subdivision plan, the project defined by a prior-approved subdivision application shall be deemed to have expired within 5 years from the date of the last prior approval, unless a new subdivision application is made and approved for the expired plat or subdivision plan within such period, or unless progress toward completion of the project has otherwise been made in accordance with Section 245.005, Texas Local Government Code, such as completion of one or more phases, utility installations, and/or recorded final plats.
4. Extension request. An applicant may submit a request to the Director, or in the case of construction plans, to the City Engineer, for an extension of a plat or

subdivision plan expiration date for a period not to exceed 1 year, if the request is filed at least 30 days before the date of expiration. Every request for extension shall include a statement of the reasons why the expiration date should be extended. More than one extension request may be filed.

5. **Criteria for Approval of Extension Request.** The Director shall take into account the reasons for the requested extension; the ability of the applicant to comply with any conditions attached to the original approval; whether extension is likely to result in timely completion of the project; whether the applicant has made a good faith effort to submit a complete application for the next required application, whether there are circumstances beyond the applicant's control, which have prevented submittal of an application for a subsequent stage of approval; and the extent to which newly adopted regulations should be applied to the original subdivision application.
  6. **Appeal to Commission.** Denial of an extension request by the responsible official may be appealed to the Commission within 10 days of notification of the denial. In deciding the appeal, the Commission shall apply the criteria in subsection (h)(5), above.
  7. **Conditions.** The responsible official, or the Commission on appeal, may attach conditions to approval of an extension request such as are needed to assure that the land will be developed in a timely fashion and that the public interest is served.
- J. ***Withdrawal of Application.*** The applicant for a plat or subdivision plan approval may withdraw the subdivision application following the City's acceptance for filing but no later than 4 days before the time of the scheduled decision on the subdivision application. Following withdrawal, the applicant shall submit a new subdivision application, including the fee.

### **Section 5.2.2. Pre-Application Conference**

#### **A. *Pre-Application Conference.***

1. Before a person may submit an application for approval of a plat or subdivision plan approval to the City, an applicant shall meet with the Director to review the following matters:
  - a. the sequence of stages required prior to approval;
  - b. any claim of exemption for a contemplated division of land;
  - c. prerequisites to filing the initial application;
  - d. any request for major waivers to the subdivision regulations; and
  - e. complete application requirements.



2. The following authorizations are required prior to submittal of an initial subdivision application for approval, unless a major waiver is approved waiving the requirement:
  - a. For property within the City, zoning is approved for the contemplated use(s) of the property to be divided or developed, or the developer has applied for a zoning change simultaneously with the subdivision application;
  - b. Texas Department of Transportation approval for any contemplated modification(s) to a state-owned or -maintained roadway, to include access;
  - c. Approval of amendments to the City's adopted *Thoroughfare Plan* or other master plan for public facilities and services necessary to serve the proposed development;
  - d. Any requested vested rights determination; and
  - e. Any request for a major waiver to the subdivision regulations.
    - (1) At the pre-application conference, the applicant may elect in writing to an alternative procedure pursuant to Sec. 7.1.1.
    - (2) No subdivision application will be accepted for filing at the pre-application conference.

### **Section 5.2.3 Platting Plan.**

- A. *Purpose.* The purpose of the Platting Plan is to demonstrate conformance with the City's master plan, compatibility of the proposed development with this and other applicable city ordinances, sufficiency of utilities and proposed roadways, drainage and access to and from the development and the coordination of improvements within and among individually platted parcels, sections, or phases of a development, prior to the consideration of a preliminary plat or other plat application.
  1. A Platting Plan is recommended prior to submission of a plat application and prior to any pre-application meeting with the Planning Director and can be essential to successful completion of the platting process.
  2. The Platting Plan shall include all adjacent and contiguous land, owned or controlled by the developer or the person, firm or corporation that is accurately depicted to the nearest foot.
- B. *Content.* The Platting Plan should contain or have attached thereto:
  1. Name, address and phone numbers of the developer, record owner, and

authorized agents (engineer, surveyor, land planner, etc.).

2. Proposed name of the development; date revised and/or prepared; north indicator; scale.
3. A layout of the entire tract and its relationship to adjacent property, existing development and recorded plats, proposed utility connections, proposed streets, onsite storm water management facilities, in-site proposed public improvement and any off site public improvements.
4. The owner's name, deed or plat reference and property lines of property within three hundred (300) feet of the development boundaries, as determined by current tax rolls.
5. Proposed major categories of land use by acreage showing compatibility of land use with, or proposed variances or waivers to platting requirements.
6. Proposed number of residential and nonresidential lots, tracts or parcels together with the estimated:
  - a. Number of LUEs required for each category of lots;
  - b. Traffic volume to be generated by all proposed development other than single- family residential.
7. Proposed and existing arterial and collector streets to serve the general area.
8. Location of sites for parks, schools and other public uses, and all areas of common ownership.
9. Significant drainage features and structures including any regulatory 100-year floodplains.
10. Significant existing features on, or within 300 feet of, the property, such as railroads, roads, buildings, utilities and drainage structures.
11. Approximate boundaries and anticipated timing of proposed phases of development.
12. Identification of known exceptional topographical, cultural, historical, archaeological, hydrological and other physical conditions of the property to be developed, or existing within two hundred (200) feet of the property, which will require the establishment of reasonable design standards in excess of the established minimum standards or require a variance from those established minimum standards as defined in this ordinance.

13. Location of city limit lines and/or outer border of the city's extraterritorial jurisdiction, as depicted on the city's most recent base map, if either such line traverses the development or is contiguous to the development's boundary.
14. A proposed phasing plan for the development of future sections.
15. Estimate of impervious cover percentages within the development.

#### **Section 5.2.4 Preliminary Plat.**

- A. *Purpose.* The preliminary plat provides detailed graphic information and associated text indicating property boundaries, easements, land use, streets, utilities, drainage, and other information required to evaluate proposed subdivisions of land. A preliminary plat shall be required for any subdivision or platting of land, except as otherwise provided for in these regulations.
- B. *Format.* The preliminary plat shall be drawn on twenty-four by thirty-six inch (24" x 36") sheet(s) at a scale of one (1) inch equals one hundred feet (1" = 100') with all dimensions labeled accurately to the nearest foot. When more than one (1) sheet is necessary to accommodate the entire area, an index sheet showing the entire subdivision at a scale of one (1) inch equals four hundred feet (1" = 400') shall be attached to the plat.
- C. *Content.* The preliminary plat shall include all of the tract intended to be developed at one (1) time, and any off-site improvements required to accommodate the project. The preliminary plat shall contain or have attached thereto:
  1. General information.
    - a. A table with the name, address and phone numbers of the developer, record owner, and authorized agents (engineer, land planner, etc.); linear feet of new streets, number of lots, land use and zoning for lots located in the city limits.
    - b. The proposed name of the subdivision, which shall not have the same spelling or be pronounced similarly to the name of any other subdivision located within the city or within the extraterritorial jurisdiction of the city, provided however that use of the same base names for different sections or phases is required when the units are contiguous with their namesakes and individually identified by a section or phase number.
    - c. The date, scale, and north indicator.
    - d. A location map showing the relation of the subdivision to streets and other prominent features in all directions for a radius of at least one (1) mile using a scale of one (1) inch equals two thousand feet (1" = 2,000'). The latest edition of the USGS 7.5 minute quadrangle map is recommended.

- e. A legend with all acronyms, line work and hatching defined.
  - f. Point of beginning labeled on plat and described in a metes and bounds description.
  - g. Two points of vehicular access shall be provided for more than 25 lots.
  - h. Any land or easement dedicated to the City shall be by separate document.
  - i. The owner's name, deed or plat reference and property lines of property within three hundred (300) feet of the subdivision boundaries as determined by the most recent tax rolls.
  - j. Identification and location of proposed uses and reservations for all lots within the subdivision.
  - k. Certification and signature blocks as required by the city and the county.
  - l. The total acreage of the property to be subdivided and the subtotals by land use.
2. Existing conditions.
- a. The existing property lines, including bearings and distances, of the land being subdivided. Property lines shall be drawn sufficiently wide to provide easy identification.
  - b. The location of existing watercourses, dry creek beds, wells, sinkholes and other similar topographic features.
  - c. Significant trees, within the boundaries of the subdivision and of 10-inch caliper and larger, shall be shown accurately to the nearest one (1) foot, critical root zones of these trees shall also be shown.
  - d. Centerline of watercourses, creeks, existing drainage structures and other pertinent data shall be shown.
  - e. Areas subject to flooding shall be shown, delineating the regulatory 100-year floodplain, and any other floodplains identified in the city's master drainage plan.
  - f. Topographic data indicating one-foot contour intervals for slopes less than 5%, two-foot contour intervals for slopes between 5% and 10%, and five-foot contour intervals for slopes exceeding 10% shall be depicted as

labeled. The contoured area shall extend outward from the property boundary for a distance equal to twenty-five percent (25%) of the distance across the tract, but not fewer than fifty (50) feet nor more than two hundred (200) feet.

- g. The locations, sizes and descriptions of all existing utilities, including but not limited to wastewater lines, lift stations, wastewater and storm sewer manholes, water lines, water storage tanks, and wells within the subdivision, and/or adjacent thereto.
- h. The location, dimensions, names and descriptions of all existing or recorded streets, alleys, reservations, railroads, easements or other public rights-of-way within the subdivision, intersecting or contiguous with its boundaries or forming such boundaries, as determined from existing deed and plat records. The existing right-of-way width of any boundary street to the proposed subdivision shall also be shown. Easements and rights-of-ways shall be identified by type, owner, width, and identify the conveyance document creating the easement or right-of-way by reference to county record.
- i. The location of city limit lines and/or outer border of the city's extraterritorial jurisdiction, as depicted on the city's most recent base map, if either traverses the subdivision or is contiguous to the subdivision boundary.

### 3. Improvements.

- a. The location, size and description of any proposed drainage appurtenances, including storm sewers, detention ponds and other drainage structures proposed to be constructed on and off the site, and designed in accordance with the requirements of this ordinance.
- b. The developer shall include a copy of the complete application for floodplain map amendment or revision, as required by the Federal Emergency Management Agency (FEMA), if applicable.
- c. The location, dimensions, names and descriptions of all proposed streets, alleys, parks, open spaces, blocks, lots, reservations, easements and rights-of-way; and areas within the subdivision indicating the connection to or continuation of other improvements in adjacent subdivisions. All new streets or easements shall be labeled as proposed.
- d. The location of building setback lines indicated by dashed lines on the plat.
- e. Numbers to identify each lot and each block.

- f. The bearings and distances of each proposed property line of all lots. The area of each non- rectangular lot shall be provided.
- g. Significant trees to remain during construction showing the critical root zones as solid circles, and significant trees designated to be removed showing the critical root zones as dashed circles.
- h. Replacement trees shall be shown on the preliminary plat based on a replacement ratio (inches removed to inches planted) of:
  - (1) 1:2 for significant trees eighteen (18) inches in caliper and larger.
  - (2) 1:1 for significant trees between eight (8) and eighteen (18) in caliper.
  - (3) Replacement trees shall not be required for the removal of trees smaller than eight (8) inches in caliper.

The removal of significant trees larger that eighteen inches in caliper requires commission approval.

4. Support documents.

- a. A drainage study, consisting of a drainage area map with contours, location and capacities of existing and proposed drainage features, and calculations in accordance with this ordinance and good engineering practices, shall be provided to ensure the property will be developed in accordance with city drainage policies.
- b. Utility demand data, consistent with the proposed uses indicated on the preliminary plat, to determine the adequacy and the consistency of proposed utility improvements.
- c. A letter of certification, when applicable, that the plat has been submitted to the county health district for review (applicable to all projects proposing septic systems and/or containing any portion of the regulatory 100-year floodplain outside of the city limits).

5. Accuracy of data. The applicant shall be responsible for verifying the accuracy of all data submitted, including that which might be obtained from the city, excepting that data which can only be obtained from the city.

6. Survey control information.

- a. True bearings and distances to the nearest established street lines, official monuments, or existing subdivision corner which shall be accurately described on the plat and rotated to the state plane coordinate system. Using said system, X and Y coordinates shall be identified for four (4)

property corners.

- b. The description and location of all permanent monuments or benchmarks, standard monuments, survey control points and lot pins and a point of beginning.
- c. Suitable primary control points to which all dimensions, bearings and similar data shall be referenced. At least one (1) corner of the subdivision shall be located with respect to a corner of the original survey of which it is a part.
- d. Sufficient data shall be shown on the plat for each lot to prove mathematical closure.
- e. Statement from Surveyor that all recorded easements are shown on the plat.

D. *Procedure.* A preliminary plat for any proposed subdivision of land, shall be submitted to the city for approval by the commission and the council.

- 1. Legible prints, as indicated on the application form, shall be submitted at least thirty (30) days prior to the regular meeting of the commission at which the preliminary plat is to be heard, along with the following:
  - a. Completed application forms and the payment of all applicable fees.
  - b. A summary letter stating briefly the type of street surfacing, drainage, water and wastewater facilities proposed, and declaring the intent to either dedicate park land and/or trails or pay fees in lieu of said dedication if such dedication or fees apply.
  - c. A petition requesting annexation, if applicable.
  - d. A letter requesting any variances from the provisions of this ordinance.
  - e. Any attendant documents needed to supplement the information provided on the preliminary plat.
- 2. For projects located within the city's extraterritorial jurisdiction, one (1) extra copy of the above-referenced items must be provided to the county for review and approval. The applicant shall be responsible for any additional information required by the county for preliminary plan approval.
- 3. City staff shall review all preliminary plat submittals for administrative and technical completeness at the time of application. If, in the judgment of city staff, the preliminary plat submittal substantially fails to meet the minimal

informational requirements as outlined above, it will not be accepted for review.

4. Prior to the commission meeting at which the preliminary plat is presented, city staff shall review the plat for consistency with city ordinances, codes, policies and plans.
  5. City staff shall prepare a report analyzing the preliminary plat submittal, as well as any comments received concerning the concept plan, and a list of any missing components or areas where the plat is not in compliance with City ordinances. The City Engineer shall also provide a review letter verifying compliance with City regulations. This report shall be available at least five (5) working days prior to the commission meeting.
  6. If the developer chooses to withdraw the preliminary plat, in writing, by noon of the third working day preceding the meeting [of the] commission, the submittal may appear on the next commission agenda after repayment of the applicable fees.
- E. *Notification.* Public notification for a preliminary plat shall be in accordance with Section 7.2.2.
1. *Approval.* The commission and council, after holding public hearings in accordance with these regulations, shall act on the request for preliminary plat approval.
  2. The failure of the commission or the council to act within thirty (30) days of the respective filing dates of the preliminary plat shall be deemed an approval of the plat.
  3. Zoning of the tract, if applicable, that shall permit the uses proposed by the preliminary plat, or any pending zoning amendment necessary to permit the proposed uses shall have been adopted by the council prior to approval of the preliminary plat.
  4. Approval of the preliminary plat shall not constitute approval of the final plat, but shall constitute a vesting of the right to develop under city ordinances, codes and policies in effect on the date of the approval provided that neither the preliminary plat nor any subsequent plat or permit has been, or is, allowed to expire.
  5. The developer should be aware that specific approvals from other agencies may be required.
- F. *Expiration.*
1. The approval of the preliminary plat shall expire twelve (12) months after the filing date, unless:



- a. A corresponding final plat on all, or a portion of, the land approved on the preliminary plat is filed; or
  - b. An extension is granted by the commission in accordance with this ordinance.
2. If a preliminary plat expires, it may be reinstated only upon resubmittal of the unaltered, approved plat to the commission and council and the approval by both bodies. All fees shall be repaid as if the plat were initially being submitted.
- G. *Extension.* The developer may apply for an extension, in writing, prior to the end of the initial twelve-month period, stating reasons for needing the extension and demonstrating pursuit of approvals for construction plans and/or final plat in accordance with this ordinance. Upon receipt of this written request, the commission may, at its discretion and subject to council approval, grant up to a two-year extension so long as the preliminary plat remains consistent with the master plan and/or ordinances of the city.
- H. *Revision.* If a revision to a previously approved preliminary plat is required, then no application for final plat shall be accepted until the revised preliminary plat has been submitted and approved by the commission and the council. This signed, approved document shall be kept on file as public record in the offices of the city.
- I. *Responsibility.* Notwithstanding the approval of any preliminary plat by the council, commission or the city engineer, the developer and the engineer that prepares and submits such plats shall be and remain responsible for the adequacy of the design and nothing in this ordinance shall be deemed or construed to relieve or waive the responsibility of the developer or his/her engineer for or with respect to any plat submitted.

### **Section 5.2.5 Construction Plans.**

- A. *Purpose.* Construction plans, based upon the approved preliminary plat, and consisting of detailed specifications and diagrams illustrating the location, design, and composition of all improvements identified in the preliminary plat phase and required by this ordinance and other applicable city ordinances, codes and policies, shall be submitted to the city for approval. In addition, any project that necessitates the construction, reconstruction or modification of existing city infrastructure shall also be submitted to the city for approval. The plans shall be kept by the city as a permanent record of required improvements in order to:
1. Provide better records that facilitate the operation and maintenance of, and any future modifications to existing city infrastructure.
  2. Provide data for evaluation of materials, methods of construction and design.
  3. Provide documentation of approved public improvements to ensure that all such

improvements are built to city standards and specifications.

4. No final plat shall be certified by the city, and no construction activities shall commence, until such time as construction plans completely describing the on-site and off-site improvements required by this ordinance and other applicable city ordinances and codes, have been approved by the city engineer.
- B. *Format.* Drawings shall be on twenty-four-inch by thirty-six-inch (24" x 36") sheets at generally accepted horizontal and vertical engineering scales.
- C. *Content.* Construction plans shall include all on- and off-site improvements required to serve the proposed development as indicated on the approved preliminary plat and in compliance with applicable ordinances, codes, standards and policies of the city, and other applicable governmental entities. All construction plans shall be signed and sealed by a registered professional engineer, licensed to practice in the State of Texas, and shall contain or have attached thereto:
1. Cover sheet.
    - a. The appropriate project name, date, and the name, addresses and phone numbers of the owner, developer, engineer and surveyor, etc.
    - b. A location map showing the relation of the subdivision to streets and other prominent features in all directions for a radius of at least one (1) mile using a scale of one inch equals two thousand feet (1" = 2,000'). The latest edition of the USGS 7.5 minute quadrangle map is recommended.
    - c. A legend with all acronyms, line work and hatching defined
  2. Street and roadway systems.
    - a. The horizontal layouts and alignments showing geometric data and other pertinent design details. The horizontal layout shall also show the direction of stormwater flow and the location of manholes, inlets and special structures;
    - b. Vertical layouts and alignments showing existing and proposed centerline, right and left right-of-way line elevations along each proposed roadway;
    - c. Typical right-of-way cross-sections showing pertinent design details and elevations as prescribed in the city standard details and specifications;
    - d. Typical paving sections showing right-of-way width, lane widths, median widths, shoulder widths, and pavement recommendations; and
    - e. Attendant documents containing any additional information required to

evaluate the proposed roadway improvements, including geotechnical information.

3. Drainage improvements.
  - a. Detailed design of all drainage facilities as indicated in the preliminary plat phase, including typical channel or paving section, storm sewers and other stormwater control facilities.
  - b. Typical channel cross-sections, plan and profile drawings of every conduit/channel shall be shown.
  - c. Existing and proposed topographic conditions indicating one-foot contour intervals for slopes less than 5%, two-foot contour intervals for slopes between 5% and 10%, and five-foot contour intervals for slopes exceeding 10%, and referenced to a United States Geological Survey or Coastal and Geodetic Survey benchmark or monument.
  - d. Attendant documents containing design computations in accordance with this ordinance, and any additional information required to evaluate the proposed drainage improvements.
  - e. A copy of the complete application for floodplain map amendment or revision, as required by the Federal Emergency Management Agency (FEMA), if applicable.
4. Erosion and sedimentation controls.
  - a. Proposed fill or other structure elevating techniques, levees, channel modifications and detention facilities.
  - b. Existing and proposed topographic conditions with vertical intervals not greater than one (1) foot referenced to a United States Geological Survey or Coastal and Geodetic Survey benchmark or monument.
  - c. The location, size, and character of all temporary and permanent erosion and sediment control facilities with specifications detailing all on-site erosion control measures which will be established and maintained during all periods of development and construction.
  - d. Contractor staging areas, vehicle access areas, temporary and permanent spoils storage areas.
  - e. A plan for restoration for the mitigation of erosion in all areas disturbed during construction.

5. Water distribution systems.
  - a. The layout, size and specific location of the existing and proposed water mains, pump stations, storage tanks and other related structures sufficient to serve the proposed land uses and development as identified in the preliminary plat phase and in accordance with the city standard details and specifications.
  - b. The existing and proposed location of fire hydrants, valves, meters and other fittings.
  - c. Design details showing the connection with the existing city water system.
  - d. The specific location and size of all water service connections for each individual lot.
  - e. Attendant documents containing any additional information required to evaluate the proposed water distribution system.
6. Wastewater collection systems.
  - a. The layout, size and specific location of the existing and proposed wastewater lines, manholes, lift stations, and other related structures sufficient to serve the land uses and development as identified in the preliminary plat phase, in accordance with all current city standards, specifications, and criteria for construction of wastewater systems.
  - b. Plan and profile drawings for each line in public rights-of-way or public utility easements, showing existing ground level elevation at centerline of pipe, pipe size and flow line elevation at all bends, drops, turns, and station numbers at fifty-foot intervals.
  - c. Design details for manholes and special structures. Flow line elevations shall be shown at every point where the line enters or leaves the manholes.
  - d. Detailed design for lift stations, package plants or other special wastewater structures.
  - e. Attendant documents containing any additional information required to evaluate the proposed wastewater system, and complete an application for state health department approval.
7. Street lighting. The location, size, type and description of streetlights according to city standard details and specifications.
8. Street signs. The location, size, type and description of street signs according to

city standard details and specifications.

9. Sidewalks, Community Paths, Trails. The location, size and type of sidewalks and pedestrian ramps according to city standard details and specifications.
  10. Improvements for parks and other public and common areas - as identified and/or approved on the preliminary plat.
  11. The location, size and description of all protected and significant trees (to remain and to be removed), and replacement trees to meet the requirements of this ordinance.
  12. Landscaping and screening. The location, size and description of all landscaping and screening materials as required by this ordinance.
  13. Design criteria. Final design criteria, reports, calculations, and all other related computations, if not previously submitted with the preliminary plat.
  14. Cost estimates. A cost estimate of each required improvement, prepared, signed and sealed by a professional engineer licensed to practice in the State of Texas.
- D. *Procedure.* After all necessary approvals of the preliminary plat have been granted, construction plans, together with a completed application form and review fee, shall be submitted to the city engineer for approval.
1. Construction plans may be submitted for review and approval simultaneously with a final plat, provided however that the final plat shall not be approved until the construction plans have been approved. If the construction plans and the final plat are to be reviewed simultaneously, a complete application for construction plans and a complete application for final plat must be submitted to the city simultaneously.
  2. City staff shall review all construction plan submittals for completeness at the time of application. If in the judgment of the city, the construction plan submittal substantially fails to meet the minimal informational requirements as outlined above, it will not be accepted for review.
  3. The city engineer shall review the construction plans to insure compliance with this ordinance, and other applicable city ordinances, codes, standards and specifications, and good engineering practices.
  4. For projects located within the city's extraterritorial jurisdiction, the construction plans and attendant documents shall be provided to the county for review and approval. The applicant shall be responsible for any additional information required by the county for construction plan approval.

- E. *Approval.* Within thirty (30) days of the date on which all required information has been accepted for review, the city engineer shall either approve or disapprove the construction plans.
1. If the construction plans are disapproved, the city engineer shall notify the applicant, in writing, of disapproval and indicate the requirements for bringing the construction plans into compliance.
  2. If construction plans are approved, then the city engineer shall sign the cover sheet of the construction plans, returning one (1) signed copy to the applicant and retaining the other signed copy for city records.
  3. The developer should be aware that specific approvals from other agencies may be required.
  4. All improvements shown in the approved construction plans shall be constructed pursuant to and in compliance with the approved plans, except as otherwise specifically approved.
- F. *Revision.* Where it becomes necessary, due to unforeseen circumstances, for corrections to be made to construction plans for which approval has already been obtained, the city engineer shall have the authority to approve such corrections when, in his/her opinion, such changes are warranted and also in conformance with city requirements. Approval of such changes agreed to between the developer and city engineer shall be noted by initialing and dating by both parties on the two (2) original signed copies of the construction plans.
- G. *Responsibility.* Notwithstanding the approval of any construction plans by the council, commission or the city engineer, the developer and the engineer that prepares and submits such plans and specifications shall be and remain responsible for the adequacy of the design of all such improvements; and nothing in this ordinance shall be deemed or construed to relieve or waive the responsibility of the developer or his/her engineer for or with respect to any design, plans and specifications submitted.

#### **Section 5.2.6 Final plat.**

- A. *Purpose.* The final plat provides detailed graphic information and associated text indicating property boundaries, easements, streets, utilities, drainage, and other information required for the maintenance of public records of the subdivision of land.
1. A final plat shall be required for all subdivisions of land except for minor plats.
  2. The final plat shall conform to the approved construction plans and approved preliminary plat.
- B. *Format.* The final plat shall be drawn on twenty-four by thirty-six inch (24" x 36") mylar

sheets at a scale of one (1) inch equals one hundred feet (1" = 100') with all dimensions labeled accurately to the nearest one-tenth (1/10) of a foot. When more than one (1) sheet is necessary to accommodate the entire area, an index sheet showing the entire subdivision at a scale of one (1) inch equals four hundred feet (1" = 400') shall be attached to the plat.

C. *Content.* The final plat shall include all of the tract intended to be developed at one (1) time, and shall contain or have attached thereto:

1. General information.

- a. The proposed name of the subdivision, which shall not have the same spelling or be pronounced similarly to the name of any other subdivision located within the city or within the extraterritorial jurisdiction of the city; provided however, that use of the same base names for different sections or phases is required when the units are contiguous with their namesakes and individually identified by a section number.
- b. A legend with a table, number of lots and blocks, acreage, Patton Survey, and linear feet of new streets date, scale, north point, names and addresses of the owner of record, developer, registered public surveyor, and registered professional engineer if required, platting the tract. The point of beginning labeled on the plat shall be described by the metes and bounds. The engineer and surveyor shall affix their seals to the plat in conjunction with the signing of the certification requirements.
- c. A location map showing the relation of the subdivision to streets and other prominent features in all directions for a radius of at least one (1) mile using a scale of one (1) inch equals two thousand feet (1" = 2,000'). The latest edition of the USGS 7.5 minute quadrangle map is recommended.
- d. Identification and location of proposed uses and reservations for all lots within the subdivision.
- e. The owner's names and the property lines of property within three hundred (300) feet of the subdivision boundary, together with the respective plat or deed references as determined by the most recent tax rolls.
- f. Certification, signature and revision blocks as required by the city and county, including but not limited to the following:
  - (1) Certification from a registered professional engineer and approval by the state health department (if applicable) that water satisfactory for human consumption is available in adequate supply at the time of submission, except that such certification is not

required if the property will be served by the city water system.

(2) Certification from the county health district that a subdivision is located in an area which cannot reasonably be served by an organized wastewater collection system and that the use of septic tank or other means of disposal has been approved by the county health district. Said certificate shall show the limitations, if any, of such approval.

g. Lot area, width and depth, public utility and drainage easements, and setbacks shall conform to the requirements as established for the designated land use as set forth in this ordinance.

2. Existing conditions.

a. The existing property lines, including bearings and distances, of the land being subdivided. Property lines shall be drawn sufficiently wide to provide easy identification.

b. Areas delineating the regulatory 100-year floodplain, if applicable. This information must be certified by a registered professional engineer.

c. The location, dimensions, names and descriptions of all existing and recorded streets, alleys, reservations, railroads, easements or other public rights-of-way within the subdivision, intersecting or contiguous with its boundaries or forming such boundaries, as determined from current deed and plat records. The existing right-of-way width of any boundary street to the proposed subdivision shall also be shown. Easements and rights-of-ways shall be identified by type, owner, width, and identify the conveyance document creating the easement or right-of-way by reference to county record.

d. Location of city limit lines and/or outer border of the city's extraterritorial jurisdiction, as depicted on the city's most recent base map, if either such line traverses the subdivision or is contiguous to the subdivision boundary.

e. Statement from surveyor that all recorded easements are shown on the plat.

3. Survey control information.

a. True bearings and distances to the nearest established street lines, official monuments, or existing subdivision corner which shall be accurately described on the plat and rotated to the state plane coordinate system. Using said system, X and Y coordinates shall be identified for four (4) property corners.



- b. The description and location of all permanent monuments or benchmarks, standard monuments, survey control points and lot pins and a point of beginning.
  - c. Suitable primary control points to which all dimensions, bearings and similar data shall be referenced. At least one (1) corner of the subdivision shall be located with respect to a corner of the original survey of which it is a part.
  - d. Sufficient data shall be shown on the plat for each lot to prove mathematical closure.
4. Improvements.
- a. The location, bearings, distances, widths, purposes and approved names of proposed streets, alleys, easements and rights-of-way to be dedicated to public use.
  - b. Streets. Provide complete curve data (delta, arc length, radius, tangent, point of curve, point of reverse curve, point of tangent, long chord with bearing) between all lot corner pins.
  - c. Watercourses and easements. Provide distances to be provided along the side lot lines from the right-of-way line or the high bank of a stream. Traverse line to be provided along the edge of all major waterways in a convenient location, preferably along a utility easement if paralleling the drainage easement or stream.
  - d. The property lines and number designations of all proposed lots and blocks, with complete bearings, distances and dimensions for front, rear and side lot lines. The surveyor shall certify that all lots meet the city's minimum requirements set forth herein.
  - e. The use, property dimensions, names and boundary lines of all special reservations to be dedicated for public use, including sites for schools, churches, parks and open spaces; common ownership; or subsequent development.
  - f. The location of building setback lines, as required by the city's zoning ordinance and indicated by dashed lines on the plat, and the location, dimensions, and descriptions of all required easements within the subdivision, intersecting, or contiguous with its boundaries or forming such boundaries.
  - g. The proposed location of sidewalks for each street, to be shown as a dotted line inside the proposed right-of-way lines.

5. Support documents. The following supporting documents must accompany the final plat:
  - a. Developer shall include a copy of the approved application for floodplain map amendment or revision, as required by the Federal Emergency Management Agency (FEMA), if applicable.
  - b. If a subdivision is located in an area served by any utility other than the city, the developer shall furnish a letter from such utility certifying their approval of the location of the utility easements shown on the plat and indicating the utility's intent to serve the property, except that said letters are not required if the easements conform to those approved on the preliminary plat.
  - c. If the construction of all improvements needed to serve the subdivision is not completed prior to the filing of the plat for recordation then the developer must provide financial assurance for the completion of the remainder of those improvements in accordance with this ordinance.
6. The applicant shall be responsible for verifying the accuracy of all data submitted.

D. *Procedure.* After approval of the preliminary plat and construction plans for a proposed subdivision, a final plat for that subdivision shall be submitted to the city for commission and council approval before recordation.

1. A final plat may be submitted for review and approval simultaneously with construction plans, provided however that the final plat shall not be approved until the construction plans have been approved. If the final plat and construction plans are to be reviewed simultaneously, a complete application for final plat and a complete application for construction plans must be submitted to the city simultaneously.
2. Legible prints, as indicated on the application form, shall be submitted at least thirty (30) days prior to the regular meeting of the commission at which the final plat is to be heard, along with the following:
  - a. Completed application forms and the payment of all applicable fees.
  - b. Any materials or documents required by the commission and/or council as a condition of preliminary plat approval.
  - c. A letter requesting any variances from the provisions of this ordinance, if not previously approved as part of the preliminary plat, and posted pursuant to the requirements this ordinance.

- d. Two (2) copies of the deed restrictions or covenants, if such documents are to be used. These shall be filed for record in conjunction with the filing of the final plat.
  - e. Certification from all applicable taxing authorities that all taxes due on the property have been paid.
  - f. Performance and maintenance guarantees as required by the city.
  - g. Any attendant documents needed to supplement the information provided on the final plat.
3. For projects located within the city's extraterritorial jurisdiction, one (1) extra copy of the above-referenced items must be provided to the county for review and approval. The applicant shall be responsible for any additional information required by the county for final plat approval.
  4. City staff shall review all final plat submittals for completeness at the time of application. If, in the judgment of city staff, the final plat submittal substantially fails to meet the minimal informational requirements as outlined above, it will not be accepted for review.
  5. Prior to the commission meeting at which the final plat is presented, city staff shall review the plat for consistency with city codes, policies and plans.
  6. City staff shall prepare a report analyzing the final plat submittal, as well as any comments received concerning the preliminary plat. This report shall be available at least five (5) working days prior to the commission meeting.
  7. If the developer chooses to withdraw the final plat, in writing, by noon of the third working day preceding the meeting [of the] commission, the submittal may appear on the next commission agenda after repayment of the applicable fees.
- E. *Notification.* Public notification of final plats filed as part of an approved preliminary plat shall not be required.
- F. *Approval.* The commission and the council, respectively, after holding a public hearing, shall act on the request for final plat approval.
1. The failure of the commission or the council, respectively, to act within thirty (30) days of the final plat filing date shall be deemed an approval of the plat, except as otherwise agreed to by the developer.
  2. For final plats submitted simultaneously with a construction plans, the failure of the commission to act within thirty (30) days of the later of the filing date or the construction plan approval date shall be deemed an approval of the final plat,

except as otherwise agreed to by the developer.

3. The developer shall begin construction of the required public improvements or file a financial surety instrument for the improvements within six (6) months after final plat approval by the commission, or such approval of the final plat shall be void.
  4. Unless the final plat is recorded in the official county records within twelve (12) months after approval by the commission, such approval of the final plat shall be void, except that the developer may apply in writing to allow extension of approval prior to the end of such twelve-month period, stating just cause therefor, and the commission may grant an extension not to exceed one (1) year.
  5. Zoning of the tract, if applicable, that shall permit the proposed use, or any pending zoning amendment necessary to permit the proposed use shall, have been adopted by the council prior to approval of the final plat.
  6. The developer should be aware that specific approvals from other agencies may be required.
- G. *Revision.* If revision of the final plat is required by the commission or the council, then the final plat shall not be recorded until the revised final plat has been resubmitted and approved by city staff for compliance with the commission's requirements, and the council's requirements, if any, established by the council.
- H. *Recordation.*
1. Prior to the recordation of the final plat, three (3) original copies with notarized signatures from the owner and surveyors of the final plat shall be submitted to the city for signatures by the Mayor and Planning & Zoning Commission Chair, and:
    - a. The final plat shall have been approved by the commission pursuant to the provisions of this ordinance.
    - b. All conditions of final plat approval established by the commission shall have been determined to be complete by city staff.
    - c. Construction plans for all required improvements shall have been approved by the city engineer.
    - d. Fees in lieu of park land dedication as required by this ordinance, if applicable, shall have been paid.
    - e. Performance and maintenance guarantees for all required improvements shall have been established pursuant to this ordinance.
    - f. Copies of any agreements required providing for the proper and

continuous operation, maintenance, and supervision of any facilities that are of common use or benefit which cannot be satisfactorily maintained, or which have been rejected for operation and/or maintenance, by an existing public agency shall be executed.

- g. Written acceptance of all improvements required by this ordinance by the city engineer or, in lieu of acceptance, assurance of completion of said improvements pursuant to this ordinance, shall be received by the city.
  - h. Applicable fees pursuant to city ordinance shall be paid.
  - i. Notes shall be added to the plat describing any variances approved by the commission.
2. City staff shall, upon determination that all provisions of this ordinance have been satisfied, and all the above conditions have been met, obtain signatures certifying final plat approval by the chairperson of the commission, and the mayor, as attested to by the city secretary.
  3. Once the original final plat has been certified by the chairperson of the commission and the mayor, city staff shall notify the developer that the original final plat is ready for reproduction.
  4. The developer, at his/her own expense, shall make two (2) photographic mylar copies of the original, signed final plat, and return the photographic mylar copies and the original final plat to the city engineer for recordation.
  5. If the land area represented by the subdivision is located outside the corporate limits of the city on the date of its filing for recordation with the official county records, then it must be approved by the commissioners court of the county prior to recordation. It shall be the responsibility of the developer to be familiar with the process, procedures, and requirements necessary to secure county approval. Such approval shall be evidenced by the signature of the statement of certification by the county judge.
  6. City staff shall, after the photographic mylar copies and the original final plat have been duly recorded in the official county records, return the original final plat to the developer within five (5) working days by notifying the developer that the original final plat is available for pickup at the office of the city engineer.
  7. The city shall keep one (1) photographic mylar copy of the original approved final plat on file as public record as well as a digital copy of the approved final plat onto the My Government Online website in AutoCad format for the City Engineer.
- I. *Responsibility.* Notwithstanding the approval of any final plat by the council, commission or the city engineer, the developer and the engineer that prepares and submits such plats

shall be and remain responsible for the adequacy of the design and nothing in this ordinance shall be deemed or construed to relieve or waive the responsibility of the developer or his/her engineer for or with respect to any plat submitted.

### **Section 5.2.7 Amended plats.**

This section is applicable to amended plats, and is not applicable to replats.

- A. *Purpose.* An amended plat that meets all of the informational requirements set forth in this ordinance may be approved and recorded by the city without vacation of the preceding plat, without a public hearing, and without approval of other lot owners within the platted subdivision provided that any persons with a vested interest affected by the plat amendment sign the plat and application; and that the purpose of the amended plat is:
1. To correct an error in any course or distance shown on the preceding plat; or
  2. To add any course or distance that was omitted on the preceding plat; or
  3. To correct an error in the description of the real property shown on the preceding plat; or
  4. To indicate monuments set after death, disability, or retirement from practice of surveyor charged with responsibilities for setting monuments; or
  5. To show the proper location or character of any monument which has been changed in location, character, or shown incorrectly on the preceding plat; or
  6. To correct any other type of scrivener or clerical error or omission as previously approved by the commission and council; such errors and omissions may include, but are not limited to: lot numbers, acreage, street names, and identification of adjacent recorded plats; or
  7. To correct an error in courses and distances of lot lines between two (2) adjacent lots where lot owners join in the application for an amended plat and neither lot is abolished, provided that such amendment does not attempt to remove recorded covenants or restrictions and does not have a material adverse effect on the property rights of the other owners in the plat; or
  8. To relocate a lot line in order to cure an inadvertent encroachment of a building or improvement on a lot line or on an easement; or
  9. To relocate one (1) or more lot lines between one (1) or more adjacent lots where the owner or owners of all such lots join in the application for the amended plat, provided that such amendment does not attempt to remove recorded covenants or restrictions, or increase the number of lots.

- B. *Format.* The format of an amended plat shall be the same as the format for a final plat.
- C. *Content.* The content of an amended plat shall be the same as the content requirements for a short form final plat.
- D. *Procedure.*
1. The amended plat may be submitted without reapproval of a preliminary plat or construction plans. The amended plat, prepared by a surveyor, and engineer if required, and bearing their seals shall be submitted to the city for approval before recordation of the plat.
  2. Legible prints, as indicated on the application form shall be submitted to the city along with the following:
    - a. Completed application forms and the payment of all applicable fees.
    - b. Certification from all applicable taxing authorities that all taxes due on the property have been paid.
    - c. Any attendant documents needed to supplement the information provided on the plat.
    - d. The city shall require the following note on the amended plat:

This subdivision is subject to all general notes and restrictions appearing on the plat of , Lot(s) \_\_\_\_\_, recorded at Cabinet \_\_\_\_\_, Slide \_\_\_\_\_ of the Plat Records of \_\_\_\_\_ County, Texas.
- E. *Notification.* Public notification and public hearings shall not be required for an amended plat.
- F. *Approval.* The city engineer shall approve any amended plat meeting the requirements of this ordinance within thirty (30) days of receipt of a complete submittal. However, if in the city engineer's determination, the amended plat does not satisfy this ordinance, the city engineer may require the plat to be processed in accordance with the final plat procedures of this ordinance.
- G. *Expiration.* Approval of an amended plat shall expire if said plat is not recorded in the plat records of the county within six (6) months of city approval.
- H. *Recordation.* Recordation of an amended plat shall follow the same recordation provisions of a final plat.
- I. *Responsibility.* Notwithstanding the approval of any amended plat by the city engineer,

the developer and the engineer that prepares and submits such plats shall be and remain responsible for the adequacy of the design and nothing in this ordinance shall be deemed or construed to relieve or waive the responsibility of the developer or his/her engineer for or with respect to any plat submitted.

#### **Section 5.2.8 Minor Plats.**

- A. *Purpose.* The provision of adequate data concerning land use, utility requirements, traffic impact, streets, easements and dedications is vital to ensure the continued health, safety and welfare of the city's residents. Recognizing that the significance of this data is reduced for the small scale projects that are most heavily impacted by the burden of producing this data, the city allows alternate procedures for simple resubdivisions, lot splits, and the platting of existing development and of land proposed for site development where public improvements are not required.
1. Applicants for subdivisions or resubdivisions creating no more than four (4) new lots may follow the procedure set forth below provided that the subdivision meets all of the following criteria:
    - a. The city shall certify that the proposed subdivision meets all the requirements of the minor plat.
    - b. No new public street shall be necessary for each lot to access a public street.
    - c. Each of the lots is contiguous with at least one (1) of the other lots in the subdivision for a distance of at least fifty (50) feet.
    - d. No off-site improvements to the city's infrastructure are determined to be necessary by the city engineer.
    - e. No off-site drainage improvements are determined to be necessary by the city engineer.
  2. The commission may require the standard final plat procedures outlined in this ordinance, if the city determines that the plat is inconsistent with any element of the developer's master plan, or any established city ordinances, codes or policies.
- B. *Format.* The format of the minor plat shall correspond with the format for final plats as required by this ordinance.
- C. *Content.* The content of the minor plat shall correspond with the content for final plats as required by this ordinance, except that:
1. Construction plans may not be required.



2. The city may permit omission of any informational requirements that are determined by the city to place an excessive burden on the applicant, including, but not limited to contours, centerlines of existing watercourses, etc.
3. A boundary survey establishing the limits of the parcel
4. Any improvements, existing or proposed, which impact impervious cover;
5. All fees associated with the plat;
6. Existing zoning of the property if applicable;
7. Thoroughfares and all streets that are adjacent to the property;
8. The city shall require the following note on the final plat.

This subdivision is subject to all general notes and restrictions appearing on the plat of , Lot(s) \_\_\_\_\_, recorded at Cabinet \_\_\_\_\_, Slide \_\_\_\_\_ of the Plat Records of \_\_\_\_\_ County, Texas.

D. *Procedure.* The procedure for review and approval of a short form final plat shall follow the procedure for final plats, except that:

1. The short form final plat may be submitted without approval of a preliminary plat or construction plans. The plat, prepared by a surveyor, and engineer if required, and bearing their seals shall be submitted to the Director of Development Services for approval of the city engineer before submission to the planning and zoning commission and City Council and recordation of the plat.
2. Legible prints, as indicated on the application form shall be submitted at least thirty (30) days prior to the regular meeting of the commission along with the following:
  - a. Completed application forms and the payment of all required fees.
  - b. A copy of the deed restrictions or covenants, if such documents are to be used. These may be filed for record in conjunction with the filing of the plat.
  - c. Tax certificates from all applicable taxing authorities that all taxes due on the property have been paid.
  - d. A petition requesting annexation, if applicable.
  - e. Any attendant documents needed to supplement the information provided on the plat.

3. For projects located within the city's extraterritorial jurisdiction, one (1) extra copy of the above-referenced items must be provided to the county for review and approval. The applicant shall be responsible for any additional information required by the county for short form final plat approval.
- E. *Notification.* Notification procedures for a minor plat shall be the required 72-hour agenda posting if brought before the planning and zoning commission and City Council.
- F. *Approval.* The approval process of a minor plat shall be according to Local Gov't Code section 212.0065(a)(2), Delegation of approval responsibility: minor plats involving four or fewer lots fronting on an existing street and not requiring the creation of any new street or the extension of municipal facilities.
1. Upon meeting the requirements of this section, the city engineer shall approve the minor plat and the Director of Development Services or designee shall submit a copy of the proposed minor plat to the city engineer for his review. Upon meeting his approval, the city secretary shall have the planning and zoning commission chairman and the mayor sign the plat.
  2. Any minor plat not meeting the requirements of this section shall be referred by the Director of Development Services or designee to the planning and zoning commission for consideration and recommendations. Should the planning and zoning commission find the proposed plat complies with this section, the planning and zoning commission shall recommend approval to the city engineer. The planning and zoning commission shall deny any plats found to not comply with the requirements of this section.
  3. The Director of Development Services or designee and the city engineer shall not disapprove the plat and shall be required to refer any plat which the city engineer refuses to approve to the planning and zoning commission and City Council within the time period specified in section 212.009, Local Gov't Code.
- G. *Revision.* The revision process of a minor plat shall be the same as the revision process described for a final plat.
- H. *Recordation.* The recordation procedures of a minor plat shall be the same as the procedures for a final plat.
- I. *Responsibility.* Notwithstanding the approval of any minor plat by the commission, council or city engineer, the developer and the engineer that prepares and submits such plats shall be and remain responsible for the adequacy of the design and nothing in this ordinance shall be deemed or construed to relieve or waive the responsibility of the developer or his/her engineer for or with respect to any plat submitted.

### **Section 5.2.9 Vacation and replats.**

This section is applicable to the vacation and replat of previously approved subdivision plats.

- A. *Vacation.* When no lots within a platted subdivision have been sold or transferred, the developer may request the vacation of the plat prior to the time that the improvements covered by the guarantees are installed, and when such plat is vacated, all fiscal sureties shall be returned to the developer.
  
- B. *Replat.* A platting plan, preliminary plat and final plat shall be required for the replat of any lot, tract, parcel or plat, that does not qualify for treatment as a minor plat. Save and except for the mandatory notices, the procedures to be followed for a replat shall be the same as for the subdivision of any other tract or parcel of land. Compliance with the notice requirements for a replat shall be mandatory.

### **Section 5.2.10 Assurances for completion of improvements.**

- A. *Purpose.* The provisions of this ordinance, as set forth in this section, are designed and intended to insure that, for all subdivisions of land within the jurisdiction of the city, all improvements as required herein are installed in a timely manner in order that:
  - 1. The city can provide for the orderly and economical extension of public facilities and services.
  - 2. All purchasers of property within the subdivision shall have a usable, buildable parcel of land.
  - 3. All required improvements are constructed in accordance with the city standard details and specifications.
  
- B. *General Policy.*
  - 1. Upon approval of a final plat by the commission, and prior to it being signed by the chairperson of the commission and the mayor of the city, and before said final plat shall be allowed to be recorded in the plat records of the county, the applicant requesting final plat approval shall, within the time period for which the final plat has been conditionally approved by the city:
    - a. Construct all improvements as required by this ordinance, and provide a surety instrument guaranteeing their maintenance as required herein; or
    - b. Provide a surety instrument guaranteeing construction of all improvements required by this ordinance, and as provided for herein.
  
  - 2. In all instances, the original copy of the final plat, without benefit of required signatures of city officials, shall be held in escrow by the city and shall not be

released for any purpose until such time as the conditions of this section are complied with.

3. Upon the requirements of this section being satisfied, the final plat shall be considered fully approved, except as otherwise provided for in this ordinance, and the original copy of the final plat shall be signed by the appropriate city officials.
4. Once the original copy of the final plat has been signed by the Mayor and Planning & Zoning Commission, City staff shall notify the applicant to retrieve the plat for recordation in the Travis County Clerk's Office. The applicant will then return one copy of both the recorded plat and recorded tax certificate to the City Development Services office for City records.

C. *Completion of Improvements.* Prior to the signing of the approved final plat by the chairman of the commission and mayor of the City of Jonestown, the developer shall:

1. Complete all improvements required by this ordinance in accordance with the approved construction plans and subject to the approval of the city engineer and acceptance by the city, except as otherwise provided for in this ordinance.
2. Construct all sidewalks as shown on the approved construction plans and according to the city standard details and specifications. Sidewalks must be constructed and approved for each lot prior to issuance of a certificate of occupancy.

D. *Alternative to Completing Improvements.* The city may waive the requirement that the developer complete all improvements required by this ordinance prior to the signing of the approved final plat, contingent upon securing from the developer a guarantee, as provided for by this section, for completion of all required improvements, including the city's cost for collecting the guaranteed funds and administering the completion of improvements, in the event the developer defaults. The commission and council must be notified that this waiver was granted at the time of preliminary plat approval. Such guarantee shall take one of the following forms:

1. Performance bond. The developer shall post a performance bond with the city, as set forth herein, in an amount equal to one hundred ten percent (110%) of the estimated construction costs for all remaining required improvements, using the standard city form.
2. Escrow account. The developer shall deposit cash, or other instrument readily convertible into cash at face value, either with the city, or in escrow with a bank or savings and loan institution. The use of any instrument other than cash shall be subject to the approval of the city. The amount of the deposit shall equal one hundred ten percent (110%) of the estimated construction costs for all remaining required improvements. In the case of any escrow account, the developer shall file with the city an agreement between the financial institution and the developer

guaranteeing the following:

- a. That the funds of said escrow account shall be held in trust until released by the city and may not be used or pledged by the developer as security in any other matter during that period.
  - b. That in the case of a failure on the part of the developer to complete said improvements, the financial institution shall immediately make the funds in said account available to the city for use in the completion of those improvements. Such escrow account agreement shall be prepared using the standard city form.
3. Letter of credit. The developer shall provide a letter of credit from a bank or other reputable institution or individual. This letter shall be submitted to the city and shall certify the following:
- a. That the creditor does guarantee funds equal to one hundred ten percent (110%) of the estimated construction costs for all remaining required improvements.
  - b. That, in the case of failure on the part of the developer to complete the specified improvements within the required time period, the creditor shall pay to the city immediately, and without further action, such funds as are necessary to finance the completion of those improvements, up to the limit of credit stated in the letter.
  - c. That this letter of credit may not be withdrawn, or reduced in amount, until approved by the city according to provisions of this ordinance. Such letter of credit shall be prepared using the standard city form.
4. Cost estimates. A registered professional engineer licensed to practice in the State of Texas shall furnish estimates of the costs of all required improvements to the city engineer who shall review the estimates in order to determine the adequacy of the guarantee instrument for insuring the construction of the required facilities.
5. Surety acceptance. The bank, financial institution, insurer, person or entity providing any letter of credit, bond or holding any escrow account, pursuant to this ordinance, shall meet or exceed the minimum requirements established by city ordinance and shall be subject to approval by the city as provided in the ordinances of the city.
6. Sufficiency. Such surety shall comply with all statutory requirements and shall be satisfactory to the city attorney as to form, sufficiency, and manner of execution as set forth in this ordinance. All such surety instruments shall be both a payment and performance guarantee.

7. If the project is located in the extraterritorial jurisdiction of the city, and is subject to the bonding requirements of the county for the construction of roadways, then that amount of money shall be reduced from the amount required to be posted with the city, provided that the instrument is transferable from the county to the city upon annexation.
- E. *Time Limit for Completing Improvements.* The period within which required improvements must be completed shall be incorporated in the surety instrument and shall not in any event, without prior approval of the city, exceed one (1) year from date of final plat approval.
1. The commission may, upon application of the developer and upon proof of hardship, recommend to the council extension of the completion date set forth in such bond or other instrument for a maximum period of one (1) additional year. Such hardship may include delays imposed due to city projects. An application for extension shall be accompanied by an updated estimate of construction costs prepared by a registered professional engineer, licensed to practice in the State of Texas. A surety instrument for guaranteeing completion of remaining required improvements must be filed in an amount equal to one hundred ten percent (110%) of the updated estimate of construction costs as approved by the city engineer.
  2. The council may at any time during the period of such surety instrument accept a substitution of principal sureties upon recommendation of the commission.
- F. *Failure to Complete Improvements.* Approval of final plats shall be deemed to have expired in subdivisions for which no assurances for completion have been posted or the improvements have not been completed within one (1) year of final plat approval, unless otherwise approved by the city. In those cases where a surety instrument has been required and improvements have not been completed within the terms of said surety instrument, the city may declare the developer and/or surety to be in default and require that all the improvements be installed.
- G. *Inspection and Acceptance of Improvements.* The city engineer shall inspect all required improvements, to insure compliance with city requirements and approved construction plans.
1. When all required improvements have been satisfactorily completed, the city engineer shall either:
    - a. Accept, in writing, the improvements as having been satisfactorily completed; or
    - b. Issue a punch list to the developer denoting items remaining to be completed.

2. The city engineer shall have ten (10) working days to complete this inspection upon notification by the developer.
3. The city engineer shall issue the report within ten (10) working days of the date of inspection.
4. The city shall not accept dedications of required improvements nor release or reduce a performance bond or other assurance, until such time as it determines that:
  - a. All improvements have been satisfactorily completed.
  - b. Two (2) copies of as-built plans have been submitted to and approved by the city engineer, along with a statement prepared by a licensed professional engineer that all improvements have been installed and constructed in accordance with the submitted as-built plans.
  - c. Copies of all inspection reports, shop drawings and certified test results of construction materials have been submitted to and approved by the city engineer.
  - d. Diskette(s) containing computer generated drawings of all public improvements shown on the construction plans have been submitted to the city engineer to update city record drawings.
  - e. The required maintenance guarantee has been provided.
  - f. Any and all other requirements identified in the final plat process have been satisfied.

H. *Reduction or Release of Improvement Surety Instrument.*

1. A surety instrument may be reduced with the approval of the city engineer, and the treasurer/director of finance, upon actual construction of required improvements by a ratio that the improvement bears to the total public improvements required for the subdivision, as determined by the city engineer.
2. Before the city shall reduce said surety instrument, the developer shall provide a new surety instrument in an amount equal to one hundred ten percent (110%) of the estimated cost of the remaining required improvements, and such new surety instrument shall comply with this ordinance.
3. The substitution of a new surety instrument shall in no way change or modify the terms and conditions of the performance surety instrument or the obligation of the developer as specified in the performance surety instrument.

4. In no event shall a surety instrument be reduced below ten percent (10%) of the principal amount of the original estimated total costs of improvements for which surety was given, prior to completion of all required improvements.
5. The city shall not release a surety instrument unless and until all the conditions of this ordinance have been met.

I. *Maintenance Bond Required.*

1. Before the release of any surety instrument guaranteeing the construction of required subdivision improvements or the signing of the final plat where subdivision improvements were made prior to the filing of the final plat for recordation, the developer shall furnish the city with a maintenance bond or other surety to assure the quality of materials and workmanship, and maintenance of all required improvements including the city's costs for collecting the guaranteed funds and administering the correction and/or replacement of covered improvements in the event the developer defaults.
2. The maintenance bond or other surety instrument shall be satisfactory to the city attorney as to form, sufficiency, and manner of execution.
3. Said bond or other instrument shall be in an amount equal to ten percent (10%) of the cost of improvements verified by the city engineer and shall run for a period of one (1) calendar year measured from the date of release of the performance surety instrument, or signing and recording of the final plat whichever is later.
4. In an instance where a maintenance bond or other surety instrument has been posted and a defect or failure of any required improvement occurs within the period of coverage, the city may declare said bond or surety instrument to be in default and require that the improvements be repaired or replaced.
5. Whenever a defect or failure of any required improvement occurs within the period of coverage, the city shall require that a new maintenance bond or surety instrument be posted for a period of one (1) full calendar year sufficient to cover the corrected defect or failure.

*DIVISION 5.3 DESIGN STANDARDS FOR IMPROVEMENTS*

**Section 5.3.1 Generally.**

- A. *Additional Regulations.* In addition to the requirements established by this ordinance, all development within the city limits shall be designed so as to comply with the intent and provisions of the zoning ordinance, building and housing codes, master plan, regulations of the Texas Department of Transportation and the Texas Department of Health, and any other applicable law or regulation adopted by a unit of federal, state or local government; and all development within the extraterritorial jurisdiction of the city shall comply with



this ordinance and all other applicable laws and regulations adopted by a unit of federal, state or local government.

- B. *Standards in General.* The minimum design standards as contained herein shall provide the basic criteria for evaluating proposed development. The city may, however, establish reasonable design requirements in excess of these established minimum standards, or grant variances from those established minimum standards, where by reason of exceptional topographic, cultural, historic, archaeological, hydrologic, or other physical conditions of the property to be developed or of an adjacent tract, the strict adherence to these standards will result in an inappropriate subdivision design or cause unnecessary hardship.
- C. *Coordinated Design.* The quality of life and the community in the Jonestown urban area is dependent on the quality of design of the individual developments in which people live and work. Good community design requires the coordination of the efforts of each developer of land within the urban area. It is intended that the urban area shall be designed as a group of integrated residential neighborhoods and appropriate commercial, industrial and public facilities. Therefore, the design of each development shall be prepared in accordance with the applicable principles established by the master plan for land use, circulation, community facilities and public utility services and in accordance with the following general principles:
1. The neighborhood, is intended as an area principally for residential use. Space for recreational facilities to serve the residents of the neighborhood should be provided and designed as an integral part of each neighborhood. The size of lots and blocks should be designed to provide for adequate water and wastewater service, traffic circulation, light, air, open space, landscaping and off-street parking. The arrangement of lots and blocks and the street system should be designed to make the most advantageous use of topography and natural physical features. Tree masses and large individual trees should be preserved to the greatest extent possible. The system of sidewalks and roadways and the lot layout should be designed to take advantage of the visual qualities of the area.
  2. The components of the street system should in different degrees serve the separate purposes of access to property and safe, efficient movement of traffic. Land use types should be served by roadways whose capacity increases in proportion to the traffic generation of the land use. Design and location of points of access to property should be appropriate to the volume and speed characteristics of traffic utilizing the intersection.
  3. An open space system throughout the urban area should provide a range of active and passive recreation opportunities. Park, open space, trails, and recreation facilities should be located with sensitivity to user population, natural features, traffic generation, and nearby land use.
  4. Land use arrangement and design should minimize the difference in intensity

between adjacent uses in order to provide for the provision of water, wastewater and roadways sufficient to serve the proposed densities and provide for compatible neighboring developments. Step-down patterns of use surrounding major activity centers, combined with buffering techniques, should ensure that residential densities are compatible with each other, and that residential development is not adversely impacted by higher intensity uses.

5. Public utilities and infrastructure should be provided within all subdivisions in order to ensure the health, safety and well-being of the public. Utility capacity should be sufficient to meet accepted standards of service to reasonably anticipated development. Where excess capacity in utility lines or facilities within a subdivision will further the efficient and desirable extension of utilities to adjacent property, equitable provision of such capacity is essential to the orderly growth of the urban area.
- 6 Construction of water, wastewater, drainage, gas, electric, telephone and cable television utilities that require utility cuts of a public street shall be repaired pursuant to applicable city ordinances.

### **Section 5.3.2 Flood hazard and drainage improvements.**

- A. *General.* The flood hazard areas of the city are subject to periodic inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base all of which adversely affect the public health, safety and general welfare. These flood losses are caused by the cumulative effect of obstructions in floodplains causing increases in flood hazard areas by uses vulnerable to floods, or hazardous to other lands, which are inadequately elevated or otherwise protected from flood damages. This section is based upon a reasonable method of analyzing flood hazards, to wit: Travis County flood control data.
- B. *Purpose.* It is the purpose of this section to promote the public health, safety and welfare, and to minimize the losses attributable to water flows and flood hazards. The drainage improvement provisions contained herein are deemed necessary for the following reasons:
  1. Waterways and their associated watersheds within the city's territorial jurisdiction represent significant and irreplaceable recreational and aesthetic resources and contribute directly to the city's public health.
  2. The continued economic growth of the city is dependent on an adequate quality and quantity of stormwater runoff, a pleasing natural environment, recreational opportunities in close proximity to the city as well as the protection of people and property from the hazards of flooding.
  3. All watersheds within the city's jurisdiction, and especially those with abrupt

topography, sparse vegetation, and thin and easily disturbed soil, are vulnerable to flooding due to unregulated development activities.

4. All watersheds within the city's jurisdiction are undergoing development or are facing development pressure.
5. If watersheds within the city's jurisdiction are not developed in a sensitive and innovative manner, their water resources, natural environment, and recreational characteristics may be irreparably damaged.
6. The city should regulate all drainage within the city's jurisdiction for the public benefit and safety, including both the existing and future generations of citizens of the city, as well as for downstream users of each waterway within the city's territorial jurisdiction.
7. Restrict or prohibit subdivision of lands for uses which are dangerous to health, safety or property in times of flood or which, with reasonably anticipated improvements, will cause excessive increases in flood heights or velocities.
8. Require that each subdivision lot in an area vulnerable to floods be provided with a safe building site with adequate access and that public facilities which serve such uses be installed with protection against flood damage at the time of initial construction.
9. Protect individuals from buying lands which are unsuited for intended purposes because of flood hazards by prohibiting the subdivision of unprotected flood hazard lands, requiring that flood hazard areas be delineated on the final plat, and reserving through deed restrictions areas not suitable for development.

C. *Policy.*

1. All drainage improvements within the city's jurisdiction shall be designed in accordance with good engineering practices and this ordinance. A drainage plan for each subdivision shall be prepared by the developer and approved by the city engineer. Such plan shall adequately provide and assume both upstream and downstream build-out within the watershed in which the property is located. The plan and improvements shall include improved drainage channels and systems, culverts, retention and detention ponds, as are reasonably necessary to prevent flooding within the subdivision and, to the extent consistent with good engineering practices to not increase the volume or flow of water from the subdivision onto adjoining property, during a 100-year storm event (unless a higher or more restrictive standard is otherwise required by this ordinance or other applicable law). In the event the city engineer and the developer are unable to agree on the requirements for the drainage plan and improvements in the foregoing manner, the drainage plan and improvements shall be prepared and constructed in conformance with the requirements of the Lower Colorado River

Authority Highland Lakes Watershed Ordinance Manual, as amended, in effect as of the date hereof.

2. The commission shall not recommend approval or approve any plat or plan which does not meet the minimum requirements of this ordinance in making adequate provisions for control of the quantity of stormwater runoff to protect the public health, safety and property, and benefit the present and future owners of property within the development, other lands within the city and neighboring areas.
3. It shall be the responsibility of the developer to design and construct a system for the collection and transport of all stormwater runoff flowing into, and generated within the development, in accordance with:
  - a. The requirements of this ordinance.
  - b. Good engineering practices.
  - c. The Lower Colorado River Authority Highland Lakes Watershed Ordinance Manual, as amended, in the event the city engineer and the developer are unable to agree upon the requirements for the plan and work.
  - d. Approved engineering plans for construction.
  - e. Regulations and principles of law established pursuant to the Texas Water Code.
4. In general, drainage improvements shall be designed and constructed in a manner which promotes the development of a network of both natural and built drainageways throughout the community and so as to:
  - a. Retain natural floodplains in a condition that minimizes interference with floodwater conveyance, floodwater storage, aquatic and terrestrial ecosystems, and ground and surface water.
  - b. Reduce exposure of people and property to the flood hazards and the nuisances associated with inadequate control of stormwater runoff.
  - c. Systematically reduce the existing level of flood damages.
  - d. Ensure that corrective works are consistent with the overall goals of the city.
  - e. Minimize erosion and sedimentation problems and enhance water quality.
  - f. Protect environmental quality, social well-being and economic stability.

- g. Plan for both the large flooding events and the smaller, more frequent flooding events by providing both major and minor drainage systems.
- h. Minimize future operational and maintenance expenses.
- i. Reduce exposure of public investment in utilities, streets and other public facilities (infrastructure).
- j. Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the public.
- k. Acquire and maintain a combination of recreational and open space systems utilizing floodplain lands.

D. *Warning and Disclaimer of Liability.* The degree of flood protection required under this section is considered reasonable for regulatory purposes and is based on engineering and scientific methods of study. Larger floods may occur on rare occasions. Flood heights may be increased by man-made or natural causes, such as ice jams and bridge openings restricted by debris. This ordinance does not imply that areas outside the delineated flood hazard areas or land uses permitted within such areas will be free from flooding or flood damages. This ordinance shall not create liability on the part of the city or any officer or employee thereof for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made thereunder.

E. *Land Suitability.* No land shall be subdivided which is held unsuitable for its intended use for reasons of flooding, inadequate drainage, soil and rock formations with severe limitations for development, susceptibility to mudslides or earthslides, severe erosion potential, unfavorable topography, inadequate water supply or sewage disposal capabilities, or any other feature harmful to the health, safety or welfare of the future residents or property owners of the proposed subdivision or the community at large. However, the planning commission may approve preliminary and final plats if subdividers improve lands consistent with the standards of this and other applicable ordinances to make subdivision area, in the opinion of the planning commission, suitable for their intended uses. The planning commission may also approve the preliminary and final plats if subdividers agree to make suitable improvements and place a sum in escrow pursuant to this ordinance to guarantee performance. In determining the appropriateness of land subdivision at a site, the planning commission shall consider the objectives of this section, and:

- 1. The danger of life and property due to the increased flood heights or velocities caused by subdivision fill, roads, and intended uses.
- 2. The danger that intended uses may be swept on to other lands or downstream to the injury of others.

3. The adequacy of proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination and unsanitary conditions under flood conditions.
4. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.
5. The importance of the services provided by the proposed facility to the community.
6. The availability of alternative locations not subject to flooding for the proposed subdivision and land uses.
7. The compatibility of the proposed uses with existing development and development anticipated in the foreseeable future.
8. The relationship of the proposed subdivision to the comprehensive plan and floodplain management program for the area.
9. The safety of access to the property for emergency vehicles in times of flood.
10. The expected heights, velocity, duration, rate of rise and sediment transport of the floodwaters expected at the site.
11. The costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems, and streets and bridges.

F. *Building Site Improvements.*

1. No subdivision or part thereof shall be approved if proposed subdivision levees, fills, structures or other features will individually or collectively significantly increase flood flows, heights, or damages.
2. Building sites for residences, motels, resorts, or other dwelling accommodation uses shall not be permitted in floodway areas. Sites for these uses may be permitted outside the floodway if the sites are elevated or filled to a height at least 1 foot above the elevation of the regulatory flood or if other provisions are made for elevating or adapting structures to achieve the same result. Required fill areas must extend 5 feet beyond the limits of intended structures and, if the subdivision is not to be sewerred, must include areas for on-site waste disposal.
3. Building sites for structures not included in (f)(2) shall similarly not be permitted in floodway areas. Such sites located outside floodway shall ordinarily be protected as herein provided. However, the planning commission may allow subdivision of areas for commercial and industrial use at a lower elevation if the

subdivider protects the areas to a height of 1 foot above the regulatory flood protection elevation by levees, seawalls, channel modifications, or other protective techniques; or if the subdivider assures that uses will be protected through structural floodproofing, flood warning systems or other techniques specified in this ordinance.

4. If the planning commission determines that only part of a proposed plat can be safely developed, it shall limit development to that part and shall require that development proceed consistent with this determination.
  5. When the subdivider does not intend to develop the plat himself and the planning commission determines that additional use controls are required to insure safe development, it may require the subdivider to impose appropriate deed restrictions on the land. Such deed restrictions shall be inserted in every deed and noted on the face of the final recorded plat.
- G. *Drainage Facilities.* Storm drainage facilities shall be designed to store and convey the flow of surface waters from a 100-year frequency storm without damage to persons or property. The system shall insure drainage at all points along streets, and provide positive drainage away from buildings and on-site waste disposal sites. Plans shall be subject to approval by the planning commission. The planning commission may require a primarily underground system to accommodate frequent floods and a secondary surface system to accommodate less frequent floods. Drainage plans shall be consistent with local and regional drainage plans.
- H. *Roads.* The finished elevation of proposed streets shall not be below the regulatory flood protection elevation. The planning commission may require, where necessary, profiles and elevation of streets to determine compliance with this requirement. Drainage openings shall be sufficient to discharge flood flows without unduly increasing flood heights.

### **Section 5.3.3 Transportation Improvements.**

- A. *Purpose.* The planning for a thoroughfare system is essential for the continued efficient movement of people and goods, and the master plan shall serve as a guide for the location and scale of future collector and arterial streets. The precise alignment of thoroughfares included in the plan may be varied to allow adjustments that increase the compatibility of the right-of-way with natural or man-made features such as steep slopes, waterways, wildlife habitats, neighborhoods, historic structures or existing roadways.
- B. *Policy.* All transportation improvements including streets, driveways, sidewalks, bikeways, traffic control, and parking areas within the city's jurisdiction shall be designed in accordance with good engineering practices and the city's Comprehensive Plan; provided that, in the event the city engineer and the city are unable to reach a satisfactory agreement with the developer as to the requirements for any transportation increment or improvement, the issue and matter shall be resolved using the standards and policies

set forth in the City of Austin's Transportation Criteria Manual, as amended. The City of Austin's Transportation Criteria Manual shall be a primary resource and shall be and become applicable in the event that the city engineer and the developer are unable to reach agreement acceptable to the planning commission and the City Council with respect to the streets, transportation plan and all transportation-related improvements within any development or subdivision. The City of Austin's Transportation Criteria Manual, as amended, is hereby adopted for such purposes, except as follows:

1. All references to the Austin Metropolitan Area Transportation Plan shall be construed to mean the City of Jonestown's Comprehensive Plan;
2. Paragraph 3.6.3;
3. Compact parking spaces will not be allowed;
4. All references to Austin zoning districts as they pertain to street classifications, trip generation, recommended pavement design, off-street parking requirements;
5. Appendix F; and all references to the City of Austin, including its departments, boards or divisions shall be the same departments, boards or divisions within the City of Jonestown. Where such departments, boards or divisions do not exist within the city, such references shall be construed to mean the commission, the city engineer or other representative authorized by the City Council to perform such functions on the city's behalf.

C. *Streets.*

1. Street layout. Adequate streets shall be provided by the subdivider and the arrangement, character, extent, width, grade, and location of each shall conform to the comprehensive plan of the city and shall be considered in their relation to existing and planned streets, to topographical conditions, to public safety and convenience, and in their appropriate relationship to the proposed uses of land to be served by such streets. The street layout shall be devised for the most advantageous development of the entire neighborhood.
2. Relation to adjoining street system. Where necessary to the neighborhood pattern, existing streets in adjoining areas shall be continued, and shall be at least as wide as such existing streets and in alignment therewith.
3. Projection of streets. Where adjoining areas are not subdivided the arrangements of streets in the subdivision shall make provision for the proper projection of streets into such unsubdivided areas.
4. Street jogs. Whenever possible, street jogs with centerline offsets of less than 125 feet shall be avoided.



5. Half-streets or adjacent streets. In the case of collector, minor, or marginal access streets, no new half-streets shall be platted.
6. Street intersections. Street intersections shall be as nearly at right angles as practicable, giving due regard to terrain and topography.
7. Dead-end streets. Dead-end streets shall be prohibited except as short stubs to permit future expansion.
8. Cul-de-sacs. Except as provided herein, a cul-de-sac street shall have a turnaround of not less than 100 feet in diameter and shall not exceed 1,000 feet in length or serve access to more than 25 residential lots, whichever is less; except that a longer length may be allowed if the planning and zoning commission determines that any of the following conditions exist:
  - a. That no secondary access can be reasonably provided to the portion of the subdivision which is to be served by the cul-de-sac; or
  - b. That limited access to the subdivision is due to a topographical condition on the property or a particular physical surrounding; or
  - c. That the cul-de-sac is temporary, and the road is planned to extend into the adjacent property in the future.
9. Marginal Access Streets. Where a subdivision has frontage on an arterial street, there shall be provided a marginal access street on both sides or on the subdivision side of the arterial street, if the arterial street borders the subdivision, unless the adjacent lots back up to the arterial street, or unless the commission determines that such marginal access streets are not desirable under the facts of a particular case for adequate protection of the lots and separation of through and local traffic.
10. Streets on comprehensive plan. Where a subdivision embraces a street as shown on the comprehensive plan of the city, such street shall be platted in the location and of the width indicated by the comprehensive plan.
11. Minor street. Minor streets shall be laid out so as to discourage their use by through traffic.
12. Pavement widths and rights-of-way. Pavement widths, which shall be curb back to curb back, and rights-of-way shall be as follows:
  - a. Arterial streets shall have a right-of-way width of at least 80 feet, with a pavement width of at least 60 feet.
  - b. Collector streets shall have a right-of-way of at least 70 feet and a

pavement width of at least 44 feet.

- c. Intermediate streets shall have a right-of-way of at least 60 feet and a pavement width of at least 36 feet.
- d. Minor streets shall have a right-of-way of at least 60 feet with a pavement width of at least 31 feet.
- e. Nonresidential marginal access streets shall have a right-of-way width of at least 60 feet and a pavement width of at least 36 feet.
- f. Residential marginal access streets shall have a right-of-way width of at least 60 feet and a pavement width of at least 31 feet.

13. Pavement and rights-of-way width for adjacent streets.

- a. The subdivider shall dedicate a right-of-way of 80 feet in width for new adjacent arterial streets, and 36 feet of such right-of-way shall be paved.
- b. New adjacent collector, minor or marginal access streets shall conform to paragraph (c)(12) of this section
- c. Where the proposed subdivision abuts upon an existing street or half-street that does not conform to paragraph (c)(12) of this section, the subdivider shall dedicate right-of-way sufficient to make the full right-of-way width conform to paragraph (c)(12), and there shall be paved so much of such right-of-way as to make the full pavement width comply with paragraph (c)(12). Before any pavement is laid to widen existing pavement, the existing pavement shall be cut back 2 feet to assure an adequate sub-base and pavement joint.

14. Curbs. Curbs shall be installed by the subdivider on both sides of all interior streets, and on the subdivision side of all streets forming part of the boundary of the subdivision.

15. Street names. Names of new streets shall not duplicate or cause confusion with the names of existing streets, unless the new streets are a continuation of or in alignment with existing streets, in which case names of existing streets shall be used.

16. Construction standards. All streets shall be paved with a minimum of one and one-half inches (1-1/2") of compressed hot mix with a minimum of 8" of base over a proper subbase; provided that such shall be the minimum requirements and the subdivider shall comply with any higher standards established pursuant to ordinance or provided in the city standard details and specifications.

- D. *Street Lighting.* Street lighting shall be installed by the developer for all new streets within the jurisdiction of the city, and shall be designed and constructed in accordance with city standard details and specifications. Unless a lesser requirement shall be provided therein, streetlights shall be installed by the subdivider at all street intersections within the subdivision.
- E. *Street Signage.* Street signs shall be installed by the developer at all intersections within and immediately adjacent to a proposed development, and shall be designed and constructed in accordance with city standard details and specifications.
- F. *Sidewalks.* Sidewalks shall be installed by the developer on both sides of all streets within and immediately adjacent to a proposed development, and shall be designed and constructed in accordance with city standard details and specifications. This provision related to sidewalk width shall control over other conflicting provisions of this code.
  - 1. On Residential and Collector Streets. Pedestrian concrete walkways (sidewalks) not less than six (6) feet wide shall be required within a residential subdivision on both sides of residential and collector streets, and sidewalks not less than six (6) feet wide shall be provided within all nonresidential developments and along all perimeter arterials, for both residential and nonresidential developments, Root barriers will be required underneath, and along with the construction of, all public sidewalks per the City's adopted technical construction standard specifications, particularly in locations where trees are (or will be) in close proximity to the sidewalk. Barrier-free ramps shall be constructed at all street intersections and at any other locations deemed appropriate by the City due to anticipated pedestrian travel patterns. Sidewalks shall be constructed within the street right-of-way, one (1) foot away from the right-of-way line, and at least five (5) feet away from the street curb. In certain instances, the City Council may, at its sole discretion, approve placement of the sidewalk adjacent or closer than five (5) feet to the curb provided that such placement benefits the general public by allowing more space for landscaping, such as for street trees, screening shrubs, and decorative walls and fences, and provided that the width is increased to a minimum of six (6) feet of sidewalk pavement or to such a width as may be needed in the interest of public safety.
  - 2. On Perimeter Roadways or Arterials to Development. All sidewalks along a perimeter roadway or arterial are considered part of the overall development's required public improvements and shall be installed prior to acceptance of the subdivision by the City and prior to Final Plat approval, unless surety is provided and as authorized by the City's ordinances. In any event, a Certificate of Occupancy will not be issued for any lot within the subdivision until the required sidewalks are in place or appropriate surety is provided. The cost and provision of any perimeter sidewalks, such as along major thoroughfares, may be escrowed as a part of a developer's agreement, if approved by the City Council. The City has the right, but not the obligation, to refuse escrow and to require paving of the sidewalks if, in its sole opinion, immediate provision of

the sidewalks is necessary for safe pedestrian circulation or if it would otherwise protect the public health, safety, convenience or welfare.

3. **Fee in Lieu of Construction.** When the subdivision requirements are waived in accordance with the City's code, the Planning and Zoning Commission may recommend and the City Council may require the payment of a fee-in-lieu of construction of the sidewalk(s) to the City Sidewalk Fund, as approved by the City. Payments will be calculated based on the linear feet of sidewalk waived as set out in Appendix A, Fee Schedule, of the City Code of Ordinances and be used for the sole purpose of equipping public streets within the City with sidewalks . The fee in lieu of sidewalks shall be paid in full to the City prior to the recording of the Final Plat.
- G. *Maintenance of Private Streets.* The developer of any subdivision in which private streets are approved for construction shall establish a property or homeowner's association, or similar entity, (the "POA") that will have a binding, continuing responsibility for the maintenance and operation of the private streets and shall establish adequate funding for such maintenance and operation. The POA's maintenance obligation shall be noted on the plat and in the restrictive covenants filed of record for the subdivision in a form that is acceptable to the city. The restrictive covenants shall provide for a monthly or annual assessment sufficient to fund the maintenance and operation of the private streets, shall give the city the authority to judicially enforce the covenants requiring adequate assessments to be made and collected and the streets to be maintained and repaired; and shall provide for the city to recover any attorney fees and expenses incurred in judicial enforcement. Compliance with this section shall be a condition of final plat approval.
- H. *Private Streets; Required Easements.* The developer of any subdivision in which private streets are approved for construction shall grant the city a public safety easement and a public utility easement over the private streets in the subdivision in the form acceptable to the city, said public utility easement to include cable and telecommunications utilities. Compliance with this section shall be a condition of final plat approval.

#### **Section 5.3.4 Water utility improvements.**

- A. *Policy.* Developers shall be responsible for providing an approved public water supply system consistent with the master plan, this ordinance and the rules and regulations of the entity providing or to provide water to the development.
1. Where an approved public water supply or distribution main is within reasonable distance of the subdivision as determined by the commission, but in no case less than one-half (1/2) mile away and connection to the system is both possible and permissible, the developer shall be required to bear the cost of connecting the development to such existing water supply. In some instances, the city may request that the main water connection be oversized or rerouted to suit future water system improvements in that area. In such cases, the city will reimburse the developer the costs of oversized or rerouting such connections.

2. The developer shall, consistent with all existing ordinances, make a pro-rata contribution to funding of needed storage facilities, treatment facilities, and specific distribution lines as determined necessary by the city. Under extraordinary circumstances, these provisions may be varied with the approval of the council and commission.

B. *Design.*

1. The design and construction of a public water system shall:
  - a. Comply with regulations covering extension of public water systems adopted by the Texas Commission on Environmental Quality ;
  - b. Be of sufficient size to furnish adequate domestic water supply and fire protection services to all lots, and to conform with the Comprehensive Plan for the city;
  - c. Be located where maintenance can be accomplished with the least interference with traffic, structures and other utilities;
  - d. Be designed in an effort to eliminate the need for booster pumps or other similar devices;
  - e. Not propose water mains less than eight (8) inches in diameter, with consideration for four- and six-inch pipe in cul-de-sacs and looped streets;
  - f. Be acceptable, without penalty, to the state fire insurance commission. To that end, the following fire flows shall be required:
    - (1) Principal mercantile and industrial areas: 3,000 gpm;
    - (2) Light mercantile areas: 1,500 gpm;
    - (3) Congested residential areas: 750 gpm;
    - (4) Scattered residential areas: 500 gpm;
  - g. Include fire hydrants:
    - (1) At a minimum spacing of 600 feet for residential developments;
    - (2) Within 300 feet of all sides of a nonresidential development;
    - (3) At the end of all cul-de-sac streets, or similar dead-end water distribution lines; and
    - (4) For fire flows calculated with twenty-pound residual pressure;
  - h. Include valves on each fire hydrant lead, at each intersection of two (2) or more mains, and valve spacing so that no more than 30 customers will be without water during a shutoff;

- i. Be designed and constructed in accordance with city standard details and specifications; and
- j. Be designed and constructed to comply with all applicable rules, regulations and policies of the entity that will provide water service to the development. The design of private water systems shall include backflow prevention assemblies for domestic and fire protection systems that are directly or indirectly connected to the city's potable water distribution system.

#### **Section 5.3.4.1 Private water wells**

- A. On the effective date of this article, all private water wells that are inoperative, abandoned or operating without a valid permit shall be capped in accordance with state statutes, rules, regulations and directives or apply for a permit. All private water wells existing, operational and having a valid permit issued by the city on the effective date of this section shall be subject to the following requirements:
  - 1. Permits. Prior to re-working any well, the owner of the property and/or the person to re-work the well must submit an application for a permit. An owner of an unplatted residential parcel of five (5) acres or more may request a permit to drill a water well for non-commercial use. A permit fee in the amount set forth in appendix A to this code shall be paid at the time the application is filed, including any fees for review by the City engineer. The application for any permit required by this code shall include: the name and address of the owner and operator of said well; the name and address of the contractor re-working or drilling the well and the estimated cost of the work; the legal description of the property on which the well is to be re-worked or drilled together with a plat showing the exact location of the well on said property; and a statement concerning the extent of re-working, if any, the location of the well in conjunction with the items listed in subsection (2) below, the well construction and the work to be done thereon.
    - a. No permit for the reworking of or drilling of a new water well in the City will be granted unless the City engineer determines that the re-working or proposed new well complies with the location, safety and construction standards required by city ordinances or code, and any other applicable local, state and federal rules, regulations and laws, including but not limited to applicable rules and regulations of the Lower Colorado River Authority ("LCRA") and the Texas Commission on Environmental Quality ("TCEQ")."
  - 2. Location. Water well sites that are operating must be in compliance with state, federal and local laws, rules, directives and regulations and located so that there will be no danger of pollution from flooding or from unsanitary surroundings, such as privies, sewage, sewage treatment plants, livestock and animal pens, solid

waste disposal sites or underground petroleum and chemical storage tanks and liquid transmission pipelines, or abandoned and improperly sealed wells.

- a. Water wells shall be a minimum horizontal distance of 50 feet from any watertight sewage and liquid waste collection facility.
- b. Water wells shall be a minimum horizontal distance of 150 feet from any concentrated sources of contamination, such as existing or proposed livestock or poultry yards, privies, septic system absorption fields, evapotranspiration bed, improperly constructed water wells or underground petroleum and chemical storage tank and drainfields.
- c. Water wells shall comply with applicable rules and regulations of the Lower Colorado River Authority, and in the event of a conflict with the regulations in this article, the most stringent regulation shall apply.
- d. No well site shall be within 500 feet of a sewage treatment plant or within 300 feet of a sewage wet well, sewage pumping station or a drainage ditch which contains industrial waste discharges or the wastes from sewage treatment systems.
- e. No water wells shall be within 500 feet of animal feed lots, solid waste disposal sites, lands on which sewage plant or septic tank sludge is applied, or lands irrigated by sewage plant effluent.
- f. Livestock shall not be allowed within 50 feet of a well site.
- g. Sanitary or storm wastewaters constructed of ductile iron or PVC pipe meeting state water well standards for such materials, having a minimum working pressure of 150 psi or greater, and equipped with pressure type joints may be located at distances of less than 50 feet from a well site but in no case shall the distance be less than ten feet.
- h. Water wells shall be operated at a site not subject to flooding; provided, however, that if a well is in a floodprone area, it shall be protected with a watertight sanitary well seal and steel casing extending a minimum of 24 inches above the known flood level.
- i. Water wells shall be located at least 150 feet from each property line of the lot on which the well is located.

#### **Section 5.3.5 Wastewater utility improvements.**

- A. *Policy.* Developers shall be responsible for providing an approved wastewater system, consistent with the master plan, this ordinance and the rules and regulations of the entity providing or to provide wastewater service to the development, throughout the

development, such that all lots, parcels, or tracts of land will be capable of connecting to the wastewater system except as otherwise provided herein.

1. Where an approved public wastewater collection main is within reasonable distance of the subdivision as determined by the commission, but in no case less than one-half (1/2) mile away and connection to the system is both possible and permissible, the developer shall be required to bear the cost of connecting his development to such existing wastewater system. In some instances, the city may request that the main wastewater connection be oversized or rerouted to suit future wastewater system improvements in that area. In such cases, the city will reimburse the developer the costs of oversizing or rerouting such connections.
  2. The developer shall, consistent with all existing ordinances, make a pro-rata contribution to funding of needed lift station facilities, treatment facilities, and specific collection lines as determined necessary by the city. Under extraordinary circumstances, these provisions may be varied with the approval of the council and commission.
- B. *Design.* The design and construction of wastewater collection systems, lift stations, inverted siphons and septic systems shall comply with regulations covering extension of public wastewater systems, and other applicable regulations, adopted by the Texas Natural Resources Conservation Commission and the Texas Department of Health. Under extraordinary circumstances, these provisions may be varied with the approval of the council and commission.
1. All new public wastewater systems shall be designed and constructed to operate on a gravity flow basis by taking advantage of natural topographic conditions and thereby reducing the need for lift stations and force mains.
  2. Flow determinations should include generally accepted criteria for average daily flow, inflow and infiltration, peaking factors, minimum slopes and minimum flow velocities.
  3. The minimum size of any public wastewater line will be six (6) inches in diameter.
  4. Public wastewater lines shall be located where maintenance can be accomplished with the least interference with traffic, structures and other utilities. Minimum separation distance from water utilities shall be in accordance with the rules adopted by the Texas Natural Resource Conservation Commission.
  5. Manholes shall be located so as to facilitate inspection and maintenance, including intersections, horizontal alignment changes, vertical grade changes, change in pipe size or material, and force main discharge points.
  6. All wastewater appurtenances shall be designed and constructed in accordance with city standard details and specifications.



7. All wastewater systems shall be designed and constructed to comply with all applicable rules, regulations and policies of the entity that will provide wastewater service to the development.

### **Section 5.3.6 Blocks and lots.**

Except as provided otherwise in this section, the terms and provisions of the zoning ordinance establishing the minimum lot area, width, setback line, side yard and rear yard requirements for each zoning or use category are incorporated herein by reference. Such regulations and standards shall be applied to property within the city limits based upon the zoning of the property and to property within the extraterritorial jurisdiction based on agreement of, and the land use proposed by, the developer.

#### **A. *Blocks.***

1. The length, width, and shape of blocks shall meet the following standards:
  - a. Provide adequate building sites (lots) suitable to the special needs of the type of use designated on the plat;
  - b. Accommodate lots of the size and dimensions required by this section;
  - c. Provide for convenient access, circulation, control, and safety of street traffic;
  - d. Minimize reductions in the capacity of adjacent streets in so far as possible by reducing the number of turning movement conflicts;
  - e. Provide an appropriate response to the limitations and opportunities of topography; and
  - f. Increase the ability of building sites (lots) to receive or to be protected from solar gain as the season requires in order to improve utility efficiency and increase the livability of each lot.
  - g. Provide fire and police access to ensure public safety.
2. Residential blocks shall not exceed one thousand three hundred (1,300) feet nor be less than five hundred (500) feet in length, except as otherwise provided for herein.
3. Blocks along arterial streets shall not be less than one thousand six hundred (1,600) feet.
4. The width of blocks shall be sufficient to accommodate two (2) tiers of lots with

minimum depth as required by this section, exceptions to this width shall be permitted in blocks adjacent to major streets, railroads, waterways, or other topographical features prohibiting a second lot tier.

5. The commission may, at the preliminary plat phase, require the dedication of an easement or right-of-way not less than ten (10) feet wide bisecting the center of any block in excess of eight hundred (800) feet in length to accommodate utilities, drainage facilities, and/or pedestrian access to greenbelts or park areas.
  6. Blocks shall be identified on each plat by consecutive adjacent numbers within each subdivision and portion thereof. Blocks forming a continuation of a previous subdivision block shall continue the block letter.
- B. *Lots.* All land area within the boundaries of the subdivision or re-subdivision except that area specifically dedicated as public right-of-way for any purpose shall be designated as a lot.
1. The required lot area, width, building setback line, front, side, street side and rear yard requirements for each lot as established in the zoning ordinance are incorporated herein by reference; provided that, except as may be specifically provided otherwise (for the specific land use proposed) by and amendment to the zoning ordinance adopted subsequent to the date of this ordinance, the minimum size of any lot developed within the corporate limits of the city shall be one acre.
    - a. Within the city limits such requirements and standards shall be based on the zoning of the property; except as provided above with respect to lot size; and
    - b. Within the extraterritorial jurisdiction, such requirements and standards shall be based on the agreement of, and land use proposed by, the developer; provided that, in no event, shall any lot be less than one acre in size.
  2. The minimum lot size for all lots shall further be dependent upon the availability of central sewage disposal system service.
    - a. Lots to be served by the central sewage system shall have a minimum area and size as provided in (2)(A). Except as specifically permitted for certain uses authorized by an amendment to the zoning ordinance adopted subsequent to the date of this ordinance, the minimum size of any lot developed within the corporate limits of the city or its ETJ shall be one acre.
    - b. Lots to be served by septic systems shall be a minimum of one acre in size, or larger dependent on soils and percolation tests, and shall conform to the county regulations based on percolation tests.

3. Each lot shown on a plat shall be clearly designated by a number located within the boundaries of the lot. The boundaries of each lot shall be shown by bearing and distance in relation to the monuments found or established on the ground in conformance with this ordinance.
4. For developments within the corporate limits of the city, the proposed use for each lot shall be indicated on the plat, and in accordance with the city's zoning ordinance.
5. For developments within the city's ETJ, the proposed use for each lot shall be indicated on the plat, and consistent with similar uses as defined in city's zoning ordinance.
6. All lots shall be rectangular, except when the street alignment is curved, in order to conform with other provisions of this ordinance.
7. No lot shall have a corner intersection of less than forty-five (45) degrees.
8. The ratio of average depth to average width shall not exceed two and one-half to one (2.5:1) nor be less than one and one-half to one (1.5:1).
9. All lots shall face and have contiguous frontage on a usable, dedicated public road right-of-way except lots within a PUD which may have similar frontage on a private street under common ownership. The extent of this frontage (front line) shall conform to the minimum lot width requirements set forth in the city's zoning ordinance.
10. Except as otherwise approved through the granting of a variance, all lots shall face a similar lot across the street.
11. Lot lines common to the street right-of-way line shall be the front line. Side lot lines shall project away from the front line at approximately at right angles to street lines and radial to curved street lines. The rear line shall be opposite and approximately parallel to the front line.
  - a. The length and bearing of all lot lines shall be indicated on the plat; and
  - b. Wherever feasible, lots arranged such that the rear line of a lot or lots is also the side line of an adjacent lot shall be avoided. When this occurs, ten (10) feet shall be added to the minimum lot width and the side building line adjacent to the rear yard of another lot.
12. Lot area, width, and depth shall conform to the requirements as established in the zoning ordinance. For developments outside the corporate limits of the city, but within the city's extraterritorial jurisdiction, lot size shall be consistent with similar uses as defined in the zoning ordinance.

13. Double frontage lots.
  - a. Residential lots shall not take access on two (2) nonintersecting local and/or collector streets; and
  - b. Residential lots adjacent to an arterial street shall also have frontage on a local street. Vehicular access to these lots shall be from the local street only. Nonresidential lots with double frontage shall have offset access points to inhibit cut-through traffic.
14. Reverse frontage lots. Residential lots with rear yards facing highways, access roads, and major or minor arterial streets should be at least 130 feet in depth so as to provide adequate rear yard area for screening and buffering of the rear of the structure, as required by this ordinance.
15. Corner lots.
  - a. Lots having frontage on two (2) or more intersecting streets shall be classified as corner lots;
  - b. Corner lots adjacent to streets of equal classification shall have only one (1) access driveway on either of the intersecting streets, except as otherwise approved by the commission;
  - c. Corner lots adjacent to streets of unequal classification shall access the lower classification street only and only one (1) drive approach shall be allowed, except as otherwise approved by the commission;
  - d. Corner lots shall contain at least one (1) street side building setback line; and
  - e. Corner residential lots shall be ten (10) feet wider than the average interior lot on the same block.
16. Building setback lines.
  - a. Each lot shall have a building setback line which runs parallel to the property line.
  - b. The front and rear building setback lines shall run between the side lot lines.
  - c. The side building setback lines, and street side building setback lines for corner lots, shall extend from the front building setback line to the rear building setback line.

- d. The building setback line for each designated lot shall conform to the city's zoning ordinance, as currently amended. For developments outside the corporate limits of the city, but within the city's extraterritorial jurisdiction, building setback lines shall be consistent with similar uses as defined in the zoning ordinance.
  - e. All building setback lines shall be indicated on the subdivision plat. For nonresidential developments, a note stating that "all building setback lines shall be in accordance with the city's current zoning ordinance" shall be placed on the plat.
17. Yard areas. The area between the property line and the front, side or rear building setback line shall be the required front, side and rear yard areas, respectively.
- a. No structure or impervious construction shall be allowed in the front yard area except for fences, driveways, sidewalks, utility distribution lines and appurtenances within dedicated easements and rights-of-way, and/or drainage structures; and
  - b. No structures or impervious construction shall be allowed in required side or rear building setback areas except for the following accessory structures on one-, two- or three-family residential lots:
    - (1) Playscapes not taller than nine (9) feet above mean grade, located at least three (3) feet from the property line and screened by a six-foot-tall privacy fence;
    - (2) Satellite dishes or telecommunications devices not taller than nine (9) feet above mean grade, located at least three (3) feet from the property line and screened by a six-foot-tall privacy fence; and/or
    - (3) Driveways to side entry garages.
18. Lot access.
- a. A minimum of one (1) all-weather access area (either individually, or common to more than one lot) or driveway shall be provided for lot connecting the lot to an existing or proposed dedicated public street. An exception may be made for lots within a planned unit development which may have similar access to a private street. Each lot shall front upon a public street or, in the case of a planned unit development, have access by way of access easement sufficient to meet the requirements of the Standard Fire Prevention Code.
  - b. All driveway approaches shall be constructed to conform with the provisions of this ordinance, and the city standard details and specifications.

19. Lot numbering.
  - a. All lots are to be numbered consecutively within each block. Lot numbering may be cumulative throughout the subdivision if the numbering continues from block to block in a uniform manner that has been approved on an overall preliminary plat.
  - b. Any lot(s) being resubdivided shall be renumbered utilizing the original lot number, followed by a letter designation starting with "A".
  - c. Lot easements. Public utility easements on side and rear lot lines shall be required as needed to accommodate public utility and drainage appurtenances, and as specified in this ordinance.
20. Lot drainage. Lot drainage shall be in conformance with this ordinance.

#### **Section 5.3.6 Easements.**

- A. All existing and proposed easements, safety lanes, and rights-of-way shall be clearly indicated on the plat or plan by width and conveyance document, as well as an indication [as] to the use of each easement or right-of-way and certified by the surveyor.
- B. No permanent structure may be placed in or over any easement or right-of-way except a structure whose use and location are necessary to the designated use of the right-of-way or easement or which otherwise will not affect the use, maintenance or repair of such easement.
- C. The width and alignment of all easements or rights-of-way to be dedicated shall be determined by the city engineer, any applicable utility provider and the commission, and approved by the commission, and shall be accompanied by a written statement of dedication on the plat.
- D. Easements shall be established and dedicated for all public utility and drainage appurtenances, including common access areas, and other public uses requiring dedication of property rights.
- E. In so far as practicable, easements shall not be centered on a property line, but shall be located entirely on one (1) side of a lot.

#### **Section 5.3.7 Affected development area.**

- A. *Affected Development Area.* The following described property area (herein the "development area") shall have additional development requirements and must also comply with this subsection. In case of a conflict between another provision of this article and this subsection, the more restrictive shall apply.

1. All the land area that was released from Austin's ETJ and that is located between the northernmost corporate limits of Jonestown and a line on the south that is generally described as follows: Beginning near the Little Devil's Hollow of Lake Travis at the southeast corner of the property annexed by Jonestown on January 22, 1999; thence generally in a westerly direction and then northeasterly direction with the meanders of the corporate boundary of Jonestown (as established by the January 22, 1999 annexation) and the boundary line of the Marshall's Point Subdivision (hereinafter "MPS") to a point for corner; thence with the northernmost boundary of the MPS to the northeast corner of the MPS; thence in a northwesterly direction with the northerly boundary of a 533.382 acre tract of land described in a deed, dated September 3, 1987, to George K. Marshall Trust and George K. Marshall III, of record at Volume 10402, Page 572, Official Records of Real Property of Travis County, Texas, to the northwest corner of said 533.382 acre tract; thence in a north, northeasterly direction with the easterly boundary line of Travis Hollow Subdivision, Section 3, as shown on the plat of record at Book 78, Page 394-397, Plat Records of Travis County, Texas, to the most north, northeasterly, corner of Travis Hollow, Section 3; thence with the easterly boundary line of Travis Hollow Subdivision, Section 1, as shown on the plat of record at Book 76, Page 141, Plat Records of Travis County, Texas, and an extension of said line beyond the most north, northeasterly, corner of Travis Hollow, Section 1, to a point of intersection with the south right-of-way ("ROW") line Adrian Way Street; thence westerly with the meanders of the south ROW line of Adrian Way Street to a point of intersection with the most easterly ROW line of FM 1431; and
  2. All that certain area of Lake Travis that was released from Austin's ETJ, that abuts or is adjacent to the geographic area that is between the northernmost corporate boundary of Jonestown and the above-described southerly line, and that is within one thousand one hundred feet (1,100') of the 681 elevation contour line above mean sea level (as established by the United States Geological Survey in effect as of the date hereof).
  3. All that certain area released from Austin's ETJ that is more particularly shown and described in Appendix "D" attached hereto and incorporated herein for all purposes.
  4. All that certain area released from Austin's ETJ that is more particularly shown and described in Appendix "E" attached hereto and incorporated herein for all purposes.
- B. The following development standards, in addition to other requirements of this article, shall apply to all properties described in subsections (a)(1) and (2):
1. All single-family development will be set back at least 75 feet from the 681-foot contour line above mean sea level, as established by the United States Geological Survey in effect as of the date hereof. All condominium units, apartments and

commercial buildings (excluding any marinas) will be set back at least 100 feet from said 681-foot contour line.

2. Temporary erosion and sedimentation controls as required by the LCRA under section 5(c) of the Lower Colorado River Authority Highland Lakes Watershed Ordinance Manual, as amended, in effect as of the date hereof, and those controls of the City of Austin as provided in section 25-8-181 of the City of Austin Land Development Code in effect as of the date hereof, will be implemented.
  3. Permanent water quality controls equivalent to or better than that required under the City of Austin Land Development Code in effect as of the date hereof will be implemented, designed, constructed and maintained according to the City of Austin Environmental Criteria Manual as determined by comparing calculations under the City of Austin's requirements with those under the proposed controls.
  4. Impervious cover will be limited to twenty percent (20%) of the net site area, as defined by City of Austin Land Development Code section 25-8-62 over the property for any lot developed with any retail, condominiums, apartments or office commercial uses.
  5. A minimum average lot size of one acre shall be maintained on all residential lots in the planning area.
  6. Cut and fill is limited to four feet (4') maximum, provided that cut and fill over four feet (4') shall be permitted if the cut/fill slope is terraced to control erosion and sedimentation.
  7. Detention of the 2-year storm for erosion control or, as an alternative, non-erosive conveyance of stormwater to Lake Travis, will be provided as required under City of Austin Land Development Code chapter 25-7 (drainage) and the City of Austin Drainage Criteria Manual.
  8. A building envelope that encompasses the limits of building disturbances will be established and required for residential construction on any lot.
  9. All of the 100-year floodplain located within the Jonestown Release Area shall be dedicated to the Jonestown as a drainage easement in accordance with the City of Jonestown's development rules. For the purpose of this paragraph, the 100-year floodplain shall be determined based on fully developed conditions.
  10. Jonestown shall provide notice of all site plan or subdivision plat approvals by the City of Jonestown to the City of Austin within 72 hours of such approval.
- C. The following development standards, in addition to other requirements of this article, shall apply to all properties described in subsection (a)(3):



1. A minimum average lot size of one acre shall be maintained on all lots that are served by on-site septic systems.
2. Density of lots served by on-site septic systems may not exceed one single-family unit per acre, provided that a minimum of 40% of the total site area is open space.
3. The city may approve density not to exceed 1.5 single-family units per acre for lots that are connected to a wastewater treatment facility, provided that a minimum of 40% of the total site area is open space.
4. The city may approve additional density not to exceed 2 single-family units per acre for lots that are connected to a wastewater treatment facility and for which a minimum of 40% of the total site area is open space according to the following requirements:
  - a. One additional single-family unit for every two acres of land dedicated for irrigation of wastewater effluent;
  - b. One additional single-family unit for each acre of land permanently preserved by instrument acceptable to the city as undeveloped open space;
  - c. One additional single-family unit for each living unit equivalent (LUE) of wastewater treatment capacity in excess of that required to serve the development that is used to disconnect existing on-site septic systems.
5. Cut and fill is limited to four feet (4') maximum, provided that cut and fill over four feet (4') shall be permitted if the cut/fill slope is structurally engineered by a licensed structural engineer or terraced to control erosion and sedimentation.
6. Development is prohibited on a slope with a gradient that exceeds thirty-five percent (35%). This prohibition does not apply to a fence, driveway, road or utility that cannot be reasonably placed elsewhere, or a pedestrian facility.
7. Detention of the 2-year storm for erosion control or, as an alternative, non-erosive conveyance of stormwater to Lake Travis, will be provided as required under City of Austin Land Development Code chapter 30-4 (drainage) and the City of Austin Drainage Criteria Manual.
8. A building envelope that encompasses the limits of building disturbances will be established and required for residential construction on any lot.
9. All of the 100-year floodplain located within the properties described in subsection (a)(3) shall be dedicated to the city as a drainage easement in accordance with applicable city rules and regulations. For the purpose of this subsection, the 100-year floodplain shall be determined based on fully developed

conditions.

10. The city shall provide an annual status report to the director of the City of Austin Watershed Protection and Development Review Department of the options used by developers to obtain additional density, which report shall include the following:
    - a. Developments that have connected to a wastewater treatment facility;
    - b. The number of septic systems that have been disconnected on the properties described in subsection (a)(3);
    - c. The number of acres dedicated for irrigation of wastewater effluent; and
    - d. The number of acres permanently preserved for open space. The developer or owner of property subject to this subsection shall provide the city with information as necessary to complete the annual status report.
- D. The following development standards shall apply to all properties described in subsection (a)(4):
1. Lake Travis Critical Water Quality Zone (LTCWQZ). A critical water quality zone shall be established along and parallel to the shoreline of Lake Travis. For Lake Travis this coincides with the 681-foot contour line. The width of the critical water quality zone, measured horizontally inland, is 100 feet, or for a detached single-family residence, 75 feet. Development within the LTCWQZ that may be submerged from time to time below the 681-foot contour line is prohibited, except that a boat dock, pier, wharf, or marina and necessary access are allowed, provided that such is allowed by the city's zoning ordinance and otherwise complies with applicable local, state, and federal regulations, including regulations applicable to building materials set forth in chapter 3.
  2. Development will comply with the 2006 LCRA Highland Lakes Watershed Ordinance, as amended from time to time, and the 2006 LCRA Water Quality Management Technical Manual, as amended from time to time.

#### *DIVISION 5.4 IMPROVEMENTS*

##### **Section 5.4.1 General**

- A. All subdivision improvements shall be designed and installed in accordance with all applicable elements of the master plan and shall meet the minimum requirements established by this ordinance and city standard details and specifications.

- B. *Types of Improvements.* In the absence of any provision to the contrary, the developer shall provide the following improvements, as approved in the construction plans, in conformance with the standards, specifications and the requirements of this ordinance.
1. Drainage improvements, including storm sewer lines and inlets, channels, swales, detention facilities, and other related appurtenances.
  2. Transportation improvements, including streets, alleys, bridges, street lighting, street signage, and sidewalks.
  3. Water utilities including water distribution lines, fire hydrants, valves, and water storage facilities.
  4. Wastewater utilities including wastewater lines, manholes, and lift stations.
  5. Park land and/or trails.
  6. Utility improvements for electric, telephone, gas and cable television services shall be installed in conformance with the terms and regulations of the provider of said utility and the ordinances and codes of the city.
- C. *Continuity of Improvements.* All improvements shall be designed and installed so as to provide for a logical system of utilities, drainage and streets and to create continuity of improvements for the development of adjacent properties. Water, wastewater, transportation and drainage improvements shall be extended to the perimeter of the development, except that the commission is authorized to vary or modify the requirement for extending water, wastewater, transportation and drainage improvements to the perimeter of a subdivision in accordance with the procedural requirements contained in this ordinance.
- D. *Plans for Improvements.* Plans for the improvements required by this ordinance shall be prepared, reviewed and approved in accordance with the provisions set forth in this ordinance.
- E. *Acceptance of Improvements.*
1. During the course of installation and construction of the required improvements, the city engineer or his/her designated representative shall make periodic inspections of the work to insure that all improvements comply with city requirements.
  2. Upon completion of all required improvements, the developer may seek acceptance of all public improvements by the city by following the procedures set forth in this ordinance.

- F. *Maintenance of Improvements.* Where a subdivision contains drainage, transportation, water or wastewater improvements, parks and grounds held in common, or other physical facilities necessary or desirable for the welfare of the area, or that are of common use or benefit which will not be, or cannot be, satisfactorily maintained by an existing public agency, provision shall be made which is acceptable to the City Council for the proper and continuous operation, maintenance, and supervision of such facilities. A copy of the agreements providing for the proper and continuous operation, maintenance and supervision of such facilities shall be presented to and approved by the council, and approved as to form by the city attorney, at the time of final platting and shall be filed of record with the plat thereof.

#### **Section 5.4.2 Park land dedication.**

- A. *Dedication of Public Park Land Required.* It shall be required that a developer of any residential subdivision within the city's territorial jurisdiction set aside and dedicate to the public sufficient and suitable lands for the purpose of public park land, including shared use paths and community trails or make an in-lieu financial contribution for the acquisition of such park land and/or improvements and amenities in accordance with the provisions of this ordinance.
1. All plats receiving final plat approval based on this ordinance shall conform to the requirements of this section.
  2. The council and developer may negotiate the combination of public park land dedication and/or payment of fees in lieu of required park land to satisfy the provisions of this ordinance.
    - a. Where an area of less than five (5) acres is required to be dedicated, the city shall have the right to accept the dedication for approval on the final plat, or to refuse same, after consideration of the recommendation of the planning commission, and to require payment of cash instead of land in the amount provided hereinafter if the city determines that sufficient park area is already in the public domain and in the area of the proposed development, or if the parkland recreational needs of the area would be better served by expanding or improving existing parks. Such recommendations shall be given after submittal and review of the preliminary plat.
    - b. If a subdivider seeks to dedicate land for a public park classification that is not suitable by reason of being floodprone, topography, location, accessibility, or for any other similar reason, the city shall not be obligated to accept such as park land dedication; and the council may require additional land in the subdivision to be so dedicated or that payment in lieu of dedication be made.
    - c. Where a subdivider proposes to pay an in-lieu fee as provided for in this

section, the council may accept such payment as satisfying the park land dedication requirements of this ordinance, except that the city reserves the right to require the dedication of land for public park purposes in accordance with this section when one (1) or more acres of land would be required to satisfy the park land dedication requirements of this ordinance.

- d. The City Council may, in its discretion, accept a combination of land and payment in-lieu for the purpose of the developer satisfying the requirements of this section.
- B. *Formula for Calculating Area of Park Land.* The acreage of park land to be contributed prior to final approval by the council of any residential subdivision shall be equal to one (1) acre for each one hundred (100) new dwelling units projected to occupy the fully developed subdivision, or 5% of the total project area, whichever is greater.
- C. *Fee Payment in Lieu of Park Land Dedication.* When the amount of land required to be contributed is less than (5) acres, the council may require the developer to pay a fee in lieu of park land dedication.
1. Where the payment of a fee in lieu of park land dedication is required or acceptable to the council as provided for in this ordinance, such fee shall be in an amount as established in Appendix A: Fee Schedule.
  2. The developer shall pay said fee to the city prior to recordation of the final plat.
- D. *Subdivision Changes.* If a developer obtains commission approval to deviate from the approved preliminary plat thereby increasing the number of dwelling units projected, or where the use of property is changed from a nonresidential use to a residential use, the owner or developer shall be obligated to provide additional land or fee [and] provide the park land or amenities required for the additional dwellings prior to the city approving the final plat for recordation.
- E. *Final Platting of a Portion of an Approved Preliminary Plat.* Whenever a developer applies for approval of a final plat which contains only a portion of the land encompassed in the approved preliminary plat, the developer's park land contribution shall be based on the ultimate number of dwelling units shown on the approved preliminary plat, and shall be satisfied prior to city approval of the first final plat.
- F. *Design Standards for Park Land.* Any land to be dedicated as park land shall be reasonably located near the geographic center of the development, adaptable for use as a public park and recreation facility as defined by the master plan, and designed and located so as to satisfy the following general requirements:
1. The dedicated land should form a single parcel or tract of land at least three (3) acres in size unless it is determined that a smaller tract would be in the public

interest, or that additional contiguous land will be reasonably available for dedication to or purchase by the city.

2. Public access to public park land delineated on a preliminary plat shall be ensured by provision of at least fifty (50) feet of street frontage, in a manner satisfactory to the city. Likewise, adequate space for public parking should also be considered.
  3. At the time the land abutting the delineated areas is developed, the developer of such abutting land shall construct streets along all abutting street frontage, and shall provide water and wastewater utilities to the boundary of one (1) side of the delineated area to meet minimum requirements of this ordinance.
  4. The land to be dedicated to meet the requirements of this ordinance should be suitable for public parks and recreation activities. In that regard, fifty percent (50%) of the dedicated land area should not exceed five percent (5%) grade. The master plan for the city shall be considered when evaluating land proposals for dedication.
  5. Any disturbed park land shall be restored and the soil stabilized by vegetative cover by the developer.
  6. Areas within the regulatory 100-year floodplain may be utilized to partially meet the parkland dedication requirements. Areas in the 100-year floodplain may constitute up to fifty percent (50%) of the requirement of land dedication; provided that credit may not be obtained for such land that is also dedicated for another public purpose.
  7. The location of park land may be required at the edge of a subdivision so that additional land may be added at such time as adjacent land is subdivided or acquired for public use. Otherwise a centralized location is preferred.
  8. City staff shall make recommendations based upon the park land design standards and the provisions contained herein, concerning the amount and location of park land, credit for private park land and/or facilities, credit for land in the 100-year floodplain, and fees in lieu of park land dedication.
  9. All park areas and playground equipment shall be in accordance with the U.S Consumer Products Safety Commission, Publication 325, as currently amended.
- G. *Park Fund Established.* A separate fund to be entitled “park fund” shall be and is hereby created and the money paid by developers at final plat approval in lieu of the dedication of land and interest thereon, shall be held in said fund in trust to be used solely and exclusively for the purpose of purchasing and/or equipping public park and recreational land. Such fund shall be invested or held in an interest-bearing account and all earnings and interest shall accrue to the park fund.

1. At such time as the City Council, based upon the recommendations of the commission and/or city staff determines that there are sufficient funds derived from a certain area in the park fund to purchase usable park land, the council shall cause negotiations to be undertaken to purchase the site by mutual agreement or by condemnation proceedings. In making such determination for the purchase of said site, the conditions of this ordinance shall be taken into consideration.
  2. The principal and interest deposited and kept in the park fund shall be used solely for the purpose of purchasing and/or equipping or improving land for public park and recreation uses, and shall never be used for maintaining or operating public park facilities, or for any other purpose.
- H. *Method of Dedication.* Land accepted for dedication under the requirements of this ordinance shall be conveyed by either of the following methods:
1. By warranty deed transferring the property in fee simple to the city.
  2. In any event, land must be free and clear of any mortgages or liens at the time of such dedication or conveyance.

#### *DIVISION 5 ADMINISTRATION*

##### **Section 5.5.1 General.**

For all development of land within the scope of this ordinance, a plan of the development shall be prepared and submitted to the city for approval or disapproval, as provided for in this ordinance.

- A. *City Responsibilities.* The city shall administer the provisions of this ordinance and in furtherance of such authority, the city shall:
1. Maintain permanent and current records with respect to this ordinance, including amendments thereto.
  2. Receive and file all concept plans, preliminary plats, construction plans, and final plats together with applications therefor.
  3. Forward copies of the preliminary plat, construction plans, and final plat to the county, when the development is located within the city's extraterritorial jurisdiction.
  4. Review all concept plans, preliminary plats, construction plans, and final plats to determine whether such plats comply with this ordinance.
  5. Forward plans and plats to the commission as required by this ordinance, together with its recommendations thereon.

6. If required, forward plans and plats to the council, together with the recommendations of the commission and city staff.
  7. Make such other determinations and decisions as may be required of the city by this ordinance, the commission or the council.
- B. *Interpretation of Provisions.* In the interpretation and application of the provisions of this ordinance, the following regulations shall govern:
1. In the city's interpretation and application, the provisions of this ordinance shall be regarded as minimum requirements for the protection of the public health, safety, comfort, convenience, prosperity and welfare. This ordinance shall be regarded as remedial and shall be liberally construed to further its underlying purposes.
  2. Whenever both a provision of this ordinance and any other provision of this ordinance, or any provision in any other law, ordinance, resolution, rule or regulation of any kind contains any restrictions covering any of the same subject matter, whichever restrictions are more restrictive or impose higher standards or requirements shall govern.
  3. Where there arises a question concerning the meaning or intent of a provision of this ordinance, the city is hereby implored to render a written decision setting forth the exact manner in which said provision shall be interpreted and administered. In the event exception is taken by any interested party to such a decision the matter shall be appealed to the commission, and, as appropriate, to the City Council, whose decision shall be final.
  4. Any written decision shall be attached to and made a part of this ordinance, until rescinded by amendment of this ordinance as provided for herein.
  5. The terms, provisions and conditions of this ordinance shall be interpreted and applied in a manner consistent with chapter 212, Tex. Loc. Gov't. Code, and, particularly as to property within the extraterritorial jurisdiction of the city, section 7(c).
- C. *Consistency with the Master Plan.* All subdivision plats and development plans shall conform to the master plan for the community and be consistent with all of the elements thereof. Where the proposed subdivision plat or development plan is at variance with one (1) or more of the elements of the master plan, the developer may petition the city for amendment to the particular element or elements of the master plan either prior to, or concurrent with, submitting a request for subdivision plat or development plan approval. Inconsistency with the provisions of the master plan shall be grounds for disapproval of the subdivision plat or development plan by the city.
- D. *Consistency with the Zoning Ordinance.* All development projects within the corporate



limits of the city shall be in conformance with the zoning ordinance. Where the proposed subdivision plat or development plan requires a zoning classification or approval other than that currently applying to the property to be developed, the developer shall make appropriate application to secure the necessary zoning classification or approval such that the proposed development would comply with the zoning ordinance. Any subdivision plat or development plan for land within the city that does not have the proper zoning classification or approvals shall be denied by the city at or near the time of application.

### **Section 5.5.2 Voluntary annexation.**

For projects located in the city's extraterritorial jurisdiction, and at the time of subdivision plat or development plan submittal, the developer should consider making a request for voluntary annexation to the City of Jonestown, Texas, for any subdivision or development which will impact the city and have effect on any of the following:

1. City water and wastewater utilities.
2. City services (including police, fire, sanitation, emergency services).
3. City park and recreation facilities.
4. City's drainage system.
5. Other city facilities (including library, streets, hospital, etc.).

### **Section 5.5.3 Variances.**

A variance to the provisions of this ordinance shall be considered an exception to the regulations, rather than a right. Whenever a tract to be developed is of such unusual size or shape or is surrounded by development of such unusual conditions that the strict application of the requirements contained in this ordinance would result in substantial hardship or inequity, the commission may vary or modify, except as otherwise indicated, such requirement of design as provided for herein, but not of procedure or improvements, so that the developer may improve his/her property in a reasonable manner, but so that, at the same time, the public welfare and interests of the city are protected and the general intent and spirit of this ordinance are preserved in accordance with the following provisions:

- A. *Jurisdiction.* When a written request for a variance from the design requirements of this ordinance is filed:
  1. The commission may approve such written request for variances to the design standards and such variance(s), if granted, shall also be considered to be a modification of the zoning regulations, but not the zoning districts, applicable to the specified property within such development within the city limits; or
  2. Would constitute a major departure from the applicable provisions of this ordinance for such features as: lot size, setback lines, etc., such variance request shall be considered by the council in accordance with its powers and procedures as set forth in the zoning ordinance, and their decision shall be final; and

3. After giving notice of such requested variances, the commission may consider each such variance request during the course and process of considering the application for subdivision plat approval given or granted.
- B. *Notification.* The notification procedures for variance requests shall be the same as the notification procedures described for a concept plan.
- C. *Approval.* In granting approval of a request for variance, the commission and council shall conclude that the variance is not contrary to the public interest and, due to special conditions, a literal enforcement of this ordinance would result in unnecessary hardship, and so that the variance observes the spirit of this ordinance and concludes that substantial justice is done. The commission and council shall meet these requirements by making findings that:
1. The public convenience and welfare will be substantially served;
  2. The appropriate use of surrounding property will not be substantially or permanently impaired or diminished;
  3. The applicant has not created the hardship from which relief is sought;
  4. The variance will not confer upon the applicant a special right or privilege not commonly shared or available to the owners of similar and surrounding property;
  5. The hardship from which relief is sought is not solely of an economic nature;
  6. The variance is not contrary to the public interest;
  7. Due to special conditions, the literal enforcement of the ordinance would result in an unnecessary hardship; and
  8. In granting the variance the spirit of the ordinance is observed and substantial justice is done.

#### **Section 5.5.4 Conditions for issuing a building permit.**

No building permit shall be issued for any new structure or change, improvement or alteration of any existing structure, on any lot or tract of land and no municipal utility service will be furnished to such lot or tract which does not comply with the provisions of this ordinance and all applicable elements of the master plan, except as herein exempted or upon the written application and approval of a variance.

(Previously Chapter 10 – Subdivision Regulation)

### **Section 5.5.5 Fees.**

To defray the costs of administering this ordinance, the applicant seeking plat approvals shall pay to the city, at the time of submittal, the prescribed fees as set forth in the current administrative fee schedule approved by the council, and on file in the office of the city.

(Previously Chapter 10 – Subdivision Regulation)

### **Section 5.5.6 Amendments.**

The council may, from time to time, adopt, amend and make public rules and regulations for the administration of this ordinance. This ordinance may be enlarged or amended by the council after public hearing, due notice of which shall be given as required by law.

(Previously Chapter 10 – Subdivision Regulation)

### **Section 5.5.7 Violations.**

Except as otherwise provided for in this ordinance, it shall be unlawful for any person, firm or corporation to develop, improve or sell any lot, parcel, tract or block of land within the city's territorial jurisdiction for other than agricultural purposes, regardless of the size or shape of said lot, parcel, tract or block, unless such lot, parcel, tract or block of land conforms with this ordinance.

(Previously Chapter 10 – Subdivision Regulation)

### **Section 5.5.8 Enforcement.**

- A. *Penalty.* Any person who shall violate any of the provisions of this ordinance, or shall fail to comply therewith, or with any of the requirements thereof, within the city limits shall be deemed guilty of an offense and shall be liable for a fine not to exceed the sum of two thousand dollars (\$2000.00). Each day the violation exists shall constitute a separate offense. Such penalty shall be in addition to all the other remedies provided herein.
- B. *Administrative Action.* The city engineer and/or the city administrator shall enforce this ordinance by appropriate administrative action, including but not limited to the rejection of plans, maps, plats and specifications not found to be in compliance with this ordinance and good engineering practices, and the issuance of stop work orders.
- C. *Court Proceedings.* Upon the request of the City Council the city attorney or other authorized attorney shall file an action in the district courts to enjoin the violation or threatened violation of this ordinance, or to obtain declaratory judgment, and to seek and recover court costs and attorney fees, and/or to recover damages in an amount sufficient for the city to undertake any construction or other activity necessary to bring about compliance with a requirement regarding the property and established pursuant to this ordinance.

(Previously Chapter 10 – Subdivision Regulation)

### **Section 5.5.9 Amendment.**

The council hereby amends Ordinance Number 86-O-33, and each amending ordinance thereto, in their entirety; provided that such ordinances shall remain in force and effect as herein provided with respect to plats submitted prior to the effective date of this ordinance. This ordinance providing comprehensive regulations and standards for the platting of property and development of subdivisions within the city and its extraterritorial jurisdiction shall be known as the “platting regulations.”

## ***ARTICLE 6 ACCESS, DRIVEWAYS, AND CIRCULATION***

### **Section 6.1 Generally**

This section shall be known as Access, Driveways, and Circulation.

### **Section 6.2.1.1 Excavation or Construction in Right-of-Way**

#### **Section 6.2.1.1 Purpose**

- A. The city owns streets and rights-of-way within the city limits. Damage, injury and failure to repair public streets and rights-of-way will require the city to unnecessarily expend public funds to repair the streets and rights-of-way. It is appropriate for the costs and expenses for repair and construction to be paid by the persons excavating, injuring or damaging public streets or rights-of-way.
- B. The occupation of rights-of-way and streets affects the public health, safety and welfare of the citizens and travelers thereon. Regulating and setting standards for the cutting, excavation, digging, alteration of facilities, addition of facilities, occupation, obstruction and similar activities and requiring permits, bonds, licenses and/or franchises for work in and use of areas in, over, under, through, along and across the public streets and rights-of-way is necessary to protect the public property and general public health, safety and welfare of the citizens and travelers thereon, as well as the value of property abutting or adjoining such public property.
- C. The City Council, after holding a public hearing and accepting comments, has determined that a public necessity exists for the regulation of all construction activities, excavations and installations, repairs and removals of facilities in the streets and rights-of-way in the manner hereinafter provided.

(Previously Chapter 3 – Building Regulations)

#### **Section 6.2.1.2 Findings of Fact**

The findings and recitations set out above in the purpose of this division are found to be true and correct and they are hereby adopted by the City Council and made a part hereof for all purposes.

### **Section 6.2.1.3 Permission Required for Use or Occupation of Street or Right-of-Way; Jurisdiction of City**

- A. The city shall have exclusive dominion, control and jurisdiction in, over, under, through, along and across the streets and rights-of-way, and may provide for the improvement thereof by paving, re-paving, raising, draining, realigning, closing, or otherwise [providing for] the use thereof. The provisions, without limitations, of law providing for assessments against abutting property for street improvements are expressly adopted. Such exclusive dominion, control and jurisdiction in, over, under, through, along and across the streets and rights-of-way of the city shall also include, but not be limited to, the power to regulate, locate, remove or prohibit the location, installation, alteration or removal of any type of facility or other property in, over, under, through, along or across any streets or rights-of-way. The location, alteration or removal, including the route, of all facilities within the rights-of-way or streets shall be subject to the reasonable direction of the city.
  
- B. It shall be unlawful for any owner or contractor, including his or her agents, servants, independent contractors, or employees, to occupy or obstruct any portion of the right-of-way or streets or to perform any construction activity, or to cause another to do the same, for any purpose, in, over, under, through, along or across any street or right-of-way, without first having made all applications for permits and, when required, obtained all permits therefor, together with a bond approved by the building inspector in an amount determined as herein provided, conditioned that the principal therein will discharge all claims of every character arising from or occasioned by such occupancy or construction activity or by reason of damages or injuries sustained by persons or property because of such occupancy, construction activity, excavation or other such activity thereon and discharge all judgments obtained, together with all costs attached thereto, against the city by reason of any such claim, injury or damage sustained. A contractor and owner carrying on any construction activity or excavation shall keep all streets and rights-of-way adjacent to such construction activity or excavation carried on by such contractor or owner in a clean, safe and orderly condition, and unobstructed, except as provided in this division, during all such activities, and shall restore all such streets, rights-of-way, facilities and other structures damaged, altered or injured, in any way, to as good condition as they were before the beginning of such activities. The owner or contractor may, in lieu of providing a separate bond on each permit or construction project, annually file with the city a bond providing the above-required coverage to the city, which bond shall be and remain in effect for a term of one year and applicable to all work performed by the owner or contractor within the city.
  
- C. It shall be unlawful for any person to use or occupy any street or right-of-way for the purpose of providing abutting, adjoining or other property with any utility service, public service, data, voice or video transmission service, or cable television, taxi or solid waste collection service, without having first obtained a franchise or license issued and approved by the City Council, except as specifically provided otherwise by state law.
  
- D. Construction activity, excavation, obstruction or other work shall cease immediately upon the issuance of a stop work order from the building inspector or from any authorized law

enforcement agent of the city. It shall be unlawful to remove a stop work order placed upon a construction or work site until compliance with this division has been accomplished. No work so ordered to stop shall commence after issuance of the stop work order until the violation has been corrected and the building inspector in writing authorizes the contractor to begin again.

- E. It shall be unlawful and a violation of this division for any person, contractor or owner to maintain an existing excavation within the city, or to work upon or assist in any way in the execution or operation of any such excavation, without an excavation permit having been issued by the city in accordance with this division.
- F. It shall be unlawful for the owner of any building or property abutting on any street or right-of-way in the city, or any tenant occupying such building or property, or any other person, to construct, build, operate or maintain any building, facility, or part thereof, including a show window, which extends over any part of any street or right-of-way.
- G. It shall be unlawful to erect, remove, repair, install, build or alter, in any fashion whatsoever, any posts, poles, towers or other facilities that are erected for the purpose of bearing wires, cables or any other transmission media, or to alter in any fashion any existing posts, poles, towers or other facilities that are used in connection with any telegraph, electric light, telephone, street railway, transmission media, radio or like purpose, and none shall be erected, placed, kept or maintained upon any street or right-of-way within the city unless a written permit shall have first been obtained from the building inspector to erect, install, remove, repair, build or alter, in any fashion whatsoever, such posts, poles, towers or other such facility.

(Previously Chapter 3 – Building Regulations)

#### **Section 6.2.1.4 Permission Required for Alteration or Occupation of City Facilities or Lands**

City facilities and lands shall not be altered, obstructed or occupied without the express written permission of the city. Facilities not owned by the city shall not be located closer than ten feet (10') laterally, and shall not be located above or below any city-owned facility located underground, without express written permission from the city. Additionally, no facilities may be located in, over, under, through, along or across any parks, recreational land or other similar city-owned property which is not a street or street right-of-way without the express written permission of the city.

(Previously Chapter 3 – Building Regulations)

#### **Section 6.2.1.5 Inspections; Stop Work Order; Correction of Violations**

- A. *Right to Inspect.* For the purposes of administering and enforcing this division, the building inspector and authorized law enforcement entities (herein “inspecting official”) shall have the right to enter into and upon any lands within the city limits in or upon which excavation, installation, repairs or any other construction activities exist or on any lands on which operations are being conducted in creating an excavation, repair or installation, to examine and inspect such lands and excavations, repairs or installations, to determine

whether such operations are in violation of this division and to further determine whether all permits have been secured as required.

- B. *Stop Work Order.* If the inspection provided for above reveals that the excavation, installation, repair or construction activity is being operated or maintained in violation of the permit issued, including a certificate of occupation, the inspecting official may immediately give notice in writing to the person in charge at the site, or the owner thereof, to stop all work or construction activities, setting forth therein the reason for the issuance of the stop work order. If no such person is available, the leaving of such a written notice, on the equipment located at the site or upon a stake at the entry of the site where the excavation, installation, repair or construction activity is occurring, shall be deemed compliance with this section.
- C. *Time Limit for Correction of Violation.* After issuance of the notice as provided for above, there shall be no further operation of the excavation, installation, repair or any other construction activity until the violations complained of by the inspecting official have been remedied. Except that the violation shall constitute an immediate threat to the public health or safety, the owner and contractor shall have three (3) days from the date of receipt of the complaint notice from the inspecting official to remedy the violations complained of and to request the inspection by the inspector to verify that the violations complained of have been remedied and that the construction activity is ready for additional inspection.
- D. *Failure to Remedy Violation.* In the event a contractor or owner fails to remedy the violation complained of, the building inspector shall notify the city administrator of the violations discovered and request that the City Council hold a hearing to consider revocation of the contractor's and owner's permit as provided in this division. A continuation of work or operation of the construction activity, other than to remedy the violation complained of, after written notice has been received by the contractor or owner to cease the construction activity shall constitute a violation of this division.
- E. *Repair by City.* The city may immediately repair any site or location within the streets or rights-of-way at the contractor's and owner's expense where there exists a known condition which constitutes a nuisance, a dangerous or hazardous condition, or an imminent threat to the public health, safety or welfare; or when the contractor or owner is performing construction activities, excavations, installations or repairs without the appropriate permit; or when the contractor or owner is performing construction activities, excavations, installations or repairs contrary to the terms of this division, other applicable ordinances, or state or federal law and refuses to correct such situation immediately upon direction from the building inspector.

(Previously Chapter 3 – Building Regulations)

#### **Section 6.2.1.6 Responsibility for Costs of Correction of Unauthorized Work**

The reasonable costs and expenses for repairing, reconstructing or correction of any construction activity, excavation, addition, removal or alteration of a facility or any other alteration thereof to

any street, right-of-way, or facilities located thereon, within the city, without a permit or express written contract or written agreement with the city, shall be charged against the persons, the corporation, company, or entity actually responsible for the actions; the owner(s) responsible for the work or for whose benefit such activity was undertaken which caused the damage to the street or right-of-way; and/or the permittee in whose name the permit to perform such activities was issued.

(Previously Chapter 3 – Building Regulations)

#### **Section 6.2.1.7 City's Rights Reserved**

Nothing in this division grants permission for the occupation, obstruction, excavation, repair or alteration of any street or right-of-way of the city, and any such use shall be subject to consent of the city at its sole discretion. Additionally, nothing in this division shall be construed as an assumption by the city, or its officers and employees, of any responsibility to supervise construction activities, to ensure adequate safety precautions by contractors or to protect any owners or customers of any facilities located in, over, under, through, along or across the rights-of-way or streets, or the owners of any property abutting, adjacent or within the rights-of-way or streets, from any damages caused to the facilities located therein or as the result of the construction activities thereto. Further, the city reserves the right to vacate any street or right-of-way at its sole discretion. If the city vacates or otherwise abandons a right-of-way or street or any portion thereof, the city, with or without notice to any permittee, may cancel any permits for such portion of a right-of-way or street without compensation or reimbursement to the permittee for any expenses associated with moving any facilities located therein, unless otherwise agreed in writing. The owner and, as applicable, the contractor shall be solely liable and responsible for any and all injuries and/or damages arising or resulting from any excavation, boring, trench, work or occupation of any street or right-of-way by or on behalf of such owner or contractor.

(Previously Chapter 3 – Building Regulations)

#### **Section 6.2.1.8 Enforcement**

- A. The civil and criminal provisions of this division shall be enforced by those persons or agencies designated by municipal authority and may be enforced by any law enforcement agent of the city.
- B. If applicable, default and revocation of any and all permits granted to allow construction activities in the streets or rights-of-way subject to the procedural guidelines herein and any agreement which applies to the right-of-way user may be permanently enforced, subject to any limitations imposed by federal or state law.
- C. In imposing the penalties and the amount, the city may weigh all applicable factors, such as damages caused by the violation, reasons for the violation, the seriousness of the violation, and all other factors. The minimum fee and penalty that shall be payable by any utility service, public service provider, owner or person that shall be found to have been occupying a street or right-of-way in violation of this division shall be double the amount



of \$1.00 per lineal foot of such occupancy for each year of such prior unauthorized occupancy.

- D. Monetary civil penalties and injunctive relief may be imposed in the manner prescribed by either local or state law.
- E. The City Council may order specific performance of any actions required by this division or required by a franchise, license or permit or any other agreement or authorization.  
(Previously Chapter 3 – Building Regulations)

#### **Section 6.2.1.9 Penalty**

Any person who shall violate any provision of this division or shall fail to comply therewith, or with any of the requirements thereof, shall be deemed guilty of a misdemeanor and shall be liable for a fine not to exceed the sum of five hundred dollars (\$500.00). Each day the violation exists shall constitute a separate offense. Such penalty shall be in addition to all the other remedies provided herein.

(Previously Chapter 3 – Building Regulations)

#### **Section 6.2.1.10 Court Proceedings**

Upon the request of the City Council, the city attorney or other authorized attorney shall file an action in the district courts to enjoin the violation or threatened violation of this ordinance, to obtain declaratory judgment, and to seek and recover court costs, attorney's fees, and/or damages, including but not limited to damages or costs incurred by the city to undertake any construction, repair, alteration or other activity necessary to bring about compliance with a requirement regarding the streets or rights-of-way and established pursuant to this division and other applicable ordinances of the city.

(Previously Chapter 3 – Building Regulations)

#### **Section 6.2.1.11 Indemnification**

Owners and contractors shall indemnify, defend, and hold the city and its officers, employees and agents harmless from and against any and all claims, lawsuits, judgments, costs, liens, losses, expenses, fees (including reasonable attorney's fees and costs of defense), proceedings, actions, demands, causes of action, liability, and suits of any kind and nature, including personal or bodily injury (including death), property damage, or other harm for which recovery of damages is sought that is found by a court of competent jurisdiction to be caused by the negligent act, error, or omission of any agent, officer, director, representative, employee, affiliate, or subcontractor of the owner, contractor or permittee installing, repairing, or maintaining facilities in the rights-of-way or streets.

(Previously Chapter 3 – Building Regulations)

### **Section 6.2.1.12 Governmental Immunity**

Nothing in this division shall be deemed to waive, modify or amend any legal defense available at law or in equity to either the city or its officers, employees and agents, nor to create any legal rights or claims on behalf of any third party. This division is solely for the benefit of the city and the city in its representative capacity of the general public, and does not create or grant rights, contractual or otherwise, to any other person, entity or member of the general public. Neither the city, nor its officers, employees and agents, waives, modifies or alters to any extent whatsoever the availability of the defense of governmental immunity under the laws of the state. (Previously Chapter 3 – Building Regulations)

### **Section 6.2.2 Permit**

#### **Section 6.2.2.1 Generally**

Application for a permit required by section 6.2.1.3 shall be addressed to the city secretary and made on a form furnished for that purpose, detailing the extent, character and purpose of any construction activity or other work to be performed. (Previously Chapter 3 – Building Regulations)

#### **Section 6.2.2.2 Activities Requiring Permit**

The owner or contractor for all construction activity, installations, and similar activities must have applied for and have been issued all of the permits required for the work. A permit shall not be required from any holder of a franchise or license or holder of a permanent occupation permit to perform any minor alteration of an existing facility necessary to initiate service or repair service or for routine maintenance to an individual customer's property unless the repair or maintenance requires excavation or temporary closure of nonresidential traffic lanes. The types of activities which must have a permit issued pursuant to this division are:

- A. *Excavation of Right-of-Way or Street.* Any person considering excavation, cutting, boring, digging or demolition activity in, over, under, through, along or across the streets or rights-of-way shall, in advance of same, submit a design plan to the city for review and comment and shall secure proper permits and/or approvals and pay the fees as required.
- B. *Construction Activity in Right-of-Way or Street.* Any person considering adding, repairing, removing or altering any facility or foliage, whether owned by such person or not, in, over, under, through, along or across the streets or rights-of-way within the city limits shall, in advance of same, submit a design plan to the city for review and comment and shall secure proper permits and/or approvals and pay the fees as required.
- C. *Permanent Structures Occupying Right-of-Way or Street.* The owner of all permanent structures, appurtenances, or facilities, located in, over, under, through, along or across the streets or rights-of-way shall, in advance of installation, placement or construction thereof, submit a design plan and specifications as required herein and as required by the building inspector for review and comment, and shall secure the proper permits and/or

approvals and pay fees as required. The owners of permanent structures, appurtenances or facilities located in, over, under, through, along or across the streets or rights-of-way at the time of passage of this division shall have (60) days to submit an application for a permit and secure such permit before enforcement action may be taken. One application may include all the owner's permanent structures, appurtenances and facilities that are located in, over, under, through, along or across the streets or rights-of-way of the city.

- D. *Temporary Obstruction of Right-of-Way or Street.* Any person desiring to temporarily occupy or obstruct any portion of any street or right-of-way for the purpose of placing thereon material or rubbish for or from construction activities, obstructing any portion of any street or right-of-way for any purpose whatsoever connected with any construction activities, or erection, installation, removal, alteration or repair of any facility or other structure or excavation that will temporarily obstruct any street or right-of-way shall apply to the building inspector for a permit for such temporary obstruction and shall secure the proper permits, approvals and pay fees as required.

(Previously Chapter 3 – Building Regulations)

### **Section 6.2.2.3 Fees**

In the event an application is made for a permit to perform any construction activity in any of the streets or rights-of-way, such permit shall be subject to the following permit fees to cover the costs and expenses of the city. Acceptance of any such permit shall constitute an acceptance by the permittee of the conditions of the permit and any of the obligations and duties to repair any cut, damage, injury or excavation in full compliance with the requirements set forth in part V of this division. Payment for each such permit shall be made with the application for the permit. No permit shall be issued for less than the required permit fee.

- A. *Construction Permit Minimum Fee.* The fee for each permit required pursuant to this division for any construction activities, other than excavations, including but not limited to, installation, removal, repair, addition or other alteration of any facilities or foliage in the rights-of-way or streets shall be the amount set forth in appendix A to this code, plus the amount of any other permit fees and any engineering or other professional fees reasonably incurred by the city for and with respect to such permit. In the event that the permit is recommended for issuance, an additional fee in the amount set forth in appendix A shall be paid in advance prior to issuance of the permit for the purpose of inspecting the site during the construction process.
- B. *Excavation Permit Minimum Fee.* The fee for each permit required pursuant to this division for any drilling, boring, cutting or otherwise any excavation of any portion of the rights-of-way or streets shall be the amount set forth in appendix A, plus the amount of any other permit fees and any engineering or other professional fees reasonably incurred by the city for and with respect to such permit. In the event that the permit is recommended for issuance, an additional fee in the amount set forth in appendix A for the duration of the permit shall be paid in advance prior to issuance of the permit for the purpose of inspecting the site during the excavation process.

- C. *Professional Fees.* In addition to the above permit fees, the city shall be fully reimbursed for all reasonable costs associated with activities in the streets or rights-of-way pursuant to this division that require inspection, plan review or any other reasonable overview or action by an engineer or other professional. All engineer and other professional fees shall be paid prior to issuance of a permit. Permits shall not be issued to, and may not be maintained by, any person owing engineer or other professional fees to the city.
- D. *Plumbing Permit Fees.* Any person who desires to install, repair or alter any pipelines, tubes or pipes in which any water, solid waste, gas, oil or other such product may flow, in or under the rights-of-way or streets, shall submit to the building inspector the plans and specifications showing the proposed improvements. It shall be the duty of the building inspector, when such plans and specifications have been submitted, to cause a qualified plumbing inspector to make an inspection of the proposed improvements. An inspection fee equal to the estimated time required for the inspections multiplied by 1.2 times the cost per hour of the plumbing inspector shall be paid by the applicant before such permit is issued.
- E. *Electrical Permit Fees.* Any person who desires to build, erect, alter, install, repair or remove any poles, posts, towers or other similar facilities on which any wires, cables, electrical wires or transmission media are located or will be located shall submit to the building inspector plans and specifications showing the proposed improvements and existing conditions on such poles, posts, towers or such similar facility. It shall be the duty of the building inspector, when such plans and specifications have been submitted, to cause a qualified electrical inspector to make an inspection of the proposed improvements. An inspection fee equal to the estimated time required for the inspections multiplied by 1.2 times the cost per hour of the electrical inspector shall be paid by the applicant before such permit is issued.
- F. *Certificate of Occupation Fees.* The fee for each certificate of occupation required pursuant to this division for a permanent structure to occupy any right-of-way or streets shall be the amount set forth in appendix A to this code, and such fee shall be paid in advance annually from the original date of the issuance of the certificate of occupation.
- G. *Fee for Temporary Obstruction of the Right-of-Way.* A fee and special assessment for temporary obstruction or occupation of any right-of-way or street shall be the amount set forth in appendix A to this code, to reimburse the city for costs of increased supervision and overview of such sight while such obstruction exists, plus any costs or charges for special assignment of police officers to monitor, escort, or otherwise provide services to help protect the public from the construction activities or excavation and any other similar expenses reasonably incurred by the city for and with respect to such temporary obstruction. Such requirement shall not excuse, diminish or waive the duty of the owner or contractor to conduct any such obstruction or excavation, and to erect warning signs, devices and barricades, in a manner to protect the general public, pedestrians and motorist.

(Previously Chapter 3 – Building Regulations)

#### **Section 6.2.2.4 Duration**

All activities or construction authorized by a permit issued under this division shall be commenced within six (6) months after the date of issuance of the permit and thereafter be continuously prosecuted to completion, or such permit shall be void and the person to whom the permit was issued must make a new application before commencing or continuing any further activities or construction. Each permit issued shall be issued for a specific time period with a maximum period of one year, after which period the permit shall be void and the person to whom the permit was issued must make a new application for a new permit for each succeeding year or portion thereof. If the permit is allowed to expire, the person shall apply for and procure a new permit, paying the fee therefor as before, prior to proceeding with any such work.

(Previously Chapter 3 – Building Regulations)

#### **Section 6.2.2.6 Application**

Applications for permits required by this division shall be made to the building inspector and must be made in writing by the person to do the work, the contractor, or his authorized agent, that [and] will be submitted in duplicate upon forms provided to the building inspector for that purpose. An application for such permit may be deposited at the office of the city secretary for delivery to and action by the building inspector. Such application shall contain:

- A. *General Requirements.* Date the application is submitted; name, address, phone, fax and other pertinent information of the owner(s) and name of all contractor(s), including subcontractors, employed, or that will be employed, to perform any portion of any construction activity or excavation; name of the person actually presenting the application to the inspector; name, address, phone, fax and other pertinent information of the person(s) designated to be the 24-hour contact or emergency contact at all times while the permit is active (the applicant must immediately notify the building inspector, in writing, if such emergency contact changes, and no later than 24 hours after such change, to maintain an active permit); exact location and legal description of any property, streets or rights-of-way where the construction activities or excavation is proposed to occur; to the extent that information can be reasonably obtained, all design plans shall show the location of other permanent structures, facilities and utilities which will be crossed or paralleled within eight (8) feet of the location of the proposed permanent structure and identify the owner(s) thereof, including the topography of the area to be affected, and other development and protective measures considered necessary to create a reasonable transition to and protection of the adjacent property and facilities.
- B. *Fee.* A fee, appropriate to the number and kinds of installations, alterations, removals or construction activities to be made or activities to be performed.
- C. *Proof of Insurance or Bond.* Proof of liability insurance or bond in the amount of not less than \$500,000.00 personal injury and property damage.
  - 1. An applicant must provide proof of liability insurance in the required amount;

- 2, The coverage must be on an “occurrence” basis and must include coverage for personal injury, contractual liability, premises liability, medical damages, and underground, explosion and collapse hazards as applicable to the size and type of project;
  3. Each policy must include a cancellation provision in which the insurance company is required to notify the city in writing not fewer than thirty (30) days before canceling, failing to renew, or reducing policy limits; and
  4. The applicant shall file the required original certificate of insurance or bond prior to any commencement of work.
- D. *Description of Work.* A description of the work to be performed. Where deemed necessary by the inspector to accomplish the objectives of this division, applications shall be accompanied by as many copies of specifications, plans and a complete layout drawn to scale and in detail to show the nature and character of the work to be performed as the inspector may deem necessary. The plan or diagram shall show the manner in which the installations or construction activities are to be made or the character of any of the repairs to existing installations or construction activities. When such plans, specifications and layout are demanded, it shall be a violation of this division for any person to perform construction activities or install any part of the electrical, plumbing, cables, facilities or structure or perform further excavation or construction activity until the appropriate inspector approves such installation or construction activity.
- E. *Estimated Duration.* Estimated duration of any construction activity, installation and/or excavation which will result in the disturbance or modification of any rights-of-way, streets or property and the exact locations for each such disruption or disturbance, including an estimation of the duration of each disruption or disturbance at each location.
- F. *Excavations.* If any site is to be excavated, the application must include:
1. The purpose or reason for the removing or moving of the soil;
  2. The quantity in cubic yards of soil to be moved or removed;
  3. The location where the soil will be moved or deposited;
  4. Identification of each building, residence or structure within one hundred fifty (150) feet of the proposed excavation;
  5. A positive statement that the proposed excavation shall not block, encumber or close any street or disturb the lateral support thereof;

6. A positive statement that the proposed excavation is not and shall not be located in an area which has public record restrictions or covenants prohibiting such a use of the property;
  7. The proposed slopes and lateral supports to be used in the excavation shall be set forth;
  8. The present and proposed arrangements made for surface water drainage;
  9. The safety precautions to be installed and maintained at the site that shall meet the United States Occupational Safety and Health Administration (OSHA) standards, such as fences around the excavation, traffic-control devices and drainage systems to keep the excavation from collecting water within or creating a hazard to workers, travelers and citizens;
  10. Specifications of all materials to be used in repair of the excavation;
  11. The intended use or condition of the land upon completion of the excavation process; and
  12. Such other pertinent data as the building inspector may require.
- G. *Trenching.* For any construction project which involves trench excavation that exceeds a depth of five feet (5'), the bid documents and the contract must include detailed plans and specifications for trench safety systems that meet United States Occupational Safety and Health Administration (OSHA) standards. These plans and specifications shall include a pay item for these safety systems.
- H. *Permanent Structures.* If a permanent structure is to be added or remain within any street or right-of-way, the owner(s) of such structure must complete an application for certificate of occupation for the permanent occupation of the right-of-way, including:
1. The person or firm which will operate or maintain the permanent structure;
  2. The origin point and the destination of the permanent structure;
  3. A description of the substance to be transported through the permanent structure;
  4. Engineering plans, drawings and/or maps with summarized specifications showing the horizontal and vertical location of all permanent structures, including covering depths, poles, towers, etc., and the location of any shutoff valves or other such disconnect locations, where applicable. If the city has a computer-generated mapping system, the applicant will provide final as-built plans in a format compatible with uploading into the city's system;

5. A description of the consideration given to matters of public safety and the avoidance, as far as practicable, of existing inhabited structures and congregated areas;
6. Detailed cross-section drawings of all streets, rights-of-way and easement crossings to be affected;
7. The design criteria under which the permanent structure will be constructed and maintained; and
8. Any other pertinent data as the building inspector may reasonably require.

I *Certificated Telecommunications Providers.* If the applicant for a permit purports to be a telecommunications entity, in addition to the above-required information the application shall include:

1. Specifications as to the form of transmission media to be utilized;
2. Design plans and specifications concerning the transmission media;
3. A copy of the certificate of convenience and necessity, certificate of operating authority or service provider certificate of operating authority from the public utilities commission authorizing local exchange telephone service in the city;
4. Verification of current payment of all fees and right-of-way fees to the public utilities commission; and
5. Other such pertinent information as the inspector may reasonably require.

(Previously Chapter 3 – Building Regulations)

#### **Section 6.2.2.7 Refusal or Modification**

The City Council shall have the power and reserves the authority to refuse to issue a permit under this division, including a certificate of occupation, to any person, contractor or owner who has not complied with this division, has previously failed to comply with the terms, requirements or standards of any prior permit issued for a similar project, or has failed to provide insurance and bond as required. Additionally, the City Council shall have the power and reserves the authority to refuse any permit, or to modify or amend any application for permit, where the particular location, by reason of the nature of such particular location, the character and value of the permanent improvements already erected on or approximately adjacent to the particular location, and the use of which the land and surroundings, when in the building inspector's opinion, or on appeal to the City Council in the City Council's opinion, the excavating, operation of an excavation or addition or alteration of any such proposed facility on such particular location or construction activity would constitute a nuisance, be injurious to public health, be a public hazard to the inhabitants as a whole or to a substantial number of its inhabitants or travelers, or



be a disadvantage to the city in its planned growth, or otherwise have a negative impact on the property values of property within the city.  
(Previously Chapter 3 – Building Regulations)

#### **Section 6.2.2.8 Factors to Be Considered in Review**

- A. In considering and reviewing all plans submitted and applications for permits, including a certificate of occupation, the building inspector shall be guided by the general purpose of orderly municipal planning, avoiding conditions or the doing of any act constituting or creating a nuisance or health hazard or endangering the public safety. As aids in accomplishing these purposes, the following points shall be considered by the inspector in reviewing applications for permits; however, such aids shall not be exclusive in the inspector's consideration and ultimate recommendation:
1. The plan's compliance with all provisions of this division and other ordinances of the city;
  2. The environmental impact of the development relating to the preservation of existing natural resources on the site and the impact on the natural resources of the surrounding properties and neighborhood;
  3. The relationship of the development to adjacent uses in terms of harmonious use and design, maintenance of property values, and negative impacts;
  4. The provision of a safe and efficient vehicular and pedestrian circulation system;
  5. Surface water drainage and water drainage facilities of the excavation or installation, including soil and earth erosion by water and wind;
  6. Lateral supports of the excavation, including protections for existing buildings, facilities, streets and other property to be affected thereby;
  7. Conditions in which the excavation, construction activities or installation are to be maintained and safeguards to be taken to prohibit creating a nuisance, health or safety hazard, or attractiveness to children, and features provided to dispense with the endangering of the lives and property of the public;
  8. Proposed use or condition of the land upon completion of the excavation process, construction activity or installation;
  9. Protection, access and encumbrance such installation, construction activity or excavation will have upon existing facilities and the location of the facilities in reference to the proposed excavation or installation, including the size, quantity, location and permanent nature of the all facilities currently located or proposed to be located therein; and

10. Such other facts as may bear or relate to the coordinated, adjusted and harmonious physical development of the city.

B. In arriving at the ultimate recommendation, the inspector may attach such special conditions thereto as may be reasonably necessary to attain the overall purpose of this division.

(Previously Chapter 3 – Building Regulations)

### **Section 6.2.2.9 Appeals**

A. Appeals from the denial or granting of a permit, including a certificate of occupation, shall be made to the City Council.

B. If an application for a permit is refused, the applicant may, not later than ten (10) days from the date of receiving notice of such refusal, appeal to the City Council by directing a letter to the City Council setting forth therein the date of denial of the permit and the reasons the permit should be granted.

C. If the inspector grants the permit, any citizen of the city who is or may be injured or damaged thereby may, within ten (10) days of the recommendation to grant the permit, appeal to the granting of the permit to the City Council, by directing a letter to the City Council addressed to the office of the city secretary, at the city hall, setting forth therein the date of the action by the inspector and the reasons the person appealing believes that (s)he has been or will be injured by the action from which (s)he is taking such appeal.

D. Upon the filing of such appeal, the right to operate under any such permit shall be suspended until final determination by the City Council.

E. The City Council shall, on receiving such notice of appeal, direct the city secretary to place it on the City Council's work agenda to be considered in the due order of city business. The city secretary shall then notify the applicant and any other appellant as to the date and place where the City Council will consider the appeal and publish a notice one time in the official newspaper at least five (5) days before the date when the City Council will consider the appeal.

F. The City Council, on considering the appeal, may, by majority vote of all members in attendance and voting, either grant or refuse to grant the permit. The decision of the City Council shall be the final decision and binding on all parties.

(Previously Chapter 3 – Building Regulations)

### **Section 6.2.2.10 Conditions**

All permits, including certificates of occupation, shall be issued based upon the representations made within the application for the permit, information provided from the applicant, information known to the inspector and/or City Council, and all plans and specifications submitted with the application. Violations of any conditions of the permit or the general conditions listed herein shall

constitute a forfeiture of all rights and privileges granted by the permit(s). The following general conditions of permit are in addition to the specific conditions identified in the specific permit:

- A. Permit holders may not deviate from the plans and specifications approved with the permit without prior written permission from the building inspector and amendment of such permit.
- B. Permit holders must comply at all times with the requirements of this division and other applicable city ordinances as well as state and federal laws.
- C. No permit issued under the terms of this division shall ever be transferred, sold, assigned, or otherwise disposed of in any manner to any other person without the written consent of the building inspector.
- D. No permit shall be issued for less than the required permit fees.
- E. Bonds must be maintained at all times applicable to the permitted project.
- F. All applications for permit must contain complete and accurate information, plans and specifications for the project.
- G. No work shall be done under any permit issued under this division except as stated in the permit and in compliance with state and federal laws. The permittee shall ensure compliance at all times therewith.
- H. The building inspector shall at all times have authority to inspect the project site and stop all work not in conformity with the permit, ordinances of the city, or state or federal law. A copy of all permits shall be maintained at the construction site and made available for inspection at all times when construction or installation work is occurring. It shall be a violation of this division to interfere with a building inspector in the performance of his or her duties.
- I. Any changes to the information provided in the application approved by the building inspector must be submitted to the building inspector within 72 hours after the information has changed to amend the permit and, if such changes are of a sufficient degree to cause reconsideration, the building inspector shall have the same authority as in an original application to approve or deny such amendments.
- J. Approval of a permit does not constitute an agreement to undertake construction activities contrary to state, federal or city requirements.
- K. No permanent structure shall remain in the rights-of-way or street without all proper permits and a current occupation permit authorizing permanent occupation.

(Previously Chapter 3 – Building Regulations)

### **Section 6.2.2.11 Revocation**

Any permit, including a certificate of occupation, issued under this division may be cancelled if a notice to cease operations or activities thereunder is issued and such notice is not immediately complied with. Any such noncompliance shall constitute grounds for immediate revocation of any and all permits, or portions thereof, for the project, when the following conditions exist:

- A. A violation of any condition of the permit;
- B. A violation of any provisions of this division or any other applicable ordinance or law relating to the specifications of the permit, excavations, construction or installation of the type of facility being installed, repaired, altered or removed;
- C. Failure to cease construction activities or correct such violations as directed by the building inspector; or
- D. The existence of any condition or the doing of any act constituting or creating a nuisance or endangering the lives or property of others.

(Previously Chapter 3 – Building Regulations)

### **Section 6.2.2.12 Appeals**

A permit holder, including a person having certificate of occupation, pursuant to this division, who is aggrieved by a revocation or any other action by the building inspector regarding such permit, may appeal to the City Council. The appeal shall be made by filing with the city secretary a written notice thereof within ten (10) calendar days from the date of the revocation of the permit, or other action appealed from, including, but not limited to, notices to repair and stop work orders. A fee in the amount set forth in appendix A shall be collected for processing the appeal. The aggrieved person shall be given a hearing before the City Council, in due order of business, after which the City Council may affirm, modify or overrule the inspector's decision. Written notice of the time and place of such hearing shall be served upon the permit holder at least five (5) days prior to the date set for such hearing. Notice of the hearing may be given by personal delivery thereof to the permit holder or by deposit in the United States mail in a sealed envelope with postage prepaid, addressed to such person at the address appearing in the application or notice of appeal. All work shall be stopped at the construction site while the appeal is pending.

(Previously Chapter 3 – Building Regulations)

### **Section 6.2.2.13 Franchise Holders**

Utility service providers and public service providers having a current franchise or license agreement with the city shall be governed by the terms of the franchise or license agreement and shall not be required to obtain an additional certificate of occupation or permit, or post additional bond or insurance, and shall be exempt from paying any permit fees when required hereby to obtain a permit, but shall otherwise be subject to, bound and governed by each and every term and provision of this division except as explicitly exempted in the franchise or license

agreement. Where the terms and conditions of the franchise or license agreement conflict with the provisions of this division, the terms and conditions of the franchise or license agreement shall govern. Unless otherwise exempted by a current franchise, license agreement or state law, the utility service provider or public service provider shall:

- A. Complete all applications for permits required herein, but shall not be required to pay the fees;
- B. Provide the city the information required in the application;
- C. Coordinate with the city as directed by the building inspector based upon the size of the project and construction activities;
- D. Apply for all permits not less than five (5) working days prior to commencing any activity for which a permit must be issued as required by this division, and provide an estimation of time for completion of each project.

(Previously Chapter 3 – Building Regulations)

#### **Section 6.2.2.14 Certified Telecommunications Providers**

Telecommunication entities that are certificated telecommunications providers, certificated by the state to service the city, and that pay the city compensation as required by chapter 283, Tex. Loc. Gov't. Code, shall be exempt from such fees as are set forth herein upon verification from the public utilities commission that the telecommunications entity seeking a permit is, at the time of application, a certificated provider holding a current certificate of convenience and necessity to service the city, and is paying the city compensation as required by chapter 283. The telecommunications entity shall be subject to all other provisions of this division for which the entity is not exempt.

(Previously Chapter 3 – Building Regulations)

#### **Section 6.2.3 Bond and Liability**

##### **Section 6.2.3.1 Bond or Other Security Required**

A person considering any construction activity, installation of facilities, excavation, cutting, boring, digging or demolition activity in, over, under, through, along or across the streets or rights-of-way within the city, and who is not under a written contract, franchise, license or other express written agreement with the city, shall post a bond, make a cash deposit with the city, or provide other suitable forms of financial security as determined by the building inspector in an amount that approximates the projected costs of inspection, observation, labor, equipment, materials, and overhead associated with the permit work, and the restoration, reconstruction and repair of the cut, work or excavation in compliance with the standards and requirements set forth in part V of this division. Such security shall be posted prior to the issuance of a permit and the start of construction.

(Previously Chapter 3 – Building Regulations)

### **Section 6.2.3.2 Form, Amount, and Conditions in Bond**

A good and sufficient bond shall be filed with the application for the permit required by this division, executed by a bonding company, which bond shall be approved by the building inspector as to form and sufficiency and shall be in the sum of not less than one hundred thousand dollars (\$100,000.00). The bond shall be conditioned, among other things, that the contractor shall faithfully, at his or her own expense, furnish all proper materials, tools and appliances, and perform, execute, construct and complete all such work undertaken by such contractor, and observe and comply with the specifications, requirements and provisions of this division. The bond shall be and remain in effect at all times in which the excavation or construction activities are commenced or in progress.

(Previously Chapter 3 – Building Regulations)

### **Section 6.2.3.3 Maintenance Provisions in Bond**

- A. Every permittee issued a permit under this division shall be bound and obligated to construct all work, and use such materials in the construction thereof, so that the same shall be in as good or better condition than prior to the work, and will remain in such as good or better condition for and during a period of not less than one (1) year from and after the date of completion of the work, free from all cracks, breaks, disintegration, undue wear, scaling or departures from true line or grade, or other defects which might impair the permanence or usefulness of the work or construction activity or surrounding facilities, streets or rights-of-way; however, such cracks as may appear in expansion joints, or cuts between blocks, shall not be deemed to be defects unless in the opinion of the building inspector such cracks are excessive in opening or deflecting of surface.
- B. Each such bond issued pursuant to this division shall continue in effect for and during the maintenance period of one (1) year following the completion of the work, construction activity or repair.
- C. Each bond issuer shall promptly adjust, pay and settle all legitimate claims for damages or injuries that may result by reason of carelessness or negligence in the manner of performing the work, construction activity or excavation, or by reason of any defects therein caused or arising from careless, negligent or imperfect construction or repair thereof.
- D. Each permittee and bond issuer shall hold the city free and harmless from liability on all claims for damages that are based upon, that arise from, or that are related to the work or construction, or the condition thereof during the maintenance period, or that arise by reason of carelessness or negligence of the permittee, owner, or contractor, in the manner of performing such work, construction activity or excavation, or by reason of any defects therein caused or arising from careless, negligent or imperfect construction or repair thereof, or otherwise by reason of the work or construction.

(Previously Chapter 3 – Building Regulations)

#### **Section 6.2.3.4 Withdrawal of Surety on Bond**

On written notice to the building inspector and the contractor, any surety on a bond issued pursuant to this division may withdraw from all liability thereon on account of any and all future work undertaken by the contractor and for which excavation or construction activity was not begun before the delivery of the notice. After receipt of the such, the contractor shall not begin any new work unless and until the contractor shall provide and procure the approval of a new bond in the same manner as required for the first bond. No bond or surety may be withdrawn after the permitted work is commenced.

(Previously Chapter 3 – Building Regulations)

#### **Section 6.2.3.5 Authority to Waive Procedures in Emergency Conditions**

In the event emergency conditions warrant immediate response by an affected person, the building inspector may waive and/or modify normal standard procedures outlined herein to promulgate standards or requirements to expeditiously address the resolution of the emergency conditions; provided that, in any such event, the contractor shall obtain a permit for such work on the first business day of the city following performance of the work.

(Previously Chapter 3 – Building Regulations)

#### **Section 6.2.3.6 Determination as to Date Work was Commenced**

The decision of the building inspector shall be binding and conclusive on the contractor and the sureties on all such bonds as to when any work or construction was actually commenced.

(Previously Chapter 3 – Building Regulations)

#### **Section 6.2.3.7 Liability for Costs When Work Completed by City**

A contractor whose work, construction activities or excavations are completed, or caused to be completed, by the city shall, on completion of such work and receipt of a certified bill of the cost thereof approved by the city administrator, pay to the city, on its order, the cost of the work. The sureties on the contractor's bond shall be liable for all items and amounts listed in the certified bill of costs submitted to the contractor by the city. In the event the contractor, or the surety on any bond, shall fail and refuse to timely pay any such certified bill to the city, the contractor and such surety shall be and become liable to the city for its attorney's fees and costs of collection.

(Previously Chapter 3 – Building Regulations)

#### **Section 6.2.3.8 Responsibility for Repair of Defective Work**

If any defect in the work or construction develops during the one-year guarantee period established by this division, which, in the opinion of the building inspector, is due in any measure to defects of workmanship or material, the contractor shall remedy, repair and reconstruct such work, and/or any part thereof, as may be required by the building inspector, and such work shall be known as maintenance and repair work, and the surety on the contractor's bond shall be fully liable for any default of such contractor under this section.

(Previously Chapter 3 – Building Regulations)

## **Section 6.2.4 Duties of Permittee**

### **Section 6.2.4.1 Generally**

The contractor and the owner, and any other person to whom a permit is issued, shall, during the period for which the permit is issued, and as provided in part III of this division, have all of the duties and responsibilities identified in this division and other applicable ordinances of the city, and as provided for in state and federal law. The owner, and its agents, assigns, contractors and subcontractors installing the facilities, shall continually have the duties identified in this division for so long as facilities or property under the control of any such owners, and any subsequent owners thereof, are located in the rights-of-way or streets, to perform pursuant to the terms of this division.

(Previously Chapter 3 – Building Regulations)

### **Section 6.2.4.2 Quality of Work; Barricades and Other Safeguards**

The owner and the contractor, and every person to whom a permit is issued under this division, shall have a duty to ensure that each contractor, subcontractor, employee, agent or assignee:

- A. Prosecutes such work diligently and in a good and workmanlike manner; and
- B. Safeguards and protects the public upon or using the street, right-of-way, or other place where the work is being performed from accidents, injury or damage by placing barriers, lights and other sufficient safeguards, including a watchman, if necessary, around all cuts, openings, excavations, installation site and materials, implements and tools used in connection with the construction activity, and shall conform to the provisions of this division and all requirements of the building inspector during the prosecution and completion of such work. All barricades and barriers shall be erected and maintained in compliance with accepted industry practices and applicable safety standards. The owner and the contractor shall be responsible for the costs and expenses of all such barricades, barriers and watchmen.

(Previously Chapter 3 – Building Regulations)

### **Section 6.2.4.3 Obstructions**

It shall be the duty of the owner, the contractor, and the supervisor of the work site who shall cause to be made any hole, cut, trench, excavation, mound, embankment, installation or other obstruction in any street or right-of-way to carefully guard or cause to be guarded such hole, trench, excavation, mound, embankment, installation or other obstruction while the same may exist and not to suffer the same to remain beyond a time reasonably sufficient for the completion of the construction or removal of the obstruction, and to repair the portion of such street or right-of-way or any facility or property affected thereby so as to restore the same to as good or better condition than existed just previous to such activity.

(Previously Chapter 3 – Building Regulations)



#### **Section 6.2.4.4 Restoration of Right-of-Way; Repair of Damage to Streets or Other Property**

It shall be the duty of the owner, the contractor and the supervisor of the work site on whose behalf the hole, trench, mound, excavation, construction activity, installation or other obstruction or intrusion shall be made, or has been made, in the streets or rights-of-way of the city to protect the same while such condition exists and to promptly repair the same so as to leave the street or right-of-way in as good or better condition than as before the work. All facilities, streets, sidewalks or other structures or property damaged, altered or injured in any fashion shall be restored with similar material and workmanship to that existing before the same was damaged, altered or injured through any actions of the owner, contractor or person employed in any fashion thereby. All work shall be done to the satisfaction of the building inspector, whose duty it shall be to inspect the same after it has been done.

(Previously Chapter 3 – Building Regulations)

#### **Section 6.2.4.5 Removal or Repair of Incomplete or Defective Construction**

All construction activities undertaken in the streets and rights-of-way of the city are declared to be wholly subject to the exclusive control of the city, and whenever, in the opinion of the building inspector, any such work shall not have been duly completed within a reasonable time or shall have been executed in a defective manner, whether because of bad workmanship or material or because not true to lines or grades or specifications required therefor, then, upon written demand or notice from the building inspector, such contractor or the owner shall promptly remedy, complete or remove and reconstruct such incomplete or defective construction all as the building inspector may require, and these provisions shall also comprehend and apply to all repairs, installations and maintenance activities. If the contractor or owner shall fail or refuse so to do within a reasonable time as specified in writing by the building inspector, then, if the building inspector shall so order, such work may, at the expense of the owner and contractor, be completed, corrected or removed and wholly or partially reconstructed by the city, or its instance, in such manner as in the opinion of the building inspector may be necessary to make such work as good as originally required, and such work may be done by contract or otherwise, under the provisions of this division and the direction of the building inspector.

(Previously Chapter 3 – Building Regulations)

#### **Section 6.2.4.6 Excavations**

All excavations in the streets and rights-of-way are declared to be wholly subject to the rules, regulations, directions and control of the city, and whenever, in the opinion of the building inspector, any such work shall not be in compliance herewith, the permit, and part V of this division, then, upon written demand or notice from the building inspector, such owner and contractor shall promptly remedy, complete or fill the excavation all as the building inspector may require. All excavations made into any street or right-of-way shall be repaired to as good or better condition than such street, right-of-way or other property was in prior to such excavation. Any excavation located in or over the rights-of-way or streets within the city shall and does constitute a nuisance when maintained or permitted to exist by any person in an unwholesome or nauseous condition, or in a manner by which stagnant water accumulates, or in a manner in which water collects where it is possible and probable stagnant water accumulates, or in a

manner in which water collects where it is possible and probable mosquitoes will breed, or in a condition where rats could harbor, or in a manner and condition constituting a breeding place for flies, or in a manner and condition where filth, garbage, trash, debris or other discarded material accumulates and is deposited, or is maintained or permitted to exist in an unfenced, open condition, accessible to children or other members of the public, or is maintained and worked in such a manner as to disturb, affect or destroy the lateral support of or block or otherwise impede traffic on any street, alley, road or right-of-way, or that is maintained or permitted to exist in any condition which constitutes a possible and probable medium of transmission of disease to or between human beings, or to be maintained or permitted to exist any one or more of the above-enumerated conditions.

(Previously Chapter 3 – Building Regulations)

#### **Section 6.2.4.7 Relocation of Facilities**

- A. Generally. All persons placing facilities in the rights-of-way or streets or owning, operating or maintaining facilities in, over, under, through, along and across the rights-of-way or streets of the city shall be responsible for the relocation and costs of relocation of such facilities when the public health, safety or a public purpose requires relocation, or when such facilities are located therein without a permanent occupation permit, license or franchise as appropriate for the occupation.
- B. Permanent relocation. Upon thirty (30) days' written notice by the city, the owner of a facility shall, at the owner's expense, begin relocation of its facilities that are within a right-of-way or street, when deemed necessary by the city for the public health or safety, or for any public purpose, or to permit the widening, straightening or improvement of a street, drainage, water or sewer project, or any other public works project. The notice by the city may specify the new location for the owner's facilities along the rights-of-way or streets. The city shall have the right to move any facilities within the rights-of-way or streets to cure or otherwise address a public health or safety concern, to accomplish a public purpose, or to widen, straighten or improve a street, water or sewer project or other public works project, or when no permit for occupation has been granted and the owner refuses to move the facilities. The owner shall pay the costs and expenses of moving the facilities.
- C. Temporary relocation. Upon thirty (30) days' written notice by the city, the owner of a facility shall temporarily relocate any portion of its facilities within the rights-of-way or streets at the owner's own expense when deemed essential by the city for the public's health and safety or to permit construction activities of the city or water or sewer projects or any other public works project. The notice by the city shall specify the affected areas where the facilities are located and the area for temporary relocation of the owner's facilities along the rights-of-way or streets. The city shall have the right to move any facilities within the rights-of-way or streets to cure or otherwise address a public health or safety concern, to widen or straighten streets, [or to permit] water or sewer projects or other public works projects or construction activities where the owner refuses to move the facilities. The city shall assess the reasonable costs and expenses of moving the facilities against the owner.

- D. Temporary removal of aerial wires. The owner of aerial wires, on the request of any person, shall remove or raise or lower aerial wires within the city temporarily to permit the moving of houses or other bulky structures. The expense of such temporary removal, raising or lowering of wires shall be paid by the benefited party or parties, and the owner of the wires may require such payment in advance. The owner shall be given not less than five (5) business days' advance notice to arrange for such temporary wire changes.  
(Previously Chapter 3 – Building Regulations)

#### **Section 6.2.4.8 Traffic Interference**

The owner and contractor shall endeavor to minimize disruptions to the efficient use of the rights-of-way and streets by pedestrians and vehicular traffic, and the rights-of-way and streets shall not be blocked for a longer period than shall be reasonably necessary to execute all construction, maintenance and/or repair work. Prior to blocking any street or right-of-way, the owner and/or contractor shall obtain a permit as required herein.  
(Previously Chapter 3 – Building Regulations)

#### **Section 6.2.4.9 Maintenance of Facilities**

The owner of any facility and person holding a certificate of occupancy, license or franchise shall be responsible for ensuring the continued maintenance, repair, removal of any nuisances and other such upgrades or repairs to maintain such facility in a safe and good workmanlike condition. Any vegetative growth interfering with such facilities that is determined by the building inspector to be a nuisance shall be removed, cut or cleared at the sole cost and expense of the owner of the facility or holder of the certificate of occupancy, license or franchise. Circumstances and conditions that impose an threat to the public health, safety or welfare shall be promptly remedied by the owner, and a known emergency condition that exists and is determined to require immediate attention so as not to reasonably allow for notice under this section may be immediately abated by the city, and notice of the abatement and costs for the expenses incurred will be forwarded to the owner or holder of the certificate of occupation, franchise or license for reimbursement to the city as required in section 6.2.1.6.  
(Previously Chapter 3 – Building Regulations)

#### **Section 6.2.4.10 Tree Trimming**

The owner of facilities located within the rights-of-way or streets shall not trim any trees upon or overhanging the rights-of-way without first obtaining a permit as provided herein. All activities and costs necessary to protect and preserve the facilities from damage due to trees shall be the responsibility of the owner of such facilities.  
(Previously Chapter 3 – Building Regulations)

#### **Section 6.2.4.11 Abatement of Violations**

- A. In the event the building inspector shall determine that a situation exists which is an immediate threat to the health, safety and well-being of the general public and that

immediate action is necessary, said building inspector may take such action as shall be necessary, including issuing citations for violations of the terms and provisions hereof to the owner or contractor committing such violation.

- B. In the event the building inspector determines a situation constitutes an immediate threat to the public health, safety and welfare, and the owner or contractor is absent or fails to immediately remedy the situation, the city administrator may, upon evidence heard, determine that an emergency exists and order such action as may be required to protect the public health, safety and welfare, including ordering repair or abatement of the nuisance. In such event, the city may also prosecute an action in any court of competent jurisdiction to recover its costs.
- C. In the event any owner or contractor shall fail or refuse to remedy any of the conditions or violations indicated by the building inspector within ten (10) days after notice is sent, or immediately if determined by the city to be an emergency and the owner or contractor is absent or fails to immediately respond, the city may do such work or cause the same to be done, and pay therefor, and charge the expenses in doing or having such work done or improvements made to the owners of the facility, or the contractor performing construction activities, whereupon such charge shall be a personal liability of the owner and/or the contractor to the city.
- D. Notices served upon an owner or contractor may be verbal, or may be served on such owner or contractor by an officer or employee of the city delivering a written notice to an employee or officer of such owner or contractor at their respective place of business, or may be by letter addressed to such owner or contractor at their post office address, or, if personal service may not be had, or the owner and contractor's address be not known, then notice may be given by publishing a brief summary of such order at least once in the official newspaper of the city, by posting a notice on or near the site or location of each facility or property upon which the violation relates, or by posting notice on a placard attached to a stake driven into the ground on the property or facility to which the violation relates and addressed "Facility Improvements" "To Whom It May Concern," and such publication shall be deemed sufficient notice.
- E. In the event any owner or contractor is mailed a notice in accordance with subsection (d) and the United States Postal Service returns the notice as "refused" or "unclaimed," the validity of the notice is not affected, and the notice is considered as delivered.
- F. Notices provided by mail or by posting as set forth above may provide for year-round abatement of the nuisance and inform the owner that, should the owner commit any other violation of the same kind that poses a danger to the public health and safety on or before the first anniversary of the date of the notice, the city without further notice may abate the violation at the owner's expense and assess the costs against the property.
- G. Appeals from a decision of the building inspector identifying a violation or nuisance shall be filed in writing with the city secretary within five (5) days after the notice to abate a

nuisance or notice of a violation of this division is given. The procedures for appeal shall otherwise be the same as required in section 3.10.088 herein.

(Previously Chapter 3 – Building Regulations)

#### **Section 6.2.4.12 Emergency Work by City**

In the case of fire, disaster, or other emergency threatening life or property, as determined by the city, the city may remove or repair only the part of the facility required to be removed or repaired to remove such threat; provided, however, the city shall first use its reasonable efforts to immediately notify the owner of such threat and allow the owner to remove or repair the part of the facility required to be removed or repaired to remove such threat. In such event, neither the city, nor any agent, contractor or employee thereof, shall be liable to the owner or its customers or third parties for any damages caused them or the facility, such as for, or in connection with, protecting, breaking through, moving, removal, altering, tearing down, or relocating any part of the facility.

(Previously Chapter 3 – Building Regulations)

#### **Section 6.2.5 Standards**

##### **Section 6.2.5.1 Copy of Permit to be Kept at Job Site; Coordination with City**

The person in charge of this installation shall have a copy of the permit and its attachments on the job at all times. Deviations to the approved permit must have prior approval of the city.

(Previously Chapter 3 – Building Regulations)

##### **Section 6.2.5.2 Verification of Location of Existing Utilities**

The exact location of any utilities or facilities that may conflict with the proposed installation should be field verified by the installer during construction. The contractor will be responsible for verifying the location both horizontal and vertical of all affected facilities, whether by pot holing or hand digging, prior to any excavation or boring.

(Previously Chapter 3 – Building Regulations)

##### **Section 6.2.5.3 Traffic Safety**

- A. Warning and protective devices, including flagmen and watchmen as necessary, shall be used to prevent creation of a traffic hazard and to ensure the safety of the public as advisable and prudent considering the scope of the work. When provided, such devices and flagmen shall be in accordance with the Manual of Uniform Traffic Control Devices.
- B. Parking of employees' cars and trucks on both sides of the pavement will be prohibited, and all such vehicles shall be parked on one side of the road and in no instance closer than a minimum of eight feet from the edge of the pavement.

- C. All construction equipment and materials stored on city right-of-way shall be limited to work in progress and stored in such a manner and at such locations (a minimum of 30 feet from the nearest traffic lane) as not to interfere with the safe passage of traffic.  
(Previously Chapter 3 – Building Regulations)

#### **Section 6.2.5.4 Method of Construction**

- A. It shall be unlawful for any facilities to be installed in, under, through, along, or across a public street or right-of-way by open cut, trenching, or other method that disturbs the paved portion of the street or right-of-way unless an exception has been granted in accordance with this section. All facilities installed or proposed to be installed in, under, through, or across the streets or rights-of-way, or in any manner that disturbs the paved portion of the street or right-of-way, shall installed by boring in steel encasement pipe in accordance with the approved design plans, the permit, and good engineering practices, unless an exception is granted as provided in this section. To the extent not modified by the approved design plans or permit, boring and encasement shall comply with the City of Austin Standard Details and Specifications in effect at the time of the application.
- B. An applicant may apply for an exception to subsection (a) by including a written request for an exception in the application submitted under section 6.2.2.6. The application shall include a description of the proposed alternate method for installing the facilities and design plans illustrating such method. The applicant shall provide any additional information requested by the city. The applicant shall pay all reasonable costs incurred by an engineer or other professional related to the review of the application.
- C. The city administrator or designee may approve an exception to subsection (a) and authorize an alternate method of installing facilities. In considering the request for an exception, the city administrator or designee will be guided by the factors set forth in section 6.2.2.8, and in addition to such factors shall consider the following:
1. The presence and/or condition of the paved surface;
  2. The impact on the physical integrity of the street or right-of-way;
  3. The impact on vehicular and pedestrian traffic; and
  4. The effect on the public, health, safety, and welfare.
- D. Trench width, when authorized in accordance with this article, shall be held to a minimum and backfilled to a density approximating that of the adjacent soil in a manner that meets the United States Occupational Safety and Health Administration (OSHA) standards. The fill material shall be installed in six-inch (6") layers, each compacted to 95% density. A six-inch concrete slab shall be placed over the trench to extend 12 inches on each side of the trench. The top of the slab shall be two inches below the top of paving. Alternatively, a six-inch layer of asphalt may be substituted and compacted to the finished grade of adjacent pavement.

(Previously Chapter 3 – Building Regulations)

#### **Section 6.2.5.5 Concrete Slab Design**

The slab shall be reinforced with six-inch by six-inch no. 6 wire mesh. The wire mesh shall be supported properly throughout the placement to maintain its position approximately equidistant from the top and bottom surface of the slab. (High Early) type III portland cement, making 2500 psi concrete at three days, or as directed by the city, shall be used. The slab shall be cured and closed to traffic as per state specifications. (This section shall not apply if 6 inches of asphalt is substituted for the concrete.)

(Previously Chapter 3 – Building Regulations)

#### **Section 6.2.5.6 Asphalt**

If asphalt is not substituted, the concrete shall be thoroughly cleaned and a tack coat of asphalt shall be applied. Then hot mix asphaltic concrete (type D) as specified in item 340 of the state highway department manual shall be applied and compacted. If 6 inches of asphalt is substituted, the asphalt shall meet the foregoing specifications.

(Previously Chapter 3 – Building Regulations)

#### **Section 6.2.5.7 Access**

Ingress and egress at all private and public streets and drives will be provided at all times.

(Previously Chapter 3 – Building Regulations)

#### **Section 6.2.5.8 Restoration of Right-of-Way**

All excess excavation, materials, supplies, etc., shall be removed from the right-of-way after installation is complete and the right-of-way reshaped to its original section, including fertilizing, seeding and/or sodding as may be required when existing grass has been disturbed.

(Previously Chapter 3 – Building Regulations)

#### **Section 6.2.5.9 Repair of Damage**

The owner, contractor and permittee will be responsible for any damage to the right-of-way or streets, including but not limited to the pavement structure, caused by settlement due to pavement cuts. Contractors are responsible for obtaining exact facility locations from all utilities prior to excavation. Such liability shall extend for a period of one (1) year from the date the repair of such pavement cut is completed.

(Previously Chapter 3 – Building Regulations)

#### **Section 6.2.5.10 Protection of Existing Facilities**

- A. Prior to beginning any excavation, trenching or digging which may damage a pipeline, cable, wire or any other such apparatus or facilities located in, over or under the streets or rights-of-way of the city, the owner or contractor shall first obtain a permit before excavation and contact all of the owners of such pipeline, cable, wire or other facility and determine if the proposed excavation will cause damage thereto.

- B. If physical contact is made with or damage or injury is suspected to any pipeline, cable, wire or other such apparatus or facilities during any excavation, trenching, digging or other construction activities, the person or contractor making the physical contact with or suspecting the damage or injury to the pipeline, cable, wire or other apparatus or facilities shall immediately contact the building inspector and the owner of the pipeline, cable, wire or other apparatus or facilities for any necessary inspections and repairs.
- C. If, during any excavation, trenching or digging, the person or contractor so excavating, trenching or digging notices or suspects damage or injury to any lateral supports to streets or other facilities in the rights-of-way, streets or adjacent properties, such person shall immediately contact the city and, if applicable, the owner of the property for any necessary inspections and repairs.
- D. All persons to whom permits may be granted to excavate the streets or rights-of-way shall, at their own cost and expense, deliver at such place as may be designated by the building inspector for such purpose all such surplus earth, dirt, stone, gravel or other material coming out of such excavation as shall be necessary for the purpose of refilling the same.

(Previously Chapter 3 – Building Regulations)

#### **Section 6.2.5.10 Erosion Control; Placement of Markers and Barricades**

Erosion control measures (i.e., silt fence) and advance warning signs, markers, cones and barricades must be in place before work begins. The permittee shall be responsible for stormwater management erosion control that complies with city, state and federal guidelines. Requirements shall include, but not be limited to, silt fencing around any excavation that will be left overnight, silt fencing in erosion areas until reasonable vegetation is established, and barricade fencing around open holes, and high erosion areas will require wire-backed silt fencing.

(Previously Chapter 3 – Building Regulations)

#### **Section 6.2.5.11 Work on Weekends, Nights, or Holidays**

Construction work to be accomplished on weekends, nights or holidays will proceed at the discretion of the building inspector; provided that emergency work required to be undertaken on weekends, nights, holidays and outside of normal business hours shall be undertaken and completed in compliance with this division, and the contractor shall obtain a permit therefor on the first business day following the date of such work.

(Previously Chapter 3 – Building Regulations)

#### **Section 6.2.5.12 Notification of Damage; Notification of Commencement of Work**

The permittee, contractor or subcontractor shall notify the building inspector not more than twenty-four (24) hours after any damage to other utilities, facilities, or other appurtenances or property, whether public or private. Once a permit has been issued, the permittee must notify



the building inspector at least forty-eight (48) hours prior to commencing any work or construction activity permitted in such permit.  
(Previously Chapter 3 – Building Regulations)

### **Section 6.2.5.13 Responsibility of Workmanship and Damages**

The city assumes no responsibility for conflict with existing utility lines, pipelines, highway appurtenances or natural obstacles. Permittees, contractors and owners shall be responsible for the workmanship and any damages by a contractor or subcontractor.  
(Previously Chapter 3 – Building Regulations)

## **Section 6.3 Wireless Service Small Cells**

### **Section 6.3.1 Network Nodes (Wireless Services Small Cells) Installation**

A telecommunications company, network provider, or any other person or entity desiring to install network nodes, antennas, small cells, or other wireless services that are defined, described or otherwise governed by chapter 284, Texas Local Government Code; shall comply with the city Wireless Services (Small Cells) Design Manual, as it may hereafter be amended, and which is attached to Ordinance 2017-O-514 and incorporated into this section for all purposes.

## **Section 6.4 Driveways**

### **Section 6.4.1 General Regulations**

Nonresidential and residential driveways shall comply with the following regulations:

- A. *Surfacing.* All off-street driveways shall be well drained, constructed of either asphalt or concrete, and be kept in a state of good repair.
- B. *Drainage.* No off-street driveway shall be drained onto or across a public right-of-way or walkway, or onto any adjacent property except into a natural watercourse or drainage easement.
- C. *Design.*
  - 1. Structures, driveways, and parking areas shall be designed and located to fit harmoniously with the natural terrain and to minimize the necessity for removing trees, native vegetation, and soil, or the addition of fill.
  - 2. Driveway entrances shall be set back at least 35 feet from the point of tangency of the curb at any intersecting street.
  - 3. Adequate culverts shall be provided under driveway entrances to prevent obstruction of drainage ways.

4. Every driveway entrance and exit shall be at roadway grade level where the driveway intersects the city's right-of-way.
- D. *Gates.* Driveway entrances with gates shall be designed so that any vehicle entering the gates will be completely off the right-of-way when stopped to open gates, and the gate shall be set back a minimum of 20 feet from the right-of-way.
- E. *FM 1431.* Driveways that access FM 1431 shall require approval of the Texas Department of Transportation (TxDOT) in addition to any other approvals required by city ordinances. In the event of a conflict between TxDOT's driveway regulations and the city's driveway regulations, the more stringent regulations shall control.

### **Section 6.4.2 Nonresidential Driveways**

Nonresidential driveways shall comply with the following regulations:

- A. *Grade.* All driveways are limited to undeveloped slopes below 25% gradient. They shall not exceed a maximum of 15% grade after construction.
- B. *Access.* All entrance and exit driveways to public streets shall be located with due consideration for traffic flow and so as to afford maximum safety to traffic on the public streets. Wherever practicable the city requires a single driveway on the property line between adjacent lots. All such entrances and exits shall be so located, designated, and restricted in number as to:
  1. Achieve maximum feasible distance from street intersections and from exiting and proposed access connections from adjacent properties;
  2. Minimize left-hand turns and other turning movements;
  3. Discourage tie routing of vehicular traffic to and from nonresidential uses through local residential streets; and
  4. Minimize conflicts with vehicular traffic using FM 1431.
- C. *Design and location.* In designing and locating entrance and exit driveways the following regulations shall be observed:
  1. Entrance and exit driveways shall not exceed 24 feet in width for lots used for nonresidential purposes.
  2. There shall be no more than two points of access to any one public street for each lot frontage.

3. The minimum distance between any two driveway entrances, whether on the same or different lots, shall be 35 feet, measured along the curblineline, except for driveways on a cul-de-sac.
4. All nonresidential driveways shall be designed so as to provide safe vehicular entrance and exit without the necessity of backing out into a public street.

### **Section 6.4.3 Residential Driveways**

Residential driveways shall comply with the following regulations:

- A. All driveways shall be designed so as to provide safe vehicular entrance and exit.
- B. All driveways are limited to undeveloped slopes below 25% gradient. They shall not exceed a maximum of 20% grade after construction.
- C. Each dwelling shall have not more than one driveway entrance per lot, unless access is provided with a circular driveway, in which case two driveway entrances are permitted. For single entrance driveways, the maximum width shall not exceed 20 feet. For circular driveways, construction shall be as follows:
  1. Each entrance shall be a maximum of 15 feet wide, measured at the property line.
  2. The portion of the driveway which runs parallel to the street shall be a maximum of 20 feet wide.
  3. Each entrance shall be 5 feet from the side property lines measured at the front property line.
  4. The portion of the driveway which runs parallel to the street shall be set back a minimum of 10 feet from the front property line.
  5. The pavement shall be constructed with a minimum radius of 5 feet where the driveway adjoins the paved portion of the public street. The location of all driveways shall be approved by the city building official.

## **ARTICLE 7 GENERAL ADMINISTRATION**

### **Section 7.1.1 General Application Procedures**

- A. *Generally.* This Section establishes general application procedures and internal review procedures that shall apply to all applications for a permit or approval that are set out in this Development Code.
- B. *Pre-Application Meeting.*

1. Generally. Prior to the submission of an application for permit or approval, a pre-application meeting may be required or recommended between a potential applicant and the Director, or a designated representative of either party, and any other pertinent representatives or staff. The pre-application meeting is intended for the City and potential applicant to exchange non-binding information to promote an efficient development review process. The Director shall determine and publish which application types require a pre-application meeting.
2. Pre-Application Forms and Materials. The Director may determine and publish forms or documents that include information requirements, materials checklist, contact information, and any other information necessary to sufficiently describe the potential application.
3. Vesting Rights. Neither a pre-application meeting, nor any forms, materials, and information submitted for a pre-application meeting, shall be considered a vesting instrument, nor shall it vest a permit, application, or any type of approval.

C. *Application Forms.*

1. Generally. Every application for approval or permit required by these regulations shall be submitted on forms prepared by the Planning Director, along with supporting materials and application fee.
2. Forms. In addition to the requirements outlined herein for each type of development application, the City is hereby authorized to prepare application forms to collect information and materials necessary to process each type of application.
  - a. Application forms shall include specific information including, but not limited to, information requirements, checklists, architectural or engineering drawing sizes, language blocks for plats, applicant contact information, materials and any other information necessary to facilitate the review of the application for compliance with and administration of these regulations, as prepared by the Director.
  - b. The forms and paperwork are available in paper or digital format at the City office where applications are submitted and/or reviewed.
  - c. The Planning Director shall periodically review and may revise forms for each type of application from time to time.
  - d. It is the applicant's responsibility to be familiar with, and to comply with, these policies and procedures.

D. *Fees.*

1. Generally. Every application shall be accompanied by the prescribed fees set forth in Appendix A, Master Fee Schedule, of the Code of Ordinances. The City shall not accept an application for review without the required application fee. The adopted fees may be revised from time to time by the City Council and shall not require amendment of these regulations.
2. Payable. All required fees shall be made payable to "The City of Jonestown."
3. Required for Administrative Completeness. All applications shall be accompanied by the prescribed fees to be considered administratively complete.
4. Fee Refunds.
  - a. Withdrawn Applications. Withdrawn applications that have not been determined to be administratively complete may be refunded 50 percent of the application fee.
  - b. Administratively Complete Applications. Once an application has been determined to be administratively complete, the prescribed fees shall not be refundable, except when submitted in error.

E. *Determination of Administrative Completeness.*

1. Generally. An application shall not be considered as officially submitted, accepted for review, or filed until it has been determined by the Director to be administratively complete.
2. Considerations for Determination of Administrative Completeness. The Planning Director, or designee, shall review each submitted application to determine if the minimum items needed for proper review of such application are present. An application must be determined to be administratively complete in order to begin the review process.
  - a. A submitted application shall not be determined to be administratively complete until, at a minimum, the following has been received by the City:
    - (1) Completed application form;
    - (2) Payment of all applicable fees; and
    - (3) All the application requirements and supplemental information indicated as required per the application form for the specific type of application.

- b. A submitted application shall not be determined to be administratively complete until, at a minimum, the following has been completed by the applicant:
          - (1) Pre-application meeting with staff has been held (if required); and
          - (2) All required preceding approvals (e.g., proper zoning, approved plats, etc.) have been acquired.
3. Timeframe for Administrative Completeness Review. No more than five (5) business days after the receipt of an application by the City, the Director shall review the application for administrative completeness. Failure by the Planning Director to make a determination of administrative completeness or to provide notice of administrative incompleteness, as set out in Subsection 7.1.1.E.4, Administratively Incomplete Applications, below, within this time frame shall result in the application being deemed administratively complete on the sixth (6) business day following receipt.
4. Administratively Incomplete Applications. Applications that do not include all required information and materials shall be considered administratively incomplete.
  - a. The Planning Director shall notify the applicant in writing of the determination and shall provide a written explanation of missing or incomplete items that are necessary to complete the application.
  - b. The Planning Director may elect to extend the time period of determination of administrative completeness for the applicant to submit the missing or incomplete items. The Planning Director shall provide, in writing, a specified timeframe to the applicant for the incomplete item(s) to be resubmitted. If the item(s) is not resubmitted within this time period, the application shall be deemed rejected and shall not be reviewed for technical completeness, shall not be considered filed, and shall be returned to the applicant.
  - c. The applicant may request an additional meeting for explanation of the missing or incomplete items.
  - d. After an application has been determined to be administratively incomplete and rejected, a new application and fee shall be required for any future submittals.
5. Administratively Complete Applications. Administratively complete applications shall be processed according to the applicable development approval procedures of this Ordinance. The determination of an administratively complete application does not constitute a determination of technical completeness or compliance with

applicable regulations nor imply that the application successfully meets any review criteria.

F. *Determination of Technical Completeness.*

1. Generally. Upon receipt of an administratively complete application, the City shall commence technical compliance review of the submitted application. This may include review by a development review committee, which may be designated by the City Administrator.
2. Determination of Technical Completeness. An application shall not be deemed to be technically complete until staff has determined the application and any supporting documents meet all applicable requirements of these regulations and are in compliance with any other applicable City or State requirements.
3. Technically Incomplete Applications. Applications that do not include all required information and materials shall be considered technically incomplete.
  - a. The Director shall notify the applicant in writing of any revisions deemed necessary for the application to be determined to be technically complete. The applicant may request a meeting for explanation of the missing or incomplete items.
  - b. The applicant shall submit any necessary corrections to the City no later than fourteen (14) calendar days prior to the public meeting at which it is scheduled to be considered, if applicable.
  - c. An application presented to the Commission and/or City Council prior to determination of technical completeness may be subject to denial.
4. Technically Complete Applications. Technically complete applications shall be processed according to the applicable development approval procedures of these regulations. The determination of a technically complete application by City staff does not constitute or imply an approval by the decision-making authority.

G. *Proof of Land Ownership.*

1. Generally. Except as provided by these regulations, any application for permit or approval shall be initiated only by the property owner or owner of an interest in the land. A property owner may authorize a representative to submit an application for permit or approval provided that the application includes a signed statement from the property owner authorizing the representative to file the application on the owner's behalf.
2. Written Verification Required. Along with the application, the applicant shall provide written verification of land ownership of the subject land parcel or parcels,

provided to the City at the time of submittal. The Director shall have the authority to determine what document(s) the City will require to prove ownership, such as one of the following:

- a. General warranty deed;
- b. Special warranty deed;
- c. Title policy; or
- d. Certified copy of a tax certificate from Travis Central Appraisal District.

H. *Payment of All Indebtedness Attributable to a Specific Property.*

1. Generally. No person who owes delinquent taxes, delinquent fees, delinquent paving assessments, or any other delinquent debts or obligations to the City of Jonestown, and which are directly attributable to a piece of property, shall be allowed to proceed forward to final permit or approval for said property until the taxes, assessments, debts or obligations directly attributable to said property have been first fully discharged by payment, or until an arrangement satisfactory to the City Administrator (or designee) has been made for the payment of such debts or obligations.
2. Applicant's Responsibility. It shall be the applicant's responsibility to provide evidence or proof that all taxes, assessments, debts or obligations have been paid at the time of submission for any application for approval under these regulations.

I. *Concurrent Applications.*

1. Generally. An applicant may concurrently submit different applications related to the same development within each of the following application groups. Approval of all relevant applications within each group must be obtained prior to submission of an application in the subsequent group.
  - a. Policy Applications;
  - b. Annexation (Voluntary);
  - c. Zoning Map Amendment (Rezoning);
  - d. Conditional Use Permit;
  - e. Variance;
  - f. Special Exception;
  - g. Preliminary Plat;
  - h. Construction Plan;
  - i. Development Plat Applications;
  - j. Final Plat;
  - k. Site Development Plan (including landscape, tree mitigation, fencing, walls, lighting plans and nonpoint-source, LCRA permits);
  - l. Building Permit.
2. Fees. The applicant is subject to the fees for each application.



3. Consideration for Concurrent Applications. Consideration for each application shall remain in the appropriate sequence of development. Any application submitted concurrently is subject to the approval of all related applications. Denial or disapproval of any individual application from a group of concurrently submitted applications shall stop consideration of all subsequent applications, if such approval is necessary for the subsequent applications to proceed.
4. Withdrawal of Individual Applications. An applicant may withdraw an individual application from a group of concurrently submitted applications. A withdrawal may stop consideration of subsequent applications if such application requires the approval of the withdrawn application.

J. *Application Continuances.*

1. Generally. An applicant may request a continuance of the application in writing prior to a public meeting, or on the record during the meeting prior to when a recommendation or decision is made. The Planning Director may approve a continuance request if the request is made prior to the public posting of the public meeting or may choose to defer the decision of the continuance request to the administering body. A request for a continuance by an applicant after the public meeting has been posted or at the public meeting itself may be granted by the administering body upon a motion and decision of the body to table the agenda item and only so long as the continuance does not cause the application to be approved as a matter of law because such continuance would cause the application to exceed a deadline required by law or these regulations.
2. Costs Associated with Continuance. If the continuance was requested by the applicant, the applicant shall pay all additional costs associated with rescheduling and/or for re-notice of the proceeding.

K. *Expired and Stale Applications.*

1. Generally. Applications that become stale as set out in this Article shall be deemed expired and become immediately null and void and the City will subsequently close the application file. An expired application will end all claims to vesting pertaining to the expired application.
2. Stale Applications. Applications for development approval must be diligently pursued by the applicant to remain active or otherwise face expiration for inactivity. An accepted application for which there has been no action taken by an applicant for a period of six months or more from the date of the last action shall be determined to be stale and processed as withdrawn by the applicant, causing the file to be closed. The Director shall notify the applicant in writing 30 days in advance of the pending closure and may allow the applicant additional time to act to continue pursuit of approval.

L. *Limit on Reapplications.*

1. Generally. If any application for permit or approval is denied by the final deciding authority, a substantially identical application shall not be filed within six months from the date of the denial, except as provided herein.
2. Allowed Successive Reapplications. The decision-making body that rendered the final decision to deny may allow a successive reapplication within the six-month timeframe if the applicant can demonstrate:
  - a. There are substantial changes to the circumstances relevant to the issues or facts considered during review of the prior application, or new or additional information is available that was not available at the time of the review of the prior application, that might reasonably affect the decision-making body's review of the application;
  - b. The new application is substantially different than the prior application and has corrected any defects or substantive issues or addresses concerns or issues that were significant to the decision to deny the prior application;  
or
  - c. The final decision on the application was based on a material mistake of fact.
3. Successive Reapplication Procedures. An allowed successive reapplication shall be considered a new application and is subject to the application procedures and fees for a new application. Successive reapplications shall establish grounds warranting reconsideration of the application, including demonstrating how the new, additional, or changed information affects review of the application.

**Section 7.2.1 Public Hearings**

- A. *Generally.* This Section establishes general procedures for applications for permits or approvals that require a public hearing by the City Council or a City board or commission established in Section 11.1, Review and Decision-Making Authority. Procedures for each type of application requiring a public hearing are set out in the following sections of this Article.
- B. *Public Hearings.*
  1. Required Public Hearings. Applications that require a public hearing in accordance with state law or these regulations are identified in Table 7.2.1.B, Required Public Hearings, below:

Table 7.2.1.B Required Public Hearings			
Application Procedure	Meeting Body		
	City Council	Planning and Zoning Commission	Zoning Board of Adjustment
Annexation (Voluntary)	X		
Appeal	X		
Conditional Use Permit	X	X	
Floodplain Development Variance			X
Planned Urban District	X	X	
Platting-subdivision or development plat	X <sup>1</sup>	X <sup>1</sup>	
Text Amendment	X	X	
Zoning Variance			X
Zoning Map Amendment (Rezoning)	X	X	
Table Notes: <sup>1</sup> If required by state law.			

**Section 7.2.2 Public Notice**

- A. *Generally.* Public notice required by these regulations shall be provided pursuant to the requirements of this Section and applicable requirements of state law. The provisions herein are in addition to open meeting notice requirements established by state law and shall not exempt the City from meeting the notice requirements of all public meetings and hearings as required by Chapter 551, Open Meetings, of the Tex. Gov't Code.
- B. *Required Public Notice.* With regards to applications for permit or approval, notice of all public meetings and public hearings required by these regulations shall be provided as prescribed in Table 7.2.2.B, Required Public Notice, below:

Table 7.2.2.B Required Public Notice		
Application Procedure	Published Notice	Mailed Notice
Annexation (Voluntary)	X	
Appeal	X	
Conditional Use Permit	X	X
Floodplain Development Variance	X	
Subdivision - Replat <sup>1</sup>	X	X
Special Exception	X	X
Text Amendment (zoning procedural or subdivision)	X	X <sup>2</sup>
Variance	X	X
Zoning Map or Ordinance Amendment (Rezoning)	X	X

Table Notes: <sup>1</sup> If public hearing required by state law. <sup>2</sup> If text amendment is substantive zoning related, personal notice required

- C. *Responsibility of Required Public Notice.* The Planning Director shall determine responsible parties for all published and mailed notices as required by these regulations.
- D. *Timing of Required Public Notice.*
1. Notice of a public meeting shall be posted in a place readily accessible to the general public at all times for at least 72 hours before the scheduled time of the meeting, except as provided by state law.
  2. Unless otherwise noted, public notices of a public hearing shall be published or mailed as required by these regulations at least 15 days in advance of the public hearing.
  3. If the notice requirement is not met in the required time frame, then the public hearing item shall be delayed until the notice requirement is met.
- E. *Published Notice.*
1. A public notice shall be published at least once in the public newspaper of general circulation within the City, as designated by the City Administrator.
  2. The notice shall contain information pursuant to Subsection 7.2.2.G, Content of Published and Mailed Notices, below.
- F. *Mailed Notice.*
1. A written notice shall be sent to owners of record of real property within 200 feet of the boundary of the subject property.
  2. Measurements shall be taken from the boundary of the subject property or properties, inclusive of public streets.
  3. Such notice may be served by using the last known address as listed on the municipal tax roll and depositing the notice, postage paid, with the United States Postal Service (USPS).
  4. The notice shall contain information pursuant to Subsection 7.2.2.G, Content of Published and Mailed Notices, below.
- G. *Content of Published and Mailed Notices.* Published and mailed public notices shall include the following specific information:
1. The general location of land that is the subject of the application;

2. The legal description or street address;
3. The type of application sought, including the specific nature or intent of the application;
4. The time, date, and location of the public hearing;
5. A phone number and email address to contact the City; and
6. A statement that interested parties may appear at the public hearing.

*DIVISION 7.3 VESTED RIGHTS AND RIGHTS OF CONTINUED USE*

**Section 7.3.1 Purpose and Intent**

*Purpose.* This section establishes a process whereby an owner can request and demonstrate that the development of property is entitled to be reviewed and approved in accordance with regulations that pre-date the effective date of this UDC per Chapter 245 or Section 43.002 of the Texas Local Government Code. This section shall not apply to a claim of a right under any other federal or state statute.

- A. To the extent a project is entitled to vested rights or the right of continued use, as determined under this Section, it may be exempt from the requirements of current regulations of the City.
- B. The purpose of these requirements is to:
  1. Establish a clear and consistent process for evaluating vested rights claims;
  2. Ensure that vested rights determinations are based on accurate and complete information about the project; and
  3. Recognize legitimate claims of vested rights under state law, while ensuring that new development complies to the greatest extent possible with current regulations.
- C. This section is further intended to establish provisions related to time limits and the expiration of vested rights.
- D. A project is not eligible for vested rights if any of the following are found to be true:
  1. The area for which the petition is submitted does not fall within the area addressed by the documents establishing grounds for the vested rights claim;
  2. The original project has been completed or changed; or
  3. The development activity on the site was not permitted by the City.

### **Section 7.3.2 Chapter 245 Determination**

- A. *Application for Establishment of Chapter 245 Rights.* The provisions of this Section shall apply to any application for a permit or any other approval of a project for which an applicant desires to establish development rights under Chapter 245 of the Texas Local Government Code. There are two basic types of Chapter 245 determinations.
1. The first type of Chapter 245 determination involves a demonstration by the applicant that a project is vested with Chapter 245 development rights because the original application for a permit gave the City Fair Notice of the project and of the nature of the permit being sought and neither a permit nor the project have expired.
  2. The second type of Chapter 245 determination involves a demonstration by the applicant that a project or permit is entitled to be reviewed in accordance with the regulations of the City in effect on the date that the original application for the first permit in the series of permits was filed because progress toward the completion of the project has been made by the applicant even though the permit and/or project time limits have expired.
  3. An applicant, in order to establish development rights for a particular project, may need to demonstrate both Fair Notice of the project and that progress toward completion of the project has been made.
- B. *Expiration of Existing Permits.* Any Site Development Plan (Site Plan) or Concept Plan or other land development approval that has an approval date that is prior to May 11, 2000 and that does not have an expiration date, and for which no progress has been made toward completion of the project as of May 11, 2000, is hereby deemed to have expired as of May 11, 2004 and shall no longer be considered as a valid project. Any Concept Plan that has an approval date that is after May 11, 2000 and before December 18, 2012 and that does not have an expiration date, and where no progress towards completion of the project has occurred shall have expired on December 18, 2017 and shall no longer be considered valid. Any Site Development Plan (Site Plan) or other land use approval that has an approval date after May 11, 2000 and before December 18, 2012 shall have expired on December 18, 2014 and shall no longer be considered valid. Any Concept Plan with an approval date after December 18, 2012 and that does not have an expiration date shall expire five years after the approval date where no progress towards completion of the project has occurred. Any Site Development Plan (Site Plan) or other land use approval with an approval date after December 18, 2012 shall expire two years from the date of the approval unless extended prior to the expiration date.
- C. *Applications for Chapter 245 Determination.*
1. An application related to a demonstration that the City has Fair Notice of the project shall be submitted in a form prescribed by the City and shall be initially reviewed for completeness to ensure that all required items are available for

technical review purposes. The application shall state the proposed date of applicable rules for the first permit in the series of permits, and the applicant shall supply documentation in support of the request. The burden of proof is on the applicant to provide sufficient written information to substantiate a claim under this Section. One or all of the following items may be considered as part of the Fair Notice Documentation:

- a. Any of the documentation described in Subsection 7.3.2.C.3 below.
  - b. Documentation that clearly shows specific land uses, densities and intensities.
  - c. Documentation that shows the layout of streets, public easements, parking areas and building footprints.
  - d. Any other documentation that the applicant believes provides evidence of Fair Notice.
2. Chapter 245 development rights shall only apply to the specified land uses, densities and intensities set forth in the Fair Notice Documentation provided by the applicant. Any modification of the land uses, densities or intensities from those set out in the Fair Notice Documentation shall be considered a new project subject to current City ordinances.
3. An application related to a demonstration that a permit or project has not expired because progress has been made toward completion of the project shall be submitted in a form prescribed by the City and shall be initially reviewed for completeness to ensure that all required items are available for technical review purposes. The application shall state the proposed date of applicable rules for the first permit in the series of permits and shall clearly describe each permit that has been issued and the date of approval for each subsequent permit. The applicant shall provide a statement in narrative form that describes the efforts that have been undertaken toward completion of the project and shall supply documentation in support of the request. The burden of proof is on the applicant to provide sufficient written information to substantiate a claim under this Section. One or all of the following items may be considered:
- a. Copy of an application for a Final Plat or plan that was previously submitted to a regulatory agency;
  - b. Proof that a good-faith attempt was previously made to file with a regulatory agency an application for a permit necessary to begin or continue towards completion of the project;
  - c. Documentation of costs that have been incurred for developing the project including, without limitation, costs associated with roadway, utility, and

other infrastructure facilities designed to serve, in whole or in part, the project (but exclusive of land acquisition) in the aggregate amount of five percent of the most recent appraised market value of the real property on which the project is located;

- d. Documentation of fiscal security posted with a regulatory agency to ensure performance of an obligation required by the regulatory agency; or
  - e. Documentation of utility connection fees or impact fees for the project paid to a regulatory agency.
- 4. The provisions of Subsection 7.3.2.C.3 above shall only apply to the project and specified land uses, densities and intensities set forth in the permits that have been previously approved by the City. Any modification of the land uses, densities or intensities shall be considered a new project and subject to current City regulations.
  - 5. Any application for a Chapter 245 determination that is not deemed complete by the City shall be rejected, and the applicant shall be notified in writing of the missing or incomplete items within 10 working days of the submission of the application. An incomplete application shall expire if the missing or incomplete items are not provided by the applicant within 45 days of the date of initial submission of the application.
  - 6. Each application shall be reviewed by the City Manager, in consultation with the City Attorney. The application may be denied in whole, granted in whole or denied in part and granted in part. Where the documentation submitted by the applicant is adequate to confirm a determination that rights exist under Chapter 245, then the regulations in place at the time such rights vested shall be applied in the further review and processing of permits for the project as applicable to the portion of the application that was granted.
  - 7. The City Manager shall provide his or her decision on the application within 45 days of the date of the receipt of a complete application.
  - 8. The applicant may appeal a final determination by the City Manager under this Section to the City Council within 10 calendar days of the date of the City Manager's decision on the application.
  - 9. The City may enter into a consent agreement with the applicant that is intended to resolve a good-faith dispute concerning Chapter 245 development rights and applicable regulations in order to avoid the cost and uncertainty of litigation to both parties.

D. Continued Use Petitions.



1. General Standard. A property is entitled to rights of continued use under Section 43.002 of the Local Government Code to the extent that current regulations would prohibit:
  - a. continued use of the land in the manner in which it was being used on the date that annexation proceedings were instituted, if the use was legal at that time; or
  - b. the initial use of land in the manner that was planned before the 90<sup>th</sup> day before the effective date of the annexation if:
    - (1) one or more licenses, certificates, permits, approvals, or other forms of authorization by a governmental entity were required by law for the planned land use; and
    - (2) a completed application for the initial authorization was filed with the governmental entity before the date the annexation proceedings were instituted.

## **ARTICLE 8 ENFORCEMENT**

### *DIVISION 8.1 PURPOSE AND APPLICABILITY*

#### **Section 8.1.1 Purpose and Applicability**

- A. *Generally.* This Article sets out the powers, remedies, and procedures of the City to enforce the provisions of these regulations prior to and in a court of competent jurisdiction. This Article shall not limit the powers of the City to pursue multiple or alternative actions, remedies, and penalties allowed herein or by law.
- B. *Applicability.* Any person, firm, or corporation who violates, disobeys, omits, neglects, or refuses to comply with or resists the enforcement of any of the provisions of these regulations shall be found to be in violation of City ordinance and shall be subject to the fines and penalties as established in this Article.
- C. *Conflict.* In the event of a conflict between this Article and another provision of the Uniform Development Code, the more restrictive terms of the two shall prevail.

#### **Section 8.1.2 Enforcement Procedures**

- A. *Generally.* This Section establishes the authorities of the City and procedures to monitor, investigate, and enforce the provisions of these regulations.
- B. *Administration.* The provisions of this Article shall be administered and enforced by the City Manager or their designee, in consultation with the City Attorney as may be necessary, or other officials in the exercise of this duty.
- C. *Filing a Complaint.* Any person may allege a violation of these regulations by written and signed complaint that is filed with the City. Such complaint shall state the factual basis for the alleged violation along with the complainant's contact information.

- E. *Right to Enter.* The designated City official shall have the right to enter upon any premises at any reasonable time for the purposes of making periodic inspection of a building's exterior and/or premises or investigating alleged violations as are necessary to enforce these regulations.
- F. *Compliance Information Required.* Whenever the designated City official, on the basis of a sworn complaint from any person or on the basis of other information available to the official, has reason to believe that a violation of these regulations exists, they may require an owner/operator to provide information as may be necessary to determine the existence or extent of any violation.
- G. *Notice of Violation.* Upon determining a violation, the City shall issue a written notice of violation to the owner/operator of property upon which a violation of these regulations exists. Such notice shall set out the grounds upon which the notice is based, including the specific code section or sections at issue. Notices shall conform to the requirements of Section 54.005, Notices to Certain Property Owners, of the Tex. Local Gov't Code.
- H. *Correction of Violation.* Upon notification of a violation, the person responsible for the violation shall correct the violation immediately.

#### *DIVISION 8.2 ADMINISTRATIVE ENFORCEMENT POWERS AND DUTIES*

##### **Section 8.2.1 Administrative Enforcement**

- A. *Generally.* The City may use one or a combination of administrative enforcement efforts prior to and without judicial process to enforce these regulations.
- B. *Withholding or Denying Permits and Approvals.* The City may withhold, revoke, or deny all permits, approvals, or other authorizations on any land, building, or structure for which there is an uncorrected violation.
- C. *Suspension of Permits.* The City may suspend permits, including Conditional Use Permits, for a period of up to sixty (60) days to allow for the correction of the violation or the judgement of a court of competent jurisdiction.
- D. *Stopping Work.* The City may stop work on any site, building, or structure on such property where an uncorrected violation exists. The City Administrator or designee shall order the work stopped by notice in writing (referred to as a "stop-work order") served on any persons engaged in the doing or causing such work to be done. The stop-work order shall be posted on the property adjacent to the activity in question, and any such person shall stop work accordingly until authorized by the City to proceed with the work. It shall be unlawful for any person, other than the City to remove or tamper with a city stop work order. The City may revoke permits as part of its effort to stop work pursuant to Subsection 8.2.1.E, Revocation of Permits and Approvals, below.

E. *Revocation of Permits and Approvals.*

1. Revocation. Any permit, Certificate of Occupancy, or other permit or approval required under these regulations shall be revoked when it is determined that:
  - a. There is a departure from the approved plans, specifications, limitations, or conditions as required under the permit or approval;
  - b. The permit or approval was procured by false representation;
  - c. The permit or approval was issued in error; or
  - d. There is a violation of any provision of these regulations.
2. Written Notice. When revoking a permit, the City shall provide written notice of such revocation to the permit holder, stating that the subject violation shall be corrected in no less than ten (10) days.
3. Effect of Notice. No work or construction may proceed after service of the revocation notice unless such work is to correct a violation.

*DIVISION 8.3 VIOLATIONS AND REMEDIES*

**Section 8.3.1 Violations**

- A. It shall be unlawful for any person, firm, or corporation to erect, construct, enlarge, alter, repair, move, improve, remove, demolish, blast, excavate, grade, convert, equip, use, occupy, cause, permit, or maintain any building or structure or any portion of any building or structure in the city contrary to or in violation of any applicable provision of this article.
- B. Structure moving is prohibited. It shall be unlawful for any person, firm, or corporation to move or cause to be moved over or along any street or highway within the city any house or other building, except a HUD-manufactured home or mobile home pursuant to this article.

**Section 8.3.2 Enforcement Actions; Notices**

- A. *Enforcement Officers.* The building inspector, his or her representatives, and any officer charged with enforcement of the ordinances of the city, including any peace officer of the city, may enforce the provisions of this article.
- B. *Authority of Enforcement Officer When Immediate Action is Necessary.* If an officer charged with the enforcement of this article shall determine that a situation exists which immediately affects or threatens the health, safety and well-being of the general public, and that immediate action is necessary, such officer may take such action as shall be necessary, including issuing citations for violations of the terms and provisions hereof to

the owner, occupant and/or responsible party for the property upon which such condition exists, as may be deemed appropriate and necessary.

- C. *Emergency Action by Council.* If an officer charged with the enforcement of this article shall determine that a situation constitutes an immediate threat to the public health, safety and welfare, and the owner, occupant or responsible party for the property is absent or fails to immediately remedy the violation, the City Council may, at a regular session or at an emergency session called for the purpose of considering the issue, upon evidence heard, determine that an emergency exists and order such action as may be required to protect the public health, safety and welfare. In such event, the city may prosecute an action in any court of competent jurisdiction to recover its costs.
- D. *Failure to Correct Conditions.* If any owner, occupant or responsible party shall fail or refuse to remedy any of the conditions prohibited by this article within ten (10) days after written notice to do so, the city may do such work or cause the same to be done, and pay therefor, and charge the expenses in doing or having such work done or improvements made to the property, and such charge shall be a personal liability of such owner(s), occupant(s) and/or responsible parties to the city.
- E. *Service of Notice.* Notices required pursuant to this article shall be in writing. Such notices may be served upon such owner(s), occupant(s) and/or responsible party as follows in person by an officer or employee of the city: by certified letter addressed to such owner, occupant and/or responsible party at his/her post office address; or, if personal service may not be had or the owner, occupant, or responsible party's address be not known, then notice may be given by publishing a brief summary of such order at least once in the official newspaper of the city or by posting a notice on or near the front door of each building on the property upon which the violation relates, or, if no building exists, by posting notice on a placard attached to a stake driven into the ground on the property to which the violation relates. The notice shall state "Building and Construction Regulations," "To Whom It May Concern" and a brief statement of the violation(s). Service of the notice by any one of the above methods, or by a combination thereof, shall be deemed sufficient notice.
- F. *Refusal of Notice.* If an owner is mailed a notice in accordance with subsection (e) and the United States Postal Service returns the notice as "refused" or "unclaimed," the validity of the notice is not affected, and the notice is considered as delivered.

### **Section 8.3.3 Abatement of Nuisances Without Notice**

Whenever an immediate danger to the health, life or safety of any person exists as a result of any building or premises violations or conditions on any lot, parcel or premises within the city, the city may abate the nuisance without notice to the owner. If the utility connections to the property need to be disconnected to the property to prevent further risk or damage, the building inspector may direct that the necessary utilities be disconnected. In the event the city abates the nuisance under this section, the city shall forward notice to the owner within ten (10) days in the manner set forth herein.

### **Section 8.3.4 Performance of Work by City**

- A. *Authorized; Right of Appeal.* In addition to any other remedy provided in this article and cumulative thereto, the building inspector, after giving to the owner, occupant and/or responsible party of the property ten (10) days' notice in writing, as provided herein, may cause any of the work or improvements mentioned in this article to be done at the expense of the city, and cause all of the actual cost to the city to be assessed on the real estate or lot on which such expenses occurred; provided that the owner, occupant and/or responsible party of any such real estate may appeal to the board of adjustments and appeals from the order of the building inspector by filing an appeal, as provided in this article, within ten (10) days after receipt of the notice provided for above, stating that such real estate complied with the provisions of this article before the expiration of the ten-day period and requesting a hearing.
- B. *Appeal Hearing.* The board of adjustments and appeals shall set a date, within thirty (30) days from the date of the appeal, for hearing the appeal to determine whether the real estate complied with the provisions of this article before the expiration of such ten-day period.
- C. *Effect of Appeal.* The authority of the building inspector to proceed to cause such work to be done shall not be suspended while an appeal from the order is pending.

### **Section 8.3.5 Collection of City's Costs**

- A. *Authority.* Cumulative of the city's remedy by fine, as set forth herein, the city may do such work or cause the same to be done to remedy such condition to remove such matter from such owner's premises at the city's expense and assess the same against the real estate or lot or lots upon which such expense is incurred.
- B. *Assessment of Costs.* Expenditures plus ten (10) percent per annum interest on the expenditures from the date of such payment by the city shall be assessed the same against the real estate or lot or lots upon which such expense is incurred.
- C. *Lien.* Upon filing with the county clerk of a statement by the city secretary or designee of such expenses, the city shall have a privileged lien upon said real estate or lot or lots, second only to tax liens and liens for street improvements, to secure the expenditure so made and ten (10) percent per annum interest on the amount from the date of such payment so made by the city.
- D. *Suit to Recover Costs.* The city may, additionally, institute suit and recover such expenses and foreclose such lien in any court of competent jurisdiction, and the statement so filed with the county clerk or a certified copy thereof shall be prima facie proof of the amount

expended in any such work or improvements to remedy such condition or remove any such matter.

### **Section 8.3.6 Offenses; Penalty**

- A. Any person who shall violate any of the provisions of this article or the technical codes adopted herein, or shall fail to comply therewith, or with any of the requirements thereof, within the city limits shall be deemed guilty of an offense and shall be liable for a fine not to exceed the sum of two thousand dollars (\$2,000.00). Each day the violation exists shall constitute a separate offense. Such penalty shall be in addition to all the other remedies provided herein.
- B. Any person who shall remove a notice of violation or a placard posted pursuant to this article from a property prior to correction of the deficiencies indicated thereon shall be deemed guilty of a misdemeanor offense.
- C. Any person who shall knowingly or intentionally provide false information on any application required pursuant to this article shall be deemed guilty of a misdemeanor offense.
- D. Any person who shall occupy a building, or any part thereof, without having received a certificate of occupancy in compliance with herewith, within the city limits, shall be deemed guilty of an offense and shall be liable for a fine not to exceed the sum of two thousand dollars (\$2,000.00). Each day the violation exists shall constitute a separate offense. Such penalty shall be in addition to all the other remedies provided herein.
- E. On motion of the city or the judge of municipal court, any person convicted under this article or placed on deferred adjudication or other form of deferral who is assessed a penalty and who does not pay the penalty in full as ordered by the court may be assessed the penalty against the defendant's property in the same manner as a judgment in a civil suit by order of the municipal judge pursuant to Texas Code of Criminal Procedure section 45.047, as amended from time to time.

### **Section 8.3.7 Additional Remedies**

- A. No building permit, certificate of occupancy, plumbing permit, electrical permit, or utility tap shall be issued by the city for or with respect to any lot, tract or parcel of land within the city limits, after the effective date of this article, except in compliance with all then-applicable requirements of this article, the city zoning ordinance provisions applicable to the property and the city subdivision ordinance provisions applicable to the property.
- B. This article and any code or provision adopted by this article may be further enforced by civil injunction and other civil and criminal judicial proceedings, either at law or in equity, and in lieu of or in addition to any other authorized enforcement or action taken. Any person who violates any term or provision of this article with respect to any land,

property, building or development within the city may also be fined as well as charged all other penalties, civil and criminal as provided herein and by state law.

- C. Upon the request of the City Council, the city attorney or other authorized attorney shall file an action in the district courts to enjoin the violation or threatened violation of this article or to obtain declaratory judgment, and to seek and recover court costs and attorney fees and/or recover damages in an amount sufficient for the city to undertake any construction or other activity necessary to bring about compliance with a requirement regarding the property and established pursuant to this article.

### **Section 8.3.8 Certificate of Occupancy Required Prior to Connection of Utility Service**

No utility service provider using the rights-of-way of the city to access any customer within the city limits shall connect or reconnect utility services to such customer after the effective date of this article unless and until the customer has provided proof that the structure to be serviced has a current and valid certificate of occupancy or temporary certificate of occupancy. Each utility service provider utilizing city rights-of-way to provide services to any customer within the city limits shall cooperate with the building inspector to terminate services as provided herein and shall provide information concerning the services as provided herein and shall provide information concerning the services provided to any customer within the city limits to the building inspector to carry out the duties of the building inspector under the provisions of this article.

### **Section 8.3.9 Property Owner Presumed Responsible for Violation**

In any prosecution charging a violation of this article governing the failure to comply with any notice or order or failure to apply for a building permit or other permit or license required herein, proof that the particular property described in the complaint was in violation of any section of this article, together with proof that the defendant named in the complaint was, at the time of such notice or order or at the time when work was performed without a permit, the registered owner of such property, shall constitute in evidence a prima facie presumption that the registered owner of such property was the person who failed to comply with the notice or order or failed to apply for a permit for the time during which such violation occurred.

### **Section 8.3.10 Securing of Dangerous or Unoccupied Building by City**

- A. Should the code enforcement authority determine that any building or structure within the incorporated limits of the city is a dangerous building or is unoccupied or is occupied only by persons who do not have a right of possession of the building, he/she shall cause the building to be secured.
- B. Before the 11th day after the date the building is secured, the municipality shall give notice to the owner by:
  - 1. Personally serving the owner with written notice;

2. Depositing the notice in the United States mail addressed to the owner at the owner's post office address;
  3. Publishing the notice at least twice within a 10-day period in a newspaper of general circulation in the county in which the building is located if personal service cannot be obtained and the owner's post office address is unknown; or
  4. Posting the notice on or near the front door of the building if personal service cannot be obtained and the owner's post office address is unknown.
- C. The notice must contain:
1. Identification, which is not required to be a legal description, of the building and the property on which it is located;
  2. A description of the violation of the city standards that is present at the building;
  3. A statement that the city will secure or has secured, as the case may be, the building; and
  4. An explanation of the owner's entitlement to request a hearing about any matter relating to the municipality's securing of the building.
- D. The board of adjustments and appeals shall conduct a hearing at which the owner may testify or present witnesses or written information about any matter relating to the city's securing of the building if, within 30 days after the date the code enforcement authority secures or causes to be secured the building, the owner files with the city a written request for the hearing. The board of adjustments and appeals shall conduct the hearing within 20 days after the date the request is filed.
- E. The city shall impose a lien against the land on which the building stands, unless it is a homestead as protected by the state constitution, to secure the payment of the cost of securing the building. Promptly after the imposition of the lien, the city shall file for record, in recordable form, in the office of the county clerk, a written notice of the imposition of the lien. The notice shall contain a legal description of the land.

#### **ARTICLE 9 DEFINITIONS**

*Access.* A way of approaching or entering a property.

*Accessory Building.* See "Accessory Structure."

*Accessory Equipment.* Any equipment serving or being used in conjunction with a CF or support structure. This equipment includes, but is not limited to, utility or transmission equipment, power supplies, generators, batteries, cables, equipment buildings, cabinets and storage sheds, shelters or other structures.



*Accessory Structure.* A subordinate building detached and used for a purpose customarily incidental to the main structure such as a private garage for automobile storage, tool house, bath or greenhouse as a hobby (no business), home workshop, children's playhouse, storage house or garden shelter, but not involving the conduct of a business or occupancy by any long-term or paying guests. Accessory structure shall include storage buildings permitted as an accessory use in the O, B-1, and B-2 districts.

*Accessory Use.* A use that is incidental and subordinate to the principal use of the parcel of land on which it is located; a use that is customarily a part of the principal use, a use which is clearly incidental, subordinate and secondary to the permitted use, and which does not change the character thereof. See: Accessory structure.

*Act.* Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 U.S.C. 1251, et. seq.

*Adjacent.* Abutting and directly connected to or bordering.

*Aesthetic Water Use.* Water use for ornamental or decorative purposes such as fountains, reflecting pools and water gardens.

*Agriculture.* Land which is zoned as agriculture.

*Air Gap.* A complete physical separation between the free-flowing discharge end of a potable water supply pipeline and an open or unpressurized receiving vessel.

*Alcoholic Beverages – Off-Premises.* A retail store or similar facility which sells beer, wine or liquor for off-premises consumption.

*Alcoholic Beverages – On-Premises.* An establishment or facility, which serves beer, wine or mixed drinks, which contain alcoholic beverages for on-premises consumption.

*Alley.* A minor right-of-way, dedicated to public use, which gives a secondary means of vehicular access to the back or side of properties otherwise abutting a street, and which may be used for public utility purposes.

*Alluvial Fan.* A geomorphologic feature characterized by a cone or fan-shaped deposit of boulders, gravel, and fine sediments that have been eroded from mountain slopes, transported by flood flows, and then deposited on the valley floors, and which is subject to flash flooding, high velocity flows, debris flows, erosion, sediment movement and deposition, and channel migration.

*Alluvial Fan Flooding.* Flooding occurring on the surface of an alluvial fan or similar landform which originates at the apex and is characterized by high-velocity flows; active processes of erosion, sediment transport, and deposition; and unpredictable flow paths.

*Alterations.* Any change, addition, or modification in construction; any change in the structural members of a building, such as walls or partitions, columns, beams or girders; and may be referred to as “altered” or “reconstructed.”

*Alternative Tower Structure.* Clock towers, steeples, light poles and similar alternative-design mounting structures that camouflage or conceal the presence of antennas or towers. See also the definition of “stealth tower.”

*Amateur Radio Antenna.* A radio communication antenna used by a person holding an amateur station license from the Federal Communications Commission.

*Amended Plat.* A plat that is modified or amended only to correct one or more specific, listed items or errors set forth herein, or in section 212.016, Tex. Loc. Gov’t. Code, as amended.

*Amenity Center.* A facility that benefits property, typically a residential subdivision, the existence of which increases the value, desirability, or community nature of that property, such as a meeting center, community swimming pool or gym, decorative or botanical garden, or recreational facility, available for use by residents of the property.

*Amortization.* A method of eliminating nonconforming uses by requiring the termination of the nonconforming use after a specified period of time.

*Amusement Center (Indoor).* An amusement enterprise such as a video game arcade wholly enclosed in a building which is treated acoustically so that noise generated by the enterprise is not audible at the property line.

*Amusement Center (Outdoor).* Any amusement enterprise offering entertainment or games of skill to the general public for a fee or charge wherein any portion of the activity takes place in the open.

*Animal(s).* Any animate being that is not a human.

*Annexation.* The incorporation of land area into the city with a resulting change in the boundaries of the city.

*Antenna.* A device used in communications, which transmits or receives radio signals, television signals, digital signals, analog signals, radio frequencies (excluding radar signals), wireless telecommunications signals or other communication signals.

*Antenna, building attached.* An antenna attached to an existing structure in two general forms: (1) roof-mounted, in which antennas are placed on the roofs of buildings, or (2) building-mounted, in which antennas are placed on the sides of buildings. These antennas can also be mounted on structures such as water tanks, billboards, church steeples, electrical transmission towers, etc.

*Antenna facility.* The mast, pole, structure, tower, building, equipment and other supporting material used to mount the antenna and equipment, including equipment storage buildings, and concealing or screening structures needed to operate an antenna. The antenna is considered part of the antenna facility. This definition does not include satellite antennas less than one (1) meter in diameter.

*Antique Shop.* A business that sells items whose value is greater than the original purchase price because of age or intrinsic value.

*Apartment.* A room or group of rooms used as a dwelling for one (1) family unit that includes full kitchen facilities for the preparation of meals and cooking therein.

*Apartment House or Apartment Building or Apartments.* A building or portion thereof used or intended to be used as a home for five (5) or more families or households living independently of each other and equipped for preparation of food.

*Apex.* A point on an alluvial fan or similar landform below which the flow path of the major stream that formed the fan becomes unpredictable and alluvial fan flooding can occur.

*Approved Fire Sprinkler Contractor.* A person or entity holding a certificate of registration as such issued by the state fire marshal's office.

*Appeal.* A request for a review of an administrator's interpretation of any provision of this article.

*Applicant.* A person applying for plan or zoning approval under this Code.

*Application.* An application to develop or improve land which includes a completed application form, development plat and applicable fees.

*Approval.* The final approval in a series of required actions. For instance, the approval date of a plat requiring approval of the commission and then the council is the date of council approval.

*Approved.* Having the approval of the building inspector as the result of an investigation and tests that the officer conducted or by reason of accepted principles or tests by national authorities or technical or scientific organizations; or having the approval of the appropriate enforcement official of the city as being represented by the applicant in compliance with the standards and requirements of this code or ordinance of the city that applies specifically to the item in question; or other customary approvals reserved to the city by state law or city ordinance.

*Approving Authority.* The city administrator or his duty authorized representative.

*Arborist.* An International Society of Arboriculture (ISA) certified arborist.

*Area of Future Conditions Flood Hazard.* The land area that would be inundated by the 1-percent-annual chance (100-year) flood based on future conditions hydrology.

*Area of Shallow Flooding.* A designated AO, AH, AR/AO, AR/AH, or VO zone on the Flood Insurance Rate Map (FIRM) with a one-percent or greater annual chance of flooding to an average depth of 1 to 3 feet, where a clearly defined channel does not exist; the path of flooding is unpredictable and indeterminate; and velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

*Area of Special Flood Hazard.* The land in the floodplain within a community subject to a one-percent or greater chance of flooding in any given year. The area may be designated as zone A on the Flood Hazard Boundary Map (FHBM). After detailed ratemaking has been completed in preparation for publication of the FIRM, zone A usually is refined into zones A, AO, AH, A1-30, AE, A99, AR, AR/A1-30, AR/AE, AR/AO, AR/AH, AR/A, VO, V1-30, VE or V.

*Area of Special Flood-Related Erosion Hazard.* The land within a community that is most likely to be subject to severe flood-related erosion losses. The area may be designated as zone E on the Flood Insurance Rate Map (FIRM).

*Art studio or gallery.* A building where objects of art are created or displayed for the public enrichment or where said art objects are displayed for sale, including the teaching of painting and/or sculpting.

*Artificial sky glow.* The brightening of the night sky attributable to man-made sources of light.

*As-built plans.* A set of certified construction plans specifying how the public improvements required for the subdivision were actually constructed.

*Assisted-retirement living.* A use providing 24-hour supervision and assisted living for more than 15 residents not requiring regular medical attention. This classification includes personal care homes for the physically impaired, and persons 60 years of age or older.

*Athletic field or stadium.* An athletic field or stadium owned and operated by a public agency for the general public including a baseball field, golf course[,] football field or stadium which may be lighted for nighttime play.

*Atmospheric vacuum breaker or AVB.* An assembly containing an air inlet valve, a check seat, and an air inlet port. The flow of water into the body causes the air inlet valve to close the air inlet port. When the flow of water stops the air inlet valve falls and forms a check against back siphonage. At the same time it opens the air inlet port allowing air to enter and satisfy the vacuum. Also known as an atmospheric vacuum breaker back siphonage prevention assembly.

*Attendant documents.* Either materials needed to address the specific requirements of this Code, or any information which the applicant feels necessary to explain the submittal.

*Auto and marine repair (major).* A business specializing in major repair of motor vehicles, marine equipment and other motorized equipment entirely within an enclosed building, including any use listing below, as well as any use not listed as minor vehicle servicing.

- a. Auto painting or body rebuilding shop.
- b. Tire retreading and capping.
- c. Body, fender and frame repairs.
- d. Repair of farm or industrial equipment, or other major machinery.
- e. Watercraft hull repair and painting.

*Auto and marine repair (minor).* A business specializing in minor, routine, periodic, preventive maintenance of a motor vehicle, watercraft, truck or trailer conducted entirely within an enclosed building, including the following.

- a. Glass, upholstery and muffler shop.
- b. Clutch, transmission, differential, axle and spring repairs.
- c. Brake work.
- d. Servicing of spark plug, batteries, distributors and distributor parts and including minor engine tune-ups.
- e. Overhauling of engines requiring removal of cylinder head or crankcase pan and any associated engine rebuilding.
- f. Tire servicing and flat repair but not recapping or regrooving.
- g. Radiator repair.
- h. Fuel pump, oil pump, and related maintenance.
- i. Servicing of carburetors.
- j. Wiring repairs.
- k. Oil and filter change, lubrication, greasing and washing.
- l. Servicing hoses, fan belts, brake fluid, light bulbs, fuses, floor mats, seat belts, windshield wipers, mirrors, and installation of vehicle accessories such as radios.
- m. Automobile inspection services.

*Auto sales facility.* One or more buildings and an open, dust-free, all-weather surface other than a street, alley, or other public place, used for the display, wholesale or retail sale of automobiles, with repair and renovation authorized entirely within an enclosed building, and temporary storage of vehicles for repairs or renovation not to exceed ninety (90) days.

*Auto sales (outdoor).* An open, dust-free, all-weather area, other than a street, alley or other public place, used for the display and sales of new or used automobiles, where no repair work, except those actions normally associated with vehicle operator service, is done on the cars to be displayed and sold on the premises. A sales office is normally located on the premises and such shall be limited to an area less than 10% of the total sales lot.

*Average Grade.* The grade of the finished ground level at the midpoint of each exterior surface of a sign or building regarding maximum height.

*Backflow.* A flow in a direction opposite to the normal flow or the introduction of any foreign liquids, gases, or substances into the public water system.

*Backflow prevention.* The mechanical prevention of reverse flow, or backsiphonage, of nonpotable water from an irrigation system into the potable water source.

*Backflow prevention assembly.* Any assembly used to prevent backflow into a potable water system. The type of assembly used is based on the existing or potential degree of health hazard and backflow condition.

*Bar.* Any business establishment required to have a state license for the sale of alcoholic beverages for on-premises consumption.

*Base Flood.* A flood that has a one-percent chance of being equaled or exceeded in any given year (also called the “100-year flood”). Base flood is the term used throughout this article.

*Base Flood Elevation (BFE).* The elevation shown on the Flood Insurance Rate Map (FIRM) and found in the accompanying Flood Insurance Study (FIS) for zones A, AE, AH, A1-A30, AR, V1-V30, or VE that indicates the water surface elevation resulting from the flood that has a 1-percent chance of equaling or exceeding that level in any given year - also called the base flood.

*Basement.* Any area of the building having its floor sub grade - *i.e.*, below ground level - on all sides.

*Bed and Breakfast.* An establishment engaged in providing rooms or groups of rooms in a dwelling unit for temporary lodging for overnight guests on a paying basis.

*Block.* A parcel of land, intended to be used for urban purposes, which is entirely surrounded by public streets, highways, railroad right-of-way, public walks, parks or green strips, rural land, drainage channels, or a combination thereof; or if the same word is used as a term of measurement, it shall mean the distance along one side of a street between the nearest two streets which intersect said street on said side.

*Board.* See Board of Adjustments and Appeals.

*Board of Adjustments (and Appeals).* A committee appointed by the council to consider appeals from certain administrative actions pursuant to section 211.008 of the Texas Local Government Code and that is given the authority set forth in this article and in section 211.009 of the Texas Local Government Code. The board of appeals shall be the board of adjustments and appeals.

*Boarding House.* A building other than a hotel, occupied as a single housekeeping unit where lodging or meals are provided for three (3) or more persons for compensation, pursuant to previous arrangements for definite periods, but not to the general public or transients.

*Boat.* A watercraft or vessel designed for use on water.

*Boat Dock.* A noncommercial dock associated with a single-family residence for which no compensation is/will be received by the owner(s) of the dock for its use. This definition also includes swim platforms and piers. A floating dock located on Lake Travis that occupies more than 1,500 square feet of water surface area, excluding the square footage occupied by the gangway, shall be considered a marina facility. Any dock structure exceeding 1,500 square feet

and not associated with a single-family residence may be subject to LCRA's Highland Lakes Marina Ordinance, as amended.

*Boat Dock Assembly.* The assembly of prefabricated boat dock sections manufactured in advance at another location and shipped in units of standard sections.

*BOD (Biochemical Oxygen Demand).* The value of the 5-day test for biochemical oxygen demand, as described in the latest edition of "Standard Methods for the Examination of Water and Wastewater."

*Bond.* Any form of security including a cash deposit, surety bond, collateral, property, or instrument of credit in an amount and form satisfactory to the City Council.

*Boresight or boresight to daylight.* Providing adequate drainage for backflow prevention assemblies installed in vaults through the use of an unobstructed drainpipe.

*Breakaway Walls.* Any type of walls, whether solid or lattice, and whether constructed of concrete, masonry, wood, metal, plastic or any other suitable building material which is not part of the structural support of the building and which is designed to break away under specific lateral loading forces without causing any damage to the structural integrity of the elevated portion of the building or supporting foundation system on which they are used or any buildings to which they might be carried by floodwaters. A breakaway wall shall have a safe design loading resistance of not less than ten and no more than twenty pounds per square foot. Use of breakaway walls must be certified by a registered engineer or architect and shall meet the following conditions:

- a. Breakaway wall collapse shall result from a water load less than that which would occur during the base flood; and
- b. The elevated portion of the building shall not incur any structural damage due to the effects of wind and water loads acting simultaneously in the event of the base flood.

*Buffer* (see also riparian buffer):

- a. An area along some natural feature designated to protect and/or preserve the essential character of such feature and allow it to be maintained in an undisturbed and natural condition;
- b. A natural undisturbed portion of a lot, except for approved access which is set aside to achieve a visual barrier between the use on the lot and adjacent lots and/or uses. A buffer is achieved with preserving or planting appropriate vegetation, land area used to visibly separate one use from another through screening and distance, to shield or block noise, light, glare, visual, or other conditions, to block physical passage to non-similar areas, or to reduce air pollution, stormwater runoff, dust, dirt, and litter.

*Buffer Strip.* A band of land established to protect one (1) type of land use from the adverse effects of another incompatible use.

*Bufferyard.* A land area used to separate one (1) use from another or to shield, reduce or block noise, lights, or other nuisances. Bufferyards may be required to include fences, walls, berms, as well as shrubs and trees.

*Building.* See "Structure."

*Building Area.* The gross area covered by a structure when placed on the lot.

*Building Inspector.* The building official, the building inspector and the building inspector designated to inspect building or construction or designated to enforce the provisions of this Code.

*Building Line.* A line formed by the face of a building.

*Building Plot.* The land, lot, lots or tract of land upon which a building or buildings are located, or upon which they are to be constructed, including yards.

*Building Ordinance.* The building codes and related ordinances of the city providing standards, requirements and regulations for site development and the construction and erection of buildings and structures within the city, including, but not limited to, the electrical code, plumbing code, building code, and minimum housing code, adopted by the City Council from time to time.

*Building Permit.* A permit issued by the City of Jonestown which is required prior to commencing construction or reconstruction of any structure.

*Building Sewer.* The extension from the building drain to the public sewer or other place of disposal (also called the house lateral and house connection).

*Building Setback Line.* See "Setback or Building Setback Line."

*Business Unit.* Any premises, locations or entities, public or private, including all industrial and commercial entities, within the corporate limits of the city not a residential unit.

*Café or Cafeteria.* A commercial establishment where snacks or meals are served or sold for consumption indoors or on the premises.

*Caliper.* The diameter of a tree trunk (indicated in inches) measured at breast height, which is four feet six inches (4' 6") above the ground. For multi-trunked trees, the caliper of each trunk shall be measured one of the following ways:

- a. If the tree trunks fork at or below four feet six inches (4' 6") above the ground, the caliper is measured at the narrowest part of the main trunk below the fork. The



height of the measurement and the forks should be noted (e.g. “three foot diameter at two feet above the ground (narrowest part), with forks starting at four feet above the ground”).

- b. If the tree splits into several trunks close to ground level, measure the caliper of each trunk separately at four feet six inches (4' 6") above the ground. The caliper for the whole tree is then found by adding the caliper of the largest trunk plus one-half (1/2) the caliper of each additional trunk. (e.g., four trunks measuring ten inches, nine inches, eight inches and seven inches would be calculated as  $10 + 4 \cdot \frac{1}{2} + 4 + 3 \cdot \frac{1}{2}$  for a total caliper of 22 inches).

*Candela.* The unit of luminous intensity of a lighting source emitted into a given direction.

*Canopy.* A roof-like covering over an area, in or under which a lighting fixture is mounted.

*Canopy tree.* Tall tree having thick foliage providing shade for smaller trees and plants below.

*Carport.* A structure with one or more sides, covered with a roof and constructed specifically for the storage of one or more motor vehicles.

*Carwash.* Facility for the cleaning of the exterior of automobiles, typically including vacuums for interior cleaning, and which may include self-service, coin-operated or jet washing equipment, in-bay or tunnel automatic washing, chemical, steam, or waterless carwashes, hand washing, or similar means of cleansing vehicles.

*Centerline of a Waterway.* Means the centerline of the waterway and refers to existing topographically defined channels. If not readily discernible, the centerline shall be determined by (first) the low flow line, or (second) the center of the two-year floodplain.

*Certificate of Occupancy.* A certificate that the building inspector issues upon the permittee's satisfactory completion of operations that the city's building permit requires.

*Child care center (intermediate).* A facility (including nonresidential structures) which provides custodial care and supervision for less than 24 hours a day for between seven (7) and twelve (12) children, excluding foster and group homes. The facility must contain a minimum 150 square feet of floor area for each child.

*Child care center (large).* A facility where over twelve (12) children receive custodial care and supervision for less than 24 hours a day, excluding foster and group homes.

*Child care center (small).* A private residence where the occupant provides custodial care and supervision during daylight hours for a maximum six (6) children at any one time. The maximum of six (6) children includes the family's natural or adopted children under the age of fourteen (14). The residence must contain a minimum 150 square feet of floor area for each child. This use shall exclude a family/group home.

*Child development facilities.* Any children’s home, orphanage, institution, private home, residence or other place, whether public, parochial or private, operated for profit or not, which keeps, cares for, has custody of or is attended by more than six (6) children under sixteen years of age at any one time, who are not members of the immediate family or any person operating any such place, during any part or all of the twenty-four hours in a day.

*Church or rectory.* A place of worship and religious training of recognized religions including on-site housing of ministers, rabbis, priests, nuns and similar staff personnel.

*City.* The City of Jonestown, Texas.

*City Administrator.* The mayor or other chief administrative officer of the city, or his/her designated representative.

*City Administrator, City Manager, City Secretary, Chief of Police or Other City Officers.*

*City Building Official or Building Official.* The designated building official for the city or his or her designated representative.

*City Council or Council.* The Jonestown City Council.

*City Engineer.* The city engineer for the City or his/her designated representative.

*City Garden.* A public or city use area intended for the purposes of gardening.

*City Limits or Within the City.* Within the incorporated boundaries of the City.

*City Manager.* The person designated as city manager or city administrator.

*City Operator.* The city or a third party entity under contract with the city for operation and maintenance of the city’s wastewater or water system.

*City Park.*

- a. Land and facilities thereon owned or controlled by the city that are designated for use as parkland; or
- b. City recreational areas, including, but not limited to, a forest preserve, conservation area, jogging trail, hiking trail, water park, playground, swimming pool, soccer field, baseball field, or other sports field under the jurisdiction or control of the city.

*City Play Area.* Public use areas, including school and athletic fields, composed of predominantly turf grass intended for recreational purposes.

*City Staff.* The officers, employees and agents of the city assigned and designated from time to time by the city administrator and/or council, including but not limited to the city engineer, to review and/or comment and report on development plans.

*City Standard Details and Specifications.* A library of city-approved drawings and technical data representing typical drainage, transportation, erosion and sedimentation control, and utility appurtenances to be constructed for city acceptance.

*City Wastewater System (Wastewater System).* The wastewater pipes, lines, pumps, lift stations, facilities, and equipment used by or useful to the city to provide wastewater service within the city, including both existing and those to be installed, excluding the wastewater lines located within an individual's lot connecting the structure on the lot to the tap or connection.

*City Water System (Water System).* The water pipes, lines, pumps, facilities, and equipment used by or useful to the city to provide water service within the city, including both existing and those to be installed, excluding the water lines located within an individual's lot connecting the structure on the lot to the tap or connection.

*Cleaning or laundry self-service shop.* An establishment providing customers with self-service laundry and/or dry cleaning facilities, and does not include a commercial laundry or cleaning plant.

*Cleaning shop or laundry (small).* A custom cleaning shop not exceeding two thousand five hundred (2,500) square feet of floor area.

*Clear-cutting.* The broad removal of trees, shrubs, or undergrowth with the intention of preparing real property for nonagricultural development purposes.

*Clearing.* The selective removal of vegetation from a property, whether by cutting or other means.

*Climate controlled storage facility.* A building where customers access their storage units through a lobby and the facility will use reasonable efforts to avoid temperature extremes in a unit by keeping the unit warmer than the outside temperature in cold weather and cooler than the outside temperature in hot weather through an HVAC or other system.

*Clinic.* A public or private station or establishment for the examination and treatment of outpatients by an individual or group of doctors, dentists, opticians, veterinarians, or other similar medical professionals.

*Clothing manufacture.* Cutting, sewing and forming garments, millinery and accessories, when no noise, dust, vibration, odor or other undesirable or obnoxious condition is created to affect adjacent property.

*Club.* See "Social Club."

*Collocation.* The act of locating CFs and/or equipment on an existing structure without the need to construct a new support structure and without a substantial increase in the size of the existing structure.

*COD (chemical oxygen demand).* The value of the test for chemical oxygen demand, as described in the latest edition of “Standard Methods for the Examination of Water and Wastewater.”

*Code.* This Development Code.

*Code enforcement authority.* The person designated by the city for purposes of making inspections, sending notices, and otherwise enforcing the provisions of this division.

*Collector Street.* A street which collects traffic from local streets and serves as the most direct route to a major or minor arterial street.

*College or University.* An academic institution of higher learning, accredited or recognized by the state and offering a program or series of programs of academic study.

*Collocation.* The act of locating CFs and/or equipment on an existing structure without the need to construct a new support structure and without a substantial increase in the size of the existing structure.

*Commercial and institutional water use.* Water use which is integral to the operations of commercial and nonprofit establishments and governmental entities such as retail establishments, hotels and motels, restaurants and office buildings.

*Commercial Building.* Any building or structure that is used or designed to be used, in whole or in part, for retail or wholesale business, industrial, manufacturing, storage, religious, educational, amusement, entertainment, health, professional, scientific, office, or other business purposes. Commercial buildings are a type of nonresidential building.

*Commercial or Industrial.* Any establishment, public or private, rendering a service, manufacturing a product, offering a product for sale or any other similar activity.

*Commercial Vehicle.* A vehicle or trailer that exceeds two tons rated capacity that is used to transport persons or property for profit or in the course of a commercial enterprise, or that transports hazardous materials which require the vehicle to be placarded under state or federal law.

*Commission.* The planning and zoning commission of the City of Jonestown.

*Common area.* Privately owned land and improvements within a townhouse, condominium, planned development, or community unit development including buildings, common open space, central services and utilities, streets, walks, parking areas, fencing and screening walls, landscaping, and any other elements and facilities under common ownership and available for the use of all owners or tenants.

*Common open space.* That portion of the common area which is designated for outdoor recreation area, private park, play lot, plaza, athletic court, swimming pool, fountain, stream or pond, ornamental landscaping or natural vegetation offering visual amenity, and which is open to general view and conveniently accessible to pedestrians within the project.

*Communication services.* An establishment engaged in providing broadcasting and other information relay services accomplished through the use of electronic and telephonic mechanisms, and photocopy and reproduction mechanisms (excludes broadcast towers).

*Community center (private).* A recreational facility, including both indoor and outdoor facilities, for use by residents and guests of a particular residential community development, subdivision, planned unit development, or membership group.

*Community center (public).* A building and grounds owned or leased and operated by a governmental body for the social, recreational, health or welfare of the community served.

*Comprehensive or Master Plan.* The comprehensive plan of the city and adjoining areas adopted by the commission and approved by the City Council, including all its revisions as defined by chapter 219 of the Texas Local Government Code. The plan may indicate the general locations recommended for various land uses, transportation routes, public and private buildings, streets, parks, and other public and private developments and improvements, to include detailed plans for water and sewer facilities. Such plan is the overall development plan for the community adopted to provide long-range development policies and may include all specified individual elements thereof among which are the plans for land intensities; land subdivision; circulation; and community facilities, utilities and services. The comprehensive or master plan does not constitute zoning regulations or establish zoning district boundaries.

*Concept Plan.* A generalized plan that meets the requirements of this ordinance and that indicates the boundaries of a tract or tracts under common ownership, [and] identifies the purpose of the proposed development and the proposed land use, general lot or parcel layout, community use or public areas, and street alignments.

*Conditional Use.* An additional use which may be permitted in a district, subject to meeting certain conditions or procedures established by the City Council. No conditional use shall be permitted in any location where it will be inconsistent with the existing adjacent and nearby uses.

*Condominium.* A building or group of buildings in which dwelling units are owned individually, while the structure and common areas and facilities are owned by all the owners on a proportional, individual basis. This requires the plans be prepared and approved in accordance with the provisions of section 14.02.076, Planned unit development.

*Connection.* The initial or first connection (“tap”) or any subsequent additional connection of a residential or business unit to the city’s water or wastewater system.

*Conservation.* Those practices, techniques, and technologies that reduce the consumption of water, reduce the loss or waste of water, improve the efficiency in the use of water or increase the recycling and reuse of water so that a supply is conserved and made available for future or alternative uses.

*Construction.* Any clearing of land, excavation, or other action that would adversely affect the natural environment of the site. This definition does not include uses in securing survey or geological data such as necessary borings to ascertain subsurface conditions.

*Construction Activity or Work.* Shall include, but is not limited to, the causing or carrying out of any man-made change in any property or facility through building, erecting, installing, bulkheading, filling, mining, dredging, clearing, paving, grading, excavating, boring, drilling, or the addition, removal or alteration of any facility or any improvement to property, including altering of the size of any facilities, or other similar work or activity, in, over, under, through, along or across the rights-of-way or streets within the city limits.

*Construction Plans.* The maps, drawings, plans and specifications indicating the proposed location and design of improvements to be installed as part of a development.

*Contamination.* The entry into or presence in a public water supply system of any substance which may be harmful to health or to the quality of the water.

*Contamination or contaminate.* The entry into or presence in a public water supply system of any substance which may be harmful to health or to the quality of the water.

*Contiguous.* Adjacent property whose property lines are shared or are separated by only a street, alley, easement or right-of-way.

*Contractor.* Shall mean and include, but is not limited to, the person possessing a permit, franchise or license agreement as required under this division and all persons actually performing, directing, monitoring, managing or overseeing any construction activity, work or other such similar activity in, over, under, through, along or across any streets or rights-of-way within the city limits.

*Control Manhole.* A manhole giving access to a building sewer at some point before the building sewer discharge mixes with other discharges in the public sewer.

*Control Point.* Point of access to a course of discharge before the discharge mixes with other discharges in the public sewer.

*Convalescent Home.* Any structure used or occupied by three (3) or more persons recovering from illness or being provided geriatric care for compensation.

*Convenience Store.* A retail establishment of less than 2,500 square feet of total floor area selling a variety of consumables, notions and/or similar items, usually serving as a convenient outlet to a neighborhood. This activity can include the retail sale and self-service dispensing of gasoline or

other fuels in appropriate zoning districts. The sale of beer and wine for off-premises consumption is allowed with a conditional use permit, in compliance with the zoning regulations of this article.

*Conviction.* Any person shall be deemed to have been convicted for whom the municipal court imposes any penalty or sentence, the person receives community service, supervision or deferred adjudication, or the court defers final disposition of the case.

*Corner Lot.* A lot located at the intersection of and abutting on two (2) or more streets.

*Corridor.* Property located in an area where any corridor overlay requirements apply.

*Council.* See "City Council."

*Councilmember.* A member of the City Council of Jonestown.

*Country Club.* An area of twenty (20) acres or more containing a golf course and a clubhouse and available only to private specific membership, such a club may contain adjunct facilities such as private club, dining room, swimming pool, tennis courts and similar recreational or service facilities.

*County.* Travis County, Texas.

*County Appraisal District.* The Travis Central Appraisal District and/or Williamson County Appraisal District.

*Courtyard.* An open, unoccupied space, bounded on more than two sides by the walls of a building. An inner court is a court entirely surrounded by the exterior walls of a building. An outer court is a court having one side open to a street, alley, yard or other open space.

*Critical feature.* An integral and readily identifiable part of a flood protection system, without which the flood protection provided by the entire system would be compromised.

*Critical Root Zone.* A circular area around a significant tree equal to one (1) foot in radius for each one (1) inch caliper, and the center of the circular area located at the trunk.

*Cross connection.* An actual or potential connection between a potable water source and any fixture, tank, receptacle, equipment or device that may contain contaminates or pollutants or any source of water that has been treated to a lesser degree in the treatment process.

*Crossfall.* The transverse slope as related to a given longitudinal slope and measured by the rise to run ratio.

*Crosswalk.* A strip of land dedicated for public use and which is reserved across a lot or block for the purpose of providing pedestrian access to adjacent areas.

*Cul-de-sac.* A minor street having one (1) end open to vehicular traffic and having one (1) closed end terminated by a permanent turnaround.

*Cultural Services.* A library, museum, or similar registered nonprofit organizational use displaying, preserving, and exhibiting objects of community and cultural interest in one or more of the arts and sciences.

*Curfew.* A time each night after which certain electric illumination must be turned off or reduced in intensity.

*Curfew Hours.*

- a. 11:00 p.m. on any Sunday, Monday, Tuesday, Wednesday, or Thursday until 6:00 a.m. of the following day; and
- b. 11:59 p.m. on any Friday or Saturday until 6:00 a.m. of the following day.

*Cultivar.* A variation of a species, one that has been produced through breeding or deliberate selection.

*Dangerous Building or Unsafe Building or Substandard Building or Unfit Dwelling.* Any building located within the incorporated limits of the city that is:

- a. In such a state or condition of repair or disrepair that all or any of the following conditions exist:
  1. Walls or other vertical structural members list, lean, or buckle;
  2. Damage or deterioration exists to the extent the building cannot be used or occupied without risk of injury, or to the extent the building poses a danger to persons on the property or adjacent property;
  3. Loads on floors or roofs are improperly distributed or the floors or roofs are of insufficient strength to be reasonably safe for the purposes used;
  4. Damage by fire, wind, or other cause has rendered the building or structure dangerous to life, safety, morals or the general health and welfare of the occupants or the people of the city;
  5. The building or structure is so dilapidated, substandard, decayed, unsafe, unsanitary or otherwise lacking in the amenities essential to decent living or use that the same is unfit for human habitation or occupancy, or is likely to cause sickness, disease or injury or otherwise to constitute a detriment to the health, morals, safety or general welfare of those persons assembled, working, or living therein or is a hazard to the public health, safety and welfare;
  6. Light, air, and sanitation facilities are inadequate to protect the health, morals, safety, or general welfare of persons who assemble, work, or live therein;
  7. Stairways, fire escapes, and other facilities of egress in case of fire or panic are inadequate;



8. Parts or appendages of the building or structure are so attached that they are likely to fall and injure persons or property;
  9. The floors, exterior walls, or roof fail to protect occupants of the building or structure from weather, injury, and the danger of collapse due to the presence of holes, cracks, and loose, rotten, warped, or protruding boards or other similar damage in floors, exterior walls or the roof;
  10. Conditions of the structure or building constitute a material violation of provisions of the city's building codes, plumbing code, fire prevention code, or electrical code (the "codes"). For the purposes of this section, a "material" violation is a violation of any provision or provision of the codes that creates a significant risk of personal injury, death, or property damage;
  11. Dilapidated, substandard, or unfit for human habitation and a hazard to the public health, safety, and welfare of the city's residents;
- b. Regardless of its structural condition, unoccupied by its owners, lessees, or other invitees and is unsecured from unauthorized entry to the extent that it could be entered or used by vagrants or other uninvited persons as a place of harborage or could be entered or used by children; or
- c. Boarded up, fenced or otherwise secured in any manner if:
1. The building constitutes a danger to the public even though secured from entry;
  2. The means used to secure the building are inadequate to prevent unauthorized entry or use of the building to the extent it could be entered or used by vagrants or other uninvited persons as a place of harborage or could be entered or used by children; or
  3. Defined as a dangerous or unsafe building by the 2009 International Property Maintenance Code, published by the International Code Council, Inc.

*Dedication.* The grant of an interest in property for public use.

*Delicatessen.* A small shop, with seating for no more than 20 people at one time, where such foods as prepared cooked meats, smoked fish, cheeses, salads, relishes and other prepared foods are sold, mainly for takeout.

*Design Storm.* A probable rainfall event the frequency of which is specified in periods of years and which is used to design drainage facilities and determine flood elevations.

*Developed Area.* That portion of a lot, easement, or parcel upon which a building, structure, pavement or other improvements have been placed.

*Developer.* The legal owner of land to be improved and/or subdivided or his/her authorized representative.

*Development.* Generally, any manmade change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials. Regarding subdivisions, a subdivision of land as defined herein or the construction or placement of any buildings, utilities, access, roads or other structures, excavation, mining, dredging, grading, filling, clearing or removing vegetation, and the deposit of refuse, waste or fill. Lawn and yard care, including mowing of tall weeds and grass, gardening, tree care and maintenance, removal of trees or other vegetation damaged by natural forces, and ranching and farming shall not constitute development. Utility, drainage, and street repair, and any construction maintenance and installation which does not require land disturbance or result in additional impervious cover shall also not constitute development.

*Development Plan.* A scaled drawing representing an area of land to be improved/developed and indicating the legal boundary of said property and the nature and extent of all existing and proposed improvements to said project.

*Development Plat.* The maps, drawings, plans and specifications indicating the proposed location and design of improvements to be installed as part of a development and containing all of the information required by division 2 of this article, prepared by a registered professional land surveyor as a boundary survey and sealed by a licensed professional engineer or architect.

*Director.* The public works director, person designated by the public works director, city administrator, or person designated by the city administrator.

*Director or Planning Director.* Planning Director of the City of Jonestown.

*Discharge.* The introduction of pollutants into a publicly owned treatment work from any non-domestic source.

*Display Surface Area.* The total surface, including frame, but shall include only one-half of a freestanding back-to-back sign, provided the freestanding sign's sides are back to back and that both sides have the identical sign.

*District.* A zoned section or sections of the city for which regulations governing the use of buildings and premises, the height of buildings, the size of yards, and the intensity of use are uniform.

*Dish antenna.* A parabolic or bowl-shaped device that receives and/or transmits signals in a specific directional pattern.

*Dock or Boat Dock.* Piers, platforms, or other structures designed to extend into or float on the surface of the water, often used for the mooring of boats, swimming, and fishing.

*Domestic water use.* Water use for personal needs or for household or sanitary purposes such as drinking, bathing, heating, cooking, or sanitation, or for cleaning a residence, business, industry or institution.

*Double check detector backflow prevention assembly or double check detector or DCDA.* An assembly composed of a line-size approved double check assembly with bypass containing a specific water meter and an approved double check valve assembly. The meter shall register accurately for very low rates of flow.

*Double check valve.* An assembly that is composed of two (2) independently acting, approved check valves, including tightly closed resilient seated shutoff valves attached at each end of the assembly and fitted with properly located resilient seated test cocks. Also known as a double check valve backflow prevention assembly or DC.

*Double Frontage Lot.* A lot which runs through a block from street to street and which abuts two (2) or more streets.

*Drainageway.* See “Waterway”.

*Drainfield.* Private sewage facility disposal area, trench or bed utilized for final wastewater disposal.

*Drip Line Area.* The area on the ground enclosed by vertical planes extending downward from the outer solid edge of a tree canopy.

*Drive Approach.* A paved surface connecting the street to a front lot line.

*Driveway.* The surface connecting a drive approach with a parking space, parking lot, loading dock or garage.

*Dwelling.* Any building or portion thereof built on-site which is designed for or used exclusively for residential purposes, including single-family, two-family, three-family, four-family and multifamily dwellings, but not including hotels, motels, manufactured housing, campers, trailers or other structures without a permanent foundation.

*Dwelling (four-family) or fourplex.* A detached building designed and constructed with four (4) separate dwelling units under a single roof for occupancy by four (4) families.

*Dwelling (multiple-family).* Any building or portion thereof, which is designed, built, rented, leased or let to be occupied as five (5) or more dwelling units or apartments or which is occupied as a home or residence of five (5) or more families.

*Dwelling (single-family).* A detached building having accommodations for occupancy by not more than one family.

*Dwelling (three-family) or triplex.* A detached building designed and constructed with three (3) separate dwelling units under a single roof for occupancy by three (3) families.

*Dwelling (two-family) or duplex.* A detached building designed and constructed with two (2) separate dwelling units under a single roof for occupancy by two families.

*Dwelling Unit.* A residential unit designed to accommodate one (1) household.

*Easement.* A grant by the property owner of the use of a strip of land for stated purposes.

*Elevated Building.* For insurance purposes, a nonbasement building, which has its lowest elevated floor, raised above ground level by foundation walls, shear walls, posts, piers, pilings, or columns.

*Elevation Reference Mark.* A point of vertical ground elevation reference to be shown on the FIRM for comparison to the BFE. ERMs shall be referenced to the National Geodetic Vertical Datum (NGVD) or the North American Vertical Datum (NAVD).

*Emergency.* Any occurrence or set of circumstances involving actual or imminent physical trauma or property damage or loss that demands immediate action.

*Emergency Work.* Any work performed for the purpose of:

- a. Preventing or alleviating the physical trauma or property damage threatened or caused by an emergency;
- b. Restoring property to a safe condition following a fire, accident, or natural disaster;
- c. Protecting persons or property from exposure to danger; or
- d. Restoring public utilities.

*Encroachment.* The advance or infringement of uses, plant growth, fill, excavation, buildings, permanent structures or development into a floodplain that may impede or alter the flow capacity of a floodplain.

*Endangered plant.* Any plant species which is in danger of extinction throughout all or a significant part of its range.

*Environment.* The aggregate of social and physical conditions that influence the life of the individual and/or community.

*EPA (Environmental Protection Agency).* The United States Environmental Protection Agency.

*Equipment storage building.* An unmanned, single-story equipment building or structure used to house telecommunications equipment necessary to operate the telecommunications network.

*Erect.* To build, construct, alter, reconstruct, pour, lay, move upon, attach, hang, place, suspend, or affix, and also includes the painting of wall signs, murals or supergraphics, or any physical

operation on the premises required for the construction of a sign including excavation, site clearance, landfill, and similar activities.

*Erected.* Built, constructed, altered, reconstructed, poured, laid, moved upon, excavated, site cleared, land filled, or any physical operations on the premises that are required for construction.

*Erosion.* The process by which the ground surface is worn away by the action of wind or water and soil and material is carried, or is likely to be carried, across any property line in significant quantities.

*Escrow Funds.* A deposit of cash or other approved security with the local government or approved bank or other financial institution in lieu of a performance or maintenance bond.

*Establishment.* Any privately owned place of business operated for a profit to which the public is invited, including, but not limited to, any place of amusement or entertainment.

*ETJ (Extraterritorial Jurisdiction) Limits.* The limits of the city's extraterritorial jurisdiction as granted under chapter 43, Local Government Code.

*Even-numbered address.* Street addresses, box numbers, or rural postal route numbers ending in 0, 2, 4, 6, or 8, and locations without addresses.

*Excavation.* Any breaking of ground, digging, scooping, or other method of removing earth materials, except common household gardening and ground care.

*Existing construction.* For the purposes of determining rates, structures for which the "start of construction" commenced before the effective date of the FIRM or before January 1, 1975, for FIRMs effective before that date. "Existing construction" may also be referred to as "existing structures."

*Existing manufactured home park or subdivision.* A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the floodplain management regulations adopted by a community.

*Existing structure.* Previously permitted support structure or any other structure, including but not limited to, buildings or water tanks, to which a communication facility can be attached.

*Expansion.* The addition of buildings, structures, machinery, equipment, or payroll for purposes of increasing production capacity.

*Expansion to an Existing Manufactured Home Park or Subdivision.* The preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

*Extraterritorial Jurisdiction (ETJ).* That geographic area outside the corporate boundaries of the city as established pursuant to sections 42.021 and 42.022 of the Texas Local Government Code.

*Façade.* The exterior wall of a building.

*Facility or Facilities.* Any plant, equipment and property, including, but not limited to, duct spaces, manholes, poles, towers, utility pipes, pipes, conduits, lines, wires, transmission media, underground and overhead passageways or other equipment, structures and appurtenances which are located in, over, under, through, along or across the rights-of-way or streets.

*Family.* Any number of individuals living together as a single housekeeping and economic unit.

*Family home.* A community-based residential home operated in accordance with the Community Homes for Disabled Persons Location Act and its amendments.

*Farm accessory building.* A structure, other than a dwelling, on a farm as herein defined, for the housing, protection or storage of the usual farm equipment, animals and crops.

*Fats, oils, and greases (FOG).* Organic polar compounds derived from animal and/or plant sources that contain multiple carbon chain triglyceride molecules. These substances are detectable and measurable using analytical test procedures established in 40 CFR 136, as may be amended from time to time. All are sometimes referred to herein as “grease” or “greases.”

*Farm, ranch, garden or orchard.* An area of three (3) acres or more which is used for the primary purpose of growing of vegetables, fruits, trees, hay, livestock feed and/or grain, and/or for the raising thereon of poultry and farm animals such as horses, cattle and sheep and including the necessary accessory uses for raising, treating and storing products raised on the premises, but not including the commercial feeding of offal and garbage to swine and other animals and not including any type of agriculture or husbandry specifically prohibited by ordinance or law.

*FEMA.* Federal Emergency Management Agency.

*Filing Date.* With respect to plats and plans, the date of their first public hearing before the commission regarding such plat or plan; provided that, with respect to the required council approval of plats and plans, the filing date for such council approval shall be the date of the approval, disapproval or conditional approval by the commission or, provided the developer requests action, the date the commission's approval is deemed granted by operation of law.

*FIMA.* Federal Insurance and Mitigation Administration.

*Final Plat.* A map of a land subdivision prepared in a form suitable for filing of record with necessary affidavits, dedications and acceptances, and with complete bearings and dimensions of all lines defining lots and blocks, streets, alleys, public areas and other dimensions of land.

*Financial Services.* Services provided by an establishment primarily engaged in financial and banking activities. Typical uses may include banks, savings and loan institutions, stock and bond brokers, loan and lending activities, and similar services.

*Fine Art.* Sculpture, fountains, or similar objects that do not in any way identify or advertise an object or business.

*Firearm.* Any device capable of discharging a projectile through a barrel using the energy generated by an explosive charge or burning substance, or any device readily convertible to such use, or any device capable of discharging a projectile through a barrel using the energy generated by compressed air, including, without limitation, an air gun, BB gun, or toy gun.

*Fire line tester.* A tester who is employed by an approved fire sprinkler contractor and is qualified to test backflow prevention assemblies on fire lines.

*Firewise.* A cooperative effort among local, state, federal, and private agencies and organizations to promote fire safety in the wildland/urban interface.

*Fireworks.* Any combustible or explosive composition, or any substance or combination of substances or article prepared for the purpose of producing a visible or an audible effect by combustion, explosion, deflagration or detonation, and includes, but is not limited to, blank cartridges, toy pistols, toy cannons, toy canes, or toy guns in which any such explosives are used, unmanned balloons which require fire underneath to propel the same, firecrackers, lady fingers, torpedoes, skyrockets, Roman candles, dago bombs, sparklers, or other devices containing any such explosive substance.

*Flood boundary and floodway map (FBFM).* The official map on which the Federal Emergency Management Agency or Federal Insurance Administration has delineated both the areas of special flood hazards and the floodway.

*Flood Elevation Study.* An examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of mudslide (i.e., mudflow) and/or flood-related erosion hazards.

*Flood, flooding, or floodwater.*

- a. A general and temporary condition of partial or complete inundation of normally dry land areas from the overflow of inland or tidal waters; the unusual and rapid accumulation or runoff of surface waters from any source; and/or mudslides (i.e., mudflows); and
- b. The condition resulting from flood-related erosion.

*Flood hazard boundary map.* The official map on which the Federal Emergency Management Agency or Federal Insurance Administration has delineated the areas of flood hazards.

*Flood insurance rate map (FIRM).* The official map on which the Federal Emergency Management Agency or Federal Insurance Administration has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

*Flood insurance study.* See “Flood Elevation Study.”

*Floodplain.* That land which is lying within a stream channel or adjacent to a stream channel within which flooding frequently occurs, the elevation above sea level of which shall be as established by the most recent FIRM map; regarding subdivision drainage designs, the channel of a waterway and the adjacent land area subject to inundation during the design storm.

*Floodplain administrator.* The individual appointed to administer and enforce the floodplain management regulations.

*Floodplain management.* The operation of an overall program of corrective and preventive measures for reducing flood damage and preserving and enhancing, where possible, natural resources in the floodplain, including but not limited to emergency preparedness plans, flood control works, floodplain management regulations, and open space plans.

*Floodplain management regulations.* This article and other zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as grading and erosion control) and other application of police power which control development in floodprone areas. This term describes federal, state or local regulations in any combination thereof that provide standards for preventing and reducing flood loss and damage.

*Floodplain or floodprone area.* Any land area susceptible to being inundated by water from any source - see “Flooding.”

*Floodproofing.* Any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures, and their contents (Refer to FEMA Technical Bulletins TB 1-93, TB 3-93, and TB 7-93, or subsequent replacement bulletins, for guidelines on dry and wet floodproofing.)

*Flood protection system.* Those physical structural works for which funds have been authorized, appropriated, and expended and which have been constructed specifically to modify flooding in order to reduce the extent of the area within a community subject to a “special flood hazard” and the extent of the depths of associated flooding. Such a system typically includes hurricane tidal barriers, dams, reservoirs, levees or dikes. These specialized flood modifying works are those constructed in conformance with sound engineering standards.

*Flood-related erosion.* The collapse or subsidence of land along the shore of a lake or other body of water as a result of undermining caused by waves or currents of water exceeding anticipated cyclical level or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as a flash flood or



an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding.

*Flood-related erosion area.* Flood-related or erosion prone area means a land area adjoining the shore of a lake or other body of water, which due to the composition of the shoreline or bank and high water levels or wind-driven currents, is likely to suffer flood-related erosion damage.

*Flood-related erosion area management.* The operation of an overall program of corrective and preventive measures for reducing flood-related erosion damage, including but not limited to emergency preparedness plans, flood-related erosion control works, and floodplain management regulations.

*Floodway.* The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot. Also referred to as “Regulatory Floodway.”

*Floodway Fringe.* That area of the floodplain on either side of the “Regulatory Floodway” where encroachment may be permitted.

*Floor Area.* The total square feet of floor space within the outside dimensions of a building, including each floor level, but excluding cellars, carports, garages, porches, patios or decks.

*Floor area ratio (FAR).* The maximum square footage of total floor area permitted for each square foot of land area. It is the ratio between the total square feet of floor area in all buildings located on a lot in relation to the total square feet of land in the lot or tract on which the buildings are located.

*Food and beverage sales store.* A retail establishment of greater than 2,500 square feet of total floor area, selling a variety of consumables, notions and/or similar items, usually serving a significant market area.

*Food sales.* An establishment primarily engaged in the retail sale of food, fruits, vegetables, dairy products, or household products for home consumption. Typical uses include grocery stores, delicatessens, meat markets, and retail bakeries.

*Front Building Line.* Means the same thing as a front setback line.

*Fraud and victimization.* As related to division 4, variance procedure, of this article, means that the variance granted must not cause fraud on or victimization of the public. In examining this requirement, the board of adjustments and appeals or other appropriate governing body of the city will consider the fact that every newly constructed building adds to government responsibilities and remains a part of the community for fifty to one hundred years. Buildings that are permitted to be constructed below the base flood elevation are subject during all those years to increased risk of damage from floods, while future owners of the property and the community as a whole are subject to all the costs, inconvenience, danger, and suffering that those increased flood damages bring. In addition, future owners may purchase the property,

unaware that it is subject to potential flood damage, and can be insured only at very high flood insurance rates.

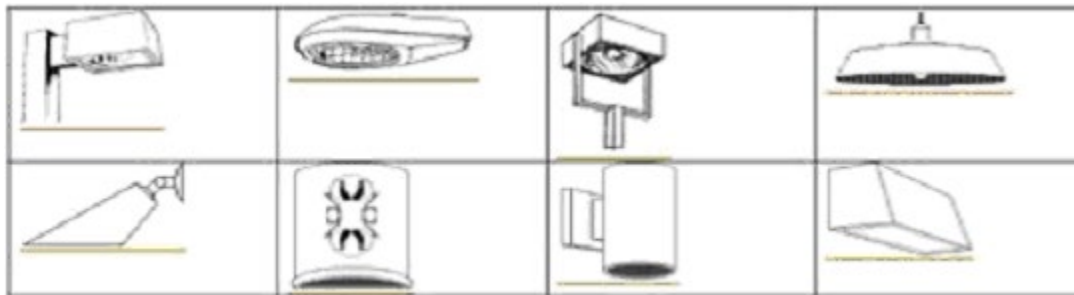
*Front Yard.* A yard extending across the full width of a parcel measured perpendicularly from the front lot line of the parcel to the front walls of the primary structure situated on the parcel. The front lot line is defined as the lot line from which any structures take their addressed street from.

*Frontage.* That side of a lot, parcel or tract of land abutting a street right-of-way and ordinarily regarded as the frontal orientation of the lot.

*Frontage Block.* All the property on one side of a street between two intersecting streets (crossing or terminating), measured along the line of the street, or if the street is dead-ended, then all of the property abutting on one side between an intersecting street and the dead-end of the street.

*Full Cutoff.* A luminaire light distribution where zero candela intensity occurs above an angle of 90 above nadir. Additionally, the candela per 1000 lamp lumens does not exceed 100 (10%) at or above a vertical angle of 80 above nadir. This applies to all lateral angles around the luminaire.

*Fully Shielded.* An outdoor luminaire constructed so that in its installed position, all of the light emitted from the light fixture is projected below the horizontal plane passing through the lowest light-emitting part of the fixture. See figure 1.



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Figure 1. Examples of Fully Shielded Light Fixtures

*Functionally dependent use.* A use that cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, and does not include long-term storage or related manufacturing facilities.

*Garage, Commercial.* Any premises and structure used for housing more than five (5) motor vehicles or where any vehicles are repaired for operation or kept for remuneration, hire or sale, and where a retail service station may be maintained as a secondary use.

*Garage or Carport, Private.* An accessory building for parking or storage of not more than that number of vehicles that may be required in connection with the permitted use of the principal building.

*Garbage.* Animal and vegetable wastes and residue from preparation, cooking and dispensing of food; and from the handling, processing, storage and sale of food products and produce

*Gasoline or Retail Service Station.* An establishment where gasoline, oil and grease, or automobile accessories are sold, supplied, or dispensed to the motor vehicle trade or where motor vehicles receive limited repair, or where electric storage batteries are charged and cared for, or a place where any two (2) or more such activities are carried on or conducted as the principal use of the establishment.

*Gated Community.* A residential development enclosed by a fence with access provided only at gated access points.

*General tester or tester.* A tester who is qualified to test backflow prevention assemblies on any domestic, commercial, industrial or irrigation service except fire lines. Recognized backflow prevention assembly testers shall have completed a TCEQ executive director approved course on cross-connection control and backflow prevention assembly testing, pass an examination administered by the TCEQ executive director, and hold a current license as a backflow prevention assembly tester.

*Generator.* Any person who owns or operates a grease trap/grease interceptor, or whose act or process produces a grease trap waste.

*Glare.* Light that causes visual discomfort or disability, or a loss of visual performance.

*Golf Course (Commercial).* A golf course or driving range privately owned but open to the public for a fee and operated as a commercial venture.

*Governing Body.* The local governing unit, i.e. county or municipality that is empowered to adopt and implement regulations to provide for the public health, safety and general welfare of its citizenry.

*Grade.* The slope of a road, street, other public way or utility line specified in terms of percent (%); the topographic relief of a parcel of land; the average elevation at ground level of the buildable area of a lot or parcel of land.

*Grading.* Any stripping, cutting, filling or stockpiling of earth or land, including the land in its cut or filled condition.

*Grease trap or interceptor.* A device designed to use differences in specific gravities to separate and retain light density liquids, waterborne fats, oils, and greases prior to the wastewater entering the sanitary sewer collection system. These devices also serve to collect settleable solids, generated by and from food preparation activities, prior to the water exiting the trap and entering the sanitary sewer collection system. Grease traps and interceptors are also referred to herein as "grease traps/interceptors."

*Grease trap waste.* Material collected in and from a grease trap/interceptor in the sanitary sewer service line of a commercial, institutional, or industrial food service or processing establishment, including the solids resulting from de-watering processes.

*Gross Floor Area.* The floor area of a building or room measured from the exterior faces of the exterior walls or from the centerline of walls separating two rooms or buildings, including the floor area of each room and of any basement or attic.

*Ground Cover.* Low growing plants planted in such a manner as to form a continuous cover over the ground, or low growing vines.

*Group Home.* A home-based facility providing 24-hour care in a protected living arrangement for not more than six (6) residents. This classification includes foster homes, homes for the physically and mentally impaired, homes for the developmentally disabled, congregate living facilities for seniors and maternity homes. Requires licensing by the State of Texas. Does not include post-incarceration facilities or facilities for those who are a danger to themselves or others.

*Habitat.* An area that meets all of the environmental conditions necessary for an animal, tree or plant to survive, including the right combination of light, air, water and soil.

*Half Story.* A partial story under a gable, hip or gambrel roof, the wall plates of which on at least two (2) opposite exterior walls are not more than four (5) feet above the floor of such story, except that any partial story used for residence purposes, other than by a family occupying the floor immediately below it, shall be deemed a full story.

*Halfway House.* A dwelling unit used as a single housekeeping unit for not more than six (6) persons who have demonstrated a tendency towards alcoholism, drug abuse, anti-social or criminal conduct, together with not more than two (2) persons providing supervision and other services to such persons.

*Hardscape Lighting.* Lighting associated with architectural features, such as fountains, sculptures, and the like.

*Hardship.* As related to division 4, Variances, of this article, means the exceptional hardship that would result from a failure to grant the requested variance. The City Council requires that the variance be exceptional, unusual, and peculiar to the property involved. Mere economic or financial hardship alone is not exceptional. Inconvenience, aesthetic considerations, physical handicaps, personal preferences, or the disapproval of one's neighbors likewise cannot, as a rule, qualify as an exceptional hardship. All of these problems can be resolved through other means without granting a variance, even if the alternative is more expensive, or requires the property owner to build elsewhere or put the parcel to a different use than originally intended.

*Health Hazard.* A cross connection or potential cross connection with any fixture, tank, receptacle, equipment or device that involves any substance that may, if introduced into the potable water supply, cause death or illness, spread disease, or have a high probability of causing such effects.

*Healthy soils.* Soils with a continued capacity to maintain a diverse community of soil organisms that help to control plant disease, insect and weed pests, that form beneficial symbiotic

associations with plant roots; that recycle essential plant nutrients; that improve soil structure with positive repercussions for soil water and nutrient holding capacity, and that function as vital living ecosystems that sustain animals, plants and humans.

*Heavy Equipment.* Large vehicles, particularly those designed for construction and earth moving operations, including large trucks, bulldozers, graders, large tractors, also known as heavy machines, heavy trucks, construction equipment, engineering equipment, heavy vehicles, or heavy hydraulics, often comprised of five equipment systems: implement, traction, structure, power train, control and information.

*Height.* The vertical distance from the highest point of the undisturbed natural grade within the building footprint to the highest point of the building or structure, excluding spires, antennas, ventilators, chimneys, or other similar appurtenances. Undisturbed natural grade elevations shall be certified by a registered architect, surveyor or engineer.

*Heliport.* Landing facility for rotary wing aircraft subject to regularly scheduled use and may include fueling or servicing facilities for such craft.

*Helistop.* A landing pad for occasional and infrequent use by rotary wing aircraft not exceeding a gross weight of 6,000 pounds.

*Heritage tree.* A native tree twenty-four (24) inches or greater in diameter when measured at breast height, which is four (4) feet six (6) inches above the ground.

*Highest adjacent grade.* The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

*Historic structure.* Any structure that is:

- a. Listed individually in the National Register of Historic Places (a listing maintained by the Department of the Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- b. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary of the Interior to qualify as a registered historic district;
- c. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of Interior; or
- d. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either by an approved state program as determined by the Secretary of the Interior or directly by the Secretary of the Interior in states without approved programs.

*Home for Aged.* A home where elderly people are provided with lodging and meals without nursing care.

*Home-Based Business.* A commercial use customarily carried on in the home.

*Homeowners' Association (HOA).* Any association or organization of co-owners within a condominium or townhouse project, including the council of co-owners or a condominium or townhouse management association, or the owners of lots within a subdivision; organized for the primary purpose of managing and maintaining the common areas and common open space in any such project, or otherwise owned by the association. An organization, association, or other entity formed and controlled by the developer, project owner or general partner for this purpose will be included in this definition.

*Hospital.* A building or portion thereof used or designated for the treatment of the sick, aged, mentally ill, injured, convalescent or infirm persons; provided that this definition shall not include rooms in any residential dwelling, hotel or apartment hotel not ordinarily intended to be occupied by said persons.

*Hot Water.* Water at a temperature of not less than 120° Fahrenheit.

*Hotel.* A building in which lodging is provided and offered to individual transient guests, but not excluding permanent guests, and may include a cafe, drugstore, clothes, pressing shop, barbershop or other service facilities for guests for compensation, and in which ingress and egress to and from all rooms is made through and inside a lobby or office supervised by a person in charge at all hours. As such, it is open to the public in contradiction to a boarding house, a lodging house, or an apartment. To be classified as a hotel an establishment shall contain a minimum of six (6) individual guest rooms or units and shall furnish customary hotel services such as linen, maid service, telephone, and the use and upkeep of furniture.

*Hydrozone.* The practice of grouping together plants with similar water needs in order to better manage water usage.

*Impervious Cover.* Roads, parking areas, buildings, swimming pools, rooftop landscapes and other construction limiting the absorption of water by covering the natural land surface; this shall include, but not be limited to, all streets and pavement within the development.

*Improvement(s).* Any street, alley, roadway, barricade, sidewalk, bikeway, pedestrian way, water line system, wastewater system, storm drainage network, public park land, landscaping, or other facility or portion thereof for which the local government may ultimately assume responsibility for maintenance and operation or which may affect an improvement for which local government responsibility is established. The term "improvement" shall include private streets, being streets that are not dedicated to the public or to the city.

*Improvement area.* Area on a property to be developed, including structures, driveways, parking areas, and utilities (e.g., septic fields).

*In the City.* All territory over which the city now has, or shall hereafter obtain, jurisdiction for the exercise of its police, regulatory, and other powers.

*Includes and Including.* Terms of enlargement and not of limitation or exclusive enumeration, and use of the terms does not create a presumption that components not expressed are excluded.

*Indigenous plants.* Those species of plants naturally occurring within a specific habitat or biogeographical region prior to significant human impacts.

*Indirect discharge or discharge.* The introduction of pollutants into a POTW from any non-domestic source.

*Industrial Waste.* Waste resulting from a process of industry, manufacturing, trade, or business from the development of any natural resource, or any mixture of the waste with water or normal wastewater, or distinct from normal wastewater.

*Industrial Waste Charge.* The charge made on those persons who discharge industrial wastes into the city's sewerage system.

*Industrial water use.* The use of water in processes designed to convert materials of lower value into forms having greater usability and value, including the development of power by means other than hydroelectric.

*Infestation.* The presence of insects, rodents, vermin, or other pests within or contiguous to a dwelling, dwelling unit, rooming house, rooming unit, premises, or other residential or non-residential structure or building.

*Inspector.* A licensed plumbing inspector, water district operator, other governmental entity, or irrigation inspector who inspects irrigation systems and performs other enforcement duties for a municipality or water district as an employee or as a contractor, other than a building inspector.

*Installation.* The addition, removal, repair or alteration of any facility located in, over, under, through, along or across the rights-of-way or streets.

*Interference.* A discharge which alone or in conjunction with a discharge or discharges from other sources inhibits or disrupts the POTW, its treatment processes or operations or its sludge processes, use or disposal, or is a cause of a violation of the city's TPDES permit.

*Interior Lot.* A lot other than a corner lot and, bounded by a street on only one (1) side.

*Invasive or Undesirable Plant or Tree.* A plant or tree reproducing outside its native range and outside cultivation that disrupts naturally-occurring native plant or tree communities by altering structure, composition, natural processes or quality of habitat, or a species of tree or plant which does not normally survive in the local habitat, climate, ecological or geological conditions and which are listed in appendix C, of this article.

*Junk.* All worn-out, worthless and discarded material, in general, including, but not limited to, scrap iron, scrap tin, scrap brass, scrap copper, scrap lead or scrap zinc and all other scrap metals and

their alloys, and bones, rags, glass, paper, cordage, cloth, rubber, rope, tinfoil, bottles, old cotton, machinery, tools, construction materials, appliances, furniture, fixtures, utensils, boxes or crates, pipe or pipe fittings, automobile or airplane tires, dismantled motor vehicles, boats, boat trailers, boathouses or travel trailers or parts thereof, or other manufactured goods or odds and ends that are worn-out, worthless, deteriorated, obsolete, discarded material or other wastes, especially those that are unusable in their existing condition.

*Junk Dealer.* Any person who engages in the business of buying, selling, trading, or otherwise dealing in new or used scrap materials, including ferrous and nonferrous metal, brass, waste material, and the like. Such term shall also include any person who engages in the business of processing iron, steel, or nonferrous scrap, and whose principal product is scrap iron and steel or nonferrous scrap for sale for re-melting purposes.

*Kennel.* A place in which five (5) or more dogs or cats at least six (6) months of age are kept, boarded or trained, by the owners of the dogs or cats or by persons providing facilities and care with or without compensation.

*Kennel (commercial).* A place in which more than five or more dogs or cats or a combination thereof over 6 months of age are boarded, trained, or bred for compensation or are offered for sale, except for veterinary hospitals, veterinary services, farm accessory buildings, farms, or ranches.

*Kennel (Private).* A place at or adjoining a private residence in which more than five dogs at least six months of age are kept and which are owned by the persons residing on said property, are bred or kept for the purpose of hunting, training, for field work, obedience trials, and other competition or for the enjoyment of the species, and not for the purpose of sale or other commercial purpose.

*Kitchen.* A room used or designed to be used for the preparation of food.

*Land Clearance.* Total or partial removal of trees and/or vegetation from the land surface.

*Land Disturbance Activity.* Any activity which may result in soil erosion from water or wind and the movement of sediments into state and local waters, or onto lands within the state, including, but not limited to, clearing, dredging, grading, excavating, transporting, or filling of land, but not including agricultural practices such as a family vegetable plot.

*Landscape Category.* Areas of the city may be divided into landscape categories based upon their similar soil, topography and hydrology. Since lands within one category will have similar soil, topography, and hydrology features, the same species of native plants that are appropriate at one site are likely to be appropriate native plants to all lands within the same landscape category.

*Landscape Development.* Trees, shrubs, ground cover, vines or grass installed in planting areas.

*Landscaped Area.* The entire parcel less the building footprint, driveway, non-irrigated portions of parking lots, hardscapes such as decks and patios, and other nonporous areas. Water features are included in the calculation of landscaped areas.



*Landscape irrigation use.* Water used for the irrigation and maintenance of landscaped areas, whether publicly or privately owned, including residential and commercial lawns, gardens, parks, and rights-of-way and medians.

*Landscaping.* Any combination of living plants and nonliving landscape material (such as rocks, pebbles, sand, mulch, walls, fences, or decorative paving materials).

*Large Vehicle.* Any vehicle having a gross vehicle weight rating of 17,000 pounds or more.

*Laundry Services.* An establishment engaged in providing laundering, dry cleaning, or dyeing services for clothing, linen and drapes.

*LCRA.* The Lower Colorado River Authority, or successor agency.

*LCRA Code.* The construction and design standards for private sewage facilities adopted by the Lower Colorado River Authority board of directors and approved by the state commission on environmental quality, as amended.

*Legal Lot.* Either a lot recorded in the official county records pursuant to and in compliance with the subdivision regulations in effect at the time of its creation, or a tract of land having existed in its present configuration prior to October 1, 1927.

*Legally Platted Lot.* A lot which is part of a subdivision approved by the city and recorded in the official county records.

*Letter of Credit.* A letter from a bank or other reputable creditor acceptable to the city that guarantees to the city that upon failure of the subdivider to fulfill any improvement requirements that at the city's request, funds will be provided to the city to complete the specified improvements.

*Levee.* A human-made structure, usually an earthen embankment, designed and constructed in accordance with sound engineering practices to contain, control or divert the flow of water so as to provide protection from temporary flooding.

*Levee system.* A flood protection system that consists of a levee, or levees, and associated structures, such as closure and drainage devices, which are constructed and operated in accord with sound engineering practices.

*Light Manufacturing.* An establishment engaged in the manufacture of finished products or parts, including packaging of such products, and incidental storage, sales, and distribution of such products.

*Light Trespass.* Light emitted from fixtures that cause light to be cast on a property other than the one where it is installed, upwards toward the sky or any other location where it is not needed. See figure 2 below.

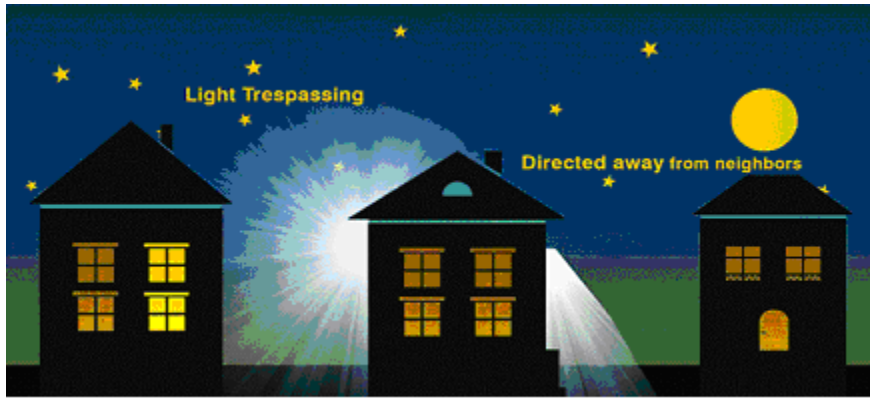


Figure 2. Light Trespass

*Lighting.* A light source separated from the surface and illuminating the sign surface by means of shielded spotlights or similar fixtures or from a light source from within.

*Lighting Zone.* A type of area defined on the basis of ambient lighting levels, population density, and/or other community considerations. The lighting zones are determined by the authority.

*Litter.* Any quantity of paper, metal, plastic, glass or miscellaneous solid waste that may be classed as trash, debris, rubbish, refuse, garbage or junk, not placed in a solid waste container.

*Livestock water use.* The use of water for the open-range watering of livestock, exotic livestock, game animals or fur-bearing animals. For purpose of this definition, the terms “livestock” and “exotic livestock” are to be used as defined in section 142.001 of the Texas Agriculture Code, as amended, and the terms “game animals” and “fur-bearing animals” are to be used as defined in section 63.001 and section 71.001, respectively, of the Parks and Wildlife Code, as amended.

*Loading Space.* An off-street space for the parking of a vehicle while loading or unloading merchandise or materials from commercial or industrial vehicles.

*Local Health District.* The Travis County Health District

*Long-term Mobile Food Vendor (MFV).* A MFV business selling edible goods as an additional business on private property where a business already exists. A long-term MFV may be stationary as a semi-permanent business providing edible goods longer than four (4) days and not related to an event. A long-term MFV may be permitted to remain overnight.

*Lot.* A subdivision of a block or other parcel intended as a unit for transfer of ownership, or for development, or for occupancy and/or use.

*Lot Area.* The total horizontal area within the lot lines of a lot.

*Lot Depth.* The horizontal distance between the front and rear lot line measured along the median between the side lot lines.

*Lot Lines.* The lines bounding a lot as defined herein.

*Lot Width.* The average horizontal distance at the front building setback line of a lot.

*LCRA.* Lower Colorado River Authority

*Lowest floor.* The lowest floor of the lowest enclosed area, including basement (see “Basement” definition).

- a. An unfinished or flood resistant enclosure below the lowest floor that is usable solely for parking of vehicles, building access or storage in an area other than a basement area, is not considered a building’s lowest floor provided it conforms to applicable non-elevation design requirements, including, but not limited to:
  1. The wet floodproofing standard in Section 4.3.1.1.6.
  2. The anchoring standards in Section 4.3.1.1.4.
  3. The construction materials and methods standards in Section 4.3.1.1.5.
  4. The standards for utilities in Section 4.3.1.2
- b. For residential structures, all sub grade-enclosed areas are prohibited as they are considered to be basements (see “Basement” definition). This prohibition includes below-grade garages and storage areas.

*Lumen.* A unit of measurement used to quantify the amount of light produced by a bulb or emitted from a fixture. The lumen rating associated with a given lamp is generally indicated on its packaging or may be obtained from the manufacturer (abbreviated lm).

*Luminaire (Light Fixture).* A complete lighting unit that usually includes the fixture, ballasts, and lamps.

*Luminance.* The amount of light emitted in a given direction from a surface by the light source or by reflection from a surface. The unit is candela per square meter.

*Luminous Flux.* A measure of the total light output from a source, the unit being the lumen.

*Main Building.* A building in which the principal use of the lot upon which it is situated is conducted.

*Major Arterial Street.* A street designed to provide connections between municipalities or major highways.

*Manufactured Home.* A structure, transportable in one or more sections, which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities. The term does not include a recreational vehicle as that term is defined by 24 C.F.R. section 3282.8(g).

*Manufactured home park or subdivision.* A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

*Marina Facility.* Shall have the same meaning set forth in the Highland Lakes Marina Ordinance, as amended.

*Market Value.* Shall be determined by estimating the cost to replace the structure in new condition and adjusting that cost figure by the amount of depreciation that has accrued since the structure was constructed. The cost of replacement of the structure shall be based on a square foot cost factor determined by reference to a building cost estimating guide recognized by the building construction industry. The amount of depreciation shall be determined by taking into account the age and physical deterioration of the structure and functional obsolescence as approved by the floodplain administrator, but shall not include economic or other forms of external obsolescence. Use of replacement costs or accrued depreciation factors different from those contained in recognized building cost estimating guides may be considered only if such factors are included in a report prepared by an independent professional appraiser and supported by a written explanation of the differences.

*Masonry Construction.* Shall include all construction of stone material, brick material, or stucco, which is composed of solid, cavity, faced, or veneered-wall construction. The standards for masonry construction types are listed below:

- a. Stone material. Masonry construction using stone material which may consist of granite, marble, limestone, slate, river rock, other hard and durable stone, and manufactured stone which meets the latest version of ASTM standard C1670, Standard Specification of Adhered Manufactured Stone Masonry Veneer Units. Cut stone and dimensioned stone techniques are acceptable.
- b. Brick material. Brick material used for masonry construction shall be hard fired (kiln fired) clay or slate material which meets the latest version of ASTM standard C216, Standard Specification for Facing Brick (Solid Masonry Unit Made of Clay or Shale), and shall be severe weather (SW) grade, and type FBA or FBS or better.

*Master Plan.* The overall development plan for the community which has been officially adopted to provide long-range development policies including all specified individual elements thereof among which are the plans for mean land intensities; land subdivision; circulation; and community facilities, utilities and services.

*Mean sea level.* For purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.

*Milligrams Per Liter (mg/l).* The same as parts per million and is a weight-to-volume ratio; the milligram-per-liter value multiplied by the factor 8.34 shall be equivalent to pounds per million gallons of water.

*Minimum Open Space.* The percentage of lot area or tract area that must be maintained with living vegetation.

*Mini-Storage Warehouse.* A building or group of buildings consisting of individualized shelters of various sizes for rent or lease for the purpose of providing protection of commodities stored therein. The size of each individual storage unit of a mini-storage warehouse shall be limited to 2,000 cubic feet.

*Minor Arterial Street.* A street designed to provide a connection between major arterial streets.

*Minor Street.* A local street designed primarily for access to abutting residential properties. A minor street does not include a street designed or required to be designed for through traffic.

*Mobile Food Vendors (MFV).* Any business which sells edible goods from a nonstationary location within the city. The term shall include:

- a. Concession trailer. A vending unit which is pulled by a motorized unit and has no power to move on its own.
- b. Concessions carts. Mobile vending units that must be moved by nonmotorized means.
- c. Mobile food truck. A self-contained motorized unit selling items defined as edible goods.
- d. Short-term MFV. An MFV business selling edible goods for a period no longer than the public event in which the business is participating, from 1 to 4 days.
- e. Long-term MFV. An MFV business selling edible goods as an additional business on private property where a business already exists. A long-term MFV may be stationary as a semi-permanent business providing edible goods longer than four (4) days and not related to an event. A long-term MFV may be permitted to remain overnight.

*Mobile home.* A structure constructed before June 15, 1976, transportable in one or more sections, which, in the traveling mode, is eight (8) body feet or more in width or forty (40) body feet or more in length, or, when erected on-site, is three hundred twenty (320) or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems.

*Modular Component.* A structure or building module as defined Texas Occupations Code, Ch. 1201 that is inspected and permitted by and under the jurisdiction and control of the Texas Department of Licensing and Regulations that is transportable in one or more sections and designed to be used on a permanent foundation system. The term includes the plumbing, heating, air-conditioning and electrical systems contained in the component. The term does not include a mobile home or a manufactured home.

*Monopole Tower.* A self-supporting tower facility composed of a single spire used to support telecommunication antennas. Monopole towers cannot have guy wires or bracing.

*Month.* A calendar month, unless otherwise expressed.

*Motel.* A building or group of detached, semi-detached or attached buildings containing guest rooms or apartments with automobile storage space provided in connection therewith, which building or group is designed, intended or used primarily for the accommodation of automobile travelers, including groups designated as auto cabins, motor courts, motels and similar designations.

*Motor Vehicle.* Every vehicle, car, boat or similar vehicle that is, or was originally, designed to be self-propelled.

*Mounting Height.* The vertical distance between the lowest part of the luminaire and the ground surface directly below the luminaire.

*Mudslide.* Describes a condition where there is a river, flow or inundation of liquid mud down a hillside, usually as a result of a dual condition of loss of brush cover and the subsequent accumulation of water on the ground, preceded by a period of unusually heavy or sustained rain.

*Multifamily Residence.* A single structure designed to accommodate four (4) or more households.

*Multifamily Residential Use.* Water used by any residential customer of the water supply and includes duplexes, multiplex, housing and apartments where the individual units are each on a separate meter; or, in cases where two (2) or more units are served by one (1) meter, the units are full-time dwellings.

*Multiple Building Complex.* More than one principal building on a building plot or lot.

*Nadir.* The downward direction, exactly vertical, directly below a luminaire.

*Native Plant.* A plant that lives or grows naturally in a particular region without direct or indirect human intervention and as listed in appendix A of this article.

*Native Tree.* A tree that lives or grows naturally in a particular region without direct or indirect human intervention and as listed on appendix A of this article.

*Native Vegetation.* Vegetation found in the natural community that is suited to the soil, topography, hydrology, and wildfire risk of a particular site.

*Natural Area.* An area on a site that contains substantial populations or clusters of protected trees or plants and that shall be left to the extent feasible undisturbed during development and will remain undisturbed when the property is fully developed. Activities are restricted in perpetuity.

*Natural Channel.* The topography of a waterway prior to construction, installation of improvements or any regrading.

*Natural Drainage.* A stormwater runoff conveyance system not altered by development.

*Natural Outlet.* Any outlet into a watercourse, ditch, lake, or other body of surface water or groundwater.

*Natural State.* Substantially the same conditions of the land which existed prior to its development, including but not limited to, the same type, quality, quantity and distribution of soils, ground cover, vegetation and topographic features.

*Neighborhood.* The area of the city characterized by residential land uses which is bounded by physical (such as river, major street, back of access) and/or political features (such as voting districts, subdivision boundaries).

*Neighborhood Park.* A privately owned parcel of land, within a subdivision, dedicated solely for recreational uses and maintained by the residents of said subdivision.

*New construction.* For the purpose of determining insurance rates, structures for which the “start of construction” commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For floodplain management purposes, “new construction” means structures for which the “start of construction” commenced on or after the effective date of a floodplain management regulation adopted by a community and includes any subsequent improvements to such structures.

*New manufactured home park or subdivision.* A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of floodplain management regulations adopted by this community.

*Nightclub.* An establishment required to have a state permit for the sale of alcoholic beverages and in which fifty percent (50%) or more of the monthly gross revenues are from the sale of alcoholic beverages; or any business or commercial establishment in which alcoholic beverages are consumed and live entertainment is provided.

*Nonconforming Lot.* A lot, the area, dimensions, or location of which was lawful prior to the adoption, revision or amendment of the zoning code, but which fails by reason of such adoption, revision or amendment to conform to the present requirements of the zoning district.

*Nonconforming Structure or Building.* A structure or building the size dimensions or location of which was lawful prior to the adoption, revision or amendment of the zoning code, but which fails by reason of such adoption, revision or amendment, to conform to the present requirements of the zoning district.

*Nonconforming Use.* Any building, structure or land lawfully occupied by a use or lawfully existing at the time of passage of this article or amendments thereto, which does not, by reason of design

or use, conform after the passage of this article or amendments with the regulations of this article or amendment.

*Non-disturbance or No Cut Zone.* An area that is intended to remain undeveloped and preserved in perpetuity and may be created to preserve natural areas or to act as buffer or screening mitigation between differing or denser land uses.

*Nonessential water use.* Water uses that are not essential nor required for the protection of public health, safety and welfare, including:

- a. Irrigation of landscaped areas, including public and private parks, athletic fields, and street right-of-way/medians, except as otherwise provided under this article;
- b. Use of water to wash any motor vehicle, motorbike, boat, trailer, airplane or other vehicle;
- c. Use of water to wash down any sidewalks, walkways, driveways, parking lots, tennis courts, or other hard-surfaced areas;
- d. Use of water to wash down buildings or structures for purposes other than immediate fire protection;
- e. Flushing gutters or permitting water to run or accumulate in any gutter or street;
- f. Use of water to fill, refill, or add to any indoor or outdoor swimming pools or Jacuzzi- type pools;
- g. Use of water in a fountain or pond for aesthetic or scenic purposes except where necessary to support aquatic life;
- h. Failure to repair a controllable leak(s) within a reasonable period after having been given notice directing the repair of such leak(s); and
- i. Use of water from hydrants or flush valves for construction purposes or any other purposes other than firefighting.

*Nonnative Adaptive Shrub or Vegetation.* Are noninvasive, nonnative shrubs or other vegetation that are able to thrive in the local climate and soil conditions and as listed on appendix B of this article.

*Nonnative Adaptive Tree.* Are noninvasive, nonnative trees that are able to thrive in the local climate and soil conditions and as listed on appendix B of this article.

*Nonhealth hazard.* A cross connection or potential cross connection from any fixture, tank, receptacle, equipment or device that involves any substance that generally would not be a health hazard but would constitute a nuisance or be aesthetically objectionable if introduced into the potable water supply.

*Nonpotable water.* Water that is not suitable for human consumption. Nonpotable water sources include, but are not limited to, irrigation systems, lakes, ponds, streams, gray water that is discharged from washing machines, dishwashers or other appliances, water vapor condensate from cooling towers, reclaimed water, and harvested rainwater.



*Nonresidential Driveway* A driveway that provides access to a property that is primarily used for non-residential purposes, such as a commercial, industrial, or retail center, or a building with more than five dwelling units.

*Nonresidential use.* Water used by any person or company other than a residential customer of the water supply.

*Normal Domestic Wastewater.* Wastewater excluding industrial wastewater discharged by a person into sanitary sewers and in which the average concentration of total suspended solids is not more than 200 mg/l and BOD is not more than 200 mg/l.

*North American Vertical Datum (NAVD).* As corrected in 1988 is a vertical control used as a reference for establishing elevations. If a datum other than NAVD 88 is used, then use the datum listed as the reference datum on the applicable FIRM panel for use on elevation certificate completion.

*Notice.*

- a. When referring to an item that a person posts in public view, the actual document, handbill, poster, or similar document posted; or
- b. When referring to the city or a person that gives notice to another person, the actual notice or written notice that the city or the person sends by registered or certified mail, return receipt requested or regular mail. The return of a properly addressed letter is a presumption of delivery.

*Nuisance.* The following:

- a. Any public nuisance known at common law or in equity.
- b. Any attractive nuisance that may prove detrimental to children, whether in a building, or attached to or grounded from the premises of a building, or upon, attached to or grounded from an unoccupied lot. This includes, but is not limited to, any abandoned wells, shafts, cellars, basements, excavations, abandoned refrigerators, abandoned, junked or inoperative boats, houseboats, motor vehicles or motor vehicle parts, broken down or dilapidated docks, or lumber, trash, fences, debris or vegetation that may prove a hazard for inquisitive minors.
- c. Whatever is dangerous to human life or is detrimental to health.
- d. Overcrowding or occupancy in violation of this article.
- e. Insufficient ventilation or illumination.
- f. Inadequate or unsanitary sewage or plumbing facilities.
- g. Uncleanliness.
- h. Whatever renders air, food, or drink unwholesome or detrimental to the health of human beings.
- i. Divergence of runoff to other private or public property.

*Obstruction.* Includes, but is not limited to, any dam, wall, wharf, embankment, levee, dike, pile, abutment, protection, excavation, channelization, bridge, conduit, culvert, building, wire, fence,

rock, gravel, refuse, fill, structure, vegetation or other material in, along, across or projecting into any watercourse which may alter, impede, retard or change the direction and/or velocity of the flow of water, or due to its location, its propensity to snare or collect debris carried by the flow of water, or its likelihood of being carried downstream.

*Obtrusive Light.* Glare and light trespass.

*Occupancy.* The use or intended use of land or a building by any person.

*Occupant.* Any person who rents, leases or appears to reside, rent or lease a building, structure or property through custody of the premises or who has the legal right to possession of such premises.

*Occupant Car Ratio (OCR).* The minimum number of parking spaces without parking time limits required for each dwelling unit, establishment or use.

*Odd-numbered address.* Street addresses, box numbers, or rural postal route numbers ending in 1, 3, 5, 7, or 9.

*Office Complex.* Two or more offices or office establishments, sharing customer parking area(s), regardless of whether the offices or office establishments occupy separate structures or are under separate ownership, or are on separate tracts or lots of land.

*Office Warehouse.* A building, which has a storefront, which occupies no less than 10% of the total square footage of the commercial, storage and inventory space.

*Official County Records.* The official records of Travis County, Texas.

*Off-Site Improvements.* Any required improvement which lies outside of the property being developed.

*Off-Street Parking Lot.* A facility, other than one for single-family dwellings, providing vehicular parking spaces, along with adequate drives and aisles for maneuvering, for the parking of more than three (3) vehicles.

*One-Hundred-Year Flood or 100-Year Flood.* See "Base flood."

*One-Hundred-Year Floodplain.* That flood which has a probability of occurring once in a 100-year period or a one percent (1%) chance in any given year.

*Open Outdoor Storage.* The keeping, in an unroofed area, of any goods, junk, material, merchandise, in the same place for more than twenty-four (24) hours.

*Open Space.* Any open piece of land that is undeveloped (has no buildings or other built structures) and is accessible to the public.

*Ornamental or Accent Lighting.* Outdoor lighting that is installed mainly or entirely for its decorative effect or to accent an object or a feature, rather than as an aid to visibility.

*Outboard Motor.* An outboard motor subject to registration under chapter 31, Parks and Wildlife Code.

*Outdoor Entertainment.* Activities for the purpose of amusement, the giving of pleasure and delight, education, or other entertainment conducted in an exterior setting, such as a park, public square, or other outdoor venue, public or private, typically for the purpose of amusing and entertaining an audience, spectators, or visitors, including musical concerts, dances, performances, storytelling, plays or dramas, pageants, historical reenactments, banquets, fiestas, festivals, carnivals, and parties.

*Overload.* The imposition of organic or hydraulic loading treatment facility in excess of its engineering design capacity.

*Overland Drainage.* Stormwater runoff which is not confined by any natural or man-made channel such as a creek, drainage ditch, storm sewer, or the like.

*Owner.* A person recorded as the owner on official records. The owner of the premises on which a sign is located is presumed to be the owner of the sign unless facts to the contrary are established. Any person who holds any interest in the legal title of a building, structure or property or who has the legal right of possession thereof. Any person having financial interests in property or facilities located in, over, under, through, along or across streets and rights-of-way in the city, including the person directing the actions of any contractor, paying a contractor, or for whose benefit the actions of the contractor are undertaken.

*Parent Tract.* Tract or lot as described by deed or plat, which includes one (1) or more lots that are being subdivided.

*Park or Playground.* An open recreation facility or park owned and operated by a public agency such as the city or the school district and available to the general public for neighborhood use.

*Park Fund.* A special fund established by the city to retain monies paid by developers in accordance with the payment in-lieu of park land dedication provisions of these regulations and to be used for the purchase of park land or improvements in the vicinity of the subdivided property for which funds have been collected.

*Parking Lot.* A parking area to accommodate vehicles, which utilize any multiple-family, retail, commercial, office, business or industrial property.

*Parking Space.* An area of definite length and width, exclusive of drives, aisles, or entrances for access, that is fully accessible for the storage or parking of permitted vehicles. Said parking space and connecting driveway shall be durably surfaced and so arranged to permit satisfactory ingress and egress of an automobile.

*Parking Structure or Garage.* A structure devoted to the parking or storage of automobiles for a fee and may include a facility for servicing of automobiles, provided such facility is primarily an internal function for use only by automobiles occupying the structure, and creates no special problems of ingress or egress.

*Pasture.* Land used primarily for the grazing of animal stock.

*Paved.* Unless specifically stated otherwise by context, “paved” means a surface made of asphalt, concrete, pavers, bricks, “eco-crete” or similar pavement providing an all-weather surface. Gravel is not an acceptable paved surface.

*Paved Area.* An area surfaced with asphalt, concrete, pavers, bricks, “eco-crete” or similar pavement, providing an all-weather surface. Gravel is not an acceptable paved surface.

*Performance Standard.* A set of criteria or limits relating to nuisance elements which a particular use or process may not exceed.

*Permanent Structure.* Any facility located in, over, under, through, along or across the rights-of-way or streets within the city limits that occupies, affixes or otherwise is to remain in the same location for a period of time of more than thirty (30) days.

*Permit.* A permit to construct, modify, or replace a private sewage facility issued by the city or the Lower Colorado River Authority.

*Permit Issuing Authority.* The building official or other city officer, employee or agent designated by lawful authority to issue the applicable permit.

*Permitted Use.* A use specifically allowed in the applicable zoning districts without the necessity of obtaining a conditional use permit.

*Person(s).* An individual, partnership, firm, company, association or corporation of any kind, or other legal entity.

*Personal Care Facility.* A facility that provides supervised living arrangements for persons with physical or mental disability, which by reason of federal or state law, is not subject to limitations set forth in deed restrictions or single-family zoning districts. This definition includes a community-based residential home operated by (a) the Texas Department of Mental Health and Mental Retardation, (b) a community center operated under the Texas Mental Health and Mental Retardation Act, which provides services to disabled persons, (c) a nonprofit corporation, or (d) any entity certified by the Texas Department of Human Resources as a provider under the homes for the handicapped as defined in 42 U.S.C. section 3602(h).

*Personal Service Business.* An establishment for the purpose of supplying personal services.

*Personal Services.* An establishment engaged in providing services to an individual to enhance the quality of the individual’s life.

*pH.* The measure of the relative acidity or alkalinity of water and is defined as the negative logarithm (base 10) of the hydrogen ion concentration.

*Pharmacy.* A use where medicines are compounded or dispensed under the supervision of a licensed pharmacist.

*Planned Unit Development (PUD).* A zoning district which permits development of five (5) acres or more under single or multiple ownership pursuant to a plan and which requires specific approval by the City Council. It is a development of land under unified control, planned and developed as a whole in a single development operation or a programmed phasing of developments, including streets, utilities, lots or building sites, structures, open spaces and other improvements. This district may permit mixed uses of land (e.g. industrial, commercial, residential) within a single subdivision or multiple subdivisions as part of or pursuant to a plan which seeks to minimize adverse impacts when development occurs and protects the environment and the residential character of nearby neighborhoods.

*Planning and Zoning Commission.* The City Planning and Zoning Commission.

*Planting Area.* Any area designed for landscape planting having a minimum of ten (10) square feet of actual plantable area and a minimum inside dimension on any side of eighteen (18) inches.

*Playscape.* Any structure permanently anchored to the ground that is designed for recreational purposes. Sports courts such as basketball or tennis courts are not considered playscapes.

*POA or HOA Neighborhood Park.* A privately owned parcel of land, within a subdivision, dedicated solely for recreational use by persons in such subdivision and their guests, and maintained by the residents of said subdivision.

*Pollution hazard.* An actual or potential threat to the physical properties of the water system or the potability of the public or consumer's potable water system or the consumer's potable water system but which would not constitute a health hazard. Maximum degree of intensity of pollution which the potable water system could be degraded under this definition would cause a nuisance or be aesthetically objectionable or could cause damage to the system or its appurtenances.

*Postal Facilities.* Postal services, including post office, bulk mail processing, or sorting centers operated by the United States Postal Service or a private postal service.

*POTW or Publicly Owned Treatment Works.* A treatment works which is owned by a state or municipality as defined by section 502(4) of the Clean Water Act. This definition includes any devices and systems used in the storage, treatment, recycling and reclamation of municipal sewage or industrial wastes of a liquid nature. It also includes all sewers, pipes and other conveyances that convey wastewater to a POTW treatment plant. The term also means the municipality as defined in section 502(4) of the act, which has jurisdiction over the indirect discharges to and the discharges from such a treatment works. For purposes of this article, the terms "sanitary sewer system" and "POTW" may be used interchangeably.

*Pre-Constructed or Used Structure or Part Thereof.* A building with fifty percent (50%) of the square feet, excluding porches, garages, or carports, that consists of preexisting structural or used components.

*Pre-existing towers and pre-existing antennas.* Any tower or antenna for which a building permit or conditional use permit has been properly issued prior to February 26, 2009, including permitted towers or antennas that have not yet been constructed so long as such approval is current and not expired.

*Preliminary Plan.* A map of a proposed land subdivision showing the character and proposed layout of the property in sufficient detail to indicate the suitability of the proposed subdivision of land.

*Premises.* A lot or tract within the city and contiguous land(s) in the same ownership that is not divided by any public highway, street, alley, or right-of-way, and any buildings and appurtenances located on or attached to the lot or tract.

*Pre-School.* Any school, attended by twelve (12) or more children at any one time during part of a twenty-four-hour day, which provides a program of instruction for children below the first grade level in which constructive endeavors, object lessons and helpful games are prominent features of the curriculum.

*Primary Structure.* A structure in which the principal use of the lot is conducted. For example, for single-family residential lots, the house is the primary structure.

*Priority natural area.* Sensitive environmental areas as described in section 3.2.6.9.

*Privacy Fence.* An opaque fence or screen at least six (6) feet in height. A fence shall be considered opaque if it is made of opaque materials and constructed so that gaps in the fence do not exceed one-half (1/2) inch. Fences using boards placed on alternating sides of fence runners shall be considered opaque if the boards overlap at least one-half (1/2) inch.

*Private Club.* An establishment required to have a state-issued alcoholic beverage permit for the sale, storage or vending of alcoholic beverages to its members.

*Private Garage.* An accessory building housing vehicles owned and used by occupants of the main building.

*Private Residential Pool.* Any swimming pool, wading pool, or soaking/hot tub, situated on any premises as an appurtenance to a dwelling for the use of the residents or guests of the residents of the dwelling.

*Private Sewage Facility.* Any septic system or other facility, system, or method for the storage, treatment, or disposal of sewage (other than a disposal system regulated by the state

commission on environmental quality) which serves only an individual household, multiple-unit residential structure, or commercial establishment within a designated area.

*Product Development Services (General)*. Development and testing of nonhazardous products related to research services. See: Research services (general).

*Professional Fees*. Any and all experts that the city deems necessary to carry out the city's functions in considering an application for a permit, variance, or any other request for approval by an applicant. Such experts may include, without limitation, engineers, attorneys, accountants or auditors, sanitarians, hydrologists, and arborists to collect data, examine plans and specifications, present evidence, and advise and represent the city with respect to the application. The applicant shall pay the city the reasonable cost of such services, along with all other reasonable costs attributable to processing the application.

*Professional Office*. A use providing professional or consulting services in the fields of law, architecture, design, engineering, accounting, and similar professions licensed by the state.

*Property*. Both real and personal property.

*Property Owners' Association*. An incorporated, nonprofit organization operating under recorded land agreements through which:

- a. Each lot and/or homeowner in a subdivision or planned unit development or PUD is automatically a member;
- b. Each lot is automatically subject to a charge for a proportionate share of the expenses for the organization's activities, such as maintaining common property; and
- c. The charge, if unpaid, becomes a lien against the property.

*Protected Tree*. Any living hardwood tree that has a caliper of ten inches (10") or greater , measured 4-1/2 feet above grade, is designated as a protected tree; OR Any heritage tree, or any tree of 10 caliper inches or greater (but not including Ashe Juniper trees unless the tree is 18 inches or greater) as described in appendix A or appendix B, to this article, when measured at breast height, which is four feet six inches (4' 6") above the ground; but not including invasive or undesirable trees or plants.

*Public*. With respect to land and interests in land within the city limits, the city; and, with respect to land and interests in land within the ETJ limits, the general public.

*Public Grounds or Building*. A facility such as office buildings, and maintenance yards and shops required by branches of local, state or federal government for service to an area.

*Public Place*. Unless otherwise specifically defined, any public road, street, alley, park, building, or other property of the city or any other places to which people commonly resort or have access to for the purpose of business, recreation or amusement.

*Public Pool.*

- a. Any swimming or wading pool owned or operated by the city, the county, the state, the United States, or any public agency; or
- b. Any privately owned swimming pool, wading pool, or soaking/hot tub serving a private club, motel, hotel, apartment building, duplex, or other similar structure or organization, the use of which is limited to members or residents and their guests.

*Public Safety and Nuisance.* As related to Division 4, Variances, of this article, means that the granting of a variance must not result in anything which is injurious to safety or health of an entire community or neighborhood, or any considerable number of persons, or unlawfully obstructs the free passage or use, in the customary manner, of any navigable lake, or river, bay, stream, canal, or basin.

*Public Service.* Any business or commercial activity which is not included in the definition of “utility service” that requires the use of the public streets or rights-of-way for the location of any facility or equipment to provide services to persons or property situated within the city, including but not limited to cable television service and services using transmission media, but excluding telephone and taxi service and solid waste collection.

*Public Sewer.* Pipe or conduit carrying wastewater or unpolluted drainage in which owners of abutting properties shall have the use, subject to control by the city.

i. Places of noncommercial public assembly or administrative functions where the primary activity is contained within a building(s), including but not limited to churches, schools and government buildings.

*Public Water System or System.* Any public or privately owned water system which supplies water for public domestic use including all service lines, reservoirs, facilities, and any equipment used in the process of producing, treating, storing or conveying water for public consumption.

*Radio, Television, Microwave, and Similar Towers.* Structures supporting antennae for transmitting or receiving any portion of the radio spectrum, but excluding noncommercial antennae installation for home use of radio or television.

*Rare plant.* A scarce plant species that may or may not have been designated with a legally protected status such as “threatened” or “endangered.” Some rare plants naturally occur less frequently than other plants, which make the rare plants more susceptible to decline or extinction.

*Rear Yard.* A space extending across the full width of the lot between the principal building and the rear lot line, and measured perpendicular to the building to the closest point of the rear lot line.



*Reclaimed water.* Domestic or municipal wastewater which has been treated to a quality suitable for beneficial use, such as landscape irrigation.

*Recreational vehicle or RV.* Any licensed travel trailer, pickup camper, motor home, or camping trailer that may have its own sink, lavatory, toilet, and tub or shower that is designed so that it may be connected to available utilities; OR a vehicle that is:

- a. Built on a single chassis;
- b. 400 square feet or less when measured at the largest horizontal projection;
- c. Designed to be self-propelled or permanently towable by a light-duty truck; and
- d. Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

*Recreational vehicle park or RV park.* Any lot, tract, or parcel of land upon which accommodation is provided for one or more recreational vehicles used as temporary living or sleeping quarters by the day, week, or month, whether a charge is or is not made. A recreational vehicle park is a unified development of recreational vehicle spaces provided for recreational vehicle use, with or without community facilities and permitted permanent buildings.

*Recreational vehicle site or RV site.* That part of a lot or area in a recreational vehicle park or RV park that has been reserved for the placement of one recreational vehicle or RV.

*Recycling Collection Use.* Use of property as a location where glass, paper, plastics and/or aluminum cans only are deposited in containers, with no sorting or processing on-site, and usually occurring as an accessory use on the property.

*Recreational vehicle or RV.* Any licensed travel trailer, pickup camper, motor home, or camping trailer that may have its own sink, lavatory, toilet, and tub or shower that is designed so that it may be connected to available utilities.

*Recreational Vehicle Park or RV park.* Any lot, tract, or parcel of land upon which accommodation is provided for one or more recreational vehicles used as temporary living or sleeping quarters by the day, week, or month, whether a charge is or is not made. A recreational vehicle park is a unified development of recreational vehicle spaces provided for recreational vehicle use, with or without community facilities and permitted permanent buildings.

*Reduced Pressure Principle Backflow Prevention Assembly or Reduced Pressure Principle Assembly or RP Assembly or RP.* An assembly containing two (2) independently acting approved check valves, a hydraulically operated, mechanically independent pressure differential relief valve located between the check valves and at the same time below the first check valve, and including properly located test cocks and tightly closing shut-off valves at each end of the assembly.

*Reduced Pressure Principle Detector Backflow Prevention Assembly or Reduced Pressure Detector or RPDA.* An assembly containing two (2) independently acting approved check valves together with a hydraulically operating mechanically independent pressure differential relief valve located between the two (2) check valves and below the first check valve.

*Reflective Surface.* Any material or device that has the effect of intensifying reflected light.

*Refuse.* See “Garbage.”

*Regulatory 100-Year Floodplain.* The 100-year floodplain as defined by the Federal Emergency Management Act [Agency] (FEMA).

*Regulatory Floodway.* The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.

*Religious Assembly.* A use (located in a permanent or temporary building) providing regular organized religious worship and/or religious education incidental thereto.

*Remedy a Violation.* To bring the structure or other development into compliance with state or local floodplain management regulations, or, if this is not possible, to reduce the impacts of its noncompliance. Ways that impacts may be reduced include protecting the structure or other affected development from flood damages, implementing the enforcement provisions of this article or otherwise deterring future similar violations, or reducing state or federal financial exposure with regard to the structure or other development.

*Removal of trees.* Any act which removes a tree or causes a tree to die within two years after commission of the act, including, but not limited to, damage inflicted upon the root system or trunk as a result of:

- a. The storage of materials in or around the trees;
- b. Soil compaction;
- c. Altering the natural grade to expose the roots or to cover the tree’s root system with more than four (4) inches of soil;
- d. Excessive pruning;
- e. Paving with concrete, asphalt, or other impervious surface within such proximity as to be harmful to the tree or its root system; and
- f. Application of herbicides or defoliates to any trees without first obtaining a city landscape permit.

*Remove.* To transport a protected plant or tree from the premises on which it has been growing.

*Repair.* The reconstruction, renovation, or renewal of any part of an existing building for the purpose of its maintenance. This term shall not apply to any change or construction, alteration, or additions to a building other than for the purpose of reconstruction, renovation, or renewal.

*Replat.* A modification or amendment of a subdivision plat that changes the size or configuration of any lot, parcel of land, roadway or required improvement, including any replat authorized by section 212.015, Tex. Loc. Gov’t. Code, as amended. “Replat” includes the vacation of a prior plat

and, within one year thereafter, the filing of a concept plan or other plat to subdivide a portion of the land included in the area of the vacated plat.

*Repetitive Loss.* Flood-related damages sustained by a structure on two occasions during a ten-year period, for which the cost of repair, at the time of each flood event, on the average, equals or exceeds 25% of the market value of the structure before the damage occurred.

*Replacement Tree(s).* New landscape trees to be planted by the developer to replace significant trees removed during the development of property. A list of approved replacement trees can be obtained at the office of the city.

*Required Yard.* The open space between a lot line and the buildable area within which no structure shall be located except as provided for herein.

*Research Services (General).* Establishments engaged in research of an industrial or scientific nature not involving or requiring the use of any biological, chemical or other agent that could cause a hazard to adjacent property.

*Reserve Strip.* A narrow strip of property usually separating a parcel of land from a roadway or utility line easement, that is characterized by limited depth which will not support development and which is intended to prevent access to the roadway or utility easement from adjacent property and which are prohibited by these regulations unless their control is given to the city.

*Residential Driveway.* Any driveway providing access to private property not included under the definition of commercial driveway.

*Residential Structure.* For purposes of tree mitigation shall mean a manufactured home, a detached one-family or two-family dwelling, the including the accessory structures of the dwelling, a multiple single-family dwelling that is not more than three stories in height with a separate means of entry of each dwelling, and including accessory structures, or any other multifamily structure.

*Residential Unit.* A dwelling within the corporate limits or service area of the city intended for occupancy by a person or group of persons comprising not more than one family. A dwelling shall be deemed occupied and shall be deemed by the city to be a separate residential unit for billing and collection purposes when either water or electrical power services are being supplied thereto.

*Residential Use.* Water used by any residential customer of the water supply and include single-family dwellings.

*Restaurant.* An establishment engaged in the preparation and retail sale of food and beverages for on-premises consumption.

*Retail Sales.* The sale or rental of commonly used goods and merchandise for personal or household use.

*Reverse Frontage Lot.* A double frontage lot which is to be developed with the rear yard abutting a major street and with the primary means of ingress and egress provided on a minor street.

*Riparian Buffer.* Thirty-five (35) foot buffer from the water's edge at normal high-water mark or landward side of floodplain boundary maintained in native woody vegetation for water quality including control of sediment and for wildlife habitat.

*Right-of-Way.* A strip of land occupied or intended to be occupied by street, crosswalk, railroad, road, electric transmission line, or oil or gas pipeline, water main, sanitary or storm sewer main, or for other similar purpose or use. The usage of the term "right-of-way" for land platting purposes shall mean that every right-of-way hereafter established and shown on the final plat is to be separate and distinct from the lots or parcels adjoining such right-of-way and not included within the dimensions or areas of such lots or parcels. Right-of-way intended for streets, crosswalks, water mains, wastewater lines, storm drains, or any other use involving maintenance by a public agency shall be dedicated to the public by the maker of the plat where such right-of-way is established.

*Riverine.* Relating to, form by, or resembling a river (including tributaries), stream, brook, etc.

*Roadway.* That portion of a highway improved, designed, or ordinarily used for vehicular travel, and includes the terms "streets" and "highways."

*Rubbish.* All combustible and noncombustible waste, except garbage.

*Recreational Vehicle Accessory Structure.* Any structural addition to the recreational vehicle or site, including cabanas, carports, garages, porches, storage cabinets, storage sheds, and similar appurtenant structures.

*Safety Services.* A facility to conduct public safety and emergency services, including police and fire protection services and emergency medical and ambulance services.

*Same Ownership.* Ownership by the same person, corporation, firm, entity, partnership, or unincorporated association; or ownership by different corporations, firms, partnerships, entities, or unincorporated associations in which a stockholder, partner, or associate or a member of his/her family owns an interest in each corporation, firm, partnership, entity, or unincorporated association.

*Sanitary Sewer.* A public sewer that conveys domestic wastewater or industrial wastes or a combination of both, and into which stormwater, surface water, groundwater, and other unpolluted wastes are not intentionally passed.

*Satellite Antenna greater than one (1) meter in diameter.* An antenna, greater than one (1) meter in diameter, which enables the transmission of signals directly to and from satellites. Such antennas are commonly known as a satellite dish, dish antenna, parabolic antenna, or satellite earth station antenna.

*Satellite Antenna less than one (1) meter in diameter.* An antenna, one (1) meter or less in diameter that enables the receipt of television signals transmitted directly from satellites to be viewed on a television monitor and/or enables the transmission of signals directly to and from satellites for high-speed internet access. Such antennas are commonly known as a satellite dish, television receive-only antenna, dish antenna, parabolic antenna, or satellite earth station antenna.

*School (Proprietary).* A business organized to operate for a profit and offering instruction and training in a service, art or trade.

*School (Public or Denominational).* A school under the sponsorship of a public or religious agency having a curriculum generally equivalent to public elementary or secondary schools, but not including proprietary schools.

*Secondary Structure.* Any structure that is subordinate and incidental to the primary structure; and is subordinate in area, extent and purpose to the primary structure; and contributes to the comfort, convenience or necessity of the occupants, business or industry in the primary structure, and is located on the same lot as the primary structure.

*Selective Clearing.* The removal of tree and shrub species or removal of dead trees when the soil is left relatively undisturbed.

*Servants' Quarters.* An accessory building or portion of a main building located on the same lot as the main building and used as living quarters for servants employed on the premises and not rented or otherwise used as a separate domicile.

*Service Connection.* The point of delivery at which the public water system connects to the private supply line or lateral of a water user.

*Setback.* The minimum amount of space required between a lot line and a building line.

*Setback or Building Setback Line.* A line that marks the setback distance from the property line, and establishes the minimum required front, side or rear yard space of a building plot.

*Sexually Oriented Business.* An adult arcade, adult bookstore or adult video store, adult cabaret, adult motel, adult motion picture theater, adult theater, escort agency, nude model studio, or sexual encounter center or other commercial enterprise the primary business of which is the offering of service or the selling, renting, or exhibiting of devices or any other items intended to provide sexual stimulation or sexual gratification to the customer. See the city's sexually oriented business ordinance for related definitions, permitting, and development standards pertaining to sexually oriented businesses.

*Shall.* A mandatory term.

*Sheet Flow Area.* See "Area of Shallow Flooding."

*Shopping Center/Shopping Mall.* A composite arrangement of shops and stores which provides a variety of goods and services to the general public, when developed as an integral unit.

*Short-Term Rental.* A dwelling, including but not limited to, a single-family dwelling, multiple family attached dwelling, apartment house, condominium or duplex rented by the public for consideration and used for dwelling, lodging or sleeping purposes for any period less than thirty (30) consecutive days.

*Short-Term Rental License.* An operating license issued by the city authorizing the operation of a short-term rental establishment in compliance with the terms set forth in the license for a property so approved pursuant to article 4.09, short-term rentals, of the Code of Ordinances.

*Shrub.* Any self-supporting woody evergreen and/or deciduous species.

*Side Yard or Sideyard.* A space extending from the front yard to the rear yard between the setback line and the side lot line measured perpendicular from the side lot line to the closest point of the setback line.

*Sidewalk.* A public right-of-way intended for pedestrian use that is not being used as a street or road and that is generally located between the curb or edge of the street or road and the adjacent property line.

*Sign.* A name, identification, image, light device or accent, figure, painting, drawing, message, plaque, poster, billboard, banner, description, display or illustration which is affixed to, painted or represented directly or indirectly upon a building, picture, window, piece of land or item of personal property, and that is designed, intended, or used to communicate by text or images and directs attention to an object, project, place, activity, facility, service, event, attraction, person, institution, organization, or business which is visible from any street (both public and private), right-of-way, sidewalk, alley, park, or other public property, lake or golf course.

*Significant Tree.* A living hardwood tree that the city desires to preserve to the greatest extent possible as it pertains to building regulations. A Significant Tree may be a Protected Tree as defined in this Code if it meets the criteria listed in the definition of "Protected Tree".

*Single-Family Attached.* The use of a site for two or more dwelling units, constructed with common or abutting walls and each located on a separate lot within the total development site.

*Single-Family Detached.* A building designed for or occupied exclusively by one (1) household.

*Site Clearance.* Any clearing of vegetative cover except common household gardening, pruning, and ground care.

*Site Plan/Final Plan.* A development plan of one or more lots on which is shown the following:

- a. The existing and proposed conditions of the lot, including, but not necessarily limited to, topography, vegetation, drainage, floodplains, and waterways. In addition, the city may require a stormwater detention and drainage plan, landscape plan, outdoor lighting plan, or other condition as the city deems necessary.
- b. The location of all existing and proposed buildings, drives, parking spaces, walkways, means of ingress and egress, drainage facilities, utility services, landscaping, tree survey, structures and signs, lighting and screening devices, and storage structure for solid waste container, and architectural design.
- c. The site plan shall illustrate the location of all trash receptacles, air-conditioning and heating equipment, loading areas, parking areas, and lighting and the methods to be used to screen all such areas from public view.
- d. The site plan shall illustrate the height calculations by showing the cross-sections (a minimum of four are required) to demonstrate that each building complies with height limitations.
- e. Any other information that may be reasonably required to determine whether the proposed development complies with the criteria and standards in this article and the requirements of other articles and chapters in this code.
- f. Any site plan that a governing body of the city approves becomes a part of the permit application and the applicant is bound by the plan unless the appropriate governing body of the city approves a modification.

*Slope.* The vertical change in grade divided by the horizontal distance over which that vertical change occurred. The slope is usually given as a percentage.

*Slug.* Any discharge of water, wastewater or industrial waste which in concentration of any given constituent or in quantity of flow, exceeds for any period of duration longer than fifteen (15) minutes more than five (5) times the average twenty-four hour concentration or flows during normal operation.

*Soil and Water Conservation District.* A district organized within county boundaries by landowner petition based on a need for soil and water conservation and in the interest of public health, safety, and welfare. A soil and water conservation district so organized constitutes a governmental subdivision of the state.

*Special Flood Hazard Area (SFHA).* An area in the floodplain subject to a one-percent or greater chance of flooding in any given year. It is shown on an FHBM or FIRM as zone A, AO, A1-A30, AE, A99, AH, V1-V30, VE or V. See area of special flood hazard.

*Spill Light.* Lighting from a lighting installation that falls outside of the boundaries of the property on which the installation is sited.

*Spill-resistant Pressure Vacuum Breaker or SVB.* An assembly containing an independently operating, internally loaded check valve and independently operating, loaded air inlet valve located on the discharge side of the check valve. This assembly is to be equipped with a properly

located resilient seated test cock and tightly closing resilient seated shutoff valves attached at each end of the assembly.

*Spring.* A point or zone of natural groundwater discharge having measurable flow and/or a pool, however small, and characterized by the presence of a plant community adapted to the moist conditions of the site.

*Square Foot or Square Feet.* When used as a measurement of a building means the square footage computed from the outside dimensions of the dwelling or structure, excluding attached garages, attics, basements, open or screened porches.

*Stable.* An accessory building for quartering horses.

*Standard Method.* The examination and analytical procedures set forth in the latest edition, at the time of analysis, of Standard Method for the Examination of Water and Wastewater, as prepared, approved, and published jointly by the American Public Health Association, the American Water Works Association, and the Water Pollution Control Federation.

*Start of Construction.* For other than new construction or substantial improvements under the Coastal Barrier Resources Act (Pub. L. 97-348), includes substantial improvement and other proposed new development and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days from the date of the permit. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufacture home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

*State Environmental Agency.* The Texas Commission on Environmental Quality (TCEQ).

*State Health Department.* The Texas Department of Health.

*Stealth Tower.* A tower that is camouflaged to be unrecognizable as a telecommunications facility and shall include architecturally screened roof-mounted antennas, building-mounted antennas painted to match the existing structures, antennas integrated into architectural elements such as church spires or window walls, and antenna structures designed to resemble light poles, flagpoles or trees.

*Storage and Distribution.* An establishment offering wholesaling, storage, and warehousing services of nonhazardous materials in enclosed structures.



*Storm Sewer.* A public sewer which carries storm and surface waters and drainage and into which domestic wastewater or industrial wastes are not intentionally passed.

*Stormwater.* Rainfall or any other forms of precipitation.

*Story.* That portion of a building, other than a cellar, included between the surface of any floor and the surface of the floor next above it or, if there be no floor above it, then the space between the floor and the ceiling next above it.

*Street.* Any public or private right-of-way which affords the primary means of vehicular access to abutting property.

*Street Line.* That line limiting the right-of-way of the street and being identical with the property line of persons owning property fronting on the streets.

*Street Side Yard.* The side yard of a corner lot abutting the street right-of-way.

*Street Yard.* A space extending across the length and/or width of a lot between the street right-of-way and the closest faces of the buildings on the lot.

*Structural Alterations.* Any change in the supporting members of a building, such as loadbearing walls or partitions, columns, beams or girders, or any complete rebuilding of the roof or the exterior walls.

*Structural Integrity.* The ability of a structure to maintain stability against normal forces experienced by said structure.

*Structure.* Anything constructed or erected on the ground or which is attached to something located on the ground. Structures include buildings, telecommunications towers, sheds, parking lots that are the primary use of a parcel and permanent signs. Sidewalks and paving shall not be considered structures unless located within a public utility or drainage easement.

*Subdivider.* Any person, developer, firm, partnership, corporation or other entity, acting as a unit subdividing or proposing to subdivide land as herein defined.

*Subdivision.* A division of any tract of land that is situated within the corporate limits of the city, or within the extraterritorial jurisdiction of the city, into two (2) or more parts for the purpose of development, or for the purpose of laying out any addition to the city, laying out any suburban lots, building lots or building sites, or for the purpose of laying out any lots, streets, alleys, access easements, public utility easements, parks or other land intended for public use or for the use of any purchaser, owner or occupant of a lot or parcel fronting thereon or adjacent thereto, or for the use and benefit of any person being served thereby or having the use and/or benefit thereof.

*Substantial Damage.* Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

*Substantial Improvement.* Any reconstruction, rehabilitation, addition, or other proposed new development of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the “start of construction” of the improvement. This term includes structures that have incurred “substantial damage,” regardless of the actual repair work performed. The term does not, however, include either:

- a. Any project for improvement of a structure to correct existing violations or state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or
- b. Any alteration of a “historic structure” provided that the alteration would not preclude the structure’s continued designation as a “historic structure.”

*Superintendent.* The water and wastewater superintendent of the city or his duly authorized deputy, agent or representative.

*Superintendent Solids (SS).* Solids measured in mg/l that either float on the surface of, or are in suspension in, water, wastewater, or other liquids, and which are largely removable by a laboratory filtration device.

*Support Structure.* A structure designed to support CFs including, but not limited to monopoles, towers and other freestanding, self-supporting structures.

*Swimming Pool.* Any artificial structure or excavation, either indoors or outdoors, used or suitable to be used for bathing or swimming purposes, together with buildings, equipment and appurtenances used in connection.

*Swimming Pool (Commercial).* A swimming pool with accessory facilities that are not a part of the municipal or public recreational system or a private swim club and that is available to the general public for a fee.

*Swimming Pool (Private).* A swimming pool constructed for the exclusive use of the residents of a single-family, duplex, multiplex or multifamily dwelling, or other residential dwelling, located and fenced in accordance with city regulations and not operated as a business or maintained in a manner to be hazardous or obnoxious to adjacent property owners.

*TAC.* Texas Administrative Code.

*Tavern.* An establishment required to have a state permit for the sale and on-premises consumption of beer or wine that is not licensed or permitted to sell any other alcoholic beverage.

*TCEQ.* Texas Commission on Environmental Quality, and its predecessor or successor agency.

*Telecommunications Facility (CF).* Any unmanned facility established for the purpose of providing wireless transmission of voice data, images or other information including, but not limited to, cellular telephone service, personal communications service, radio services, television services, or data transmission services. A CF can consist of one or more antennas and accessory equipment.

*Telecommunications Tower.* Any structure that is designed and constructed for the purpose of supporting one (1) or more antennae used for the provision of commercial wireless telecommunications services. This definition includes monopole towers, alternative mounting structures or any other vertical support used for wireless telecommunications antennae. This definition does not include commercial radio or television towers; nor does it include such things as TV antennas, dish or satellite antennas less than one (1) meter in diameter or amateur radio antennas.

*Telecommunications Tower Facility.* A facility that contains a telecommunications tower and equipment storage building or structure.

*Telephone Exchange.* Switching relay and transmitting equipment, but not including public business facilities, storage or repair facilities.

*Telescopic or crank-up tower.* An antenna support structure designed to be lowered and raised either manually or mechanically.

*Temporary Field or Construction Office.* A structure or shelter used in connection with a development or building project, for housing on-site the temporary administrative and supervisory functions, and for sheltering employees and equipment, related to the development.

*Temporary Lighting.* Lighting installed with temporary wiring and operated for less than 60 days in any calendar year. Lighting intended for uses of a limited duration, such as civic events or construction projects.

*Thermal Expansion.* The natural change in volume of a confined quantity of water as a result of the raising of the temperature of that water.

*Texas Commission on Environmental Quality (TCEQ).* Texas Commission on Environmental Quality, or successor agency.

*Threatened Plant.* Any plant species that is likely to become an endangered plant within the foreseeable future throughout all or a significant portion of its range; see also rare plant.

*To Discharge.* Includes to deposit, conduct, drain, emit, throw, run, allow to seep, or otherwise release or dispose of, or to allow, permit, or suffer any of these acts or omissions.

*Townhouse.* A single-family attached dwelling where two or more dwelling units are constructed with common or abutting walls and each located on a separate lot within the total development site.

*Traffic Impact Analysis (TIA).* A study of the impacts of a development on the city's transportation system.

*Transmission Media.* All cables, fibers, wires, tubes, pipes or other physical devices used to transmit and/or receive communication signals, whether analog, digital or of other characteristics, and whether for voice, video or data, or other purposes, which are physically located in the rights-of-way or streets.

*Transmission Distribution Line.* A conductor of electrical energy, water, gas, or communication service, including all associated facilities, except for telephone transmission or distribution lines.

*Transportation Services.* A facility for loading, unloading, and interchange of passengers and baggage, between modes of transportation, including bus terminals, railroad stations and public transit facilities utilizing park and ride stations.

*Transporter.* A person who is registered with and authorized by the TCEQ to transport sewage sludge, water treatment sludge, domestic septage, chemical toilet waste, grit trap waste, or grease trap waste in accordance with 30 Texas Administrative Code section 312.142.

*Trap.* A device designed to skim, settle, or otherwise remove grease, oil, sand, flammable wastes or other harmful substances.

*Trash.* See "Garbage."

*Tree.* A self-supporting woody plant having a single trunk or a multi-trunk of lower branches, growing to a mature height of at least twelve (12) feet.

*Tree Thinning.* Selective cutting or thinning of trees for the purpose of good forestry management to protect said forest from disease or infestation.

*Tree Survey.* A scaled drawing accurately showing the location, caliper and critical root zone of significant trees in relation to the property boundaries.

*TSS.* The value of the test for total suspended solids, as described in the latest edition of "Standard Methods for the Examination of Water and Wastewater."

*Turf Grass.* Continuous plant coverage consisting of a grass species that is mowed to maintain an established height.

*TV Antenna.* An antenna that enables the receipt of television signals transmitted from broadcast stations.

*Understory Tree.* Shorter-growing tree, often found beneath the foliage cover provided by canopy trees, more shade-tolerant than canopy trees.

*Unpolluted Wastewater.* Water containing:

- a. No free or emulsified grease or oil;
- b. No acids or alkalis;
- c. No phenols or other substances producing taste or odor in receiving water;
- d. No toxic or poisonous substances in suspension, colloidal state, or solution;
- e. No noxious or otherwise obnoxious or odorous gases;
- f. Not more than an insignificant amount in mg/l each of suspended solids and BOD, as determined by the state department of water resources; and
- g. Color not exceeding fifty (50) units as measured by the Platinum-Cobalt method or determination as specified in standard methods.

*Upholstery Shop.* A business establishment engaged in the installation of soft covering material such as fabric and underlayment for furniture and other objects. Except however, with respect to motor vehicles, it shall only include interior upholstery. In no event shall an upholstery shop include the manufacture or building of furniture or other objects.

*Urbanization.* The process of constructing public improvements required to support suburban or urban land use.

*Used Structure.* A structure that has been previously used as a building at a different site.

*Used Water.* Water supplied by a public water system to a water user's system after it has passed through the service connection.

*User.* Any person, including those located outside the jurisdictional limits of the city, who contributes, causes or permits the contribution or discharge of wastewater into the POTW, including persons who contribute such wastewater from mobile sources.

*Utility Service.* Shall have its common meaning and shall specifically include, but not be limited to, electric, water, wastewater, gas and telephone service.

*Variance(s).* A grant of relief to a person from the requirements of this article that permits construction or development in a manner otherwise prohibited by this article. (For full requirements see section 60.6 of the National Flood Insurance Program regulations.)

*Vegetated Upland.* Undeveloped land not directly associated with wetlands or streams.

*Veterinary Hospital.* An establishment offering veterinary services and clinics for pets, small and/or large animals. Temporary housing of large animals is permitted in an attached or adjacent roofed building, with three (3) or more sides having walls or solid fence extending from the foundation to at least three-fourths of the distance to the roof line.

*Veterinary Services.* An establishment offering veterinary services and clinics for pets and small domestic animals, with all activities and work indoors.

*Video Rental Store.* An establishment engaged in the sale or rental of motion pictures or games.

*Vines.* Any of a group of woody or herbaceous plants which may cling by twining, by means of aerial rootlets or by means of tendrils, or which may simply sprawl over the ground or other plants.

*Violation.* The failure of a structure or other development to be fully compliant with this article. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in this article is presumed to be in violation until such time as that documentation is provided.

*Warehouse.* An establishment engaged in the storage of merchandise or commodities in an enclosed structure.

*Waste.* Rejected, unutilized or superfluous substances in liquid, gaseous, or solid form resulting from domestic, agricultural, or industrial activities.

*Wastewater.* A combination of the water-carried waste from residencies, businesses buildings, institutions, and industrial establishments, together with any ground, and stormwater that may be present.

*Wastewater Facilities.* Includes all facilities for collection, pumping, treating, and disposing of wastewater and industrial wastes.

*Wastewater Service Area.* The geographic area to which wastewater service is provided by the city.

*Water Service Area.* The geographic area to which water service is provided by the city.

*Wastewater Service Charge.* The charge on all users of the public sewer system whose wastes do not exceed in strength the concentration values established as representative or normal wastewater.

*Wastewater Treatment Plant.* Any city-owned facilities, devices, and structures used for receiving, processing and treating wastewater, industrial waste, and sludges from the sanitary sewers.

*Water Surface Elevation.* The height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929, (or other datum, where specified) of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.

*Water Use Survey.* A survey conducted or caused to be conducted by the local authority designed to identify any possible source of contamination to the potable water supply.

*Watercourse.* A natural or manmade channel in which a flow of water occurs, either continuously or intermittently.

*Watershed.* Area from which stormwater drains into a given basin, river or creek.

*Waterway.* Any natural or man-made channel conducting stormwater from a two-year storm event at a depth of eight (8) inches or more and at a rate of fifteen (15) cubic feet per second or more. Street pavement shall in no instance be considered a waterway.

*WaterWise Plants.* Plants that can survive on normal rainfall or that require minimal irrigation.

*Wholesale Water Service Area.* The portions of the water service area to which water service is provided by the city by means of one or more interlocal wholesale water agreements.

*Wholesale Wastewater Service Area.* The portions of the wastewater service area to which wastewater service is provided by the city by means of one or more interlocal wholesale wastewater agreements.

*Window.* A glazed opening, including glazed doors, that opens upon a yard, court, or recess from a court, or a vent shaft open and unobstructed to the sky.

*Wireless Telecommunications Facility (WTF).* A staffed or unstaffed facility operating for the transmission and reception of telecommunication or radio signals consisting of an equipment shelter or cabinet, a supporting structure, antennae (including, but not limited to, omnidirectional, panel/directional, or parabolic) and related equipment.

*Wood Yard.* A tract of property used for the storage of wood either for use as firewood or as a building material, containing a fence for safety and security.

*Work Days.* Monday through Friday exclusive of city-recognized holidays.

*Working Days.* See "Work Days."

*Yard.* An open space that lies between the principal or accessory building or buildings and the nearest lot line.

*Yard Depth.* The shortest distance between a lot line and a yard line.

*Yard Line.* A line drawn parallel to a lot line at a distance therefrom equal to the depth of the required yard.

*Zone.* A reinvestment zone that the City designates by ordinance.

*Zoning.* The division of a municipality into districts in an effort to achieve compatible land use relationships, and the associated establishment of regulations governing the use, placement,

spacing and size of land and buildings in order to achieve that compatibility as defined in chapter 211 of the Texas Local Government Code, as amended.

*Zoning (Spot).* The zoning or rezoning of a lot or parcel of land to benefit an owner for a use incompatible with surrounding uses and not for the purpose or effect of furthering the comprehensive plan.

*Zoning (Strip).* Typically, commercial and/or retail zoning proposed to accommodate commercial or retail development, fronting a portion of a major street, usually one lot deep.

*Zoning Map.* The official certified map showing the division of the city into districts, which is a part of this zoning code.