

APPENDIX A - UNIFIED LAND DEVELOPMENT CODE

Footnotes:

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**Editor's note**— Appendix A contains the text of the Unified Land Development Code for the City of Baytown, Texas, which derives from Ord. No. 11-866, § 2(Exh. A), adopted February 23, 2012. Exhibit A of said ordinance has been printed as adopted, except that obviously misspelled words and typographical errors have been corrected without notation. For stylistic purposes, a uniform system of headings, catchlines, capitalization, citation to state statutes, and expression of numbers in text have been used to conform to the Code of Ordinances. Words added for clarification have been added in brackets. Amendments have been included and are indicated by a history note immediately following the amended section. Section 27 of said ordinance states, "Any person who fails to comply with any provision contained in section 2 of this ordinance shall be guilty of a misdemeanor and, upon conviction, shall be punished by a fine not exceeding \$2,000.00. Each act of violation and each day upon which any such violation shall occur shall constitute a separate offense. In addition to the penalty prescribed above, the city may pursue other remedies such as abatement of nuisances, injunctive relief, administrative adjudication and revocation of licenses or permits."

**Note**— The new Unified Land Development Code, effective Jan. 1, 2025, can be viewed [here](#).

ARTICLE I. - GENERAL

This document is entitled the "Unified Land Development Code," which governs all development, and may be referenced as the "ULDC."

DIVISION 1. - JURISDICTION AND AUTHORITY

Sec. 1.1 - Purpose and intent.

This ULDC is adopted for the purpose of promoting the public health, safety and general welfare by promoting safe, orderly and economically sustainable development. The provisions herein are intended to further the goals and objectives of the city's comprehensive plan.

(Ord. No. 11,866, § 2(Exh. A), 2-23-12)

Sec. 1.2 - Authority within city limits.

The provisions of this ULDC shall apply to all land within the city limits, unless otherwise specifically stated herein.

(Ord. No. 11,866, § 2(Exh. A), 2-23-12)

Sec. 1.3 - Applicability of procedures.

Table 1-1 shows the review procedures, applications and permits that apply in the city.

**Table 1-1. Applicability of procedures.**

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	City	ETJ
Administrative appeal (zoning)	X	
Interpretation of text	X	
Special exception	X	
Special use permit	X	
ULDC zoning text amendment	X	
Zoning decision appeal	X	
Zoning map amendment (rezoning, overlay)	X	
Zoning variance	X	
Subdivision variance	X	X

(Ord. No. 11,866, § 2(Exh. A), 2-23-12; Ord. No. 12,473, § 2, 2-13-14; Ord. No. 15,192, § 2, 9-8-22)

Sec. 1.4 - Inconsistent provisions and conflicts.

When provisions of this ULDC are inconsistent with one another or when the regulations of this ULDC conflict with other adopted ordinances or regulations of the city, the more restrictive provisions shall control, unless otherwise specifically stated. If the written text of this ULDC is inconsistent with graphic or tabular information, the written text shall control.

(Ord. No. 11,866, § 2(Exh. A), 2-23-12)

Sec. 1.5 - Violations.

- (a) *Compliance required.* No person may use, occupy or develop land, buildings or other structures or authorize or permit the use, occupancy or development of land or buildings or other structures except in accordance with all sections of this ULDC.
- (b) *Criminal remedies.* Any person who violates any section of this ULDC shall be guilty, upon conviction, of a separate offense for each day or portion of a day during which the violation continues, which shall be

punishable as provided in section 1-14 of the Code of Ordinances.

- (c) *Withholding permits.* The city may deny or withhold all permits, approvals or other forms of authorization on any land or structure for which there is an uncorrected violation of a section of this ULDC or of a condition of a permit, certificate, approval or other authorization previously granted by the city council, planning and zoning commission or board of adjustment. In lieu of withholding or denying an authorization, the city may grant such authorization subject to the condition that the violation be corrected.
- (d) *Stopping work.* With or without revoking permits, the city may stop work on any building or structure on any land on which there is an uncorrected violation of a section of this ULDC or of a permit or other form of authorization issued under this chapter, in accordance with its power to stop work under its building codes.
- (e) *Other remedies.* The city shall have such other remedies as are and as may be from time to time provided by state law for the violation of the regulations contained in this ULDC.
- (f) *Remedies cumulative.* The remedies and enforcement powers set out in this section shall not be considered exclusive remedies, but rather they shall be cumulative with all other remedies provided in this ULDC, in any other ordinance or by law.
- (g) *Transition.* The sections in this ULDC, so far as they are the same as those of the Code of Ordinances, and of ordinances existing at the time of adoption of this ULDC, shall be considered as a continuation thereof and not new enactments. Any violation of the previous land development regulations of the city shall continue to be a violation under this ULDC and shall be subject to penalties and enforcement under the Code of Ordinances. Enforcement action concerning violations of the Code of Ordinances shall cease if the use, development, construction or other activity is consistent with the express terms of this ULDC, except to the extent of collecting penalties for convictions that occurred before April 13, 2013, the effective date of this ULDC.

(Ord. No. 11,866, § 2(Exh. A), 2-23-12)

## DIVISION 2. - REVIEW AND DECISION-MAKING BODIES

### Sec. 1.6 - Purpose.

The purpose of this division is to identify the bodies, their review roles and responsibilities and their decision-making roles and responsibilities.

(Ord. No. 11,866, § 2(Exh. A), 2-23-12)

### Sec. 1.7 - Review and decision-making bodies.

The decision-making bodies and officials of the city are described in chapter 2 of the Code of Ordinances and, without limitation upon the authority each possesses by law, have responsibility for implementing this ULDC in the manner described in this division.

(Ord. No. 11,866, § 2(Exh. A), 2-23-12)

Sec. 1.8 - Summary of review authority.

Table 1-2 summarizes the review and decision-making authority of each review body for the city concerning the provisions of this ULDC.

**Table 1-2. Summary of review authority.**

Procedure	Planning and Development Director	Board of Adjustment	Planning and Zoning Commission	City Council
Administrative appeal (zoning)		DM		
Interpretation of text	DM			
Special exception		DM		
Special use permit	R		R	DM
ULDC zoning text amendment	R		R	DM
Zoning map amendment (rezoning, overlay, PUD, detail plan)	R		R	DM
Zoning variance	R/DM*	DM		
Subdivision variance	R/DM*		DM	

R = Reviewer and/or Recommender

DM = Decision Maker

*\*Reference regulations of this ULDC that define when the director is the decision maker.*

(Ord. No. 11,866, § 2(Exh. A), 2-23-12; Ord. No. 12,473, § 3, 2-13-14; Ord. No. 12,593, § 1, 8-14-14; Ord. No. 15,192, § 3, 9-8-22)

Sec. 1.9 - Boards and commissions.

- (a) The planning and zoning commission has the powers and duties set forth in sections 2-316 to 2-355 of the Code of Ordinances.
- (b) The board of adjustment has the powers and duties set forth at sections 2-541 to 2-547 of the Code of Ordinances.

(Ord. No. 11,866, § 2(Exh. A), 2-23-12)

Sec. 1.10 - Development review committee.

The city manager shall establish a development review committee and may appoint departments whose representatives serve on the committee. The committee shall have the powers and duties set forth in this ULDC.

(Ord. No. 11,866, § 2(Exh. A), 2-23-12)

DIVISION 3. - ADMINISTRATION AND PROCEDURES

Sec. 1.11 - Purpose.

The purpose of this division is to establish application procedures, internal review procedures, public notice and hearing procedures, and review criteria for applications and actions that affect the development and use of property subject to the jurisdiction of this ULDC.

(Ord. No. 11,866, § 2(Exh. A), 2-23-12)

Sec. 1.12 - Simultaneous submission of related applications.

Submission of a variety of applications related to the same development usually proceeds in the following sequence, which may be varied and could include additional permits not listed in this section:

1. Comprehensive plan amendments;
2. Zoning map amendments;
3. Special use permit;
4. Drilling permit;
5. Preliminary plat;
6. Engineering report for public improvements;

7. Final plat;
8. Special exceptions;
9. Zoning variances;
10. Subdivision variances;
11. Site plan review;
12. Floodplain permits;
13. Stormwater permits;
14. Watershed protection permits; and
15. Inspections.

(Ord. No. 11,866, § 2(Exh. A), 2-23-12; Ord. No. 12,473, § 4, 2-13-14; Ord. No. 15,192, § 4, 9-8-22)

#### Sec. 1.13 - Pre-application conference.

A pre-application conference may be held between a potential applicant under this ULDC and the DRC. Pre-application conferences for several land development review processes may be combined when an applicant will be making several applications for the same project and when the processing schedule allows for simultaneous submittals. Completion of a pre-application conference does not imply or assume subsequent approval of anything discussed. A pre-application conference does not constitute a development permit application and it should not be construed as a permit or the first permit in any series of permits. A pre-application conference does not provide any vesting to the applicant. Prior to owner making application for a zoning map amendment, a pre-application conference is required, unless the application is made by a city official in his official capacity.

(Ord. No. 11,866, § 2(Exh. A), 2-23-12)

#### Sec. 1.14 - Forms.

These requirements apply to all applications identified in this ULDC. Applications required by this ULDC shall be submitted in a form and with attachments in such numbers as required by the director. The forms and application directions shall be contained in the development manual of the city. The director may waive any submittal requirements deemed irrelevant in a given application. Application submittal requirements, checklists, and instructions shall be shown in the development manual of this ULDC.

(Ord. No. 11,866, § 2(Exh. A), 2-23-12)

#### Sec. 1.15 - Fees.

The city shall charge an application fee to cover the cost of processing, reviewing, noticing, recording, inspecting and other actions for land development applications. Application fees shall be established by ordinance from time to time by the city council. The city may also, from time to time, utilize consultants to perform such activities and

may assess the cost of such work to the applicants. Such costs for consultants shall be paid prior to any permit issuance. Fees are set forth in chapter 2 of the Code of Ordinances. Application fees are not refundable.

(Ord. No. 11,866, § 2(Exh. A), 2-23-12)

#### Sec. 1.16 - Application deadline.

All applications shall be completed and submitted to the director in accordance with the schedule published on the city's website and in the development manual. This schedule may be updated from time to time during the year with the amendments being published on the web and in the development manual. An application shall not be considered as officially submitted, accepted or filed until it has been determined to be complete in accordance with section 1.17.

(Ord. No. 11,866, § 2(Exh. A), 2-23-12)

#### Sec. 1.17 - Application completeness.

A determination of application completeness shall be made by the director no more than ten business days after submittal of the application. If the application is determined to be incomplete, the director shall notify the applicant in writing within five days of completing the completeness review. The city shall exercise the authority granted under V.T.C.A., Local Government Code ch. 245 to perform such reviews within the ten-day window and to allow the applicant 45 days in which to respond. While awaiting the requested information, any time limitations within which the city must process the application shall be tolled. If the applicant's response time exceeds the 45-day period, then the application expires; and to proceed, the applicant shall begin the process again with a new application. The completeness review set forth herein applies to all applications identified in table 1-1 of this ULDC. Determination that an application is complete does not preclude any negative final action and does not include any implied determination that the application successfully meets any review criteria. The development manual shall contain a checklist for all application types. Completeness reviews shall rely on the ULDC provisions as well as the checklists and V.T.C.A, Local Government Code ch. 245.

(Ord. No. 11,866, § 2(Exh. A), 2-23-12; Ord. No. 12,473, § 5, 2-13-14)

#### Sec. 1.18 - Qualified applicants.

- (a) Application on behalf of the city for zoning map amendments or text amendments shall be made by the mayor, the city council, a member of the city council or the city manager. Only qualified applicants referenced in this subsection may request text amendments.
- (b) Except as provided in subsections (a), (c) or (d) of this section, applications for zoning map amendments, variances, special exceptions, and special use permits shall be made by a property owner and shall include the name and signature of the current property owner(s) of all properties within the boundaries of the application. Property owner(s) may be represented by an agent designated in writing by the property owner(s).

(c) Applications for special use permits associated with drilling, oil or gas operations shall be made by any mineral interest owner with the legal right to drill on the property that is the subject of the application. Mineral interest owner(s) may be represented by an agent, designated in writing by the mineral interest owner(s).

(d) Applications for drilling overlay districts shall be made by the mayor, the city council, a member of the city council or the city manager.

(Ord. No. 11,866, § 2(Exh. A), 2-23-12; Ord. No. 12,473, § 6, 2-13-14)

#### Sec. 1.19 - Action following decision.

Written notice of final decisions to approve or approve with conditions, or disapprove or deny shall be provided to the applicant within five working days of each decision.

(Ord. No. 11,866, § 2(Exh. A), 2-23-12)

#### Sec. 1.20 - Reapplication limits.

For zoning map amendments, 12 months from the date of final disapproval, except with permission of the planning and zoning commission or city council, must elapse before reapplication. In order to be considered for such a waiver, the applicant shall demonstrate that at the time the applicant requests a waiver:

- (a) There is a substantial change in circumstances relevant to facts considered during review of the application that might reasonably affect the decision-making body's application of the relevant review standards to the development proposed in the application;
- (b) New or additional information is available that was not available at the time of the review that might reasonably affect the decision-making body's application of the relevant review standards to the development proposed; or
- (c) A new application is proposed to be submitted that is materially different (e.g., proposes new use categories, or a substantial change in proposed densities and intensities) from the prior application.

(Ord. No. 11,866, § 2(Exh. A), 2-23-12)

#### Sec. 1.21 - Public hearing and notice requirements.

Unless otherwise specified in the procedures of this article, public hearings and notices shall be governed by the provisions of this article. Required notice shall be provided for applications shown in table 1-3. Public notice of hearings held pursuant to this ULDC shall be given as follows:

- (a) *Publication for zoning cases.* Whenever this ULDC requires a public hearing for a special use permit, ULDC text amendment related to zoning, zoning variance or special exception or zoning map amendment, including the designation of a drilling overlay district, before the planning and zoning commission or the board of adjustment, notice of a public hearing on the application shall be

published in a newspaper of general circulation in the city at least 11 days before the public hearing. Whenever this ULDC requires a public hearing before the city council, notice of a public hearing on the zoning application shall be published in a newspaper of general circulation in the city at least 16 days before the public hearing.

(b) *Mailing.*

- (1) Notice of required public hearings for a special use permit, zoning variance or special exception or zoning map amendment, with the exception of applications for a special use permit for drilling, oil or gas operations or a designation of drilling overlay district, shall also be sent by mail to owners of land within 300 feet of the lot lines of the land that is the subject of the application.
- (2) For applications for a drilling overlay district or a special use permit for drilling, oil or gas operations, notice of required public hearings shall be sent by mail to:
  - a. Owners of land on which the drilling, oil or gas operations are proposed to occur;
  - b. Owners of land over which the drilling overlay district is proposed; and
  - c. Owners within 750 feet of the property line of the property on which drilling, oil or gas operations are proposed to occur or the boundary of the overlay district, whichever is applicable.

(c) *Posting of signs.*

- (1) Except as provided in subsection 1.21(c)(2), notice of required public hearings shall also be provided by way of a sign posted on the land that is the subject of the application. One sign shall be posted for each 200 feet of frontage along a public street, with a maximum of four signs required per frontage. Signs shall be located so that the lettering is visible from the street. Where the land does not have frontage on a public street, signs shall be posted on the nearest public street.
- (2) At least six signs shall be required for any public hearing regarding one or more amendments to the official zoning map, which propose to change the zoning district classification of more than five tracts. Nothing contained in this section shall prohibit the director from posting additional signs as the director deems appropriate.

- (d) *Website.* Notice of the public hearings will be published and remain on the city's website through the day of the public hearing in accordance with the same publication deadlines as expressed in subsections (a) and (b) of this section. The validity of a posted notice of a public hearing required by this subsection is not affected by a failure to comply with a requirement of this subsection that is due to a technical problem beyond the reasonable control of the city.

(Ord. No. 11,866, § 2(Exh. A), 2-23-12; Ord. No. 12,473, § 7, 2-13-14)

Sec. 1.22 - Contents of notice.

- (a) *Publication and mailed notice.* Notices that are published and mailed pursuant to subsection 1.21(a), (b),

and (d) shall provide at least the following information:

- (1) The general location of the land that is the subject of the application;
  - (2) Its legal description or street address;
  - (3) The substance of the application;
  - (4) The time, date and location of the public hearing;
  - (5) The time, date and place where the application may be inspected by the public; and
  - (6) A statement that interested parties may appear at the public hearing and be heard with respect to the application.
- (b) *Signs.* Signs required pursuant to subsection 1.21(c) shall at least indicate the following:
- (1) The property and/or neighboring properties, as applicable, are the subjects of a development permit;
  - (2) The city's website address; and
  - (3) The contact point for additional information.

**Table 1-3. Summary of notice requirements.**

Procedure	Published	Mailed	Signs	Website
Administrative appeal (zoning)	X	X		X
Special exception	X	X	X	X
Special use permit	X	X	X	X
ULDC zoning text amendment	X			X
Zoning map amendment (rezoning, overlay, PUD, detail plan)	X	X	X*	X
Zoning variance	X	X	X	X
Subdivision variance	X			X

X = Notice required

X\* = Notice required subject to subsection 1.21(c)

(Ord. No. 11,866, § 2(Exh. A), 2-23-12; Ord. No. 12,473, § 8, 2-13-14; Ord. No. 12,593, § 2, 8-14-14; Ord. No. 15,192, § 5, 9-8-22)

Sec. 1.23 - Required public hearing.

Table 1-4 identifies the types of applications requiring a public hearing and the review body responsible for conducting the hearing.

**Table 1-4. Required public hearings.**

Application	Board of Adjustment	Planning and Zoning Commission	City Council
Administrative appeal (zoning)	X		
Special exception	X		
Special use permit		X	X
ULDC zoning text amendment		X	X
Zoning map amendment (rezoning, overlay, PUD, detail plan)		X	X
Zoning variance	X		
Subdivision variance		X	

X = Public hearing required

(Ord. No. 11,866, § 2(Exh. A), 2-23-12; Ord. No. 12,473, § 9, 2-13-14; Ord. No. 12,593, § 3, 8-14-14; Ord. No. 15,192, § 5, 9-8-22)

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Sec. 1.24 - Conduct of public hearings.

Public hearings shall be conducted in accordance with state law, the provisions of this ULDC, and any applicable rules of procedure adopted by the reviewing body. Where deemed appropriate by the affected decision-making body, modifications of an application request may be referred by the decision-making body back to the recommending body for review, prior to further consideration. In such cases, the decision-making body shall close the hearing and republish notice of any future hearing in accordance with section 1.21 of this ULDC. The review body shall hold a public hearing as required by the appropriate procedure.

(Ord. No. 11,866, § 2(Exh. A), 2-23-12)

#### Sec. 1.25 - Vote required for action.

- (a) *Zoning text and map amendments.* After the close of the public hearing on the zoning text or zoning map amendment held pursuant to section 1.24 of this ULDC, the city council shall vote to approve, approve with modifications or disapprove the proposed amendment based upon the criteria in this ULDC. Except for actions to grant a special use permit, action to amend the zoning text of this ULDC or the official zoning map shall require an affirmative vote of at least the following:
  - (1) Three-fourths of all members of the city council if the proposed change to the zoning text or official zoning map is protested in accordance with V.T.C.A., Local Government Code, ch. 211; or
  - (2) Two-thirds of all members of the city council in all other cases.
- (b) *Special use permits.* After the close of the public hearing on a special use permit held pursuant to section 1.24 of this ULDC, the city council shall approve, approve with conditions or disapprove the proposed special use permit based upon the criteria in this ULDC. Action to grant a special use permit shall require an affirmative vote of at least the following:
  - (1) Three-fourths of all members of the city council if the proposed special use permit is protested in accordance with V.T.C.A., Local Government Code, ch. 211; or
  - (2) Two-thirds of all members of the city council in all other cases.

(Ord. No. 11,866, § 2(Exh. A), 2-23-12; Ord. No. 12,703, § 1, 11-17-14; Ord. No. 12,704, § 1, 11-17-14)

#### Sec. 1.26 - Rezoning, special use permits, and zoning text amendments.

- (a) *Applicability.* This process is used for review and consideration of rezoning, zoning text amendments, and special use permits, excluding special use permits addressed in section 1.26.5 and overlay districts addressed in section 2.085.
- (b) *Review process.*
  - (1) *Application and completeness determination.* Application must be made consistent with this ULDC. The director is responsible for checking that a complete application has been submitted pursuant to the provisions of this ULDC with all material necessary for the decision-making authority to render an informed decision.

- (2) *Planning and zoning commission review.* Following notice as proscribed in this ULDC, the planning and zoning commission shall hold a public hearing in accordance with its rules and the V.T.C.A., Local Government Code ch. 211 and make a recommendation to the city council.
  - (3) *City council final action.* The city council shall hold a public hearing, in accordance with its rules and the V.T.C.A., Local Government Code ch. 211 and may take final action on the proposed rezoning or special use permit.
  - (4) *Effect.* The special use permit, rezoning, text amendment shall become effective ten days following the passage by city council.
- (c) *Approval criteria for rezoning applications.* All of the following criteria shall be applied by the director, the planning and zoning commission and the city council in the review of requests for rezoning (map changes) and changes to the zoning text of this ULDC:
- (1) The rezoning or text amendment is consistent with and furthers the policies and goals of the future land use plan, major thoroughfare plan, vision statement, and this ULDC;
  - (2) The rezoning or text amendment is compatible with existing and proposed uses surrounding the subject land and is the appropriate district for the land use proposed;
  - (3) The rezoning or text amendment promotes the health, safety, or general welfare of the city and includes the safe, orderly, and healthful development of the city;
  - (4) The rezoning or text amendment facilitates the adequate provision of mobility, water, waste water, stormwater and other public services;
  - (5) There are changed conditions;
  - (6) The rezoning or text amendment would not result in adverse impacts on the natural environment, including, but not limited to, water, air, noise, stormwater quality, wildlife, vegetation, and wetlands; and
  - (7) The application addresses a demonstrated community need.
- (d) *Approval criteria for special use permits.* The planning and zoning commission may recommend and the city council may issue a special use permit only if all of the following specific objectives and conditions are met:
- (1) That the specific use will be compatible with and not injurious to the use and enjoyment of adjacent property or property immediately across the street, and not significantly diminish or impair property values within the immediate vicinity in any material way;
  - (2) That the establishment of the specific use will not impede the normal and orderly development and improvement of surrounding property;
  - (3) That adequate utilities, access roads, drainage and other necessary supporting facilities have been or will be provided prior to the issuance of a certificate of occupancy;
  - (4) That adequate nuisance prevention measures will be taken and maintained to prevent or control offensive odor, fumes, dust, light, noise and vibration prior to the issuance of a certificate of

- occupancy;
- (5) That there are sufficient landscaping, screening, setbacks and other land use measures to ensure harmony and compatibility with adjacent property;
  - (6) That the proposed use is consistent with the comprehensive plan and is generally consistent with this ULDC; and
  - (7) That the site plan meets the criteria set forth in subsection (e) of this section.
- (e) *Additional criteria for special use permits.* The planning and zoning commission may recommend and the city council may adopt other conditions on any special use permit application that are needed to protect the public health, safety and welfare, including, but not limited to, hours of operation and additional landscape or parking requirements.
- (1) It shall be unlawful for any person to occupy, construct, alter, extend or expand any use within a zoning district which permits that use only as a special use unless a special use permit has first been issued by the city council for the specific occupation, construction, alteration, extension or expansion of the proposed use in accordance with the provisions of this division. If approved, the permit shall be issued specifically to the person named in the application for the permit and shall not be transferred without providing prior written notification to the director.
  - (2) All uses that receive a special use permit as required under this division shall meet all applicable regulatory requirements of the state and federal government and shall meet all applicable requirements of this and other pertinent ordinances of the city. Applicants for special use permits shall provide documentation that identifies all applicable federal and state licensing requirements for the proposed facilities at the time of application. Copies of the documentation from the state or federal agencies indicating compliance (i.e. licenses or certificates) shall be provided to the city no later than 60 days of issuance of the compliance documents.
  - (3) Prior to leasing or purchasing facilities, potential heavy industrial use developers are strongly encouraged to meet with the director to determine if the location will require a special use permit or other approvals and to review the merits of potential locations.
  - (4) The following uses identified in table 2-2 "Use conditions" require the issuance of a special use permit:
    - a. Industrial uses, including:
      - i. Excavation;
      - ii. Gravel pit;
      - iii. Junk and salvage yard;
      - iv. Waste storage and disposal centers;
      - v. Oil or gas wells;
      - vi. Packaging;
      - vii. Resource extraction;

- viii. Slaughterhouse;
  - ix. Sandblasting; and
  - x. Expansion of warehouse, freight movement, and logistics uses located in a GC District prior to October 12, 2023.
- b. Telecommunication facilities;
  - c. Group housing uses, including:
    - i. Boardinghouse;
    - ii. Dormitory;
    - iii. Halfway house;
    - iv. Homeless shelter;
    - v. Orphanage; and
    - vi. Personal care home;
  - d. Funeral homes with crematoriums; and
  - e. Recreational vehicle parks.
- (5) *Other activities that require a special use permit.* A special use permit shall be required for any industrial and manufacturing processes that are not identified in this ULDC. A special use permit shall be required for the expansion of any non-conforming use.
- (6) *Site plan required.* All applications for a special use permit shall be filed with the director. The application shall be accompanied by a site plan which, along with the application, will become a part of the special use permit, if approved. The accompanying site plan shall provide the following information:
- a. For recreational vehicle parks:
    - i. General layout of the development; and
    - ii. Number of recreational vehicle stands; or
  - b. For all other developments requiring a special use permits:
    - i. Data describing all processes and activities involved with the proposed use;
    - ii. Data showing compliance with the conditions listed in table 2-2 "Use conditions";
    - iii. Site plan showing lot size and boundaries drawn to scale;
    - iv. The location of each existing and proposed building and structure in the area covered by the site plan and the number of stories, height, roofline and gross floor area of any such building or structure, walls, fences and buffering. All items on site plan shall be dimensioned;
    - v. The location of existing natural and manmade stormwater facilities and significant natural features;
    - vi. Proposed wastewater facilities and points of discharge;
    - vii. Proposed landscaping and screening buffers;

- viii. The location and dimensions of all curb cuts, public and private streets, parking and loading areas, pedestrian walks, lighting facilities, and outdoor trash storage facilities;
  - ix. Traffic impact analysis, unless the applicant secures a written waiver from the city engineer stating that the proposed use will have no significant impact on the city's traffic system; and
  - x. Anticipated permits required regarding pollutants, wetlands and hazardous materials.
- (7) *Technical expert.* When a special use permit is required to comply with the provisions of this ULDC and when the technical information provided by the applicant is beyond the technical capacity of the city staff to review the application, in addition to the usual application fee, the applicant shall reimburse the city for the actual cost to the city for the services of a technical expert to review the application and/or information supplement. The director shall notify the applicant in writing at least five working days prior to hiring a technical expert so that the applicant has the opportunity to withdraw his application or provide feedback on the hiring of the technical expert.
- (f) *Expiration of special use permit.* A lapse of a period greater than 24 months from the date of city council approval causes the special use permit and all related approvals or permits to expire and be of no further force and effect unless one of the following conditions are met:
- (1) The holder of the special use permit is issued a certificate of occupancy for the use specified in the special use permit;
  - (2) If no certificate of occupancy is required, the holder of the special use permit is issued a certificate of completion for the use specified in the special use permit; or
  - (3) In projects where the use will be established on the property in phases, the applicant may submit a series of permit applications to prevent the special use permit from expiring. The phasing plan must be annotated on the application for the special use permit. The first certificate of occupancy or completion must be issued within 24 months of special use permit approval. No more than 24 months shall pass between subsequent issuances of certificates of occupancy or completion until the project specified in the special use permit is complete.
- If expired, a new special use permit application must be submitted and approved before engaging in the use.
- (g) *Revocation of special use permit.* The director may revoke a special use permit if it is determined that any of the following are true:
- (1) The applicants have misrepresented any material fact on their application, or supporting materials;
  - (2) The special use fails or ceases to comply with applicable standards, conditions or criteria for issuance of a permit;
  - (3) The operation of the special use violates any statute, law, ordinance or regulation; or
  - (4) The operation of the special use constitutes a nuisance or poses a real or potential threat to the health, safety or welfare of the public.
- (h) *Appeal of special use permit revocation.* Owner of the special use permit may appeal such revocation to

the city council. Owner must file a written appeal with the city clerk within ten days of the decision of the director. Owner must show that the director made decisions based on incorrect or incomplete data.

- (i) *Discontinuation of use.* A special use permit shall expire 12 months following the discontinuation of the use for which the special use permit was approved.

(Ord. No. 11,866, § 2(Exh. A), 2-23-12; Ord. No. 12,207, §§ 1, 2, 3-14-13; Ord. No. 12,473, § 10, 2-13-14; Ord. No. 15,516, § 1, 8-10-23; Ord. No. 15,575, § 1, 10-12-23)

Sec. 1.26.5 - Special use permit for drilling, oil or gas operations in HI district.

- (a) *Applicability.* This section provides for review and consideration of applications for authorization for drilling, oil or gas operations in an HI zoning district. A special use permit for drilling, oil or gas operations is intended to provide for the extraction of oil or gas minerals only.
- (b) *Application.* An application for a special use permit shall be made consistent with this ULDC and submitted to the director. Application forms shall be supplied by the director and shall include or be accompanied, at a minimum, by the following at the time of submission to the director:

(1) *General information.*

- a. The names, titles, contact information (telephone and email), and addresses of the applicant. The applicant may be any mineral interest owner with the legal right to drill on the property which is the subject of the application. If the applicant is a corporation, the state of incorporation; and if any is a partnership, the names and addresses of the general partners; and the names, titles, addresses, telephone numbers, and email addresses of the surface owners;
- b. The names, titles, contact information (telephone and email) and addresses of the principal contact;
- c. The names and addresses of all owners of land on which the drilling site is located;
- d. A legal description prepared by a state licensed registered professional land surveyor of the property to be used for the drilling, oil or gas operation, including the parcel and drilling site and name of the geologic formation. If the property has been platted, the description shall also reference the subdivision, block and lot numbers;
- e. A plat meeting the requirements of subsection 62-59(11)a. of the Code;
- f. A list detailing all anticipated and already executed permits required by any level of government regarding injected materials, wetlands or environmental, and hazardous materials, and the current status of those applications or permits; and
- g. A notarized copy of a signed waiver of the setback requirements contained in subsection 1.26.5(c) (10) evidencing that the surface owner agrees to a lesser setback if applicable; and
- h. A statement affirming the right of the applicant to perform drilling, oil or gas operations on the property described in the application.

- (2) *Plans.* All of the following plans shall be prepared by a qualified individual, in compliance with

applicable general engineering or industry standards and maintain or further the public health, safety and welfare of the city and must be approved by the director before drilling, oil or gas operations may commence within the city:

- a. Site plan;
- b. Transportation plan;
- c. Drainage and grading plan;
- d. Noise management plan;
- e. Photometric plan;
- f. Environmental plan;
- g. Water protection plan;
- h. Screening and vegetative buffer plan; and
- i. Restoration plan.

(3) *Other documentation.*

- a. Work schedule, indicating how many hours, and during what times, drilling or other equipment is expected to be operating during construction activities, and how long this period will be.
- b. Either:
  1. A copy of all documents submitted to any state agency specifically related to, but not limited to, the depth of useable quality groundwater, and the anticipated impacts of the drilling activities on such groundwater, the impact on the city's groundwater supply wells, the groundwater protection determination issued by the state agency and other related determinations; or
  2. A sworn statement by the applicant and its engineer, certifying that the determination by the state agency required hereinabove is not required.
    - c. All forms submitted to and, if approval has been secured, approval by the state railroad commission, and all reports required by state agencies.
    - d. Leak detection and compliance plan to include steps for monitoring and quarterly reporting.
    - e. Other information for various permits required by the city based upon provisions of the Code of Ordinances generally applicable to development activities, including, but not limited to, chapters 18, 34, 62, 98, 122 and 126.
    - f. Any additional information requested by the director if the director determines that such information is necessary for a determination regarding whether the application meets the requirements of this ULDC.

(4) *Technical expert fees.*

- a. *Additional fees for technical experts.* When a special use permit is required to comply with the provisions of this ULDC and when the technical information provided by the applicant is beyond the technical capacity of the city staff to review the application, or the city wishes to secure

additional expertise, in addition to the application fee, the applicant shall reimburse the city for the actual cost to the city for the services of a technical expert(s) to review the application. The director shall notify the applicant in writing at least ten calendar days, with an estimate of costs, prior to hiring a technical expert so that the applicant has the opportunity to withdraw its application or provide feedback on the hiring of the technical expert.

- b. *Escrow of additional fees.* If additional costs are estimated to be in excess of \$2,000.00, the applicant shall be required to escrow funds with the city for the payment of costs. The director shall advise the applicant of the amount to be placed in escrow, and the applicant shall have ten days to remit a certified check in the amount to the director, who shall deposit same with the finance department, and the funds will be separately tracked. Any city approval periods required by this ULDC are tolled until all fees, including escrow funds, are received by the city.
  - c. *Failure to submit fees.* Failure to submit all fees as required shall result in the application being deemed incomplete.
- (c) *Application details; standards.* The director shall determine whether the information required by this section has been provided by the applicant. Additionally, the plans contained in this subsection must be approved by the director before a special use permit is issued.
- (1) *Site plan.* Applicant shall submit a site plan containing the following information at a minimum:
- a. The boundaries of the entire drilling site, all pipelines, and all appurtenances to be located on the proposed site, showing adequate access to the site from a city approved access point by means of a public street constructed in accordance with city specifications or, alternatively, a fire apparatus access road built in accordance with the Code of Ordinances, the building code and the fire code;
  - b. The route, location, and depth of all existing and proposed pipelines and other improvements related to drilling, oil or gas operations, including, but not limited to, structures, tanks, pipelines, roads, streets and highways;
  - c. The location and description of all uses, improvements, structures and topographic features (including floodplain information, as well as vegetation, wildlife, creeks) within 750 feet of the proposed drilling site;
  - d. All existing utilities, public or private driveways, alleys, roads, streets and highways, and all public or private access points and all restricted ingress and egress points;
  - e. The location of existing natural and manmade stormwater facilities and significant natural features, such as, but not limited to, canals, and agricultural areas;
  - f. Proposed wastewater facilities and points of discharge, including grading and engineering plans sufficient to confirm that discharge will not be into any waterways;
  - g. Proposed landscaping and screening buffers;
  - h. The location and dimensions of all curb cuts, parking and loading areas, pedestrian walks, lighting facilities, and outdoor trash storage facilities; and

- i. All information required in this subsection shall be shown on the site plan documents to a scale specified by the director.
- (2) *Transportation plan.* Applicant shall submit a transportation plan for the site that identifies all routes proposed for equipment and product travelling to and from the site, and shall include the following information:
- a. Video and photograph documentation of the current traffic flow and condition of current roads, streets and highways, which may be used to fulfill the video requirement for the infrastructure maintenance agreement in chapter 62;
  - b. The proposed vehicle routes and public roads, streets and highways to be utilized for the transport of equipment, chemicals or waste products, hazardous or otherwise, related to the drilling, oil or gas operations;
  - c. The design characteristics of each public road, street and highway, the empty and full weights of vehicles to be utilized for construction or product hauling purposes, the number of trips per day that are expected, and the number of days such travel is expected;
  - d. The routes must be shown to have the capacity to handle the amount and type of additional traffic using Institute of Transportation Engineers published standards or equivalent as acceptable to the city engineer, be approved by the city engineer, comply with the Code of Ordinances and be in accordance with general engineering practices;
  - e. A signage element detailing the approved routes and compliance measures that shall include:
    1. A statement that the applicant shall require all drivers of commercial vehicles to utilize only the approved routes; and
    2. A statement that signage will be erected in a location visible to all drivers entering and exiting the site and shall be in place prior to the start of operations through completion of the termination of operations; and
  - f. Traffic impact analysis if the director determines that such analysis is necessary based upon number, timing or duration in days and hours of peak trips, location of the drilling site and proposed routes, or that the proposed route is not appropriate based on the road, street, and highway characteristics, weights of vehicles, and number of trips.
- (3) *Drainage and grading plan.* Applicant shall submit a drainage and grading plan showing the changes to the drilling site expected from the applicant's proposed activities, and how the drainage impacts will be managed. Grading, erosion control practices, sediment control practices, and waterway crossings shall meet the design criteria set forth in the construction regulations of chapters 18, 34, 98, 122 and 126 of the Code, shall be adequate to prevent transportation of sediment from the site, and shall use techniques that retain natural vegetation and retain natural drainage patterns to the satisfaction of the city engineer. Applicant shall not channelize, pave or otherwise straighten out any channel and shall remove only sufficient vegetation within any channel to allow it to carry the

proposed capacity. Adequate drainage for a 100-year storm event shall be provided within the limits of the drilling site as approved by the city engineer, and shall be designed to utilize existing drainage patterns, and prevent off-site migration of water, silt or sediment.

- (4) *Noise management plan.* Applicant shall submit a noise management plan detailing how the equipment used in the drilling, completion, transportation, or production of a well and all on-site appurtenant facilities complies with the city's maximum permissible noise levels, as permitted by chapter 34, article VII of the Code of Ordinances and the ULDC. The noise management plan must:
- a. Identify all noise impacts expected by the operation, in both decibel levels and expected duration of the noise, from the nearest property line of a dwelling unit, multifamily dwelling, place of assembly, hospital, school or park to the proposed drilling site;
  - b. Identify the person responsible for submitting noise compliance reports in response to a noise complaint;
  - c. Detail how the impacts will be mitigated. In determining noise mitigation, specific site characteristics shall be considered, including, but not limited, to the following:
    1. Nature and distance, in feet, of adjacent development, location, and types of land uses;
    2. Seasonal and prevailing weather patterns, including wind directions;
    3. Vegetative cover on or adjacent to the site;
    4. Topography, as shown on a topographical map with a two-foot interval;
    5. Operation and site noise management measures, which may include, but not be limited to, the use of critical grade mufflers on generators and motors; the use of structural noise curtains, walls, or enclosures; and best management practices by limiting or eliminating noisier operations, such as tripping, deliveries of pipe, casing and heavy loads, the use of horns for communication, and the operation of vehicle audible back-up alarms at night; and
    6. Identify the location of noise blankets, sound walls or other applicable noise mitigation effects around the operations site. Noise mitigation shall be required during all drilling, hydraulic fracturing and production operations if construction level sound limits are anticipated to be exceeded.
- (5) *Photometric plan.* Applicant shall submit a photometric plan depicting the general plan for lighting the facility that illustrates how spillover onto adjacent properties and all public rights-of-way will be limited by directional or shielded lighting without compromising the safety and security of the site. The plan must demonstrate compliance with the light and glare standards set forth in section 3.08 of this ULDC.
- (6) *Environmental plan.* Applicant shall submit an environmental analysis, prepared pursuant to and in compliance with applicable state agency standards, and chapter 34, article VIII and chapter 110 of the Code if:
- a. Any wetlands or other environmentally sensitive area is identified or known within the proposed

drilling site, or

- b. Any drilling, oil or gas operation is proposed on land in the 100-year floodplain, flood fringe, or floodway as designated by FEMA, or any watershed protection area designated by the city.

(7) *Screening and vegetative buffer plan.* If any well or appurtenance is three feet or more in height measured from finished grade and within 300 feet, measured from the property line, of an adjacent use, which is not a drilling, oil or gas operation, located on property zoned SFE, SF1, SF2, MF1, MF2, MF3, UN, MU, LC, ACE, or OR, or of a public right-of-way, landscaping, buffering and screening must be in accordance with the following as well as the screening standards in this ULDC:

- a. The screening plan shall include a wall around the drilling site, a minimum of eight feet in height, but not to exceed ten feet in height, that shall be designed to enclose all planned or completed wells, tanks and compressors. Construction of this enclosure must be completed, and inspected and approved, a minimum of one day prior to the date the first well goes into production. The enclosure shall be constructed of brick, stone, or hardiplank materials.
- b. One side of the enclosure shall be equipped with at least one gate, which is at least 24 feet wide. If two gates are used, gates shall latch and lock in the center of the span.
  - 1. The gate shall be of metal frame and solid material, such as wood, wooden veneer, hardiplank, or plastic wood construction;
  - 2. The gate shall be provided with a combination catch and locking attachment device for a combination padlock, and shall be kept locked except when being used for access to the site; and
  - 3. Applicant must provide the city fire marshal with a "knox padlock" or "knox box with a key" to access the well site to be used in case of an emergency.
- c. The buffer plan shall be consistent with the district compatibility standards specified in section 3.14 of the ULDC except if the standard is in conflict with this subsection.

(8) *Restoration plan.* Applicant shall submit a plan to be implemented after completion of drilling to restore the entire drilling site, except for those areas on which a well or appurtenance is located as shown on the site plan, to pre-operation conditions. The plan shall include the following information:

- a. A re-grading plan to return the site to pre-drilling contours;
- b. A replanting plan to replace removed or damaged vegetation, which plan shall include planting native grasses, and tree replacement to achieve a canopy and stabilization of soil equivalent to the site's pre-drilling condition within five years;
- c. Removal of all above ground improvements and waste disposal methods;
- d. Measures for the control of surface water drainage and water accumulation, measures to be taken during the reclamation process, both onsite and offsite, and for the protection of the quantity and quality of surface and groundwater systems. Identify conveyance methods and easements to be used;

- e. A statement of all lease requirements regarding post-drilling conditions along with a statement of such requirements; and
- f. Information for other professional practices performed in the normal course of drilling operations, or otherwise necessary to ensure all disturbed areas will be reclaimed.

The surface owner can waive in writing the restoration requirements detailed in subsections (c)(8)b. and (c)(8)c. of this section. A notarized copy of the signed waiver must be submitted to the director.

- (9) *Operation hours.* Site development and construction activities associated with drilling oil or gas operations shall be conducted only between 7:00 a.m. and 7:00 p.m. Monday through Friday and between 9:00 a.m. and 5:00 p.m. on Saturday and Sunday, and will be considered "construction activity" for purposes of compliance with chapter 34, article VII of the Code. Notwithstanding the time limitations herein and in chapter 34, article VII of the Code, drilling will be allowed to run the appropriate equipment 24 hours a day, seven days a week, during the initial drilling and reworking of the well. Truck traffic associated with drilling and/or production, well servicing, site preparation, delivery or removal of equipment and materials, and all related work conducted on the drilling site shall be limited to the same work hour restrictions identified above except in cases of fires, blowouts, explosions, and any other emergencies.
- (10) *Location restrictions.* The proposed well and associated appurtenances cannot be closer than the following, unless (i) a notarized setback waiver is provided by the surface owner(s) and incorporated into the special use permit approved by council or (ii) the city council determines a lesser setback is required to provide reasonable access to the oil and gas and includes that lesser setback in the special use permit:
  - a. Seven hundred fifty feet from the following:
    - 1. Any structure designed or used for human occupancy associated with any dwelling unit, multifamily dwelling, place of public assembly, hospital building, and school;
    - 2. The property line of a public park or public recreational space; or
    - 3. Any public or private water well, unless a private water well is associated with drilling, oil or gas operations;
  - b. (i) 100 feet from the nearest public easement or nearest local street as designated in the city's major thoroughfare plan, (ii) 1,000 feet from the nearest state right-of-way, and (iii) 500 feet from the nearest collector or arterial as designated in the city's major thoroughfare plan;
  - c. Two hundred feet from the shoreline of a water body appearing in the city's watershed protection map as measured by the mean high water level for the affected water body; and
  - d. Fifty feet from the nearest property line of a private recreation space.
- (d) *Planning and zoning commission review.*
  - (1) *Recommendation for approval or approval with conditions.* The planning and zoning commission shall make a written recommendation to the city council to approve or approve with conditions a

special use permit for drilling, oil or gas operations that meets all requirements of this ULDC, the Code of Ordinances, and the following conditions:

- a. All of the required information has been submitted by the applicant and the standards required in subsection (c) have been satisfied;
  - b. The use will be compatible with and not injurious to the use and enjoyment of adjacent property or property immediately across the street, and will not significantly diminish or impair property values within the immediate vicinity in any way, and will not adversely affect an environmentally sensitive area;
  - c. The use will not impede the normal and orderly development and improvement of surrounding property;
  - d. Adequate utilities, access roads, drainage and other necessary supporting facilities have been or will be provided as determined by city standards;
  - e. Adequate nuisance prevention measures have been or will be taken to prevent or control offensive odor, fumes, dust, noise and vibration;
  - f. Sufficient landscaping, screening, setbacks and other land use measures to ensure harmony and compatibility with adjacent property; and
  - g. The use is in accordance with the comprehensive plan, other adopted city plans, and is substantially consistent with the purposes and intent of the city's codes.
- (2) *Recommend denial.* The planning and zoning commission shall make a written recommendation to the city council to deny a request for a special use permit for drilling, oil or gas operations if the application and use fail to meet all of the requirements of this ULDC, the Code of Ordinances, and the conditions contained in this section.
- (e) *City council action.*
- (1) *Approval or approval with conditions.* After receipt of the planning and zoning commission's recommendation and the requisite public hearing, the city council shall approve or approve with conditions an application that meets all requirements of this ULDC, the Code of Ordinances, and the conditions contained in this section.
  - (2) *Denial.* The city council shall deny a request for a special use permit if the application and use fail to meet all of the requirements of this ULDC, the Code of Ordinances, and the conditions contained this section.
- (f) *Expiration of special use permit.* If no substantial work is being performed on the site for a continuous period of one year, or if a use allowed pursuant to a special use permit is discontinued for a continuous period of one year, then the special use permit and all related approvals or permits shall expire and be of no further force and effect. The applicant may apply to city council for an extension of time, for a period of up to one year. Such request must evidence good cause for the delay.
- (g) *Requirement to notify of changed information/enforcement action.* An applicant or permittee has a

continuing obligation to update the director of any additional information related to the permitted drilling, oil or gas operations. This includes any changes to any of the items included in the original application and outlined in subsections (b) and (c). The director must further be notified by the applicant or permittee of any complaints or enforcement action by any governmental entity and the outcome of such investigations. Information regarding complaints or enforcement by another governmental entity shall be provided to the director within ten days of receipt by the permittee or applicant.

- (h) *Revocation of special use permit.* The director may revoke the special use permit if it is determined that any of the following are true:
- (1) The applicant misrepresented any material fact on its application or supporting materials;
  - (2) The special use fails or ceases to comply with the applicable standards, conditions or criteria for issuance of a permit;
  - (3) The operation of the special use violates any statute, law, ordinance or other regulation;
  - (4) Applicant or permittee fails to notify the director of changed information/enforcement action as required in subsection (g) of this section; or
  - (5) The operation of the special use constitutes a public nuisance or poses a real or potential threat to the health, safety, or welfare of the public.
- (i) *Appeal of special use permit revocation.* The permittee may appeal a revocation to the city council. The permittee must file a written appeal with the city clerk within ten days of the director's decision to revoke the special use permit, and must include detailed reasons, and grounds for the appeal. The permittee must show that the director made decisions based upon incorrect or incomplete data.

(Ord. No. 12,473, § 11, 2-13-14)

#### Sec. 1.27 - Nonconformities.

- (a) *Scope; continuation; repair and maintenance.*
- (1) *Authority to continue.*
    - a. *Continuation of nonconforming use.* A nonconforming use that lawfully occupied a structure or a vacant site on April 13, 2013, may be continued so long as it remains otherwise lawful, subject to the standards and limitations of this ULDC.
    - b. *Continuation of noncomplying structure.* A noncomplying structure that lawfully occupied a land site on April 13, 2013, that does not conform to the standards for front setbacks, side setbacks, rear setbacks, height, screening, floor area of structures, driveways or open space for the district in which the structure is located may be used and maintained, subject to the standards and limitations in this ULDC.
- (b) *Nonconforming uses.*
- (1) *Process for determining abandonment.* Under this section, a nonconforming use of land or of a structure may be considered abandoned subject to the following:

- a. *Determination.* A nonconforming use of land or of a structure that is discontinued or remains vacant continuous period of one year shall be presumed to be abandoned and shall not thereafter be reest resumed. Any subsequent use or occupancy of the structure must conform to the structure regulatic district in which it is located.
  - b. *Overcoming presumption of abandonment.* The presumption of abandonment may be rebutted upon proof to the satisfaction of the director or to the board of adjustment that during such period the owner of the land or structure (i) is maintaining the property in accordance with the building code, (ii) is in compliance with article XV of chapter 18 of the Code of Ordinances pertaining to vacant buildings, and (iii) is either:
    - i. Actively and continuously marketed for sale or lease; or
    - ii. Engaged in other activities that would affirmatively prove there was not intent to abandon, such as obtaining a building permit and obtaining inspections meeting the requirements of the city's building code.
  - c. *Calculation of period of abandonment.* Any period of such discontinuance directly caused by government action, fire or natural calamity without any contributing fault by the owner of the property shall not be considered in the calculation of length of abandonment for this section.
- (2) *Movement, alteration and enlargement.* No nonconforming use may be moved, enlarged or altered and no nonconforming use of land may occupy additional land, except as follows:
- a. *Enlargement.* A special use permit in accordance with section 1.26 shall be required for the expansion of any non-conforming use. However, a nonconforming use may be extended without a special use permit.
  - b. *Exterior or interior remodeling or improvements to structure.* Exterior or interior remodeling or improvements to a structure containing a nonconforming use shall be allowed, provided there is no expansion of the nonconforming use.
  - c. *Relocation of structure.* A structure containing a nonconforming use may not be moved unless the use shall conform to the regulations of the district into which the structure is moved.
  - d. *Change of nonconforming nonresidential use to another nonconforming use.* Upon application to the director pursuant to this article, a nonconforming use may be changed to another nonconforming use of the same or similar type or intensity or to another nonconforming use of the same or similar type, but of less intensity. Whenever any nonconforming nonresidential use is changed to a less intensive nonconforming nonresidential use, such use shall not be changed back to a more intensive nonconforming nonresidential use. Whenever any nonconforming nonresidential use is changed to a conforming use, such use shall not later be changed to a nonconforming use.
  - e. *Destruction of structure with nonconforming use.* If a structure that contains a nonconforming use is destroyed to the extent of 50 percent or more by fire or natural calamity or is voluntarily razed or is required by law to be razed, the nonconforming use shall not be resumed except as

provided in subsection (2)(f) of this section. The determination of the extent of damage or destruction under this subsection shall be determined in accordance with subsection (c)(7) of this section.

- f. *Special use permit.* If a structure that contains a nonconforming use is destroyed to the extent of 50 percent or more by fire or natural calamity, the owner must file an application for a special use permit in accordance with section 1.26 if the owner desires to resume the nonconforming use. The application shall be processed in accordance with article one of this ULDC, except all of the following conditions must be met in lieu of those conditions found in section 1.26:
  - i. Not contrary to the public interest;
  - ii. Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship; and
  - iii. The spirit of this ULDC is observed and substantial justice is done.

(c) *Noncomplying structures.*

- (1) *Generally.* Under this ULDC, no noncomplying structure may be moved, enlarged or altered, except in the manner provided in this section or section (b) above or unless required by law.
- (2) *Applicability.* Nothing contained in this section shall be construed to prohibit improvements, maintenance or repair for any part of structures that are inside the existing footprint of a noncomplying structure that do not increase the height of the existing noncomplying structure. Some examples are the following: a water heater may be repaired or replaced within the existing footprint; components, cladding and roofs may be repaired as long as square footage (usable or not usable) is not added to make another story on the building or to exceed the existing footprint of the structure.
- (3) *Repair, maintenance, and alteration.* Any noncomplying structure may be repaired, maintained, or altered; provided, however, that no such repair, maintenance, or alteration shall either create any new noncompliance or increase the degree of the existing noncompliance of all or any part of such structure except in the manner provided in this section or in the variance and special exception regulations of this ULDC.
- (4) *Enlargement.* A noncomplying structure may not be enlarged, expanded or extended to occupy all or a part of the land site that it did not occupy on April 13, 2013, unless a noncomplying structure expansion variance is granted by the director or board of adjustment in accordance with subsection (d) of this section.
- (5) *Moving.* A noncomplying structure shall not be moved in whole or in part, for any distance whatsoever, to any other location on the same or any other lot unless the entire structure shall thereafter conform to the regulations of the district in which it is located after being moved except in the manner provided in this section or in the variance and special exception regulations of this ULDC.
- (6) *Damage or partial destruction.* If a noncomplying structure is damaged or destroyed by fire or natural calamity to the extent of 50 percent or less, the structure may be restored if restoration is started within six months and diligently pursued to completion. The city may require a cash deposit, bond or

other guarantee of performance to ensure diligent progress and completion of the restoration. Any delay in starting such restoration that is caused by government action or natural calamities and without contributing fault by the owner shall be deducted in calculating the starting date of restoration.

- (7) *Destroyed structures.* Reconstruction of a noncomplying structure that has been more than 50 percent destroyed may be granted by the board of adjustment only upon its finding that granting the variance satisfies the following conditions:
- a. Not contrary to the public interest;
  - b. Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship; and
  - c. The spirit of this ULDC is observed and substantial justice is done.

It shall be the applicant's responsibility to demonstrate the basis for the variance request to the board of adjustment. The board of adjustment may impose such conditions as are necessary to protect adjacent property owners, to safeguard the character of the neighborhood in which the noncomplying structure is located, and to ensure the protection of the public health, safety and welfare, including, but not limited to, conditions specifying the period during which the nonconforming use may continue to operate or exist before being brought into conformance with the standards of the zoning regulations of this ULDC. In considering such reconstruction, the board of adjustment shall address the public welfare, character of the area surrounding such structure, the conservation, preservation and protection of property, including the applicant's property, as well as all plans adopted by the city council that affect or cover the area in which the land is located.

- (8) *Calculation for percentage destroyed.* The board of adjustment shall utilize the following to make its determination concerning more than 50 percent destroyed:
- a. The value of the noncomplying structure prior to destruction shall be established using the most current (pre-destruction) appraisal district tax roll; and
  - b. The owner may propose to substitute a current appraisal of the nonconforming building (before it was destroyed) prepared by an appraiser licensed in the state to prepare such appraisal.

(d) *Variances for the expansion of noncompliant structures.*

- (1) *Purpose.* The purpose of this subsection is to set minimum requirements, standards and conditions for approving proposed variances to allow the expansion of noncomplying structures. These regulations are intended to ensure the same general level of compatibility as is set forth in the comprehensive plan, neighborhood plans, and redevelopment and economic development plans adopted by city council. These regulations intend that variances granted to nonconforming structures do not adversely affect the adjacent land uses, especially adjacent residential uses, or the physical character of uses or structures in the immediate vicinity of the neighborhood in which the variance is

sought. Finally, the purpose of variances is to - over time - bring nonconforming structures into compliance with the current zoning regulations in order to improve neighborhoods, businesses and tax base.

(2) *Types of expansion variances.*

- a. *Variance by director.* The director may grant a variance for a nonconforming structure affecting up to ten percent, not to exceed 5,000 square feet of the footprint of the nonconforming structure if the applicant elects to comply with the standards set forth in subsections (3) and (4) of this section.
- b. *Variance by the board of adjustment.* The board of adjustment may grant a variance affecting the expansion of a nonconforming structure, if the applicant elects to comply with the standards set forth in subsections (3) and (4) of this section. The board of adjustment may grant a variance or variances that cumulatively with any variance or variances granted by the director allow up to a 40 percent expansion, but not to exceed 25,000 square feet of the nonconforming structure on April 13, 2013. Expansion variances may not be granted for 100 percent of the nonconforming structure.

(3) *Expansion variance criteria.* The director or the board of adjustment may grant an expansion variance when the applicant demonstrates that the variance request will meet all the criteria below:

- a. Ensures the same general level of land use compatibility as the otherwise applicable standards;
- b. Does not adversely affect adjacent land uses and the physical character of uses in the neighborhood in which the exception is sought because of inadequate buffering, screening, setbacks and other land use considerations;
- c. Does not adversely affect property values of adjacent properties in any material way and will improve the property value of the property for which the exception is sought;
- d. Furthers the goals and vision of the city as set forth in the comprehensive plan, the vision statement, and an applicable neighborhood plan or redevelopment plan adopted by the city council;
- e. Does not decrease any building setback or further encroach into a building setback that is the basis of the structure's noncomplying status;
- f. Is generally consistent with the purposes and intent of this ULDC; and
- g. Will bring the existing and proposed structure closer into compliance with the zoning regulations of this ULDC, or will otherwise improve or enhance public health, safety or welfare.

(4) *Variance credits.* In addition to the variance criteria listed in subsection (d)(3) of this section, the applicant may be granted an expansion variance only when the applicant has supplied credits in the amounts shown in table 1-5 that illustrates the number of approved credits required for the applicant's proposed project based on the percentage expansion of the project.

**Table 1-5. Variance credits.**

	Number of Approved Credits Required
10% or less	2
Over 10% to 20%	3
Over 20% to 30%	4
Over 30% to 40%	5

- a. The variance credits proposed to be met herein for the board of adjustment or director shall not be the same standards already approved to support a variance granted on the same property.
- b. Such credits may be approved by the board of adjustment or director as part of the application for variance and staff may deny any subsequent building permit if applicant fails to comply with the variance conditions set by the board of adjustment.
- c. The applicant for a variance shall then choose any of the following credits that match the number of required credits for the project, subject to the approval of the director or the board of adjustment as applicable to the case:
  - i. Installation of a streetscape along the street at which the project is addressed following the standards that are set forth in section 3.10.5(4) of the Code of Ordinances;
  - ii. Installation of parking lot landscaping to the percent of required landscaping that equals or exceeds the extent of the expansion requested in the variance based upon section 3.10.5(4)(h) of the Code of Ordinances;
  - iii. Installation of a public sidewalk along the frontage(s) of the property where no sidewalk exists;
  - iv. Installation of an improved buffer between the property and adjacent properties zoned or used for residential purposes, which may include the addition of hedges or decorative posts, or the substitution of higher quality materials for the buffer fence or other similar improvements;
  - v. Painting or otherwise modifying the exterior of the structure with appropriate building materials to match the color range and/or materials of adjacent properties and/or those immediately across the street. Modifications may include, but are not limited to, the addition of siding, awnings, window trim, and new facia. When the property in question is located in a

neighborhood that has a plan adopted by the city council and that addresses architectural standards, then material/exterior must comply with the adopted plan before credit may be given under this section;

- vi. Construction of a new roof on the structure such that the appearance and safety of the structure are improved;
- vii. Specifying the period during which the nonconforming use or structure may continue to operate or exist before being brought into conformance with the standards of the zoning regulations;
- viii. Maintenance of specific operating hours for a nonconforming use; or
- ix. Alternative proposals that meet all the intent and purpose of this ULDC.

(5) *Approval.* The director or board of adjustment may approve, approve with conditions or disapprove the application for an expansion variance permit, pursuant to the criteria of this section. Any approval or conditional approval of a variance shall include the number and type of credits approved by the director or the board of adjustment for the variance consistent with this section.

(Ord. No. 11,866, § 2(Exh. A), 2-23-12; Ord. No. 15,192, §§ 6, 7, 9-8-22; Ord. No. 15,575, § 2, 10-12-23)

Sec. 1.27.5 - Exclusion certificates for drilling, oil or gas operations.

- (a) *Exclusion determination.* Drilling, oil or gas operations that have commenced before [the effective date of this section, Feb. 23, 2014] may be allowed to continue where an exclusion certificate has been issued by the director. In order to obtain such a certificate, the applicant shall provide the director:
  - 1. A hazardous materials management plan meeting the requirements in chapter 62 of this Code.
  - 2. A risk management plan meeting the requirements in chapter 62 of this Code;
  - 3. A valid drilling permit for each well previously issued by the city in accordance with chapter 62 of this Code, or the information required in subsection 2.085(c)(3) of this article and sections 62-59 and 62-64 of the Code with the exception of subsections 62-59(10) and (11); and
  - 4. Copies of all current state permits, and those in effect prior to [the effective date, Feb. 23, 2014], including state agency documentation establishing the date of initial and most recent operations of each well, tank, or other improvement.
- (b) *Application period.* Application for an exclusion determination shall be made within 365 days of [effective date, Feb. 23, 2014], or the operations shall be considered abandoned, be considered a new project, and shall require compliance with all terms and conditions of this Code.
- (c) *Decision of director.* Exclusion determinations shall be based on the written materials submitted to the director, and the materials shall be reviewed and evaluated by the director and other staff as necessary. The director shall issue a determination letter after a review of the information submitted in subsection

- (a). Upon a determination of pre-existing drilling, oil or gas operation, an exclusion certificate shall be issued and the site where the pre-existing operation occurs shall be registered with a record of the evidence presented, the date of determination, and the scope of the exclusion.
- (d) *Effect of exclusion determination.* The director's determination as to the pre-existing operations of any individual well shall only address issues of location for purposes of compliance with the ULDC. The director's determination cannot waive any requirements for upgrading of equipment or compliance with federal, state or national fire or safety codes.

Existing drilling, oil or gas operations shall be allowed to continue if an exclusion certificate has been issued accordance with subsection (c), provided, however, that any new well, tank, or appurtenance that has not previously been developed for drilling, oil or gas operations shall be considered a new project, and shall require either a special use permit if in an HI zoning district or the establishment of a DOD if within the Goose Creek Oil Field, and compliance with all terms and conditions of any new regulations.

(Ord. No. 12,473, § 12, 2-13-14)

#### Sec. 1.28 - Regulations pertaining to variances and special exceptions.

- (a) *Review and recommendation by director.* After determining that the application for a variance or special exception permit is complete, the director shall review the application and prepare a staff report, which may include a recommendation of approval, approval with conditions or disapproval based upon the criteria in sections 1.29 and 1.30. A copy of the report shall be mailed to the applicant at least five days prior to the public hearing on the application.
- (b) *Conditions.* The director may recommend and the board of adjustment may impose such conditions on a variance or special exception permit as are necessary to accomplish the purposes of this ULDC, to prevent or minimize adverse impacts upon the public and neighborhoods and to ensure compatibility. These conditions may include, but are not limited to, limitations on size, bulk and location; standards for landscaping, buffering and screening, lighting and adequate ingress and egress; cash deposits, bonds and other guarantees of deposit; other on-site improvements; and limitations on the duration of the permit or hours of operation.
- (c) *Submittal requirements.* Any application for a variance or special exception shall be accompanied by a site plan, drawn to scale that accurately depicts the existing conditions and the proposed conditions, including lot lines, locations of all structures, driveways, fences, berms, buffer landscaping, signs and paved areas and other items or features that may be appropriate to the consideration of the variance or special exception being sought as requested by the director. An as-built survey may serve as the basis for the existing conditions shown on the site plan.
- (d) *Action by board of adjustment.* After due notice, the board of adjustment shall hold a public hearing on an application for a variance permit. At the public hearing, the board of adjustment shall consider the application, the staff report, the relevant support materials and the public testimony given at the public hearing. After the close of the public hearing, the board of adjustment shall vote to approve, approve

with conditions or disapprove the application for a variance permit, pursuant to the criteria of section 1.29. Any approval or conditional approval of a variance shall include the number and type of credits approved by the board of adjustment for the variance consistent with section 1.29. This subsection does not apply to variances granted by the director per subsection 1.29(e).

(e) *Effect.*

- (1) *Generally.* Issuance of a variance or special exception permit shall authorize only the particular variation which is approved. A variance or special exception permit shall run with the land.
- (2) *Time limit.* Unless otherwise specified in the variance or special exception permit, an application to commence construction of the improvements that are the subject of the variance or special exception must be applied for and approved within 12 months of the date of approval of the special exception or variance; otherwise the variance or special exception permit shall automatically become null and void. Permitted timeframes do not change with successive owners. Upon written request, only one extension of the 12-month timeframe may be granted by the board of adjustment for a period not to exceed 12 months for good cause shown.
- (3) *Null and void.* Once the variance becomes null and void, owner shall remove any nonconforming structures or pieces of structures that were addressed by the variance granted. Any structures or improvements not associated with the variance granted are not required to be removed.

(Ord. No. 11,866, § 2(Exh. A), 2-23-12)

Sec. 1.29 - Zoning variance process.

- (a) *Purpose and intent.* The purpose of a variance process is to consider and approve deviations from the property development and masonry standards for the applicable district where development is proposed that would not be contrary to the public interest and, due to special conditions, a literal enforcement of this chapter would result in unnecessary hardship and if granted the spirit of this chapter is observed and substantial justice done. A variance is not applicable to a use or an operational performance standard.

Types of variances:

- (1) *Variance by board of adjustment.* The board of adjustment and the director may grant a variance from the property development and masonry standards of zoning for a property if the variance satisfies criteria identified in subsection (c) of this section.
- (2) *Zoning variance by director.* The director may consider and grant a variance of up to ten percent of the property development requirement when the applicant demonstrates that the variance request will meet all the criteria below:
  - a. Ensures the same general level of land use compatibility as the otherwise applicable standards;
  - b. Does not adversely affect adjacent land uses and the physical character of uses in the neighborhood in which the exception is sought because of inadequate buffering, screening, setbacks and other land use considerations;

- c. Does not adversely affect property values of adjacent properties in any material way and will improve value of the property for which the exception is sought. (Did the applicant demonstrate that the structure historically provided a facility in the neighborhood or otherwise improves the overall neighborhood);
  - d. Furthers the goals and vision of the city as set forth in the comprehensive plan, the vision statement, and an applicable neighborhood plan or redevelopment plan adopted by the city council; and
  - e. Is generally consistent with the purposes and intent of this ULDC.
- (b) *Zoning variance criteria.* The board of adjustment may grant a variance when the applicant demonstrates that the variance request will meet all the criteria below:
- (1) Ensures the same general level of land use compatibility as the otherwise applicable standards;
  - (2) Is not a hardship of the applicant's own making;
  - (3) Does not adversely affect adjacent land uses and the physical character of uses in the neighborhood in which the exception is sought because of inadequate buffering, screening, setbacks and other land use considerations;
  - (4) Does not adversely affect property values of adjacent properties in any material way and will improve the property value of the property for which the exception is sought. (Did the applicant demonstrate that the structure has historically provided a facility in the neighborhood or otherwise improves the overall neighborhood);
  - (5) Furthers the goals and vision of the city as set forth in the comprehensive plan, the vision statement, and an applicable neighborhood plan or redevelopment plan adopted by the city council;
  - (6) Is generally consistent with the purposes and intent of this ULDC;
  - (7) Is needed as special circumstances exist that are peculiar to the land or structure that are not applicable to other land or structures in the same district and are not merely financial;
  - (8) Is necessary as literal interpretation and enforcement of the terms and provisions of the dimensional standards would deprive the applicant of rights commonly enjoyed by landowners in the same district and would cause an unnecessary and undue hardship;

Is the minimum action that will make possible the use of the land or structure which is not contrary to the public interest and which would carry out the spirit of this ULDC and would result in substantial justice; and

- (9) Will bring the existing and proposed structure closer into compliance with the zoning regulations of this ULDC, or will otherwise improve or enhance public health, safety or welfare.
- (c) *Zoning variance application standards.* A complete application for a variance shall be submitted by a qualified applicant to the director on a form prescribed by the director, along with a nonrefundable fee to defray the actual cost of processing the application. No application shall be processed until the established fee has been paid and the application has been determined complete by the director.
- (d) *Action by director.* The director may approve, approve with conditions or disapprove the application for a variance permit, pursuant to the criteria of this section.

(Ord. No. 11,866, § 2(Exh. A), 2-23-12; Ord. No. 13,764, § 1, 5-10-18; Ord. No. 15,192, § 7, 9-8-22)

**Editor's note—** Ord. No. 15,192, § 7, adopted Sep. 8, 2022, amended the title of § 1.29 from variance process to read as set out herein.

Sec. 1.29.5. - Subdivision variance process.

- (a) *Criteria for issuance.* The commission may authorize a variance from this chapter when, in its opinion, undue hardship will result from requiring strict compliance. In granting a variance, the commission shall prescribe any condition it deems necessary or desirable considering the public interest. In making the findings required in this division, the commission shall take into consideration the following:
- (1) The nature of the proposed use of the land involved and existing uses of land in the vicinity;
  - (2) The number of persons who will reside or work in the proposed subdivision;
  - (3) The probable effect of such variance upon traffic conditions and upon the public health, safety, convenience and welfare of the vicinity; and
  - (4) Any and all other facts the commission may deem relevant.
- (b) *Findings.*
- (1) No variance from this chapter shall be granted unless the commission finds:
    - a. There are special circumstances or conditions affecting the land involved, such that the strict application of this chapter would deprive the applicant of the reasonable use of his land;
    - b. The granting of the variance will not be detrimental to the public health, safety, welfare or will be injurious to other property in the area; and
    - c. The granting of the variance will not have the effect of preventing the orderly subdivision of other land in the area in accordance with this chapter.
  - (2) Such findings of the commission, together with the specified facts upon which such findings are based, shall be incorporated into the official minutes of the commission meeting at which such variance is granted. Variances may be granted only when in harmony with the general purpose and intent of this chapter so that the public health, safety and welfare may be secured and substantial justice done. Pecuniary hardship to the subdivider, standing alone, shall not be deemed to constitute hardship requiring variance under this division.
- (c) *Denial for certain conditions; design elements.*
- (1) No variance shall be granted pursuant to this division as to required improvements, flood hazard area regulations, bond requirements or utilization. However, a variance may be granted for drainage improvements in a subdivision located wholly outside the corporate city limits by the commission.
  - (2) Nothing in this division is to be construed as prohibiting either the commission or city council from granting a variance from the design elements of required improvements. The term "design elements" refers to the minimum and maximum criteria set forth in this chapter for designing the length, width

or configuration of required improvements, such as the maximum length of dead-end roadways or easements, the minimum radius of curves, the minimum width of rights-of-way, etc.

- (d) *Subdivisions outside city limits.* Variances to this chapter may be granted as to all required improvements in subdivisions located wholly outside the city, but within its extraterritorial jurisdiction, provided the subdivision complies with the minimum standards set by the appropriate county governing body.
- (e) *Applicability to 100-year storm requirements.* The granting of a variance from this chapter shall not relieve the developer from meeting the 100-year storm runoff requirements.
- (f) *Submission of requests.* All requests for a variance from this chapter shall be submitted in writing to the commission with preliminary approval. The request shall state why the developer feels his project meets the variance requirements.
- (g) *Appeal of commission decision.*
  - (1) Any person shall have the right to appeal any decision of the commission to the city council by making written request to the planning and development director or his/her designee. Such request must be submitted to the planning and development director within 15 days after such person has been notified of the decision of the commission on the matter involved.
  - (2) No person shall have any right to appeal for relief to any court in regard to any matter covered by this chapter until after such person has exhausted the appeal procedure provided for in this chapter.

(Ord. No. 15,192, § 8, 9-8-22)

#### Sec. 1.30 - Special exception process.

- (a) *Scope.* Special exceptions are deviations from otherwise applicable operational performance standards and compatibility standards where development is proposed that would be:
  - (1) Compatible with surrounding land uses;
  - (2) In keeping with the public interest; and
  - (3) Consistent with the purposes of this ULDC.
- (b) *Permit criteria.* To approve an application for a special exception permit, the director or board of adjustment shall make an affirmative finding that granting the special exception will:
  - (1) Ensure the same general level of land use compatibility as the otherwise applicable standards;
  - (2) Not materially and adversely affect adjacent land uses and the physical character of uses in the immediate vicinity of the proposed development because of inadequate buffering, screening, setbacks and other land use considerations;
  - (3) Not adversely affect property values in any material way; and
  - (4) Be generally consistent with the purposes and intent of this ULDC.

(Ord. No. 11,866, § 2(Exh. A), 2-23-12)

#### Sec. 1.31 - Development manual.

- (a) A development manual that includes the following standards shall be prepared by the director and used in this development review process:
  - (1) Review schedules;
  - (2) Application forms for all development applications governed by this ULDC; and
  - (3) Checklists for all applications governed by this ULDC.
- (b) The development manual shall be consistent with this ULDC and shall be implemented in a manner that is consistent with this ULDC.

(Ord. No. 11,866, § 2(Exh. A), 2-23-12)

## ARTICLE II. - USE DISTRICTS

### DIVISION 1. - GENERAL

#### Sec. 2.01 - District map.

The boundaries of the districts established by this chapter shall be shown on a map or series of maps entitled "Official District Map," an up-to-date copy of which shall be maintained in the office of the director. Original copies of the official map and all amendments thereto shall be maintained in the city clerk's office. In any dispute regarding the classification of property subject to this chapter, the original map maintained by the city clerk shall control.

(Ord. No. 11,866, § 2(Exh. A), 2-23-12)

#### Sec. 2.02 - Interpretation of district boundaries.

- (a) *Generally.* This section shall govern interpretations regarding the location of zoning district boundaries shown on the official map.
- (b) *Boundaries following property lines.* District boundaries shown as approximately following property lines shall be construed as following such property lines.
- (c) *Boundaries following right-of-way lines.* District boundaries shown as approximately following right-of-way lines of a street, highway, alley, railroad or other identifiable boundary shall be construed as following such right-of-way line or identifiable boundary.
- (d) *Boundaries not following identifiable features.* On unsubdivided land or when a district boundary follows no identifiable feature, the location of district boundaries shall be determined by using the map scale appearing on the official map, unless the district line is indicated by dimensions printed on the official map, in which case the printed dimensions shall control.
- (e) *Streets and rights-of-way.* Streets, alleys, rights-of-way, navigable waterways, and other public ways will not be zoned and shall not affect district boundaries.

(f) *Street abandonments.* Whenever any street, alley or public way is abandoned or vacated by official action of city council, the districts adjoining each side of such street, alley or public way shall be automatically extended to the centerline of such abandonment or vacation, and all area included in the abandonment or vacation shall be subject to the regulations of the extended districts.

(g) *Uncertainties.* Where existing physical or natural features contradict those shown on the official map or when any other uncertainty exists, the location of district boundaries shall be determined by the director.

(Ord. No. 11,866, § 2(Exh. A), 2-23-12; Ord. No. 12,207, § 3, 3-14-13)

#### Sec. 2.03 - Classification of annexed areas.

Any land which comes under the jurisdiction of the city because of its annexation to the city shall be classified into the or district unless the owner or majority of owners of the subject property files rezoning application, in which case such property shall be assigned a district classification in accordance with the amendment procedures of this ULDC.

(Ord. No. 11,866, § 2(Exh. A), 2-23-12; Ord. No. 12,207, § 4, 3-14-13)

### DIVISION 2. - ZONING DISTRICTS

#### Sec. 2.04 - Commercial zoning districts.

These districts are intended to implement and correspond to the comprehensive plan's future land use map designations and descriptions. The following districts are established:

- (a) *Mixed use ("MU").* This district is intended to accommodate neighborhood scale commercial uses and medium density residential uses that are compatible with each other in impact and scale. The development character includes a mix of uses in one structure, one property with multiple structures, or stand-alone primary structure.
- (b) *Neighborhood serving commercial ("NSC").* This district is intended to accommodate commercial uses adjacent to a residential neighborhood and not accommodate regional commercial uses. The neighborhood serving commercial district is designed or intended to improve traffic flow, and provides the option of pedestrian activity from dwelling units to the neighborhood commercial uses.
- (c) *Livable center ("LC").* This district is intended to accommodate a variety of land uses that complement each other and could include living, working, educational and entertainment options.
- (d) *General commercial ("GC").* This district is intended to provide for a variety of uses including offices, retail, personal and commercial services, and related uses that are mixed within buildings either vertically and/or horizontally. Uses in this district are generally conducted wholly within an enclosed building but may include outdoor display merchandise or storage of materials. The GC district may be

used as a transitional district between more intensive nonresidential districts (e.g., light industrial) and higher density residential districts or as the primary district for such corridors as Garth Road or Main Street.

- (e) *Arts, cultural and entertainment ("ACE")*. This district is intended to foster the development of highly compatible and mutually supportive land uses in the downtown area.
- (f) *Light industrial ("LI")*. This district is intended to provide for low-intensity industrial and manufacturing activities that may generate some nuisances. Uses in this district are not appropriate adjacent to any residential use or residential district unless separated by an arterial or collector street and/or setbacks and screening.
- (g) *Heavy industrial ("HI")*. This district is intended to provide for manufacturing and industrial activities that may generate nuisances. Industrial uses are not appropriate adjacent to any residential uses. Unless separated by a principal arterial, the HI district is not appropriate adjacent to any residential district.

(Ord. No. 11,866, § 2(Exh. A), 2-23-12; Ord. No. 12,207, § 5, 3-14-13; Ord. No. 13,062, §§ 1, 2, 12-10-15; Ord. No. 13,522, § 1, 7-27-17; Ord. No. 15,361, § 1, 2-9-23)

#### Sec. 2.05 - Residential zoning districts.

- (a) *Urban neighborhood ("UN")*. This district is a mixed use residential and limited commercial district with a density conforming to the zoning code adopted in 1995.
- (b) *"Single-family estate ("SFE")*. This district provides for residential dwellings at a very low density. This district accommodates only single-family detached dwellings at a density of less than one dwelling unit per acre.
- (c) *Low density single-family residential dwellings ("SF1")*. This district provides for single-family detached residential dwellings at a density up to four dwelling units per acre.
- (d) *Mixed residential at low to medium densities ("SF2")*. This district provides for single-family detached and attached residential dwellings and two-family dwellings at a density up to nine dwelling units per acre.
- (e) *Medium density mixed residential ("MF1")*. This district provides for single-family detached and attached residential dwellings, two-family dwellings, and multifamily dwellings at a density up to 15 dwelling units per acre.
- (f) *Mid-rise density mixed residential dwellings ("MF2")*. This district provides for two-family dwellings, single-family attached dwellings and multifamily dwellings at a density up to 23 dwelling units per acre.
- (g) *High density residential dwelling units ("MF3")*. This district provides for multifamily dwellings at a density up to 30 dwelling units per acre provided that the floor area ratio does not exceed one. For vertical mixed use, see livable centers district in this article.
- (h) *"Open space/recreation ("OR")*. This district provides for large open areas, private and public recreation areas, and a holding zone for newly annexed areas.

(i) *Mixed use ("MU")*. This district is intended to accommodate neighborhood scale commercial uses and medium density residential uses that are compatible with each other in impact and scale. The development character includes a mix of uses in one structure, one property with multiple structures, or stand-alone primary structure. (Ord. No. 11,866, § 2(Exh. A), 2-23-12; Ord. No. 12,207, §§ 6, 7, 3-14-13; Ord. No. 15,192, § 9, 9-8-22; Ord. No. 15,361, § 2, 2-9-23)

#### Sec. 2.06 - Special purpose zoning districts.

- (a) *Planned unit development district ("PUD")*. This district is intended to allow flexibility in planning and designing for unique or environmentally sensitive properties that are a minimum of ten acres in size unless in an LC zoning district, in which case the minimum is three acres in size. A PUD shall be developed in accordance with a common development scheme. PUD zoning is designed to accommodate land uses that cannot be accommodated using the districts in this ULDC. A PUD may be used to permit new or innovative concepts in land use and standards not permitted by zoning in this ULDC.
- (b) *Industrial planned unit development district ("I-PUD")*. This district is intended to allow flexibility in planning and designing industrial properties that are a minimum of ten acres. An I-PUD shall be developed in accordance with a common development scheme. I-PUD zoning is designed to accommodate industrial land uses by memorializing a site plan concept, building design, and other development items within the I-PUD document. An I-PUD may be used to permit new or innovative concepts in land use and standards not permitted by zoning in this ULDC.
- (c) *Gateway/corridor district ("GD")*. The district is intended to enhance the entry ways to the city. Various corridors may be designated by the city council for the purpose of applying alternative landscaping and design standards, or a land use theme. For example, the Alexander Drive area from SH99 up to SH146 could be one corridor plan or it could be done in several smaller segments addressing land use, conditions, property development standards and design standards.
- (d) *Drilling overlay district ("DOD")*. This district is intended to allow for designation of an area for drilling, oil or gas operations within the Goose Creek Oil Field and provide adequate protections for adjacent property.
- (e) *Overlay district*. This district is intended to allow for the application of specific regulations to a distinct geographic area, which warrants special consideration due to unique characteristics of the area, the public benefit of the development, or practical difficulties resulting from the historical development pattern.

(Ord. No. 11,866, § 2(Exh. A), 2-23-12; Ord. No. 12,473, § 13, 2-13-14; Ord. No. 13,522, § 2, 7-27-17; Ord. No. 13,947, § 1, 11-19-18; Ord. No. 15,517, § 1, 8-10-23)

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#### Sec. 2.07 - Density and use.

A mix of residential uses shall be allowed in SF2, MF1, and MF2 zoning districts according to density as shown in table 2-1.

**Table 2-1. Net Density/Allowed Use**

Density	Up to 1	Up to 4	Up to 9	Up to 15	Up to 15	Up to 23	Up to 30
	SFE	SF1	SF2	MU	MF1	MF2	MF3
Single-family detached							
Single-family attached							
Two-family duplex							
Multifamily							

Shaded = Allowed

(Ord. No. 11,866, § 2(Exh. A), 2-23-12; Ord. No. 15,133, § 1, 7-14-22)

Sec. 2.08 - Planned unit developments.

- (a) *Purpose.* The planned unit development district is a district designed to provide for the development of land as an integral unit for single or mixed uses in accordance with a detail plan that may vary from the established regulations of other zoning districts. It is the intent in such a district to ensure compliance with good zoning practices while allowing certain desirable departures from the strict provisions of specific zoning classifications.
- (b) *Application.* An application for a planned unit development district shall be processed in accordance with this ULDC.
- (c) *Base district.* A base zoning district shall be specified. The regulations in the base zoning district shall control unless specifically stated otherwise in the PUD. The base district specified in the plans is the minimum criteria to be met where the developer and council choose not to specify standards as an

alternative to the base.

- (d) *Detail plan requirements.* The application for a planned unit development district must have a detail plan, which shall include the following:
- (1) *Purpose.* The detail plan contains the details of development for the property;
  - (2) *Relation to the comprehensive plan.* A general statement setting forth how the proposed development will relate to the city's comprehensive plan and the degree to which it is or is not consistent with the comprehensive plan and the proposed base zoning district;
  - (3) *Acreage.* The total acreage in the plan as shown by a survey or plat, certified by a registered professional land surveyor;
  - (4) *Land uses.* Permitted uses, specified in detail, and the acreage for each use;
  - (5) *Off-site information.* Adjacent or surrounding land uses, zoning, streets, drainage facilities and other existing or proposed off-site improvements, sufficient to demonstrate the relationship and compatibility of the development to the surrounding properties, uses, and facilities;
  - (6) *Traffic and transportation.* The location and size of all streets, alleys, parking lots and parking spaces, loading areas or other areas to be used for vehicular traffic; the proposed access and connection to existing or proposed streets adjacent to the development and the traffic generated by the proposed uses. Identify the relationship of each proposed street to the city's major thoroughfare plan;
  - (7) *Development standards.* Development standards, if different from the base zoning district, for each proposed land use, as follows:
    - a. Minimum lot area;
    - b. Minimum lot width and depth;
    - c. Minimum front, side, and rear building setback areas;
    - d. Maximum height of buildings;
    - e. Maximum lot coverage;
    - f. Maximum floor-to-area ratios for nonresidential uses;
    - g. Minimum parking standards for each general land use; and
    - h. Other standards as deemed appropriate.
  - (8) *Existing conditions.* On a scaled map sufficient to determine detail, the following shall be shown for the area within the proposed development:
    - a. Existing streets;
    - b. Existing 100-year floodplain, floodway and major drainage ways;
    - c. Zoning districts within and adjacent to the proposed development;
    - d. Land use; and
    - e. Utilities, including water, wastewater and electric lines.
  - (9) *Buildings.* The locations, maximum height, maximum floor area and minimum setbacks for all

- nonresidential buildings;
- (10) *Residential development.* The numbers, location, and dimensions of the lots, the minimum setbacks, the number of dwelling units, and number of units per acre (density);
  - (11) *Water and drainage.* The location of all creeks, ponds, lakes, floodplains or other water retention or major drainage facilities and improvements;
  - (12) *Utilities.* The location and route of all major sewer, water, or electrical lines and facilities necessary to serve the development;
  - (13) *Open space.* The approximate location and size of greenbelt, open, common, or recreation areas, the proposed use of such areas, and whether they are to be for public or private use;
  - (14) *Sidewalks and bike paths.* Sidewalks or other improved ways for pedestrian or bicycle use;
  - (15) *Landscape plan;* and
  - (16) *Phasing schedule.* A development larger than 100 acres shall provide a phasing schedule depicting the construction phases.
- (e) *Planning and zoning commission recommendation of detail plan and planned unit development.* The planning and zoning commission shall review and make recommendations on a detail plan and PUD to the city council. The planning and zoning commission shall make a recommendation to approve if it finds that the detail plan and PUD satisfies the criteria specified in section 1.26(c), except for section 1.26(c)(5).
- (f) *Approval of detail plan and planned unit development.* The city council may, after receiving a recommendation from the planning and zoning commission, approve by ordinance a detail plan and the creation of a PUD based upon a detail plan. The detail plan shall be made part of the ordinance establishing the PUD. Upon approval said change shall be indicated on the zoning maps of the city. The development standards and requirements delineated in the detail plan for uses proposed shall be established based upon the particular merits of the development design and layout. Such standards and requirements shall be more or less restrictive than the standards established in the base zoning district for the specific type uses allowed in the district. Modifications in these regulations may be granted by the council if it shall be found that such modifications are in the public interest, are in harmony with the purposes of this ULDC and will not adversely affect nearby properties.
- (g) *Expiration of plan detail.* All planned unit development districts, including those approved prior to January 1, 2024, will remain in effect until such time that the existing planned unit development is amended or the property in question is reclassified to another zoning district under these regulations.
- (h) *Review of progress; termination of detail plan.* Annually, on or about the time of the original city council approval, the planning and zoning commission may review progress on the development. If measurable progress cannot be demonstrated by the developer of the detail plan, then the planning and zoning commission may recommend to the city council to void the detail plan. If the detail plan is part of a PUD and found to be void, the PUD and the remaining phases of the PUD are also void.
- (i) *Changes in detail plan.* Changes in the detail plan shall be considered the same as a zoning map amendment and follow sections 2.08(e) and (f) for approval and shall be processed in accordance with

this ULDC. Those changes which do not alter the basic relationship of the proposed development to adjacent property and which do not alter the uses permitted or increase the density, floor area ratio, height, or coverage of the site, or which do not decrease the off-street parking ratio or reduce the landscape provided at the boundary of the site, as indicated on the approved detail plan, may be authorized by the director. Any applicant may appeal the decision of the director to the planning and zoning commission for review and decision as to whether an amendment to the detail plan or planned unit development district shall be required.

- (j) *Deviation from code standards.* The city council may approve a PUD or detail plan with deviations from any provision in this ULDC. Such deviations shall be listed or shown as part of the ordinance that approves the detail plan or PUD. The focus shall be on the provision of private open space, trails and connections to the public trail system, higher standards for site design, and the provision of other amenities such as community buildings, preservation of view corridors, for example.

(Ord. No. 11,866, § 2(Exh. A), 2-23-12; Ord. No. 12,593, § 4, 8-14-14; Ord. No. 15,756, § 1, 3-28-24)

#### Sec. 2.081. - Industrial planned unit developments.

- (a) *Purpose.* The industrial planned unit development district is a district designed to provide for the development of land as an integral unit for industrial uses in accordance with a detail plan that may vary from the established regulations of other zoning districts. It is the intent in such a district to ensure compliance with good zoning practices while allowing certain desirable departures from the strict provisions of specific zoning classifications, as well as memorialize a general site plan during the initial zoning process.
- (b) *Application.* An application for an industrial planned unit development district shall be processed in accordance with this ULDC.
- (c) *Base district.* A base zoning district shall be specified as either Light Industrial (LI) or Heavy Industrial (HI). The regulations in the base zoning district shall control unless specifically stated otherwise in the I-PUD. The base district specified in the plans is the minimum criteria to be met where the developer and council choose not to specify standards as an alternative to the base.
- (d) *Detail plan requirements.* The application for an industrial planned unit development district must have a detail plan, which shall include the following:
  - (1) *Purpose.* The detail plan contains the details of development for the property;
  - (2) *Relation to the comprehensive plan.* A general statement setting forth how the proposed development will relate to the city's comprehensive plan and the degree to which it is or is not consistent with the comprehensive plan and the proposed base zoning district;
  - (3) *Acreage.* The total acreage (minimum of ten acres) in the plan as shown by a survey or plat, certified by a registered professional land surveyor;
  - (4) *Land uses.* Permitted uses, specified in detail;

- (5) *Off-site information.* Adjacent or surrounding land uses, zoning, streets, drainage facilities and other existing or proposed off-site improvements, sufficient to demonstrate the relationship and compatibility of the development to the surrounding properties, uses, and facilities;
  - (6) *Traffic and transportation.* The location and size of all streets, alleys, parking lots and parking spaces, loading areas or other areas to be used for vehicular traffic; the proposed access and connection to existing or proposed streets adjacent to the development and the traffic generated by the proposed uses. Identify the relationship of each proposed street to the city's major thoroughfare plan;
  - (7) *Development standards.* Development standards, if different from the base zoning district, for each proposed land use, as follows:
    - a. Minimum lot area and dimensions;
    - b. Minimum front, side, and rear building setback areas;
    - c. Maximum height of buildings;
    - d. Maximum lot coverage;
    - e. Other standards as deemed appropriate.
  - (8) *Existing conditions.* On a scaled map sufficient to determine detail, the following shall be shown for the area within the proposed development:
    - a. Existing streets;
    - b. Existing floodplains, floodways and major drainage ways;
    - c. Zoning districts within and adjacent to the proposed development;
    - d. Land use; and
    - e. Utilities, including water, wastewater and electric lines.
  - (9) *Buildings.* The locations, maximum height, maximum floor area and minimum setbacks and buffers for all proposed buildings;
  - (10) *Water and drainage.* The location of all creeks, ponds, lakes, floodplains or other water retention or major drainage facilities and improvements;
  - (11) *Utilities.* The location and route of all major sewer, water, or electrical lines and facilities necessary to serve the development;
  - (12) *Landscape plan.* A landscape plan depicting all proposed streetscape and site landscape improvements;
  - (13) *Phasing schedule.* Developments shall provide a phasing schedule depicting the construction phases.
- (e) *Planning and zoning commission recommendation of detail plan and industrial planned unit development.* The planning and zoning commission shall review and make recommendations on a detail plan and I-PUD to the city council. The planning and zoning commission shall make a recommendation to approve if it finds that the detail plan and I-PUD satisfies the criteria specified in [section 1.26\(c\)](#).
- (f) *Approval of detail plan and industrial planned unit development.* The city council may, after receiving a

recommendation from the planning and zoning commission, approve by ordinance a detail plan and the creation of an I-PUD based upon a detail plan. The detail plan shall be made part of the ordinance establishing the I-PUD. Upon approval said change shall be indicated on the zoning maps of the city. Modifications in these regulations may be granted by the council if it shall be found that such modifications are in the public interest, are in harmony with the purposes of this ULDC and will not adversely affect nearby properties.

- (g) *Changes in detail plan.* Changes in the detail plan shall be considered the same as a zoning map amendment and follow sections 2.081(e) and (f) for approval and shall be processed in accordance with this ULDC. Those changes which do not alter the basic relationship of the proposed development to adjacent property and which do not alter the uses permitted or increase the density, floor area ratio, height, or coverage of the site, or which do not decrease the off-street parking ratio or reduce the landscape provided at the boundary of the site, as indicated on the approved detail plan, may be authorized by the director. Any applicant may appeal the decision of the director to the planning and zoning commission for review and decision as to whether an amendment to the detail plan or industrial planned unit development district shall be required.
- (h) *Deviation from code standards.* The city council may approve an I-PUD or detail plan with deviations from any provision in this ULDC. Such deviations shall be listed or shown as part of the ordinance that approves the detail plan or I-PUD.

(Ord. No. 15,517, § 2, 8-10-23)

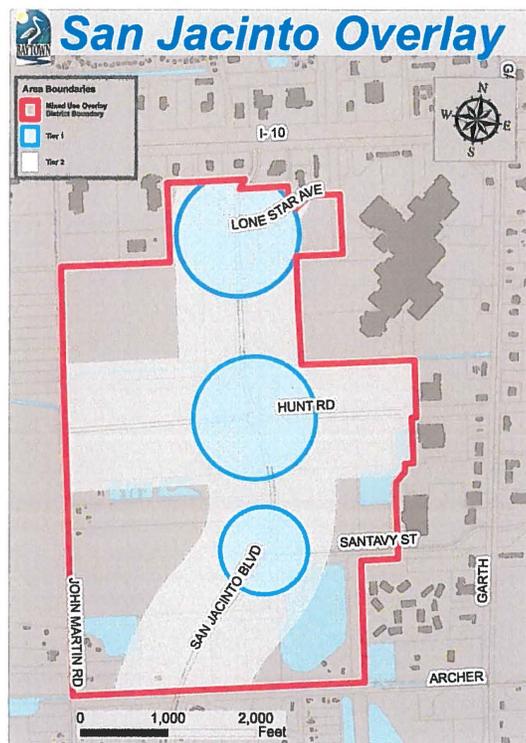
#### Sec. 2.082. - San Jacinto overlay district.

- (a) *Purpose.* The San Jacinto overlay district is designed to:
  - (1) Promote the health and well-being of residents by encouraging pedestrian modes and greater social interaction;
  - (2) Promote an aesthetically significant, high density, mixed-use area, which encourages pedestrian activity, promotes services, and enhances the aesthetic value of an area;
  - (3) Permit a combination of office, retail, commercial, and residential uses within a single development, with the non-residential uses on the ground floor and residential units on the upper floors; and
  - (4) Minimize the impact of uses that have a higher intensity.
- (b) *Applicability.* This section applies to all non-residentially zoned property. The San Jacinto overlay district is to be combined with only non-residential base zoning districts. The adoption of this overlay district should not be construed as a change in zoning.

The overlay district is divided into three tiers. Each tier may have different zoning regulations. Each tier is designated in Figure SJ0-1 and shall govern the property in the tier. If any portion of a lot or tract falls within more than one tier, the entire property must be developed using the standards that apply to the lowest numbered tier.

- Tier 1 (T1) includes any lot that is within a 700-foot radius from the centerline of the right-of-way at the intersection of (i) San Jacinto Boulevard and Hunt Road, as well as, (ii) San Jacinto Boulevard and Lone Star Street; and any lot that is within a 500-foot radius from the centerline of the right-of-way at the intersection of San Jacinto Boulevard and Santavy Street. Tier 1 is intended to govern the key intersections throughout this overlay district. Tier 1 is intended to produce an urban aesthetic with closely developed buildings, taller buildings, and hidden parking.
- Tier 2 (T2) includes parcels outside of the Tier 1 boundary that are 700 feet from the centerline of the San Jacinto Boulevard and Hunt Road rights-of-way. Tier 2 is intended to incentivize the aforementioned corridors to achieve a compatible development with T1, however, it doesn't emphasize the urban density as much.
- Tier 3 (T3) would include all other properties within the overlay district that are not determined to be within Tier 1 or Tier 2. Tier 3 is intended to permit a less dense and less urban profile, while maintaining compatibility with the other tiers.

Figure SJO-1. Boundary and Tiers



- (c) *Procedures for appeals and interpretation.* Procedures for appeal and interpretation shall be governed by the processes within sections 1.28, 1.29, and 1.30 of the ULDC.
- (d) *Utilities.*
- (1) Underground utilities are required. Poles and overhead wires and associated overhead structures are prohibited.

- (2) Exterior onsite facilities and mechanical equipment, including sewer, gas, water, electric, telephone, and communications equipment, shall be installed underground. Transformers and other mechanical equipment aboveground shall be screened with solid material that is architecturally compatible with the building and incorporated into the landscape.
- (3) The use of regional or subregional stormwater detention is required as capacity permits. Thereafter, underground stormwater detention facilities are permitted.
- (e) *Non-residential uses.* Unless otherwise stated, this section only applies to the uses that are permitted (P) and/or permitted with conditions (PC) within the land use table for ACE, NSC, GC, and LC zoning districts. Such uses shall be subject to section 2.10 "land use conditions" and the additional regulations within the overlay table. Where there are conflicts, the requirements of this section shall prevail.
- (1) *Prohibited uses.* Prohibited uses pertain to both primary and accessory uses. Any of the following land uses shall not occur unless it is approved by city council as part of a planned unit development (PUD):
- a. Auto body;
  - b. Vehicle repair;
  - c. Boat and R-V storage;
  - d. Carwash;
  - e. Drive-through restaurant;
  - f. Gas station;
  - g. Kennel;
  - h. Outdoor sale and display;
  - i. Outdoor storage;
  - j. R-V park;
  - k. Self-storage;
  - l. Supply house;
  - m. Truck stop;
  - n. Manufacturing light;
  - o. Sandblasting;
  - p. Warehouse;
  - q. Small box discount retail.
- (2) *Tier 1.* Within Tier 1, single-tenant buildings and/or suites shall not exceed 15,000 square feet on the ground floor. Each floor of a multi-story building within Tier 1 may not exceed the square footage of the ground floor.
- (3) *Tier 1 and Tier 2.* In addition to other uses allowed within the underlying zoning district, hospitals shall be allowed within Tier 1 and Tier 2.

(4) *Uses permitted with conditions.* In addition to other uses allowed within the underlying zoning district, the following uses shall be permitted with conditions within the tier indicated:

<b>Non-residential Uses Permitted with Conditions</b>			
<b>Land Use</b>	<b>Tier</b>	<b>Cond Ref</b>	<b>Additional Regulations</b>
Equipment sales and rental	2	A53	<ol style="list-style-type: none"> <li>1. All equipment shall be displayed or stored interior to a building.</li> <li>2. No facility shall be permitted to have bay doors facing a residential use or a street identified on the major thoroughfare plan.</li> </ol>
Manufacturing Custom	1 and 2	A49	A minimum of 1,500 square feet or a minimum of 10% of the total building floor area, whichever is greater, shall be designated for retail sales, services, and/or showroom of the custom manufactured goods and associated products (e.g. food and merchandise).
Mixed-Use Building	1 and 2	<ol style="list-style-type: none"> <li>1. There shall be a minimum of 4,000 square feet on the ground floor of this building.</li> <li>2. General retail, personal service, grocery store, and/or food service establishment uses shall occupy at least 50% of the area of the ground floor.</li> </ol>	

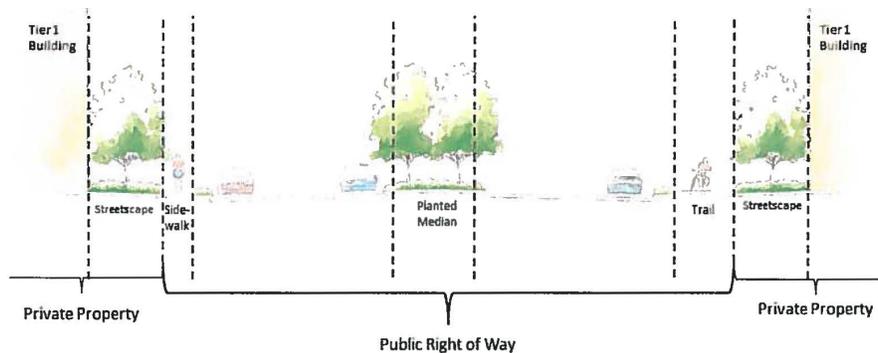
		<p>3. A minimum of four (4) dwelling units shall be required within a mixed-use building.</p> <p>4. Dwelling units shall have a minimum of 750 square feet of floor area.</p> <p>5. Access to dwelling units shall occur from the interior of the building.</p>
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(f) *Property development standards.* The following non-residential development standards shall be applicable within the San Jacinto overlay district and shall control over those of the underlying zoning district:

Non-residential Development Standards	T1	T2	T3	Additional Regulations
Block length (min/max)	300—700 feet			
Minimum lot area	32,670 square feet (¾ acre)			
Site coverage	60%	70%	80%	Developments with mixed-use buildings with more than 7 dwelling units shall be permitted a site coverage of 80%.
<b>Minimum Lot Dimensions</b>				
Minimum lot width at primary building line	100 ft.			Minimum lot dimensions shall only apply to lots with frontage along arterial roads.
<b>Minimum Road Frontage</b>				

Frontage requirement along arterial	100 ft.	A minimum of 75 ft. of street.	
Frontage requirement along non-arterials	50 ft.	Frontage is required for a parcel with curb cut(s).	
<b>Building Form and Location</b>			
Minimum height	24 ft.	20 ft.	N/A
Maximum height	75 ft.		Buildings adjacent to existing or planned residential uses shall follow the building orientation standards found in <u>section 3.12</u> of the ULDC.
Minimum front setback	12 ft.		
Maximum front setback	25 ft.	85 ft.	85 ft.
Side-yard interior lot setback	0 ft.	10 ft.	10 ft.
Street-side setback	Same as front setback		
Minimum rear-yard setback	15 ft.		

Figure SJO-2. Public and Private Realm



(1) *Site design*. Site design goals include clustering of buildings in multiple building projects. This method

encourages pedestrian walkable/sitting areas and usable open space as part of the building placement and design.

a. *Building orientation.*

1. Building(s) and the primary entrances shall be oriented towards the primary street frontage, public plazas, and usable open space—not to a parking lot. This does not preclude the additional use of secondary entrances.
2. Primary buildings located on a corner lot may provide a primary entrance(s) at the corner of the building.
3. The secondary buildings constructed and all subsequent buildings may not be further than 185 linear feet from another building.

b. *Usable open space.* This subsection (g)(l)b. shall only apply to Tiers 1 and 2 of the San Jacinto overlay district and shall be required for 20,000 square feet or more of non-residential development proposed within a project area.

1. All usable open space, with the exception of the trail system, shall have a minimum depth of 20 feet and a minimum total area of 650 square feet.
2. Park benches and bike parking racks/facilities shall be incorporated into the usable open space.
3. Unless arranged as a courtyard with buildings on three sides, usable open space shall abut a street.
4. Two or more of following amenities shall be required:
  - (a) Natural and undeveloped landscaped area that is not already required by this San Jacinto overlay district or the ULDC;
  - (b) A patio or plaza with shaded spaces (shade structure) with flexible or permanent seating;
  - (c) A play area with amenities or equipment suitable for children such as, but not limited to, seesaw, merry-go-round, swing set, slide, and jungle gym;
  - (d) Ponds designed as an amenity with shade spaces (shade structure) with flexible or permanent seating and approval by the director;
  - (e) Multi-use trail that is directly extended from the Goose Creek Trail or any existing and adjacent trails that are connected to the Goose Creek Trail along the local or collector streets in the circulation plan; and
  - (f) Ground floor patio and decks for dwelling units shall only be oriented towards public or private streets that are not designated as an arterial road on the major thoroughfare plan.

(2) *Architectural/urban design standards.* The following principles intend to promote quality design appearance and visual interest. The buildings should enforce a street edge establishing a better pedestrian corridor. However, long, unarticulated building façades should be eliminated.

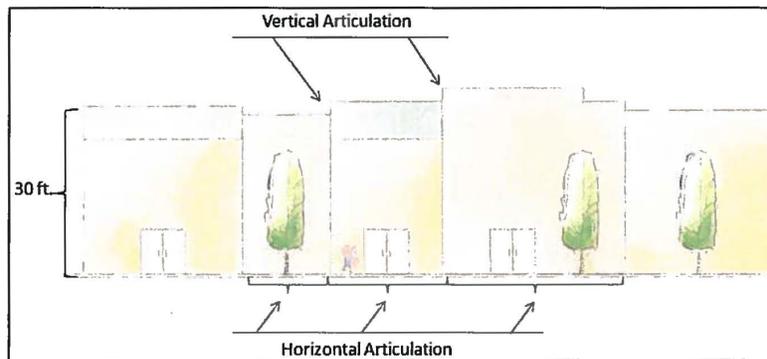
a. *Entrances.* Entrances (excluding service doors) into buildings shall be easily identified through

building design with at least one of the following:

Canopies or porticos	Recesses and/or projections
Peaked roof forms	Arches
Raised cornice parapets	Other features approved by the director

- b. *Materials.* Building materials used for all four sides of buildings shall follow the masonry standards and percentages within the ULDC. This overlay district prohibits the use of synthetic stucco and/or EIFS.
- c. *Articulation.* Facade articulations shall occur with a minimum of ten-inch plane variation each 35 feet.
- d. *Wall heights.* Wall heights shall be varied and articulated with a minimum of 24-inch variation each 35 feet.

Figure SJO-3. Articulation



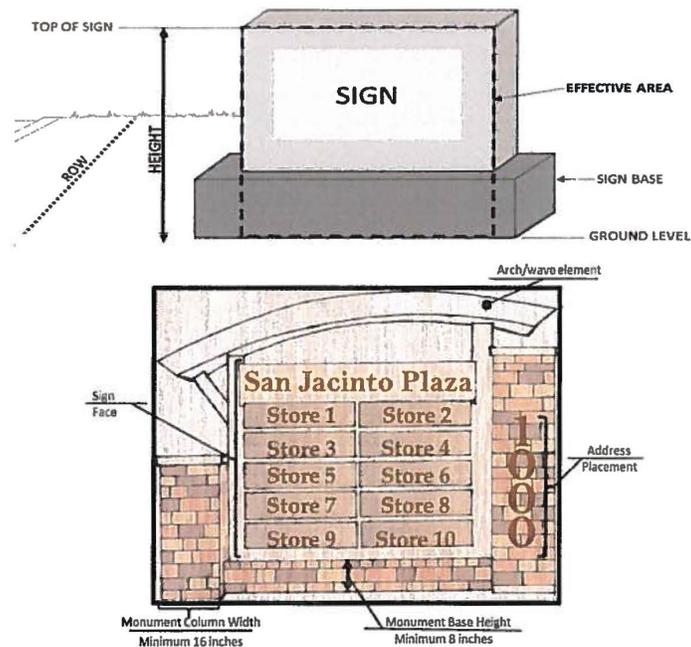
- e. *Glazing.* A minimum of 50 percent of the street-facing façade between two feet and eight feet in height on the ground floor must be comprised of windows. A minimum of 30 percent is required for all other façades, except where a façade faces or uses an area designated and constructed for service delivery or business storage.
- f. *Colors.*
  1. A minimum of three different colors shall be used for building exteriors. Colors shall be only natural rock colors and earth tones. Neutral colors include browns, beige, ivory, taupe, muted greens, gold, grey, and white. Earth-tone colors should be flat or muted.
  2. The use of high-intensity colors, neon, or a fluorescent color is prohibited. Neon tubing shall not be an acceptable feature for building trim or accent areas.

- g. *Awnings.* Awnings:
1. Shall be required for primary buildings in Tier 2.
  2. Shall be broken into segments as to match the door and window openings beneath them.
  3. Shall overhang the entrance and windows along the front and side facade for a minimum of five feet.
  4. Shall be made of glass or metal construction materials.
  5. Shall not include domed and convex-shaped awnings.
- h. *Rooftop equipment.* Rooftop mechanical equipment, including HVAC and utility equipment, shall be screened. Screening shall consist of parapet walls or an opaque enclosure around the equipment that is constructed of one of the materials used on the primary façade of the principal structure.
- i. *Fences and gates.*
1. No opaque walls, fences, gates, or chainlink fences with a height greater than four feet shall be located within a front yard.
  2. Walls, fences, or gates shall be consistent in style and material, complementing the surrounding architectural styles within this overlay district.
  3. The structural supports of the fence shall face interior to the property so as not to be visible from the street or neighboring property.
- j. *Signage.* The following signs shall be permitted for non-residential uses:
1. *Limitation.* Only monument signs, window signs, and wall signs are permitted. Pole signs, pylon signs, roof signs, banners, wall murals, digital signs, neon signs, flat signs, and spectacular signs are prohibited.
  2. *Monument signs.*
    - a. One ground-mounted monument sign shall be permitted for each parcel or for every 300 feet of linear frontage of one parcel.
    - b. The sign structure shall be constructed of the same materials that are used on the façade of the primary building(s).
    - c. Each monument sign shall incorporate the following features:  
(See Figure SJ0-4)
      - CorTen metal material as a part of its sign face.
      - An extended decorative arch.
      - A monument base with a minimum of eight inches above grade.
      - At least one masonry support column with a minimum of 16 inches in width.
    - d. The maximum monument sign dimensions for non-residential uses shall be as shown in

the following table:

Building Gross Floor Area	Maximum Area		Maximum Height (above street grade)	
	Arterial Streets	Local Streets	Arterial Streets	Local Streets
0—25,000 sq. ft.	48 sq. ft.	24 sq. ft.	8 ft.	6 ft.
25,001—50,000 sq. ft.	64 sq. ft.	32 sq. ft.	8 ft.	6 ft.
Over 50,000 sq. ft.	96 sq. ft.	48 sq. ft.	12 ft.	6 ft.

Figure SJO-4. Sign



e. Sign measurement.

- i. The size of a sign is measured by its effective area. For monument signs, the effective area includes the entire structure on which the sign is placed or mounted, including only the

portion of the sign base that extends directly below the sign face. (See Figure SJ0-4).

ii. No decorative features of the sign shall extend beyond 16 inches from the sign face.

f. *Sign setbacks and placement.*

i. No minimum setback from property line is required for a monument sign.

ii. Placement of a monument sign shall in no case be allowed to extend into the right-of-way or to obscure vision at a street or driveway intersection.

3. *Wall signs.*

a. Sizes shall be calculated by one square foot per linear foot of storefront up to maximum of 64 square feet.

b. Wall signs shall be of individual channel letter. Framed or cabinet signs are prohibited.

c. One wall sign shall be permitted along the façade of the public entrance.

d. Buildings located on corner lots are permitted to have a second wall sign on a second façade which faces the street front.

e. Window signs shall be limited to a maximum of two signs, each with a maximum of four square feet within the frontage.

f. *Illumination.*

i. Internal illumination is prohibited.

ii. Wall signs shall be back lit, halo lit, or externally illuminated.

k. *Lighting.*

1. Internal to the project area, lighting design shall be of the gooseneck variety as presented in Figure SJ0-5.

2. Lighting posts and extensions shall be a black-powder-coated aluminum or metal.

3. Fixtures shall be shielded to reduce light pollution by facilitating a downward-directed light.

4. All lighting fixtures internal to the development shall have poles with a maximum height of 16 feet.

5. Lighting shall be of a consistent style throughout the project area/development site.

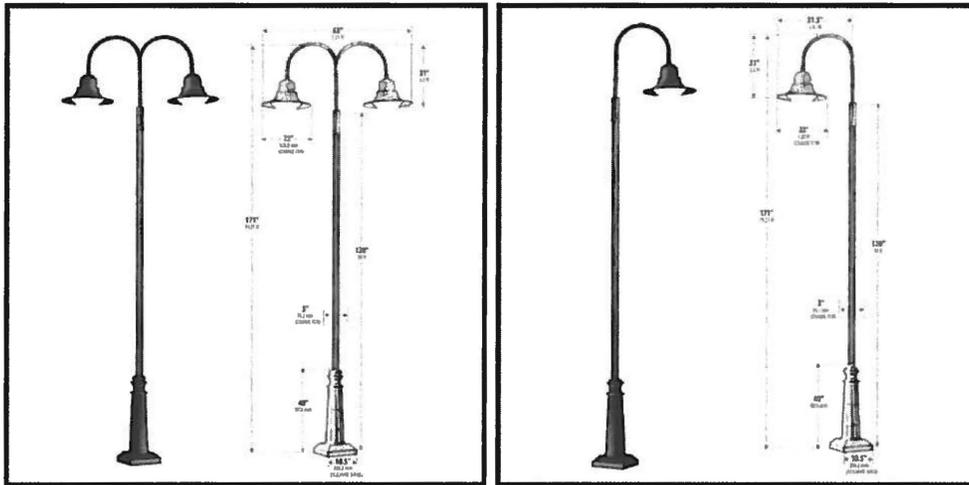
6. All light fixtures shall use an LED lighting source.

7. Lighting fixtures shall be placed to add illumination to areas such as, but not limited to, the usable open space, pedestrian facilities, and parking area.

8. Lighting fixtures shall be of similar dimension and proportion as presented in the Figure SJ0-5.

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Figure SJO-5. Lighting



(g) *Circulation and connectivity.*

(1) *Streets, sidewalks, and trails.* The San Jacinto overlay district shall be organized into blocks created by a grid of public streets and/or private streets. A variety of street types and block sizes may be incorporated to create the grid, including diagonal, off-set, and angled streets as approved by the director or the director of engineering. The street network goals aim to prioritize the mobility of pedestrians and bicyclists by improving safe mobility choices and community character. Values of the section should be placed in compatibility, livability, sense of place and urban design that enhances pedestrian facilities and streets. Where possible, cul-de-sacs and curvilinear streets shall be avoided.

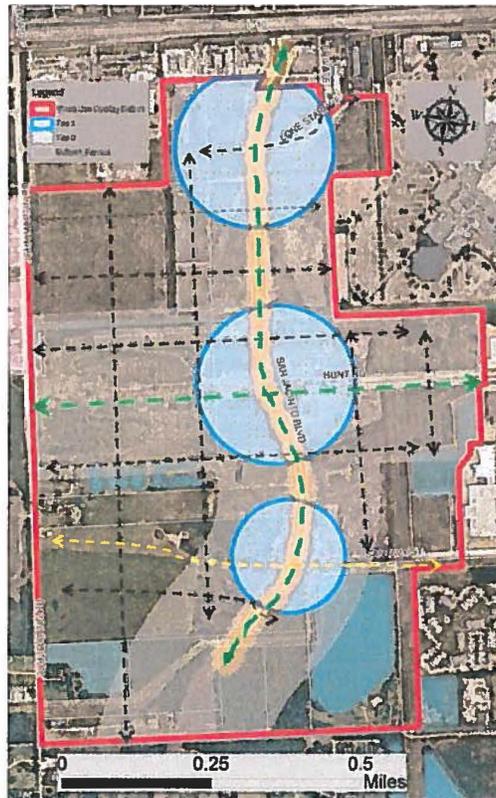
a. *Access management.*

1. Access management along roadways designated as arterial shall have a minimum curb-cut separation of 200 feet from the centerline of an existing curb cut.
2. Access to properties without a curb cut along an arterial shall be permitted via connection to another collector street, local street, or shared access easement through an adjoining parking area.
3. The project areas shall incorporate the following:
  - i. A maximum design speed of a drive aisle shall be 15 mph.
  - ii. If necessary to ensure access to the streets by the general public, the director and/or director of engineering may require shared access driveways within the site to adjacent properties.
  - iii. Installation of driveway aprons, stub-outs and other design features to indicate that abutting properties can be connected to provide shared/cross access is required.
4. All curb cuts that are aligned with pre-designed median cuts shall be constructed as local streets.

5. The maximum block length for local and collector streets shall be 700 feet or as specifically approved on a preliminary plat by the planning and zoning commission.
- b. *Bicycle and pedestrian circulation.*
1. Direct pedestrian access from any street that is adjacent to the property line to a building entrance is required.
  2. Marked pedestrian access from a parking area to a building entrance is required.
  3. Pedestrians and bicycle facilities, such as sidewalks and trails, shall be separated from facilities designed for the movement of vehicles, such as streets and access drives.
  4. Where complete separation of movement of pedestrians from movement of vehicles, such as a pedestrian crossing, is not possible, the site plan must use special paving (stamped concrete, stone pavers, etc.), grade separations, signs, bollards, median refuge areas, traffic calming features, landscaping, lighting, or other means to clearly delineate pedestrian areas for both day and night use. Pavement markings and striping is only permitted if required by the director of engineering.
  5. Where pedestrians and bicyclists share walkways, the trail shall have a minimum width of eight feet.
  6. All development with frontage along John Martin Road shall install a paved trail with a minimum of eight feet along the arterial street.
- (2) *Circulation plan.* A circulation plan shall be submitted with a plot plan, preliminary plat application, or site plan. A circulation plan must demonstrate:
- a. How the onsite circulation system meets the narrative and standards of this section;
  - b. How the onsite circulation system integrates with existing and planned streets, bicycle and pedestrian facilities, and trails in the surrounding area;
  - c. How the proposed street alignments conform with or deviate from the San Jacinto Boulevard area general road network plan with an explanation how deviations from the plan in terms of street placement, alignment, and design, are consistent with the intent statements in this overlay district;
  - d. That the street and pathway system will contribute to safe and convenient pedestrian connections between development occurring onsite and adjacent to the development.
- (3) *Plan approval.*
- a. A circulation plan must be reviewed and approved by the director under the requirements of this section.
  - b. The director may waive the requirement for a circulation plan if the director finds that a plan is not necessary due to the nature of the proposed development on the site, the existence of surrounding incompatible development, or other factors unique to the property which make strict compliance unnecessary.

- c. Revisions to the circulation plan may be approved by the director after considering the circulation of a proposed development plan, the need for access to adjoining properties, and the compatibility of development.
- d. A plot plan, preliminary plat, subdivision, or site plan may not be approved if the circulation plan is not approved by the director. If there is disagreement on the issue, the applicant, by request, or the staff may take this pre-preliminary information to the planning and zoning commission for its determination.

Figure SJO-6. Road Network Plan



(h) *Parking.* Parking lot design shall be aesthetically pleasing and assure pedestrian safety. Additionally, this section encourages a reduction in surface parking counts, smaller parking areas over vast parking lots, promotion of shared parking through shared access and the creation of on-street parking. This section reassures alternative modes of travel by accommodating bicycle parking for all uses.

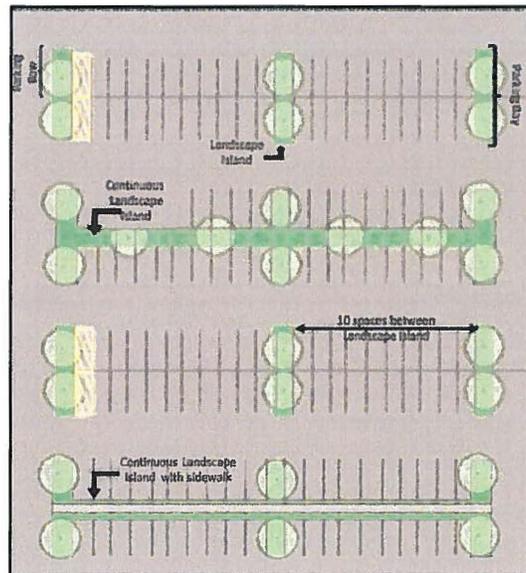
(1) Off-street parking.

- a. Off-street parking spaces for non-residential developments shall not exceed the number required by section 3.10.7 of the Code of Ordinances and not be less than 70 percent of the maximum number allowed.
- b. Off-street parking spaces for dwelling units associated with a mixed-use building shall comply with section 3.13.5 of the Code of Ordinances.
- c. Parking for any residence associated with a mixed-use building shall be secured and separated

from public parking.

- d. In Tier 1, off-street parking areas shall only be located in the side and rear yards.
- e. Tier 2 and Tier 3 off-street parking areas are permitted in the front yard.
- f. In Tier 1 where off-street parking occurs in the side yard and in Tier 2 and 3 where off-street parking occurs in the front yard, the parking shall be limited to the maximum of two rows of parking being divided by one drive aisle.
- g. No singular surface parking area may contain more than 120 spaces.
- h. A landscape island shall be required after ten parking spaces and at the end of every parking aisle. (See Figure SJO-7).
- i. Surface parking areas with more than two parking bays shall require a continuous landscape island between every other parking bay. (See Figure SJO-7).
- j. A continuous landscape island may be utilized for safe pedestrian connectivity. It shall contain a five-foot sidewalk to provide direct pedestrian access to building entrances. (See Figure SJO-7).

Figure SJO-7. Parking



- k. Off-street parking provided as part of a building or parking structure adjacent to a public street shall be designed and constructed to accommodate non-residential uses such as retail and commercial services on the ground floor of the building or parking structure.

(2) *On-street parking.*

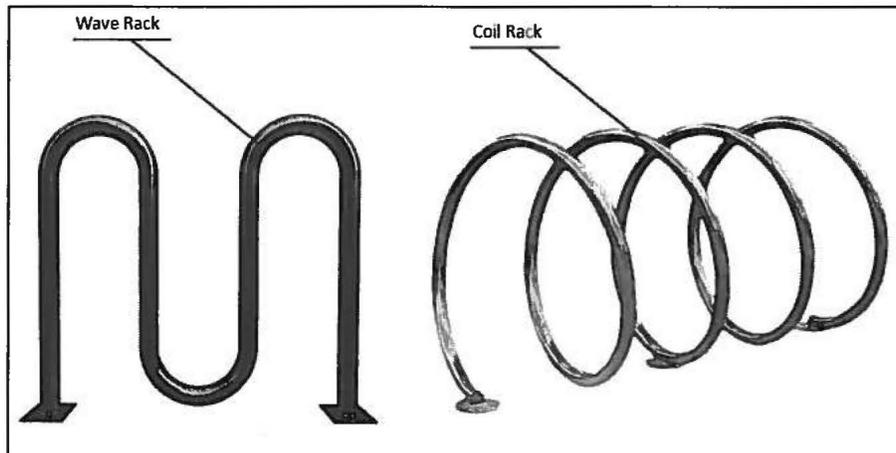
- a. On-street parallel parking is encouraged along all local streets where feasible. On-street parking is subject to the approval of the director of engineering.
- b. A reduction of minimum off-street parking may occur by two spaces for each on-street parking space installed along the extents of the subject property for non-residential uses.

- c. The director of engineering may determine that on-street parking is not feasible due to limited right-of-way or lack of appropriate and adequate easement, transit activity conflict and interference, inadequate : caused by vertical or horizontal curvature of a street, high roadway speeds, or other safety concerns

(3) *Bicycle parking.*

- a. Bicycle parking shall be required for retail and personal service uses at a rate of one bicycle space per ten parking spaces.
- b. No less than 50 percent of the bicycle parking shall be located along the primary street within 50 feet of the primary building entrance. Other locations shall be incorporated within the usable open spaces or within 50 feet of secondary entrances.
- c. Bicycle parking facilities shall either be lockable enclosures in which the bicycles are stored or black-powder-coated wave or coil racks that require a user-supplied lock that accommodate locking the frame and wheel(s). (See Figure SJO-8).

Figure SJO-8. Bicycle Parking



- d. Bicycle parking facilities shall be securely anchored and located in lighted and visible locations.
  - e. Bicycle parking facilities shall have a minimum depth of eight feet and shall be installed in a fashion that a parked bicycle does not extend into a sidewalk or trail.
- (i) *Landscaping.* Landscaping should enhance the development aesthetically and functionally by adding natural and vegetated elements to the San Jacinto overlay district. Landscaping helps with identifying transition from public realms to private and from non-residential uses to residential uses. Additionally, landscaping can be used for various functions of rain water capture, shading, and sound buffering.

(1) *Streetscape.*

- a. Except where driveways or intersecting streets are required, streetscape shall be required along the entire length of the property that is adjacent to a street or primary access drive where developed land is located.
- b. Along arterial streets, streetscape shall be no less than 12 feet wide.

- c. Along collector and local streets, streetscape shall be six feet wide.
- d. The streetscape shall be planted with deciduous shade trees five feet tall with a two-inch caliper, DBH, at time of planting, and no less than 20 feet tall at maturity, planted 30 feet on center, and shrubbery forming an intermittent hedge not less than three feet in height designed to provide an adequate screen of off-street parking.
- e. As part of the landscape plan, shrubs may be clustered or spaced at various intervals based on specific site requirements, but the total number of shrubs planted shall be no less than the amount required by linear planting spaced three feet apart.

(2) *Parking area landscaping.*

- a. A landscaping island shall be located at the end of every parking row.
- b. A landscaping island shall be no less than eight feet wide and 18 feet in length.
- c. The island shall be planted with ornamental grasses and the required trees based upon the tree species table in subsection (j)(4) of this section.
- d. One shade tree shall be provided within each required landscaping island.
- e. A maximum of ten continuous linear parking spaces are permitted within a parking row before a landscape island must be installed. (See Figure SJ0-7).

(3) *Compatibility buffer.*

- a. Compatibility buffers shall create a planted screen between residential uses and non-residential uses or activities.
- b. Where a non-residential use abuts property zoned or planned for single-family residential, the minimum buffer width shall be 25 feet, except in areas where cross-access for pedestrian circulation is planned and/or constructed.
- c. Compatibility buffers shall be installed with at least one of the following specifications:
  - 1. Compatibility buffer one.
    - a. A staggered double row consisting of evergreen trees and deciduous trees with an expected growth to a minimum height of 16 feet and a minimum width of ten feet at its maturity;
    - b. Tree planting for each row shall be installed with a maximum separation of 25 feet;
    - c. A transparent fence with a minimum height of six feet shall be installed if an opaque fence has not been constructed along the boundary of the adjacent residential use; and
    - d. If an opaque fence is installed, it shall be interior to the plantings of the buffer.
  - 2. Compatibility buffer two.
    - a. A single row of evergreen trees planted with 25 feet of separation;
    - b. Intermediate planting of three understory trees per 100 linear feet;
    - c. Forty shrubs per 100 linear feet; and

d. Six-foot opaque fence or wall is required and shall be interior to the plantings of the buffer.

(4) *Appropriate tree planting species.* (Arterial and local streets). Appropriate shade tree species for landscaping parking lots include the following:

Tree Species	Streetscape 12 ft.	Streetscape 6 ft.	Landscape Island	Compatability Buffer
Lacebark Elm	X	X	X	
Eastern Hophornbeam	X	X	X	
Golden Rain Tree	X	X	X	
Flowering Dogwood	X	X	X	
Little Gem Magnolia			X	X
American Holly			X	X
Carolina Laurel Cherry				X
Eastern Red Cedar				X
Anacua			X	X
Wax Myrtle		X	X	
Yaupon		X	X	X
American Elm	X		X	
Leyland Cypress			X	X

(j) *Residential uses.* The San Jacinto overlay district facilitates medium residential density into commercial zones by using a variety of housing products such as townhouses, duplexes, triplexes, and fourplexes. This section helps to manage compatibility with commercial adjacency and integrates the residential uses with the non-residential uses.

- (1) *[Subject to property development standards.]* All the residential uses associated with this overlay district subject to the property development standards for the Medium Density Mixed Residential (MF1) zoning found in article II of the ULDC. In the event of a conflict between the provisions of the San Jacinto overlay and the provisions of the underlying zoning district or any referenced zoning district, the provisions of the San Jacinto overlay district shall prevail when a residential project is being developed.
- (2) *Platting process.* In project areas that utilize a mixture of housing types (single-family attached, duplex, triplex, or fourplex), during the platting process, the applicant shall notate the designation of the housing product for each lot on the plat.
- (3) *Prohibited uses.* The following are prohibited uses in the San Jacinto overlay district:
- a. Golf course;
  - b. Industrialized home; and
  - c. Laundry building.
- (4) *Uses permitted with conditions.* The following uses are permitted with conditions in the San Jacinto overlay district:

<b>Residential Uses Permitted with Conditions</b>			
<b>Land Use</b>	<b>Tier</b>	<b>Cond Ref</b>	<b>Additional Regulations</b>
Multi-family dwellings	1, 2, 3		1. Must be located at least one-half mile from any existing garden-style multi-family complex. 2. Shall have a maximum build out of three hundred (300) dwelling units. 3. Shall be located on not more than fifteen (15) acres.
Single-family detached	3		1. Shall be built to a maximum density of nine (9) units per acre. 2. Minimum floor area of 2,000 square feet per unit.
Single-family attached dwelling (Townhouses)	2, 3	B14	1. Maximum building length of 200 feet. 2. Minimum floor area of 1,200

			square feet per unit.
Two-family dwelling duplex	2, 3		Minimum floor area of 750 square feet per unit.
Three-family dwelling, triplex	2, 3		
Four-family dwelling, fourplex	2, 3		

- a. The maximum residential density shall be 15 units and a minimum density of eight units per net acre of residential uses.
- b. No front façade of a residential dwelling shall face onto an arterial street within a neighborhood.
- c. When a residential use is developed on a double frontage lot with a major thoroughfare as the rear lot line, a masonry wall shall be installed with streetscape standards found in the non-residential section of the San Jacinto overlay district.
- d. Compatibility buffer one, found in subsection (j), shall be installed when a residential use is developed adjacent to an existing commercial use that has not previously installed an opaque screening.
- e. Architectural, masonry, and design requirements shall comply with article 3, division 4 of the ULDC.

(5) *Property development standards.* The following residential development standards shall be applicable within the San Jacinto overlay district and shall control over those of the underlying zoning district:

Residential Development Standards	T1, T2, and T3	Additional Regulations	
Internal block length (min/max)	300—700 ft.		
Minimum lot area (sq. ft.)	See article II, table 2-1 in the ULDC		
Site coverage	80%		
<b>Minimum Lot Dimensions</b>			
Frontage	Single-family attached	Multi-family dwellings	Minimum frontage shall also

	25 ft.	50 ft.	determine the minimum lot width.
<b>Building Form and Location</b>			
Maximum building height	35 ft.		
Minimum building setbacks	20 ft.		
Maximum front building setback	25 ft.		
<b>Minimum Side Setback</b>			
Interior side setback	7.5 ft.	Single-family attached dwellings	
Street-side setback (ft.)	Same as front		
Minimum rear setback	10 ft.		

(Ord. No. 14,029, § 1, 3-14-19; Ord. No. 14,380, §§ 1, 2, 5-14-20; Ord. No. 15,192, §§ 10, 11, 9-8-22)

DIVISION 3. - LAND USE TABLES AND CONDITIONS

Sec. 2.085. - Drilling overlay district.

- (a) *Purpose.* The drilling overlay district (DOD) is designed to provide for the immediate development of land as an integral unit for drilling, oil or gas operations within the Goose Creek Oil Field. It is the intent in such a district to ensure protection of adjacent properties and uses, while allowing multiple drilling sites and private saltwater injection disposal wells with defined standards and conditions. The DOD is intended for property where exploration and production of mineral resources is scheduled to begin within a two-year period from the date of approval; it is not intended to, and shall not be approved where evidence is not sufficient to establish the immediacy of development, or where it appears intended to limit any development of the surface area that might otherwise occur.
- (b) *Applicability.* The DOD may be overlaid on the property within the Goose Creek Oil Field with the following exceptions:

- (1) Property zoned SFE, SF1, SF2, UN, MF1, MF2, MF3, or OR;
  - (2) Property on which a residence, place of public assembly, hospital building, school, park, or a public or private water well, unless a private water well is associated with drilling, oil or gas operations; and
  - (3) Property on which structures exist that are used for human occupancy other than those associated with drilling, oil or gas operations.
- (c) *Application.* Application for a DOD shall be made consistent with this ULDC and submitted to the director. Application forms shall be supplied by the director and shall include or be accompanied, at a minimum, by the following at the time of submission to the director:
- (1) The names, titles, contact information (telephone and email), and addresses of the applicant;
  - (2) The names and addresses of all owners of land in the proposed drilling overlay district according to the records of the county appraisal district;
  - (3) A site plan showing the boundaries of the proposed DOD with dimensions from appropriate streets and/or landmarks. If the property has been platted, the description shall also reference the subdivision, block and lot numbers. The site plan must show, to the extent practicable, compliance with the standards specified in subsection (e) of this section; and
  - (4) The approximate location of all existing and known proposed sites for well bores, test wells, active drilling operations, and private saltwater injection disposal wells.
- (d) *Base district.* The base zoning district shall be as adopted on the city's official zoning map. The regulations in the base zoning district shall control in the absence of drilling, oil or gas operations.
- (e) *Standards.*
- (1) *Commercial saltwater injection disposal wells.* Commercial saltwater injection disposal wells are prohibited.
  - (2) *Setbacks.* Except as otherwise approved by the city council in the creation of the DOD, the following setback lines, wherein no activities, structures or appurtenances in a DOD are within:
    - a. Fifty feet from the DOD boundary; and
    - b. Two hundred feet setback from the shorelines of Goose Creek, Tabbs Bay, and Cedar Bayou, as measured by the mean high water level for the affected water body pursuant to [chapter 34](#).
 No DOD boundary setbacks shall be required between DOD boundaries at points of adjacency.
  - (3) *Screening.* Screening for the 50 feet closest to any public roadway, public park, public or private recreational space, or DOD boundary of setbacks established in subsection (e)(2) of this section shall be required. No screening requirements shall be required between adjacent DOD boundaries.
  - (4) *Rail service.* No use utilizing rail service shall be permitted within the DOD.
  - (5) *Operation hours.* Site development and construction activities associated with drilling, oil or gas operations shall be conducted only between 7:00 a.m. and 7:00 p.m. Monday through Friday and between 9:00 a.m. and 5:00 p.m. on Saturday and Sunday, and will be considered "construction

activity" for purposes of compliance with chapter 34, article VII of the Code. Notwithstanding the time limitations herein and in chapter 34, article VII of the Code, drilling will be allowed to run the appropriate equipment 24 hours a day, seven days a week, during the initial drilling and reworking of the well. Truck traffic associated with drilling and/or production, well servicing, site preparation, delivery or removal of equipment and materials, and all related work conducted on the drilling site shall be limited to the same work hour restrictions identified above except in cases of fires, blowouts, explosions, and any other emergencies.

(f) *Planning and zoning commission recommendation.*

- (1) The planning and zoning commission shall review and make recommendations regarding the DOD to the city council based upon the following criteria:
  - a. All of the required information has been submitted by the applicant and the standards required in subsections (b) and (e) of this subsection have been satisfied;
  - b. The use will not be injurious to the use and enjoyment of adjacent property or property immediately across the street, and will not adversely affect a bald eagle or a threatened or endangered species pursuant to the Federal Endangered Species Act;
  - c. The use will not impede the normal and orderly development and improvement of surrounding property;
  - d. Adequate utilities, access roads, drainage and other necessary supporting facilities have been or will be provided as determined by city standards;
  - e. Adequate nuisance prevention measures have been or will be taken;
  - f. Sufficient landscaping, screening, setbacks and other land use measures to ensure harmony and compatibility with adjacent property; and
  - g. The use is in accordance with the comprehensive plan, other adopted city plans, and is substantially consistent with the purposes and intent of the city's codes; and
- (2) Additional criteria for drilling overlay district. The planning and zoning commission may recommend and the city council may adopt additional or revise listed criteria or conditions for any request for a drilling overlay district that are needed to protect the public health, safety and welfare.

(g) *Approval of district.* The city council may, after receiving a recommendation from the planning and zoning commission, approve, approve with conditions or deny the creation of a DOD based upon the criteria specified in subsection (f) of this section and standards specified in subsections (b) and (e) of this section. The approved DOD shall be indicated on the official zoning map of the city.

(h) *Expiration of overlay.* A DOD is a zoning change and will not expire, provided the area is in active use and permits have been issued by the city. If there is no progress on drilling, oil or gas operations, exploration and production of mineral resources, a DOD shall be valid for two years from the date of its approval. The council may, prior to expiration of this approval, for good cause shown, extend for up to 12 months the time for which the DOD is valid. Once expired, the zoning designation reverts to the underlying zoning district, and all future phases for the area included in the DOD are also expired.

- (i) *Requirement to notify of changed information/enforcement action.* An applicant or permittee has a continuing obligation to update the director of any additional information related to the permitted drilling, oil or gas operations. This includes any changes to any of the items included in the original application and outlined in subsection 2.085(c). The applicant or permittee shall promptly notify the director of any changed information or complaints or enforcement action by any governmental entity and the outcome of such investigations. Information regarding complaints or enforcement actions by another governmental entity shall be provided to the director within ten days of receipt by the permittee or applicant.

(Ord. No. 12,473, § 14, 2-13-14)

Sec. 2.087 - Overlay district.

- (a) *Purpose.* A zoning overlay district is a district designed to supplement the primary underlying zoning district classification. Overlay district regulations shall be established upon the creation of an overlay district and may be subsequently amended. The regulations of the underlying primary zoning district shall apply except to the extent modified by the regulations of the overlay zoning district. If there are conflicts with the provisions of the overlay district created under this section and other provisions of this code, the overlay district regulations shall control.
- (b) *Authority.* The city council may designate overlay districts and define, amend, and delineate the boundaries thereof in accordance with this section if the proposed overlay district project would result in a greater benefit to the city than would development under the base zoning district regulations. In designating an overlay district, the city council may impose such other conditions as are deemed necessary to accomplish the purposes of this code and the city's comprehensive plan. The boundaries of any overlay district established shall be shown on the official zoning district map.
- (c) *Application.*
  - (1) *In general.* A complete application concerning an overlay district shall be subject to and must satisfy all applicable provisions of section 1.26 and this section. Application for overlay districts may only be made by the mayor, the city council, a member of the city council, or the city manager.
  - (2) *Overlay development plan.* The application must also include an overlay development plan of the development, an approved version of which will be incorporated into any ordinance establishing the requested overlay district. The plan shall control development within an overlay district to the extent specified in the ordinance creating the overlay district. The overlay development plan must include, at a minimum, the following:
    - a. An area map showing the boundary of the proposed overlay;
    - b. A comparison of the proposed development with the standards of underlying zoning district and a statement by the applicant describing how the proposed development provides greater benefits to the city than would a development carried out in accordance with otherwise applicable zoning and development regulations;

- c. Identification of site planning features designed to ensure compatibility between on-site residential and nonresidential uses, and with the surrounding neighborhood and land uses;
- d. A statement of how the proposed development is consistent with the city's comprehensive plan; and
- e. Information relating to the transition between and buffering of different uses.

(d) *Process.* The review and consideration of an overlay district shall be processed in accordance with section 1.26 of this ULDC referencing the rezoning criteria only.

(Ord. No. 13,947, § 2, 11-19-18)

Sec. 2.09 - Land use tables.

- (a) *Uses.* This subsection sets forth the land uses allowed in each zoning district. In the following tables "P" means permitted use and "PC" means permitted use with conditions as set forth in the conditions tables in division 3 of this article. Where neither a "P" nor a "PC" exists in the table, the use is prohibited. To the extent that there is a conflict between the use tables and the conditions, the use table controls.
- (b) *Prohibited uses.* In all residential zoning districts, the use of containers for any purpose is expressly prohibited.

**Table 2-2. Non-residential uses.**

USES	MU	NSC	ACE	GC	LC	LI	HI	COND REF
Agriculture	PC	PC		PC		PC	PC	A4
Animals	PC			PC		PC		A5, A25
Auto body shop				PC		P		A1
Vehicle repair, commercial						PC	PC	A1
Vehicle repair, non-commercial				PC		P		A2
Boat and RV storage						P		
Building, heating, plumbing, general, service or electrical	PC			PC		P		A3, A42

contractors with outdoor storage								
Community services	P	P	P	P		P		
Container						PC	PC	A7, A42
Day care	P	P		P	P	PC	PC	A8
Drilling, oil or gas operations							PC	A23, A29, A29.5, A34
Dwelling unit(s)	P		PC	PC	PC			A44
Entertainment facilities, including bars and lounges	PC		PC	PC	PC			A45
Equipment sales and rental facilities				PC		P	P	A53
Excavation						PC	PC	A23
Extended stay motel				PC				A13
Food service establishment	P	PC	PC	P	P	P		A9-10, A11, A12
Funeral home	PC			PC				A33
Gravel pit							PC	A23
Grocery stores	PC	PC	PC	P	P			A19
Group housing, Boardinghouse, Dormitory, Halfway house, Orphanage,	PC			PC				A20-22

Group home for substitute care								
Homeless shelter	PC			PC				A21-22
Hotel			PC	PC	PC			A13
Junk and salvage yard						PC	PC	A23
Live outdoor exhibitions	PC			PC	PC			A26
Manufacturing (custom)	PC	PC	PC	PC	PC			A49
Manufacturing (heavy)							P	
Manufacturing (light)				PC		PC	P	A48, A48.5
Medical facilities								
Hospitals	P			P		P		
Clinics		P		P	P	P	P	
Medical waste storage and disposal center						PC	PC	A23
Mixed-use building	PC		PC					A44
Nursing homes and assisted living facilities	PC	PC		PC	PC			A20, A22, A58
Office	P	PC	PC	P	P	P	PC	A27, A28
Oil or gas wells							PC	A23, A29, A29.5
Outdoor sales and display	PC	PC	PC	PC	PC	P	P	A50

Outdoor storage						P	P	
Packaging						PC	PC	A23
Parking, commercial				P	P			
Personal service	P	P	P	P	P	P		
Pet stores	PC	PC	PC	PC				A32
Places of assembly	PC	PC	PC	PC	PC			A30, A30A
Recreational vehicle park				PC		PC		A31
Repair business	PC	PC	PC	PC		P		A55
Resource extraction							PC	A23, A34
Retail								
General	PC	PC	P	P	P	P		A18
Big box				PC	PC			A17
Sandblasting						PC	PC	A23
Self storage				PC		P		A59
Slaughterhouse							PC	A23, A35
Supply houses				PC		PC	P	A54, A54.5
Telecommunication facilities	PC			PC		PC	PC	A37
Towing yard						P		A42
Travel center				PC		P	P	A60
Truck stop				PC		P	P	A46

Truck terminal						P	P	
Vehicle and boat sales, rental or leasing facility				PC		P		A52
Vehicle fueling station		P		P	P	P		A16
Vehicle fueling station minimart		PC		P	P	P		A14, A15, A16
Vehicle storage						P		A36, A42
Warehouse and freight movement				(1)		P	P	A40
Waste related services								
Landfills							P	
Recycling centers						PC	P	A41
Wholesale trade				PC		P		A40

- (1) Warehouse and freight movement uses in existence or vested prior to October 12, 2023, shall be permitted to expand with the approval of a special use permit and compliance with the following conditions:
- a. Expansion is limited to no more than 50 percent of the total square footage of all buildings lawfully existing or vested prior to October 12, 2023.
  - b. Expansion shall be of a compatible height and architectural design as the existing development on the site.
  - c. The expansion must comply with LI setbacks and GC percent maximum lot coverage standards.
  - d. The expansion must provide a minimum of a 25-foot vegetative buffer on all sides of the site.
- Accessory uses are uses incidental and subordinate to the principal use, located on the same lot as the principal use and in the same zoning district as the principal use.

Table 2-3. Non-residential accessory use table.

ACCESSORY USE	MU	NSC	ACE	GC	LC	LI	HI	COND REF
Boat and RV storage				PC		P		A42
Container				PC		PC	PC	A6, A7, A42
Dog run				PC		PC		A25
Dwelling unit	P		PC	PC	PC	PC	PC	A44
Equipment sales and rental facilities				PC				A53
Food service establishments					P		P	
Kennel				PC		PC		A25
Medical equipment storage and research facilities	PC			PC				A43
Outdoor storage (Accessory)	PC	PC		PC		P	P	A42
Parking, commercial	P							
Residential accessory structures	PC	PC	PC	PC	PC			B2
Sandblasting		PC	PC	PC		PC	PC	A56, A57
Storage Building	PC	PC	PC	PC	PC	P	P	A51
Vehicle Storage				PC		P	P	A36

Table 2-4. Residential uses.

USES	SFE	SF1	SF2	MF1	MF2	MF3	MU	UN	ACE	OR	COND REF
Agriculture	PC	PC	PC							PC	B3
Community services	PC	PC	PC	PC	PC	PC	PC	PC	PC		B6-7
Industrialized home	P	P	P	P	P			P			
Manufactured home								P			
Multifamily dwelling				PC	PC	PC			PC		B11
Single-family residential attached			PC	PC	PC		PC	P	PC		B14, B21
Single-family residential detached	P	P	P	PC				P	PC		B17
Two-family dwelling duplex			PC	P	PC			P	PC		B18, B19
Country clubs	P	P	P	P	P	P				P	
Golf courses	P	P	P	P	P	P		P		P	
Group home for the disabled	PC	PC	PC					PC			B9
Personal care home	PC	PC	PC					PC			B9
Public park	P	P	P	P	P	P	P	P	P	P	
Places of assembly	PC	PC	PC	PC	PC	PC	PC	PC	PC		B12

Two-family dwelling duplex			PC	P	PC		P	P	PC		B18, B19
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Accessory uses are uses incidental and subordinate to the principal use, located on the same lot as the principal use and in the same zoning district as the principal use.

**Table 2-5. Residential accessory use table.**

ACCESSORY USE	SFE	SF1	SF2	MF1	MF2	MF3	UN	MU	ACE	OR	COND REF
Accessory dwelling	PC	PC	PC				PC	PC	PC		B1, B2, B10
Barn	P	PC	PC							PC	B2, B23
Community building		PC	PC	PC	PC	PC					B5
Family home day care	PC	PC	PC	PC			PC	PC	PC	PC	B2, B8
Garage sale	PC	PC	PC				PC	PC	PC	PC	B2, B20
Gazebo	P	P	P	P	P	P	P	P	P	PC	B2
Home occupation	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	B2, B10
Laundry building				PC	PC	PC					B5
Non-commercial solar energy facilities	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	B2, B15

On-site management office for multifamily or single-family attached dwellings			PC	PC	PC	PC	PC		PC		B7
On-site storage of a personal pleasure boat or recreational vehicle	PC	PC	PC				PC	PC	PC	PC	B2, B22
Pool, pool house, hot tub and their equipment	P	P	P	P	P	P	P	P	P	PC	B2
Private open space	PC	B2, B13									
Private recreation space	PC	B2, B13									
Stables	PC									PC	B2, B16, B23
Storage building	P	P	P							PC	B2
Studio	PC	PC	PC							PC	B2, B10
Sports court	P	P	P	P	P	P	P	P	P	PC	B2

(Ord. No. 11,866, § 2(Exh. A), 2-23-12; Ord. No. 12,207, §§ 8—11, 3-14-13; Ord. No. 12,473, § 15, 2-13-14; Ord. No. 12,593, § 5, 8-14-14; Ord. No. 12,902, §§ 1—3, 7-23-15; Ord. No. 12,903, §§ 1, 2, 7-23-15; Ord. No. 13,062, §§ 3, 4, 12-10-15; Ord. No. 13,190, § 1, 5-12-16; Ord. No. 13,191, §§ 11, 12, 5-12-16; Ord. No. 13,210, §§ 1—3, 6-9-16; Ord. No.

13,522, § 5, 7-27-17; Ord. No. 13,523, § 3, 7-27-17; Ord. No. 13,762, § 1, 5-10-18; Ord. No. 13,763, §§ 3, 4, 5-10-18; Ord. No. 14,381, § 1, 5-14-20; Ord. No. 14,406, §§ 1, 2, 6-11-20; Ord. No. 15,133, §§ 2, 3, 7-14-22; Ord. No. 15,361, § 3, 2-9-23; Ord. No. 15,575, § 3, 10-12-23)

Sec. 2.095 - Certain typical accessory uses.

- (a) *Special use permit required.* Any use typically classified as a residential accessory use and listed in Table 2-5 for which no principal use exists is prohibited unless the property is in SFE or SFI zoning district and a special use permit has been issued prior to any work commencing on site in accordance with the provisions of this section.
- (b) *Process for special use permit.*
  - (1) *Application.* All applications for a special use permit under this section shall be filed with the director of planning and development services. The application shall be accompanied by the non-refundable application fee specified in section 1.15 and a site plan. The site plan along with the application will become a part of the special use permit, if approved. The accompanying site plan shall provide the following information:
    - a. Data describing all activities involved with the proposed use;
    - b. Boundaries of the area covered by the site plan;
    - c. The location of each proposed building and structure in the area covered by the site plan and the number of stories, height, roofline, and gross floor area of any such building or structure;
    - d. The location of existing drainageways, proposed drainageways, and significant natural features;
    - e. The location of all floodplain and floodways existing on the subject property and a description of mitigation measures to be implemented with the proposed use;
    - f. Proposed landscaping and screening buffers;
    - g. The location and dimensions of all curb cuts, public and private streets, on-site and off-site parking areas, pedestrian walks, lighting facilities, and outside trash storage facilities;
    - h. The location, height and type of each wall, fence, and all other types of screening; and
    - i. Any other information reasonably required by the director of planning and development services.
  - (2) *Consideration of completed application.* After the submission of a completed application, the director of planning and development services shall follow the procedure for consideration of the special use permit by the commission and the city council as that set forth in section 1.26.
  - (3) *Solicitation of opinions of surrounding neighborhood.* Notice of the public hearing concerning the special use permit application given pursuant to subsection 1.21(b) shall include a form provided by the director on which property owners may indicate their support or objection to the application by return mail. The director shall tally the results of the input received by the city prior to any public hearing and include such results in the staff report to the commission and the city council. Input received after such time will not be included in the tally.

(c) *Approved special use permit.* If a special use permit is issued pursuant to this section, the time limit, revocation, and any amendments to the approved permit shall comply with section 1.26.

((Ord. No. 11,866, § 2(Exh. A), 2-23-12; Ord. No. 13,191, § 13, 5-12-16)

Sec. 2.10 - Land use conditions.

This section sets forth the conditions associated with identified land uses in section 2.05. The conditions expressed in the use table are cumulative of applicable conditions contained elsewhere in the Code.

	Land Use	Applicable Zoning District	Conditions	
<b>A. Non-Residential Categories</b>				
1	Vehicle repair, commercial	LI, HI	(a)	Vehicles must be kept on the private property of the vehicle repair facility.
			(b)	Vehicle storage is subject to the outdoor storage conditions of this appendix and must be kept behind opaque screening and in accordance with chapter 112 of the Code of Ordinances.
2	Vehicle repair, non-commercial	GC	(a)	Vehicle repair shall be separated from all adjacent uses by opaque screening.
			(b)	Vehicles must be kept on the private property of the vehicle repair facility.
			(c)	Vehicle storage is subject to the outdoor storage conditions of this appendix and must be kept behind opaque screening and in accordance with chapter 112 of the Code of Ordinances.
3	Building, heating, plumbing, general,	GC, MU	(a)	Outdoor storage shall be separated from all adjacent uses and public rights-of-way by

	service or electrical contractors with outdoor storage			transition buffer.
			(b)	Loading docks or bay doors shall not face an arterial or collector street.
4	Agriculture	All, where permitted	Agricultural uses involving animal, livestock, exotic, or similar animal uses are regulated pursuant to chapter 14 and/or chapter 42, article V of the Code of Ordinances.	
5	Animals	All, where permitted	Animals are regulated pursuant to chapter 14 and/or chapter 42, article V of the Code of Ordinances.	
6	Containers	GC	(a)	Containers may not be stacked on one another.
			(b)	Berms, hills, slabs in excess of one foot above natural grade or other raised features may not be created upon which to place containers.
			(c)	There is no limit to the number of containers on a property.
			(d)	Containers shall be screened from all adjacent properties by opaque screening.
7	Containers	LI, HI	(a)	Container(s) in LI may be stored or stacked up to 30 feet in height with no limit in the number of containers on a property.
			(b)	Container(s) in HI may be stacked up to 50 feet in height with no limit in the number of containers on a property.
			(c)	Containers shall be screened from all adjacent properties by opaque screening.
8	Day cares	LI, HI	Day cares must be totally within an enclosed building, in	

			an office or other non-production building and open only to employees of the industrial facility for which the day care is operated.	
9	Food service establishments	NSC	(a)	Food service establishments shall not exceed 5,000 square feet in building size.
			(b)	Food service establishments shall be located on a collector street or higher classification as shown on the most current major thoroughfare plan map.
10	Food service establishments	All, where permitted except ACE	Food service establishments shall be separated by opaque screening from single-family or two-family dwellings.	
11	Food service establishments	All, where permitted	Mobile food establishments are subject to the restrictions under chapter 42 of the Code of Ordinances.	
12	Food service establishments	ACE	Drive-through restaurants within ACE district requires the issuance of a special use permit in accordance with section 1.26 of this ULDC.	
13	Hotel	GC, ACE, LC	Hotels shall be located on property that is at least one acre in size.	
		GC, ACE, MU, LC	Interior access	A hotel shall (i) only permit controlled access to rooms via a lobby and interior hallways; and (ii) include place(s) of assembly, including but not limited, to, spa room, fitness room, game room and/or cocktail lounge with a combined minimum of 2,000 square feet.
14	Vehicle fueling	All, where	(a)	Vehicle fueling station minimart shall not exceed

	station minimart	permitted		8,000 square feet in building size.
			(b)	Gas station minimart is allowed only if located on a freeway, an arterial street or on a collector street at its intersection with an arterial street.
			(c)	Vehicle fueling station minimart must provide opaque screening adjacent to any residential dwelling or property zoned for residential use.
15	Vehicle fueling station minimart	NSC	(a)	Vehicle fueling station minimart shall not exceed 5,000 square feet in building size.
			(b)	Vehicle fueling station minimart shall not have a drive through for food service in NSC.
			(c)	Vehicle fueling station minimart is allowed only if located on (i) an arterial street, (ii) a collector street, or (iii) a local street intersecting a street of higher classification.
16	Vehicle fueling station	All, where permitted		Vehicle fueling stations must provide opaque screening adjacent to any residential dwelling or property zoned for residential use.
17	Big box retail	All, where permitted	(a)	Building and appurtenances shall be located at least 20 feet from a residential property line.
			(b)	Loading docks shall not face residential uses.
18	General retail	NSC, ACE, MU		General retail shall not exceed 10,000 square feet in total building area.
19	Grocery stores	ACE, NSC, MU	(a)	Grocery stores shall not exceed 10,000 square feet in building area in NSC and MU.

			(b)	Grocery stores shall not exceed 40,000 square feet in building area in ACE.
20	Group housing, nursing homes and assisted living facilities	All, where permitted	(a)	Group housing, nursing homes and assisted living facilities must be licensed by the state.
			(b)	Group housing, nursing homes and assisted living facilities shall not be located within a floodplain or floodway.
			(c)	Group housing, nursing homes and assisted living facilities shall annually prepare and implement an evacuation plan for all residents in accordance with chapter 22, article II, division 3 of the Code of Ordinances.
			(d)	Direct vehicle access to nursing home facilities in the UN district shall be provided from a collector or arterial street or major thoroughfare.
21	Group housing, boardinghouse, group home for substitute care, dormitory, halfway house, homeless shelter, orphanage, and personal care home	All, where permitted	(a)	These uses must secure a special use permit in accordance with section 1.26 of this ULDC.
			(b)	Group housing, boardinghouse, group home for substitute care, dormitory, halfway house, homeless shelter, orphanage, and personal care home shall annually prepare and implement an evacuation plan for all residents in accordance with chapter 22 of the Code of Ordinances.
			(c)	No application for a proposed group housing use that requires a special use permit may be granted if another group housing use that requires a special use permit exists within one-

				half mile of the proposed location.				
				<table border="1"> <tr> <td>i.</td> <td>Such measurements shall be measured from property line to property line.</td> </tr> <tr> <td>ii.</td> <td>In making the determination that no group housing use requiring a special use permit exists within one-half mile, the director may consider information provided by the applicant, information contained in the records of the city, and information obtained by physical inspection of the premises.</td> </tr> </table>	i.	Such measurements shall be measured from property line to property line.	ii.	In making the determination that no group housing use requiring a special use permit exists within one-half mile, the director may consider information provided by the applicant, information contained in the records of the city, and information obtained by physical inspection of the premises.
i.	Such measurements shall be measured from property line to property line.							
ii.	In making the determination that no group housing use requiring a special use permit exists within one-half mile, the director may consider information provided by the applicant, information contained in the records of the city, and information obtained by physical inspection of the premises.							
22	Group housing, all	All, where permitted	(a)	The following minimum square footage per bedroom shall be provided by the home:				
				<table border="1"> <tr> <td>i.</td> <td>To house one handicapped person per bedroom, the dwelling unit must provide 100 square feet of space per bedroom utilized for this purpose; or</td> </tr> <tr> <td>ii.</td> <td>To house two handicapped persons per bedroom, the dwelling unit must provide 120 square feet of space per bedroom utilized for this purpose.</td> </tr> </table>	i.	To house one handicapped person per bedroom, the dwelling unit must provide 100 square feet of space per bedroom utilized for this purpose; or	ii.	To house two handicapped persons per bedroom, the dwelling unit must provide 120 square feet of space per bedroom utilized for this purpose.
i.	To house one handicapped person per bedroom, the dwelling unit must provide 100 square feet of space per bedroom utilized for this purpose; or							
ii.	To house two handicapped persons per bedroom, the dwelling unit must provide 120 square feet of space per bedroom utilized for this purpose.							
			(b)	Separate bedroom facilities from all residents shall be provided for the care provider or providers that live in the facility part-time or full-time with the residents.				
			(c)	Nothing in this condition shall be construed to restrict the location or operational abilities of				

				facilities engaging in the sale of alcohol for on or off- premises consumption based on the location of group housing facilities.
			(d)	All facilities shall meet and maintain compliance with the Code of Ordinances and requirements of this ULDC and all applicable health and safety codes and regulations in effect.
23	Industrial uses	All, where permitted	These industrial uses require the issuance of a special use permit in accordance with section 1.26 or 1.26.5 of this ULDC, or a drilling overlay district in accordance with 2.085 of this ULDC.	
25	Kennels	GC, LI	(a)	Kennels are not allowed within 100 feet of any residential use.
			(b)	Kennels are not allowed within 300 feet of a church, school, hospital, or place of assembly.
			(c)	Kennels are not allowed within 300 feet from where food is sold or consumed.
			(d)	Kennels shall not house exotic animals.
26	Live outdoor exhibitions	All, where permitted	Live outdoor exhibitions shall conform to all licensing, inspection and performance standards in chapter 42 of the Code of Ordinances.	
27	Office	HI	Office use may only be ancillary to an allowed primary use.	
28	Office	NSC, ACE, MU	Office shall not exceed 10,000 square feet in building size in NSC and MU. Office shall not exceed 4,000 square feet in building size in ACE.	

29	Drilling, oil or gas operations	HI	(a)	A special use permit is required in accordance with section 1.26.5 of this ULDC.
			(b)	All drilling, oil or gas operations shall be separated from all adjacent uses by opaque screening.
			(c)	Private saltwater disposal injection wells are permitted where approved in accordance with section 1.26.5 of this ULDC.
			(d)	Commercial saltwater injection disposal wells are not permitted.
29.5	Drilling, oil or gas operations	DOD	(a)	A drilling overlay district is required in accordance with 2.085 of this ULDC.
			(b)	Private saltwater disposal injection wells are permitted.
			(c)	Commercial saltwater injection disposal wells are not permitted.
30	Places of assembly	All, where permitted	(a)	Direct vehicle access shall be provided from a collector or higher classification street.
			(b)	Outdoor uses associated with places of assembly shall be setback at least 300 feet from any residential property line. If a place of assembly has an outdoor use, there shall be opaque screening along the common property line with any adjacent residential uses.
30A	Places of assembly	ACE	(a)	Places of assembly cannot be located therein if its presence precludes the sale of alcoholic

				beverages for on-premises consumption elsewhere in the ACE district.
			(b)	Direct vehicle access shall be provided from a collector or arterial street unless the point of access to the off-street parking area serving the use is located within 1,500 feet of a collector or arterial street, as measured along the centerline of the place of assembly.
31	Recreational vehicle park	All, where permitted	(a)	Recreational vehicle parks shall be separated from all adjacent uses by opaque screening.
			(b)	Property not subject to a valid recreational vehicle park operating license pursuant to chapter 58 on April 13, 2013, must have an approved special use permit prior to receiving a building permit.
			(c)	Property not subject to a valid recreational vehicle park operating license pursuant to chapter 58 on April 13, 2013, must be a minimum of five acres in size.
32	Pet stores	All, where permitted	A dog run may be placed on site at a pet store, where it is not adjacent to any dwelling unit and it may not be used for overnight sleeping of animals.	
33	Funeral home	All, where permitted	A funeral home with a crematorium requires the issuance of a special use permit in accordance with this ULDC.	
34	Resource extraction	All, where permitted	(a)	Resource extraction shall be separated from all adjacent uses by opaque screening.
			(b)	Trucks must use designated truck routes.

			(c)	Resource extraction requires the issuance of a special use permit in accordance with section 1.26.5 of this ULDC, or a drilling overlay district in accordance with 2.085 of this ULDC.
35	Slaughterhouse	HI	A slaughterhouse shall be at least 1,000 feet from any residential property line.	
36	Vehicle storage	GC	(a)	Vehicle storage is subject to the outdoor storage conditions of this ordinance and must be kept behind opaque screening and in accordance with chapter 112 of the Code of Ordinances.
			(b)	Vehicles that contain hazardous materials pursuant to the standards of the state department of transportation, the state commission on environmental quality, or any other regulatory agency of the state or federal government are not allowed to be in such vehicle storage.
37	Telecommunication facilities	All, where permitted	Except as otherwise provided in the Code of Ordinances, telecommunication towers in excess of 50 feet in height and monopole towers in excess of 85 feet in height are permitted in all non-residential zoning districts with a special use permit in accordance with section 1.26 of this ULDC.	
41	Recycling centers	LI	(a)	Recycling centers are only allowed if the center is an indoor facility.
			(b)	Outdoor storage is allowed only if the items being stored are completely enclosed in containers in conformance with this ULDC.

42	Outdoor storage, container, Boat and RV storage, Building, heating, plumbing, general, service or electrical contractors with outdoor storage	All, where permitted	»	All outdoor storage shall only occur within the side and/or rear yard(s) of the property. Where double frontage occurs, outdoor storage shall not be permitted beyond the plane of the side building façade that is adjacent to the side street.
			»	All outdoor storage shall be separated by a vegetative or transition buffer, as described in section 3.14(j) of the Code of Ordinances, from all adjacent uses and all public streets.
43	Medical equipment storage and research facilities	MU, GC, LI	(a)	Medical equipment must be totally enclosed within a building.
			(b)	No outdoor storage of medical equipment.
			(c)	Storage does not include incineration or other forms of destruction but only storage.
			(d)	Medical research facilities shall be located only on the same lot with a hospital or on the same campus as a hospital and shown on a detailed plan meeting the requirements of subsection 2.08(d), which must be approved and administered in accordance with section 2.08.
44	Dwelling Unit	MU, ACE, LC, GC, LI, HI	(a)	New attached single-family and duplex dwellings are allowed in MU as a primary use. Conditions for the respective dwelling unit type can be found in Section B—Residential Categories of Land Use Conditions Chart.
			(b)	Dwelling units are allowed in ACE following the standards set forth in this ULDC.

(c)	Live-work uses may be located in an ACE district.	
	i.	Behind a business on its first floor as long as:
		• The exterior wall of the residential area is not along Texas Avenue;
		• The exterior wall of the commercial use and the primary entrance to the commercial use is along Texas Avenue; and
		• The commercial use occupies at least 25% of the area of the first floor; and
	ii.	Above the first floor where the residential unit has frontage on Texas Avenue.
	iii.	If:
		• No residential dwelling unit on the first floor has a door opening onto the primary street;
		• Less than 50% of the mixed-use building's frontage on the first floor along a primary street is used for residential dwelling unit(s); and
		• The mixed-use building is not new construction; or
iv.	If the residential unit is above the ground floor.	

(d)	When a mixed-use building fronts on Texas Avenue in the ACE district, a residential use is allowed only:	
	i.	If:
		<ul style="list-style-type: none"> <li>• No residential dwelling unit on the first floor has a door opening onto the primary street;</li> </ul>
		<ul style="list-style-type: none"> <li>• Less than 50% of the mixed-use building's frontage on the first floor along a primary street is used for residential dwelling unit(s); and</li> </ul>
		<ul style="list-style-type: none"> <li>• The mixed-use building is not new construction; or</li> </ul>
	ii.	If the residential unit is above the ground floor.
(e)	Dwelling units are allowed in LC in cases in which they are allowed in an approved planned unit development.	
(f)	A dwelling unit is allowed in GC, LI, and HI as an accessory use for on-site security and management purposes.	
(g)	A detached single-family dwelling unit is allowed in MU as an accessory use for on-site security and management purposes when used as a commercial use.	
(h)	Except as provided in condition A44(g), new dwelling units cannot be constructed after April	

				13, 2013, in GC.
45	Entertainment facilities, including bars and lounges	All, where permitted	Entertainment facilities, including bars and lounges, are subject to the restrictions under chapter 6 of the Code of Ordinances.	
46	Truck Stop	GC	Only allowed on a lot that has frontage on either Interstate 10 or Thompson Road and is completely located within a 2,000-foot radius measured from the centerline intersection of Interstate 10 and Thompson Road.	
48	Manufacturing (light)	All, where permitted	(a)	All manufacturing activities must be contained entirely within a building.
			(b)	Manufacturing of hazardous cargo and/or materials is prohibited.
48.5	Manufacturing (light)	GC	(a)	Minimum lot size must be at least one acre.
			(b)	The minimum building setback shall be 100 feet. Within this setback, a 50-foot open space and a 50-foot vegetative buffer shall be provided.
			(c)	Existing uses may expand no more than 50% of the total square footage of all buildings lawfully existing on December 20, 2015, and be exempt from all use conditions, property development and compatibility standards except for the following:
				» Meet LI setbacks along with all other standards for GC in Table 3-1; and
				» Provide a minimum of six feet of opaque

				screening from all adjacent uses.
49	Manufacturing (custom)	All, where permitted	(a)	All manufacturing (custom) activities are to be contained entirely within a building.
			(b)	Storage or manufacturing of hazardous cargo and/or materials is prohibited.
			(c)	All manufacturing (custom) activities shall be limited to 10,000 square feet of floor area or less.
50	Outside sales and display	All, except LI and HI	Outside sales and displays are limited in area to 500 square feet or 10% of the gross floor area of primary uses, whichever is greater, and shall be considered as retail sales floor area for purposes of calculating parking.	
51	Storage building	All, except LI and HI	(a)	Storage buildings are limited in area to 500 square feet or 10% of the gross floor area of the primary use, whichever is greater, and shall be considered as retail sales floor area for purposes of calculating parking.
			(b)	Storage buildings must be placed behind the front building frontage of the structure housing the primary use.
52	Vehicle and boat sales, rental or leasing facility	GC	(a)	Repair work, if any, shall be done wholly inside of a building.
			(b)	Only non-commercial vehicles and boats shall be sold, rented, and leased in zoning districts subject to this condition.
			(c)	Vehicle storage is subject to the outdoor storage

				conditions of this appendix and must be kept behind opaque screening and in accordance with chapter 112 of the Code of Ordinances.
			(d)	Vehicles that contain hazardous materials pursuant to the standards of the state department of transportation, the state commission on environmental quality, or any other regulatory agency of the state or federal government are not allowed to be in such vehicle storage.
53	Equipment sales and rental facilities	GC	(a)	All equipment shall be separated by opaque screening from all adjacent properties and all public rights-of-way, except one of each equipment type may be used for display purposes.
			(b)	The sale or rental of tools, tractors or equipment shall: (i) be less than 10 feet in height in its storage and display configuration; and (ii) shall not be defined as heavy equipment nor designed and used solely for industrial purposes.
54	Supply houses	GC	(a)	Outdoor storage shall be separated by opaque screening from all adjacent uses and all public rights-of-way.
			(b)	Storage or sale of hazardous cargo and/or materials is prohibited.
			(c)	Loading docks or bay doors shall not face arterial or collector rights-of-way.

			(d)	The minimum building setback shall be 100 feet. Within this setback, a 50-foot open space and a 50-foot vegetative buffer shall be provided.
			(e)	Minimum lot size must be at least one acre.
			(f)	Existing uses may expand no more than 50% of the total square footage of all buildings lawfully existing on December 20, 2015, and be exempt from all use conditions, property development and compatibility standards except for the following:
			»	Meet LI setbacks along with all other standards for GC in Table 3-1; and
			»	Provide a minimum of six feet of opaque screening from all adjacent uses.
			(g)	Storage or sale of hazardous cargo and/or materials is prohibited.
54.5	Supply houses	LI	(a)	Outdoor storage shall be separated by opaque screening from all adjacent properties and all public rights-of-way.
			(b)	Storage or sale of hazardous cargo and/or materials is prohibited.
55	Repair Business	All, where permitted	(a)	Outdoor storage shall be separated by opaque screening from all adjacent uses and all public rights-of-way.
			(b)	Repair work shall be performed wholly inside of an enclosed structure.

56	Sandblasting	GC, NSC, ACE, LC	Sandblasting must be conducted wholly within an enclosed structure.	
57	Sandblasting	LI, HI	Sandblasting shall be permitted if (i) contained wholly inside of an enclosed structure or (ii) outside of an enclosed structure with an approved special use permit.	
58	Nursing homes and assisted living facilities	NSC	(a)	Nursing homes and assisted living facilities shall provide a 20-foot vegetative buffer zone consisting of one tree and eight shrubs for every 30 linear feet of the shared property line between all residential zoning districts and uses. The plantings shall meet the specifications of section 18-1203 of the Code of Ordinances.
			(b)	Nursing homes and assisted living facilities shall be located on arterials or collectors.
59	Self-storage	GC	(a)	No self-storage land use shall be located within one mile of another self-storage land use. The measurement of the distance between self-storage shall be in a direct line from property line to property line, without regard to roadways and intersections; and Self-storage buildings shall have a maximum height of 30 feet. Parapet walls used to screen mechanical equipment on the roof shall not be considered for the height measurement.
			(b)	Bay access, interior—Self-storage bay(s)/unit(s) shall be accessed from the interior of a building; and Self-storage bay(s)/unit(s)/doors shall not be visible from the exterior of the building.

			(c)	Bay access, exterior—Self-storage bay(s)/unit(s) with entrances accessible from the exterior of the building shall only be permitted along façades facing the interior of the property and façades not facing the public street. Self-storage bay(s)/unit(s) with entrances accessible from the exterior of the building shall install a transition buffer as described in section 3.14(j)5 of the Code of Ordinances.
60	Travel center	GC	(a)	Only permitted on sites within a 1,500-foot radius of the center lines of the following intersections: Interstate Highway 10 (IH 10) and South Main Street (near Highlands); the Grand Parkway (SH 99) east of Tri City Beach Road; and the Grand Parkway (SH 99) west of State Highway Business 146 (SH 146 BS).
			(b)	Sites shall have no less than 100 feet of frontage and be no less than 5 acres in size.
			(c)	Commercial vehicle parking spaces shall be limited to 8 spaces, with a maximum of 8 commercial diesel fueling positions.
			(d)	Fueling areas for non-commercial vehicles and fueling areas for commercial vehicles must be separated.
<b>B. Residential Categories</b>				
1	Accessory dwelling units	All, where permitted	(a)	Accessory dwelling units may be permitted as an accessory use to an otherwise allowed detached single-family dwelling in any zoning district that allows single-family dwellings.

(b)	The unit shall include a full kitchen.
(c)	Only one accessory dwelling per lot is allowed.
(d)	The total living area of the accessory dwelling unit shall not exceed 600 square feet or 25 percent of the square footage of the living area of the private residential dwelling, whichever is greater.
(e)	The principal residential and accessory dwelling unit together shall not exceed the maximum zoning district impervious cover.
(f)	The accessory dwelling unit may be part of or attached to the principal structure, and/or may be a separate structure.
(g)	All principal structure yard requirements shall be met by the principal structure and the accessory dwelling unit.
(h)	The accessory dwelling unit shall not exceed the maximum zoning district height.
(i)	Accessory dwelling units may not be used for commercial purposes.
(j)	Accessory structures other than accessory dwelling units that exceed 25% of the gross floor area of the primary residence must abide by the design standards in article three of this ULDC.
(k)	Accessory dwelling units must have similar

				architecture to the primary residence.
			(l)	Accessory dwelling units may be placed inside the primary residence or may be a freestanding structure.
			(m)	The primary and secondary dwelling units must be serviced by the same water/sewer meter.
			(n)	The accessory dwelling unit must have a separate address on file with the city and the authorities/organizations responsible for emergency response, mail delivery and electric service.
2	Residential accessory structures	All, where permitted	(a)	Residential accessory structures are allowed to remain in non-residential zoning districts as nonconforming uses only if the structure is an accessory to an existing, nonconforming primary residential use.
			(b)	New residential accessory structures allowed in SF2, except accessory dwelling units, are allowed if the structure is an accessory to an existing, nonconforming primary residential use. All residential accessory structures must meet the zoning district property development standards.
3	Agriculture	SFE, SF1, SF2, OR	(a)	Animals and agricultural uses involving animals are regulated pursuant to chapter 14 and/or chapter 42, article V of the Code of Ordinances.
			(b)	Any agents causing noxious odors shall not be located closer than 100 feet from any adjacent

				residential property line, public right-of-way, or public space.
5	Community building	All, where permitted	(a)	Free standing buildings must be of the same architectural style as the dwelling units they serve.
			(b)	Free standing buildings must be connected by walkways to pedestrian areas and parking lots.
			(c)	Parking must be provided in the amount of one space for every 50 residential dwelling units in the complex or one space for every 50 lots in the subdivision.
6	Community services	All, where permitted	(a)	Community services shall be separated from all adjacent residential dwellings by opaque screening.
			(b)	Minimum parking requirements are one per 200 square foot of usable area.
7	On-site association management offices and club houses for dwelling units	All, where permitted	Club houses and management facilities must be of similar architecture to the apartment complex or the neighborhood in which they are located.	
8	Family home day care	All, where permitted	(a)	There is a maximum of six children, including children of the family providing day care.
			(b)	Only those family home day cares that are duly licensed by the state are allowed.
			(c)	Baytown Fire Department permitting and inspections are required.

			(d)	All requirements for a home occupation shall be followed.
			(e)	Annual renewal of family home day care permit required with an inspection in advance of renewal.
9	Group housing, group homes for the disabled and personal care homes	All, where permitted	(a)	No group housing residents may occupy a single-family residence, other than the property owner or family of the property owner until a group housing acknowledgment form has been duly filed with the director on a form prescribed by the director.
			(b)	The facility shall be responsible for providing food, shelter, personal guidance, general care and supervision to all of its residents.
			(c)	There shall be no signs or other exterior visible evidence of the group housing use and the exterior structure must retain its compatibility with the surrounding residential dwellings.
			(d)	There shall be no visible storage of equipment, materials or vehicles that have more than two axles.
			(e)	No equipment shall be used that creates undue noise, vibration, electrical interference, smoke or particulate matter emission, excessive power demands or odors.
			(f)	The facility shall comply with the operational performance standards of the Code of

				Ordinances.
			(g)	The residents of the home may not keep, either on the premises of the home or on a public right-of-way adjacent to the home, motor vehicles in numbers that exceed the numbers of bedrooms in the home.
			(h)	The city reserves the right to inspect the location at any time to ensure that the health, safety and general welfare of the residents is being provided for by the facility.
			(i)	Nothing in this section shall be construed as attempting to regulate or affect the right of handicapped individuals to purchase their own dwellings or to affect the right of individuals to care for handicapped family members.
10	Home occupation	All residential districts	(a)	A home occupation shall not exceed 25% of the heated/air conditioned space of the dwelling unit.
			(b)	The following home occupation standards are intended to permit residents to engage in home occupations within zoning districts that allow residential uses and that are compatible with residential land uses and to ensure that home occupations do not adversely affect the integrity of residential areas.
			(c)	These home occupation standards shall have no application in any non-residential zoning district.

			(d)	A home occupation shall be considered an accessory use, subject to the following standards:
			i.	A home occupation must be conducted within a dwelling which is the bona fide residence of the principal practitioner;
			ii.	There shall be no signs or other exterior visible evidence of a home occupation;
			iii.	There shall be no storage of equipment visible outside the dwelling, or materials or vehicles that have more than two axles;
			iv.	The home occupation shall be conducted entirely within the principal residential building; and
			v.	No equipment shall be used that creates noise, vibration, electrical interference, smoke or particulate matter emission, power demands or odors above the existing level.
			(e)	Home occupations shall comply with the operational performance standards of this ULDC.
			(f)	Home occupation applicants shall complete an annual registration form and pay the one-time and annual fees as defined in chapter 2 of the Code of Ordinances.
11	Multifamily	MF1, MF2,	(a)	If a multifamily complex is constructed in

	dwelling	MF3		phases, the planned amenities and community buildings must be constructed in an at least equal ratio along with the residential buildings. For example, a 200- unit apartment complex with two swimming pools and two laundry buildings that is constructed in two 100-unit phases must construct at least one swimming pool and one laundry building with the first phase.
			(b)	Developments in the MF1 may not use special flood hazard areas in density calculation, thus preventing the development from being overcrowded on usable land and thereby being incompatible with the medium density duplex and townhouse development standards.
			(c)	Gazebos, workshops, green houses and other similar accessory uses are allowed in common space but may not be constructed on leased space or designated for individual tenant use.
11A	Multifamily dwellings	ACE	(a)	Multifamily dwellings shall not exceed 30 units per acre.
			(b)	Multifamily dwelling units are not allowed on the ground floor of buildings along Texas Avenue unless the units are located on the second floor or higher.
12	Places of assembly	All, where permitted	(a)	Direct vehicle access shall be provided from an arterial street.
			(b)	Outdoor recreation, entertainment and performing arts uses associated with places of

				assembly that utilize outdoor lighting and speaker systems shall be setback at least 300 feet from any residential use and shall provide a 25-foot wide vegetative buffer against the property line containing the residential use.
13	Private open space	All residential districts	(a)	Private open space is not a public park and may not be used to increase the net density on the project.
			(b)	Private open space shall be a minimum of 100 square feet in size.
			(c)	Private open space must be accessible to pedestrian pathways, if available.
			(d)	Private open space must be deed restricted to private recreation prior to any building permits being issued for any dwelling unit.
14	Single-family dwelling attached	SF2, MU MF1, MF2	(a)	Each single-family attached dwelling unit shall be situated on a separate legally platted lot.
			(b)	Required parking areas and garages shall be located to the rear of the building.
			(c)	Parking shall be permitted in the required street side yard.
			(d)	A home owner's association shall be established and made responsible for the perpetual maintenance and repair of common areas.
			(e)	The maximum number of units per building is eight.

			(f)	The minimum number units per building is three.
			(g)	Each dwelling unit shall have a front and a back door on the ground floor that exits to the exterior.
			(h)	Each unit shall have 25% of the lot area in private open space on the lot with the unit.
			(i)	Shared open space: each townhouse development shall have common open space not on the lot with the unit, accessible to all residents and not used for parking, storage, lift stations and the like.
			(j)	Density in the MF2 district shall not exceed 21 units per acre.
15	Solar energy systems	All, where permitted	Solar energy systems are allowed, so long as they do not reflect light into the public right-of-way or adjacent properties.	
16	Stable	SFE, SF1, SF2, MF1	A stable may not be used for commercial purposes.	
17	Single-family detached	MF1 ACE	(a)	Density may not exceed ten units per acre.
			(b)	Limited to developments of at least ten units.
			(c)	No single-family dwelling unit shall front on Texas Avenue.
18	Two-family dwelling duplex	SF2 ACE	(a)	Minimum density allowed shall be six units per acre.

			(b)	No two-family dwelling unit shall front on Texas Avenue.
19	Two-family dwelling duplex	MF2	Density shall not exceed 17 units per acre.	
20	Garage sales	All, where permitted	Subject to the restrictions of chapter 82 Article IV of the Code of Ordinances.	
21	Single-family dwelling attached	ACE	(a)	Required parking areas and garages shall be located to the rear of the building.
			(b)	The maximum number of units per building is 15.
			(c)	The minimum number of units per building is three.
			(d)	Common open space is required for each townhouse development and such common open space shall not be on the lot with the unit, shall be accessible to all residents, shall be within the boundary of the townhome subdivision plat, and shall not be used for parking, storage, lift stations or other similar uses.
22	On site storage of a personal pleasure boat or recreational vehicle	All, where permitted	Personal pleasure boat or recreational vehicle must be outside of the rear and side setbacks for the specific zoning category and stored in accordance to chapter 94 which requires such to be on an impervious surface.	
23	Onsite animals	All, where permitted	The minimum lot size for livestock, rabbits, fowl, bees or beehives is one acre. Animals and agricultural uses involving animals are	

regulated pursuant to chapter 14 and/or chapter 42, article V of the Code of Ordinances.

(Ord. No. 11,866, § 2(Exh. A), 2-23-12; Ord. No. 12,207, § 12, 3-14-13; Ord. No. 12,473, § 16, 2-13-14; Ord. No. 12,593, § 6, 8-14-14; Ord. No. 12,902, §§ 4, 5, 7-23-15; Ord. No. 12,903, § 3, 7-23-15; Ord. No. 13,062, § 5, 12-10-15; Ord. No. 13,190, § 2, 5-12-16; Ord. No. 13,522, § 6, 7-27-17; Ord. No. 13,523, §§ 4, 5, 7-27-17; Ord. No. 13,762, § 2, 5-10-18; Ord. No. 13,763, §§ 5, 6, 5-10-18; Ord. No. 13,974, § 1, 1-10-19; Ord. No. 14,381, § 2, 5-14-20; Ord. No. 14,406, § 3, 6-11-20; Ord. No. 15,133, § 4, 7-14-22; Ord. No. 15,192, § 12, 9-8-22; Ord. No. 15,361, § 4, 2-9-23; Ord. No. 15,400, § 1, 3-23-23; Ord. No. 15,516, § 2, 8-10-23; Ord. No. 15,575, § 4, 10-12-23)

ARTICLE III. - DESIGN AND COMPATIBILITY STANDARDS

DIVISION 1. - PROPERTY DEVELOPMENT STANDARDS

Table 3-1. Property development standards.

Non-Residential Zoning Category	MU*	NSC	GC*	LC	ACE	LI*	HI*	OR*
Minimum lot size (square feet)	5,000	10,000	10,000	10,000	2,500	20,000	5 AC	5,000
Minimum front setback	15	15	25	25	0	35	50	25
Minimum rear setback	5	5	5	5	0	20	40	10
Minimum interior side setback	5	5	5	5	0	5	10	10
Minimum street side setback	10	15	25	25	0	25	50	25
Maximum height (in feet)	40	35	60	60	60	50	60/75	50
Percent maximum lot coverage	90	90	75	75	100	90	90	50

Minimum lot frontage required (linear feet)	50	60	60	50	25	60	60	25
<b>Zoning Category</b>	<b>SFE*</b>	<b>SF1*</b>	<b>SF2</b>	<b>MU*</b>	<b>MF1</b>	<b>MF2</b>	<b>MF3</b>	<b>UN</b>
Minimum lot size (square feet)	43,560	See Tb. 2-1	1.25 AC	5,400				
Minimum front setback	25	15	15	15	20	25	25	15
Minimum rear setback	10	10	10	5	10	10	10	10
Minimum interior side setback	15	5	5	5	7.5	15	15	5
Minimum street side setback	25	15	15	10	20	25	25	10
Maximum height (in feet)	50	35	35	40	35	50	60	40
Percent maximum lot coverage	50	60	60	80	50	70	80	70
Minimum lot frontage required (linear feet)	125	75	50	25	25	20	60	50

\* Flag lots are permitted in this district that do not meet the minimum lot frontage required subject to the provisions of section 3.01, subsection (e).

(Ord. No. 11,866, § 2(Exh. A), 2-23-12; Ord. No. 12,207, § 13, 3-14-13; Ord. No. 13,191, § 14, 5-12-16; Ord. No. 13,522, § 3, 7-27-17; Ord. No. 15,133, § 5, 7-14-22; Ord. No. 15,361, § 5, 2-9-23)

Sec. 3.01 - Lots.

- (a) *Previously platted lots.* No requirement of this section shall prevent the development of a legally platted lot approved by the planning and zoning commission prior to April 13, 2013, so long as the development meets other applicable provisions of this ULDC.
- (b) *Area.* Each lot shall have a minimum area as set forth in table 3-1.
- (c) *Required frontage.*
  - (1) Each lot shall have frontage on a dedicated public right-of-way on which a street is accepted and built to the city's engineering standards or on a private, platted street that is built to the city's engineering standards as set forth in table 3-1.
  - (2) Each lot shall have a minimum width no less than the lot's minimum frontage width as set forth in table 3-1.
  - (3) Radial lots shall have at least 20 feet of frontage.
- (d) *Layout.* Where lot lines intersect the right-of-way, the lot lines shall be at a 90-degree angle with the right-of-way.
- (e) *Flag lots.*
  - (1) A flag lot consists of a narrow strip of land called a staff that provides access from the public street to a principal portion of a lot. The staff of the flag lot must meet the minimum dimension requirements of subsection (4) below. The principal portion of the lot must meet the minimum property development standards set forth in table 3-1.
  - (2) Flag lots shall only be used to provide for vehicular access to the principal portion of a lot through a staff and shall not be allowed if access to a public street in accordance with the minimum property development standards set forth in table 3-1 is available.
  - (3) The staff portion of the lot shall only be used for vehicular access purposes.
    - a. The staff portion of the lot shall be deed restricted so that it shall only be used for ingress and egress.
    - b. The restriction must preclude construction of any building, structure, wall or fence within those portions.
    - c. The restriction must clearly indicate any portion of the staff that is to be used as a joint or shared access.
  - (4) *Dimensions.*
    - a. If a flag lot that is zoned for single or two-family residential use derives access solely from its own staff, the minimum width of the staff shall be 20 feet.
    - b. If a flag lot that is zoned for any non-residential or multifamily use derives access solely from its own staff, the minimum width of the staff shall be 24 feet.
    - c. If a flag lot derives its access in common with another lot, the combined common access shall have a minimum width of 20 feet.

(Ord. No. 11,866, § 2(Exh. A), 2-23-12)

Sec. 3.02 - Setbacks.

- (a) Double frontage lots shall have setbacks that are at least equal to the required front or side yard setbacks of adjacent lots.

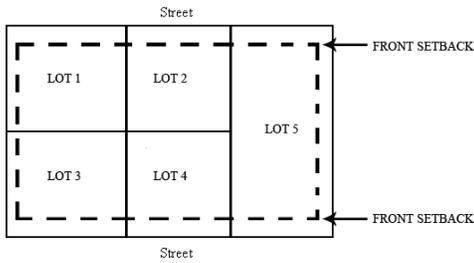
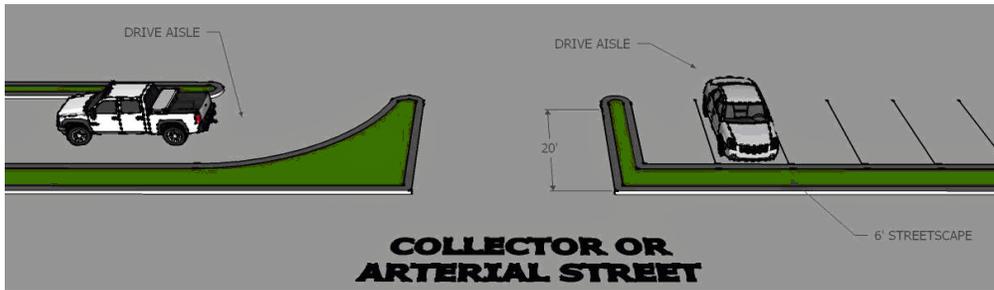


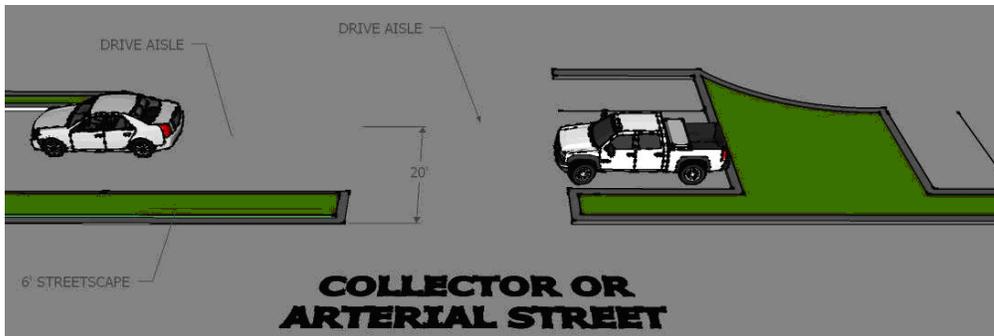
Figure 3-1. Double Frontage Lots

- (b) Parking stalls and drive aisles shall be allowed within all setbacks. Drive aisles with ingress/egress access to a collector or arterial street shall not be located parallel to a street so that turning movements occur within 20 feet of the property line. There shall be no parking stalls located along the entrance driveway/apron to the drive aisle, which may interfere with stacking of vehicles upon entrance to the property.

Figure 3-2. Parking Stalls and Drive Aisles



Examples of Allowable Configurations



Examples of Configurations that are Not Allowed

- 
- (c) The following features may be located within required setbacks so long as they are in conformance with the visibility triangle standards in section 122-3 of the Code of Ordinances:
- (1) Trees, shrubbery or other features of natural growth;
  - (2) Fences or walls may be placed in the front, side or rear yard setbacks provided that they do not violate sight triangles and provided that fences in the front yard setback are non-opaque;
  - (3) Off-street parking areas and sidewalks;
  - (4) Signs, if permitted by Appendix A, Article V, of the Code of Ordinances;
  - (5) Bay windows, architectural design embellishments and cantilevered floor areas of buildings that do not project more than two feet into the required setback;
  - (6) Eaves that do not project more than two feet into the required setback;
  - (7) Open outside stairways, entrance hoods, terraces, canopies, carports and balconies that do not project more than five feet into a required front or rear setback or more than two feet into a required side setback;
  - (8) Chimneys, flues and ventilating ducts that do not project more than two feet into a required setback and when placed so as not to obstruct light and ventilation;
  - (9) Open, unenclosed porches that do not project more than five feet into a required front or rear setback or more than two feet into a required side setback;
  - (10) Utility lines, wires and associated structures, such as power poles; and
  - (11) Mechanical equipment, such as air conditioning units, pool filtering and heating equipment, water softeners and similar equipment, if the equipment does not restrict pedestrian access through such setbacks and if it is totally screened from view from abutting property and rights-of-way by fences, walls or landscaping.

(Ord. No. 11,866, § 2(Exh. A), 2-23-12; Ord. No. 15,192, § 13, 9-8-22)

Sec. 3.03 - Height.

- (a) *Buildings*. Each zoning district shall have a maximum building height as specified in table 3-1.
- (1) Building height shall be measured as the vertical distance between the average finished grade at the base of the building and the mean height of the roof. The mean height of the roof is determined by averaging the highest and lowest points of the roof.
  - (2) For fences or walls, height shall be measured on the side with the least vertical exposure above the finished grade to the top of the fence or wall.
  - (3) Buildings in the heavy industrial (HI) zoning district have a maximum height of 60 feet unless the entire building is equipped with a National Fire Protection Association ("NFPA") 13 fire sprinkler system, then the maximum height shall be 75 feet.

(b) *Exemptions.* The following structures and features shall be exempt from the height requirements of this ULI the extent indicated:

- (1) Chimneys;
- (2) Cupolas, widow walks;
- (3) Utility poles and support structures;
- (4) Cooling towers and ventilators;
- (5) Municipal or other state or county government utility infrastructure; and
- (6) Spires and church steeples.

(Ord. No. 11,866, § 2(Exh. A), 2-23-12)

#### Sec. 3.04 - Lot coverage.

Each lot or tract shall conform to the maximum lot coverage standard set forth in table 3-1.

(Ord. No. 11,866, § 2(Exh. A), 2-23-12)

### DIVISION 2. - OPERATIONAL PERFORMANCE STANDARDS

#### Sec. 3.05 - Purpose.

The operational performance standards of this division are intended to protect the health, safety and welfare of the citizens of the city by regulating potential nuisance features associated with certain land uses.

(Ord. No. 11,866, § 2(Exh. A), 2-23-12)

#### Sec. 3.06 - Applicability.

The operational performance standards of this division shall apply to all uses, buildings and structures within the city unless otherwise specifically indicated.

(Ord. No. 11,866, § 2(Exh. A), 2-23-12)

#### Sec. 3.07 - Exemptions.

The following are exempt from the operational performance standards of this division:

- (a) Temporary construction, excavation and grading associated with development for which applicable permits have been issued and with the installation of streets or utilities; and
- (b) Demolition activities that are necessary and incidental to permitted development on the same lot, on another of several lots being developed at the same time or in the public right-of-way or easement.

Sec. 3.08 - Standards.

Under this division, the following standards shall apply:

- (a) *Noise*. Sites shall be laid out and uses shall be operated to prevent noise from becoming a nuisance to adjacent single-family and duplex uses;
- (b) *Vibration*. All uses shall be operated so that ground vibration is not perceptible outside the lot lines of the site on which the use is located;
- (c) *Fire and explosive hazards*. Underground storage tanks for flammable liquids and gasses shall be located at least 50 feet from the lot line of lots that contain a single-family or duplex use; aboveground tanks shall be set back at least 100 feet from such lot lines, unless the board of adjustment determines, based on information provided by the applicant, that a 50-foot setback will ensure compliance with all applicable state standards. The storage tank setback requirements of this subsection shall not apply to tanks that are necessary to single-family or duplex units; and
- (d) *Light and glare*. The following operational performance standards shall apply:
  - (1) All exterior lighting shall be hooded or otherwise shielded so that the light source is not directly visible from property that contains a single-family or duplex;
  - (2) All lighting shall be shielded so that substantially all emitted light falls within the property line of the property from which the light emanates;
  - (3) All exterior building floodlights shall be shielded so that all emitted light falls upon the property from which the light emanates;
  - (4) No illumination shall produce direct, incident or reflected light that interferes with the safe movement of motor vehicles on public streets. The types of lighting that shall be prohibited by this subsection shall include but not be limited to any light that may be confused with or construed as a traffic control device and any animated, flashing or changing intensity lights, except for temporary holiday displays; and
  - (5) Electromagnetic interference. No operations or activities shall be conducted that cause electrical disturbances to be transmitted across lot lines.
- (e) *Screening*. Non-residential and multifamily residential development, including off-street parking areas associated with such developments, shall be screened from view of adjacent single-family or duplex use and any property zoned SFE, SF1, SF2, or OR. Such visual screening shall be accomplished through the use of opaque fence meeting the requirements within this ULDC, pertaining to buffer fencing, along the lot line that is adjacent to the single-family or duplex use or property zoned SFE, SF1, SF2 or OR. Mechanical equipment, outdoor storage areas and refuse collection areas shall be completely shielded from view of adjacent single-family or duplex uses, scenic corridors or property zoned SFE, SF1, SF2 or OR by an opaque fence or wall made of material specified in division 2 of article XII of

chapter 18 that is at least one foot taller than the site feature being screened from view, provided this shall not be interpreted as requiring screening, fences, or walls to be taller than ten feet. Fences, walls and buffers must comply with all other requirements of the ULDC.

- (f) *Drilling, oil or gas operations.* Subsection (e) of this section shall not apply to drilling, oil or gas operations. All drilling, oil or gas operations must be in compliance with the Code, including chapter 62 and this ULDC.

(Ord. No. 11,866, § 2(Exh. A), 2-23-12; Ord. No. 12,207, § 14, 3-14-13; Ord. No. 12,473, § 17, 2-13-14; Ord. No. 13,191, § 15, 5-12-16; Ord. No. 15,192, § 14, 9-8-22)

Sec. 3.09 - Compliance.

Any use existing on April 13, 2013, that does not comply with one or more of the operational performance standards of this section shall not be deemed a nonconforming use for the purposes of this ULDC.

(Ord. No. 11,866, § 2(Exh. A), 2-23-12)

DIVISION 3. - NON-RESIDENTIAL ZONES

Sec. 3.10 - Applicability.

Any parcel zoned one or more of the non-residential zoning categories shall comply with the masonry, architectural and site design standards listed in this section.

- (a) *Masonry.*

- (1) All building façades other than accessory use buildings less than 500 square feet, shall have all exterior walls constructed using masonry materials in accordance with the minimum masonry materials coverage percentage shown in table 3-2, exclusive of doors and windows, according to the zoning district in which the building is located and street on which the building faces.
- (2) Rear façades facing a public street or parking lot shall be considered a side façade and shall be subject to the side façade standard applicable to that zoning district and street classification as shown in table 3-2.

**Table 3-2. Non-residential minimum masonry materials coverage percentage(%) requirement.**

Zoning District	Building Square Footage	Arterial Streets, State Highway and Interstate Highway (Freeways) Standard	Collector and Local Street Standards

		Front	Side	Rear	Front	Side	Rear
LC	-	80	50	0*	60	20	0*
GC	-	80	50	0*	60	20	0*
NSC	-	80	50	0*	60	40	0*
MU	No Masonry Standard						
LI	0—50K	75	50	0*	60	50	0*
	50K— 100K	60	50	0*	60	50	0*
	100K and up	50	50	0*	50	50	0*
HI	No Masonry Standard						
<b>Note:</b> Rear façades facing a public street or parking lot shall be considered a side façade and use the side façade standard applicable to that zoning district and street classification.							

(b) *Architectural.* The following standards apply only to all building façades that face a street or public right-of-way and to each whole story that is completely or partially within 40 feet in height as measured from the finished floor elevation:

(1) *Articulation and relief.*

- a. Buildings over 40 feet in length shall have some sort of building relief of at least 12 inches which may include pilasters, columns, niches, or other variations in building plane.
- b. Buildings over 25 feet in height shall utilize ledges, brick or stone courses, or other variations in building plane in order to delineate each story.

(2) *Style elements.* Style elements affect the building(s) entrance treatment and hierarchy, provide for architectural embellishment, or enhance the transition from public property to private property.

- a. Buildings facing any street or public right-of-way, except public alleys, shall be required to

utilize two different style elements.

- b. Acceptable style elements include, but are not limited to, recessed entries, stoops, storefront bay windows, public/private entrance differentiation, permanent decorative awnings, canopies, overhangs, porches, arcades, balconies, outdoor patios, public art displays, and plaza space.

(c) *Site design.*

- (1) Sidewalks in conformance with chapters 18 and 122 of the Code of Ordinances shall be installed from property line to property line at the expense of the property owner in all adjacent rights-of-way prior to the issuance of a certificate of occupancy or completion for a new commercial building.
- (2) A connection from the primary building entrance to the public sidewalk system shall be provided using an all-weather surface.
- (3) Detention facilities shall be setback at least 30 feet from all public rights-of-way and shall be screened from view from public streets. Detention facilities may encroach into the required 30-foot setback if they are designed and maintained as a landscaped feature. Detention facilities must be separated from all adjacent uses by an opaque screen.
- (4) Commercial waste enclosure(s). Commercial waste enclosures shall be incorporated into the overall design of the building and landscape so that visual impact of brush and commercial waste containers are fully contained and out of view from adjacent properties and public rights-of-way. Commercial waste enclosures shall be:
  - a. Located in the rear or side yard;
  - b. Subject to setback standards described in table 3.1;
  - c. Placed a minimum distance of 20 feet from any public right-of-way, public sidewalk, or property line that abuts a residential zoning district or any residential use;
  - d. Constructed of any one or more of the following materials and include an opaque gate:
    - Redwood;
    - Rough cedar;
    - Pressure treated lumber;
    - Brick;
    - Concrete; and
    - Masonry materials as defined within article VI of the ULDC.

Metal and plastic are prohibited materials for any visible exterior wall of the commercial waste enclosure, except for the required opaque gate; and

  - e. A minimum height of the greater of (i) six feet or (ii) one foot taller than the waste container;

provided that the maximum height shall not exceed ten feet in height.

(d) *Landscape*. The standards for landscaping are set forth in section 3.10.5, landscaping of this division. (Ord. No. 11,866, § 2(Exh. A), 2-23-12; Ord. No. 13,521, § 1, 7-27-17; Ord. No. 13,522, § 4, 7-27-17; Ord. No. 13,764, § 2, 5-10-18; Ord. No. 15,192, § 15, 9-8-22)

#### Sec. 3.10.5. - Landscaping requirements.

(a) *General*.

- (1) *Title*. This section shall be known and may be referred to as the "Landscaping Ordinance of the City of Baytown" or simply as the "Landscaping Ordinance."
- (2) *Purpose*. This section is adopted for the purpose of promoting the public health, safety and general welfare of the citizens of the city and is intended to achieve one or more of the following:
  - a. To create an aesthetically pleasing environment that improves the quality of life for citizens;
  - b. To enhance property values and to protect public and private investment;
  - c. To promote the beautification of the city;
  - d. To provide adequate light and air space;
  - e. To prevent overcrowding of land;
  - f. To ensure that the local stock of trees and vegetation is replenished; and/or
  - g. To stabilize the environment's ecological balance by contributing to the processes of air purification, oxygen regeneration, ground water recharge, stormwater runoff, and soil erosion retardation, while at the same time aiding in noise, glare and heat abatement.
- (3) *Applicability*. The provisions of this section shall apply to all nonresidential developments and multifamily complexes, as that term is defined in article VI—definitions, within the city, unless specifically provided otherwise in this article.
  - a. The landscaping provisions contained in this article shall become applicable to each individual nonresidential lot at the time an application for a new commercial permit is made. When remodeling, redevelopment or reconstruction is proposed on nonresidential property that would result in an expansion of gross floor area, parking lot area, or vehicular surface area, the following provisions apply:
    1. When remodeling, redevelopment or reconstruction is proposed on nonresidential property that would expand existing gross floor area of the lot's structure or structures by less than 50 percent, only the portion of the site where the expansion is located is subject to the provisions of this section.
    2. When remodeling, redevelopment, reconstruction or expansion is proposed on nonresidential property that would expand existing gross floor area of the lot's structure or structures by 50 percent or more, the entire property must comply with the provisions of this article.

removal of any portion of an existing building is not required for compliance with this subsection (c)(1)b.

3. If within a three-year period the impervious surface area of a nonresidential development is increased by 25 percent or more or if within a three-year period 25 percent or more of the impervious surface area of a nonresidential development is reconstructed, the requirements of section 3.10.5(3) shall be applied only to the area where the expansion or reconstruction occurs.

This provision shall apply only when such expansion or reconstruction is not a part of a structural remodeling, redevelopment or reconstruction project.

- b. All landscaping requirements under this article shall run with the land and shall apply against any owner or subsequent owner.
  - c. Each phase of a phased project shall comply with the requirements of this section. If the nonresidential development is to be construed in phases, phase lines shall be drawn 20 feet or more from developed site elements (parking, buildings, ponds, etc.). The portion of the land remaining for subsequent phases shall be no less than three-fourths of an acre.
  - d. This section shall have no application to nonresidential developments with parking lots of less than 5,000 square feet.
- (4) *Inconsistent provisions and conflict with other regulations.* In the event that any provision of this article is inconsistent or in conflict with any other provision of this article or any other ordinance or regulation of the city, the more stringent provision shall control, unless otherwise specifically stated.
- (5) *Transitional provisions.*
- a. *Building permits.* Except as specifically provided in this article, the provisions of this article shall not affect any valid building permit issued or any valid building permit application filed prior to August 2, 1998, provided that construction pursuant to such permit, is commenced within six months of the date of issuance of the permit and diligently pursued, as determined by the chief building official, to completion in accordance with the applicable regulations of the city.
  - b. *Subdivision plats.* Except as specifically provided in this article, the provisions of this article shall not affect any preliminary plat or final plat approved pursuant to the regulations of article IV—subdivisions.
- (b) *Landscape plan.* When a new commercial permit is required, the owner shall provide the director as part of his construction documents a landscape plan containing the following information:
- (1) The location of existing boundary lines and dimensions of the tract and the square footage of the total off-street parking area;
  - (2) The location of existing and proposed utility easements on or adjacent to the lot and the location of overhead power lines and any underground utilities;
  - (3) A description of adjacent land uses, existing developments and roadways;

- (4) The location, size and type of proposed landscaping in areas to be landscaped and the size of proposed area;
- (5) The location, species and diameter of existing trees having a caliper of 1½ inches or larger. Landscape reserves with numerous trees may be outlined with a description of existing trees to be preserved; and
- (6) All other information necessary for verifying that the minimum landscaping requirements have been satisfied pursuant to this article.

All forms of landscaping are suitable including flowers, ground cover, shrubs, trees and the various forms and sizes of mulch. Unless expressly stated otherwise, all trees shall be a minimum of five feet in height immediate upon planting and have a minimum 1½-inch caliper. All shrubs must be a minimum size of one gallon and be a minimum of 1½ feet in height when planted. Plant height shall be measured from average grade after planting.

(c) *Required landscaped open spaces.* The owner of the property on which an off-street parking area is located shall be required to provide interior landscaped open spaces for any parking lot 5,000 square feet or larger. All areas within the parking lot's perimeter are counted toward the landscape requirement, including the planting islands, curbed areas, parking spaces, and all interior driveways and aisles. The required landscape open space area shall be calculated as follows:

Total Off-street Parking Area	Percent of the Off-street Parking Area that must be a Landscaped Open Space Area
5,000—9,999 square feet	5 percent
Over 9,999 square feet	7 percent

At least 50 percent of the required landscaped open space shall be located within the parking lot as an island or as a peninsula in order to be applied towards the landscaped requirements of this section. The remaining 50 percent of the required landscape open space may be located outside of the parking lot, but must be located forward of the rear building line of the primary structure and be visible from the public street.

- (1) A minimum of one shade tree and four shrubs shall be planted and maintained for each 350 square feet or portion thereof of landscaped open space area. Credit may be given or received for preservation of existing trees as follows; provided, that the existing trees are located near or within the parking lot's perimeter, in good form and condition and reasonably free of damage by insect, disease or other affliction, as determined by the director:

--	--

Existing Tree Caliper	Tree Credit
1½—6 inches	1
6—12 inches	2
Over 12 inches	3

- (2) Groundcover or mulch is required in swales, drainage areas, parking lot islands, landscape reserves and all unpaved portions of the property that is not otherwise used for a parking lot, building site or other improvement.
  - (3) All persons subject to this ordinance must replace dead landscaping or landscaping that has been removed by any means and for any reason within 45 days of receipt of written notification by the director. Failure to replace landscaping as required by this section shall constitute a violation of this article punishable as provided in section 18-1208.
  - (4) That portion of any off-street parking area, not otherwise required by section 112-4 that is located at a site primarily used for the storage of vehicles is exempt from the requirements of this section. Additionally, public schools of an elementary or secondary level and recreational areas owned by such schools shall be exempt from the requirements of this section.
  - (5) The landscaping requirements of this section shall not be required for heavy industry uses in a HI zoning district.
- (d) *Streetscape.*
- (1) In addition to the landscaping requirements of section 3.10.5, the owner of nonresidential property subject to this article shall be required to provide streetscape as described in this section and as depicted in figure 3-1 "Streetscape Layout." Nothing in this subsection shall be construed as to require streetscape on undeveloped land. Streetscapes shall be no less than six feet wide.
  - (2) Streetscape shall be required along the entire length of the property which is adjacent to a street right-of-way, except that streetscape shall not be required across driveways.
  - (3) Streetscape shall include an area beginning at the property line which is adjacent to a street right-of-way, extending into the private property to establish the required width as listed in this section.
  - (4) The streetscape's trees, shrubs, ground cover, and other landscaping shall be placed and maintained so as not to cause a visual obstruction and so as not to violate section 122-3.
  - (5) Streetscapes shall be adequately watered using one of the following methods:
    - a. Automatic irrigation system; or
    - b. Manual watering, if all parts of the landscape improvements are within 100 feet of one or more

hose bibs, and if a nonresidential streetscape improvement does not exceed 1,500 square feet.

(6) Streetscape width shall be determined by the street classification as identified by the city's major thoroughfare plan and shall be as follows:

Classification	Minimum Streetscape Width	
Local	6 feet	
Collector	6 feet	
Minor Arterial	Lot Size	Minimum Street Width
	1 acre or less	6 feet
	More than 1 acre	12 feet
Major Arterial	Lot Size	Minimum Street Width
	1 acre or less	6 feet
	More than 1 acre	12 feet
Freeway	25 feet	

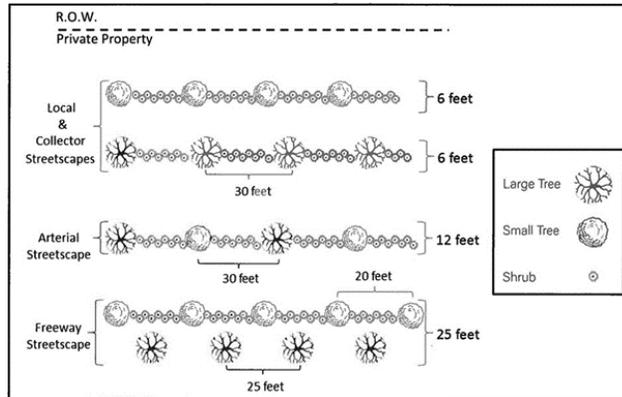
(7) *Streetscape planting installation.*

- a. Within a streetscape, large trees can be substituted with small trees where overhead utility lines will conflict with the large tree at or before the tree grows to its mature height.
- b. All trees and shrubs are to be planted in an organized fashion and in such a way as to facilitate the creation of a visual screen.
- c. Local and/or collector. The streetscape along local and collectors street shall be planted with either large or small trees, planted 30 feet on center, with eight shrubs, not less than two feet in height, for every 30 feet.
- d. Minor and major arterials. The streetscape along a major and/or minor arterial street shall be planted with either large or small trees, planted 30 feet on center, with eight shrubs not less than two feet in height for every 30 feet to form an intermittent hedge. No less than 50 percent of the tree plantings shall be large trees along minor and major arterials.

e. Freeway.

1. The streetscape along a freeway shall be planted as a staggered double row consisting of small evergreen trees on the front row, and large trees on the back row.
2. The front row of trees shall be planted 20 feet on center.
3. A minimum of 50 percent of the back row shall be planted with evergreen trees. This row shall consist of large trees planted 25 feet on center.
4. A minimum of eight shrubs, not less than two feet in height, for every 20 feet forming an intermediate hedge, shall be planted in the front row.

Figure 301. Streetscape Layout



- f. Appropriate tree planting species. Appropriate shade tree species for streetscape and buffers include the following:

Tree Species	Local/Collector Streetscape	Arterial Streetscape	Freeway Streetscape	Vegetative/Transition Buffer
Lacebark Elm ♦(l) (Ulmus parvifolia)	x	x	X	
Southern Magnolia ♦♦ (l) (Magnolia grandiflora)		x	X	x
Live Oak ♦♦ (l) (Quercus virginiana)		x	X	x
American Holly ♦♦ (l) (Ilex opaca)		x	X	x

Montezuma Cypress ♦ (l) (Taxodium mucronatum)		x	X	x
Eastern Redcedar ♦♦ (l) (Juniperus virginiana)		x	X	x
Common Crapemyrtle ♦(s) (Lagerstroemia indica)	x	x		
Waxmyrtle ♦♦(s) (Myrica cerifera)	x	x	X	x
Yaupon ♦♦(s) (Ilex vomitoria)	x	x	X	x
Little Gem Magnolia ♦♦(s) (Magnolia grandiflora)	x	x	X	
Sweetbay Magnolia ♦♦(s) (Magnolia virginiana)	x	x	X	x
Foster Holly ♦♦(s) (Ilex x attenuata 'Fosteri')	x	x	X	
Flowering Dogwood ♦(s) (Cornus florida)	x	x		
Nelly Stevens Holly ♦♦(s) (Ilex x)	X	x	X	
(s)—small tree (l)—large tree ♦—deciduous tree ♦♦ - evergreen tree				

(8) *Variances.*

- a. The director has the authority to approve variations to the streetscape tree species and the layout of the streetscape plantings as set forth in this section, so long as the number of required

plantings and the size of the required plantings meet the intent of this article.

- b. Any person, wishing to appeal the director's denial of a variance pursuant to subsection (h)(2), may file a completed application for a variance pursuant to section 1.29 within 30 days after the director's decision. Such variance request shall follow the process and procedures therein established.

(9) *Exceptions.* The following shall be exempt from the streetscape requirements set forth in this section:

- a. A lot that is permitted to have a lot coverage greater than 91 percent, or
- b. A lot that is:
  - 1. Twenty-one thousand seven hundred eighty square feet or less and
  - 2. Adjacent to property developed with nonresidential land uses, which adjacent property does not have an existing streetscape.

(Ord. No. 15,192, § 16, 9-8-22; Ord. No. 15,414, § 1, 4-13-23)

#### Sec. 3.10.7. - Off-street parking and open space areas.

- (a) *Off-street parking applicability.* The off-street parking requirements specified in this chapter shall not apply in the arts, cultural and entertainment (ACE) zoning district and in certain central business district areas as depicted on the maps set forth in appendix 2 of this chapter which are on file with the city clerk. All private property shown in the shaded portions on such maps is exempted from the requirements of this chapter.
- (b) *Granting of exceptions.* The planning and development director is granted the authority to issue an administrative variance where there are minor discrepancies with regard to the requirements established in this section, where it is determined that the literal application of such requirements would constitute an undue hardship with regard to the applicant's particular circumstances and would not be essential in accomplishing the objectives of this chapter. In areas that are fully or near fully developed, a variance of up to 30 percent of the number of off-street parking spaces required in this chapter shall be allowed by the planning and development director. If the applicant is dissatisfied with the decision of the planning and development director with regard to a requested exception, he shall be entitled to appeal such decision to the board of adjustment and appeals.
- (c) *Minimum requirements for spaces.*
  - (1) *Minimum number of parking spaces.* There shall be provided, at such time as a building permit is issued for the erection, alteration or use change of a structure, off-street parking spaces in accordance with the following minimum requirements:
    - a. Bowling alley: Five parking spaces for each lane;
    - b. Business or professional office, studio, bank, medical or dental clinic: Three parking spaces plus one additional parking space for each 200 square feet of floor area over 500;
    - c. Church, theater, auditorium (except school), sports arena, stadium or gymnasium: One parking

- space for each four seats or bench seating spaces;
- d. Community recreation center, library, museum or art gallery: Ten parking spaces plus one additional space for each 300 square feet of floor area in excess of 2,000 square feet. If an auditorium is included as a part of the building, its floor area shall be deducted from the total and additional parking provided on the basis of one space for each four seats that it contains;
  - e. Dancehall, assembly or exhibition hall without fixed seats: One parking space for each 100 square feet of floor area used thereof;
  - f. Fraternity, sorority or dormitory: One parking space for each three beds;
  - g. Furniture or appliance store, hardware store, wholesale establishment, machinery or equipment sales and service, clothing or shoe repair or service shop: Two parking spaces plus one additional parking space for each 300 square feet of floor area over 1,000;
  - h. Hospital: Four parking spaces plus one additional parking space for each four beds;
  - i. Hotel: One parking space for each sleeping room or suite plus one parking space for each 400 square feet of commercial floor area contained therein;
  - j. Industrial plant: The number of parking spaces required to accommodate all plant employees and construction forces on any single shift;
  - k. Mortuary or funeral home: One parking space for each 50 square feet of floor space in slumber rooms, parlors or individual funeral service rooms;
  - l. Motor vehicle sales room or car lot: One parking space for each 500 square feet of sales floor area with a minimum of three parking spaces;
  - m. Private club, lodge, country club or golf club: One parking space for each 150 square feet of floor area for every five members, whichever is greater;
  - n. Restaurant, nightclub, café or similar recreation or amusement establishment: One parking space for each 100 square feet of floor area;
  - o. Retail store or personal service establishment, except as otherwise specified in this section: One parking space for each 200 square feet of retail sales or floor area;
  - p. Roominghouse or boardinghouse: One parking space for each sleeping room;
  - q. Sanitarium, convalescent home, home for the aged or similar institution: One parking space for each six beds;
  - r. School, elementary: One parking space for each ten seats in the auditorium or main assembly room or one space for each classroom, whichever is greater;
  - s. School, secondary, and college: One parking space for each eight seats in the main auditorium or three spaces for each classroom, whichever is greater;
  - t. Tourist home, cabin or motel: One parking space for each sleeping room or suite;
  - u. Vehicle or boat repair business, including, but not limited to those defined in [section 102-136](#) and automobile repair, major and minor as defined in the Unified Land Development Code: One space

for each service bay, plus one space for every 300 square feet of building floor area.

- (d) *Rules for computing number of spaces.* In computing the number of parking spaces required for each of the uses listed in this section, the following rules shall govern:
- (1) Floor area shall mean the foundation area of the specified use. For a multistory building, each story shall be considered a separate foundation area, so that the total floor area of such building shall include the area of all floors added together;
  - (2) Where fractional spaces result, the parking spaces required shall be construed to be the nearest whole number;
  - (3) The parking space requirement for a use not specifically mentioned in this chapter shall be the same as required for a use of a similar nature; and
  - (4) For mixed uses, the parking spaces required shall equal the sum of the requirements of the various uses computed separately.
- (e) *Construction or use changes.* Whenever a building or use is constructed or changed after the effective date of the ordinance from which this chapter derives by enlarging the floor area, number of employees, number of dwelling units, seating capacity or otherwise, to create a requirement for an increase in the number of parking spaces, such spaces shall be provided on the basis of the enlargement or the change in use.
- (f) *Location of spaces.* All parking spaces required in this section shall be located on the same lot with the building or use served, except as follows:
- (1) Where an increase in the number of spaces is required by a change or enlargement of the use or where such spaces are provided collectively or used jointly by two or more buildings or establishments, the required spaces may be located not to exceed 300 feet from an institutional building and not to exceed 500 feet from any other nonresidential building served;
  - (2) No more than 50 percent of the parking spaces required for theaters, bowling lanes, dancehalls, nightclubs or cafés may be provided and used jointly by similar uses not normally open, used or operated during the same hours as those listed; provided, however, that written agreement thereto is properly executed and filed as specified in subsection (4) of this section;
  - (3) Not more than 80 percent of the parking spaces required for a church or school auditorium may be provided and used jointly by similar uses not normally open, used or operated during the same hours as those listed; provided, however, that written agreement thereto is properly executed and filed as specified in subsection (4) of this section; and
  - (4) When the required parking spaces are not located on the same lot with the building or use served or when such spaces are collectively or jointly provided and used, a written agreement thereby assuring their intention for such purposes shall be properly drawn and executed by the parties concerned, approved as to form by the city attorney, and shall be filed with the application for a building permit.
- (g) *Minimum dimensions.* The minimum dimensions for off-street parking spaces required under this chapter shall be as follows:

- (1) *Ninety-degree angle parking.* Each parking space shall be not less than nine feet wide or less than 18 feet in length. Maneuvering space shall be in addition to parking space and shall be not less than 23 feet perpendicular in width;
  - (2) *Sixty-degree angle parking.* Each parking space shall be not less than nine feet wide perpendicular to the parking angle or less than 17 feet in length when measured at the appropriate angles. Maneuvering space shall be in addition to parking space and shall be not less than 20 feet in width;
  - (3) *Forty-five-degree angle parking.* Each parking space shall be not less than nine feet wide perpendicular to the parking angle or less than 19 feet in length when measured at the appropriate angles. Maneuvering space shall be in addition to parking space and shall be not less than 11 feet in width; and
  - (4) *Other.* Where off-street parking facilities are provided in excess of the minimum amounts specified in this chapter or when off-street parking facilities are provided but not required by this chapter, the off-street parking facilities shall comply with the minimum dimensions for parking and maneuvering space specified in this section.
- (h) *Design standards.* Geometric design standards for driveways and off-street parking stalls are set forth in appendix 1 to [chapter 112](#), which is on file in the offices of the city clerk. Curb cuts shall conform to standards established in the engineering department. Permits for all curb cuts will be issued by the chief building official.
- (i) *Maintenance of off-street parking areas.* Parking spaces and pedestrian walkways must be clearly delineated and parking spaces must meet the minimum dimensions specified in this section. Parking spaces must be clearly marked with appropriate striping if on a paved surface or appropriate marking if on an unpaved surface. All improved parking surfaces and walkways shall be maintained in a good and safe condition; and free of any defects affecting the use, safety, appearance or drainage of the surface or of the adjoining property.
- (j) *Vehicle storage areas.*
- (1) Any motor vehicle sales, car lot, or vehicle or boat repair business, whose customers leave their motor vehicles for repair or service, shall designate a vehicle storage area separate from the required customer parking area for all non-operational vehicles to be serviced. Spaces within the vehicle storage area shall not count towards meeting the minimum required number of customer parking spaces specified in this section nor shall they block access to the building, driveways, sidewalks, or hinder proper vehicular circulation within the lot.
  - (2) Each vehicle storage area shall:
    - a. Meet the off-street parking minimum dimensions and design standards in this chapter; or
    - b. Be:
      1. Enclosed by a six-foot-high, opaque fence consisting of the materials specified in [section 18-1011](#) of the Code of Ordinance;
      2. Located behind the building line of the building; and

3. Designed so that the vehicles stored within are not visible from any public right-of-way in any manner.

(3) Any vehicle serviced or waiting to be serviced must be stored in the vehicle storage area when not being actively repaired.

(k) *Penalty for violation.* Any person violating any section of this chapter shall upon conviction be punished as provided in section 1-14 of the Code of Ordinances.

(Ord. No. 15,192, § 16, 9-8-22; Ord. No. 15,414, § 2, 4-13-23)

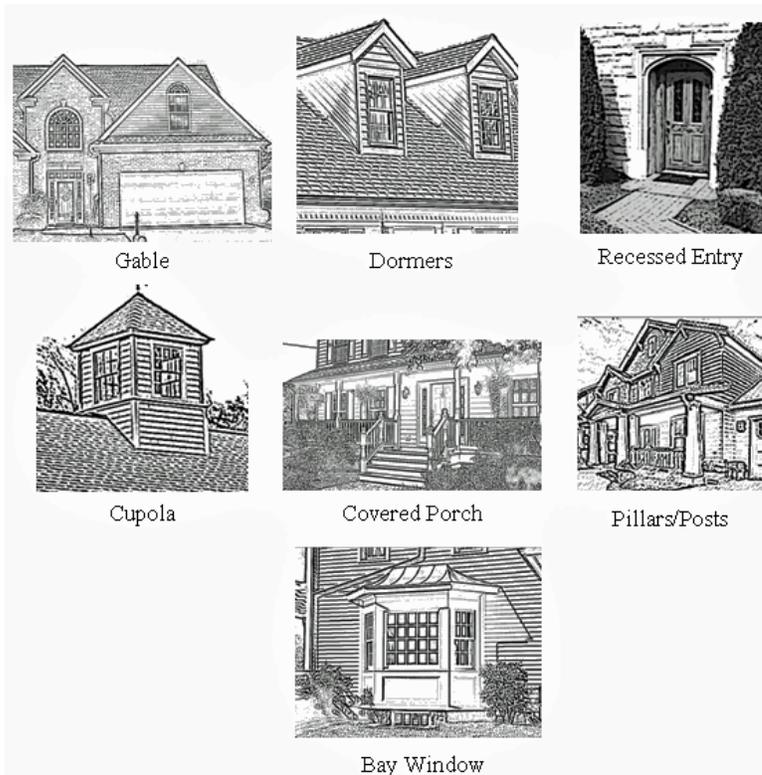
**Note**— Appendix 1 and 2 referred to in this section is not set out in this Code. Copies are on file with the city clerk and chief building official.

#### DIVISION 4. - RESIDENTIAL ZONES

##### Sec. 3.11 - Applicability, lots under 43,560 square feet.

Any building on a lot smaller than 43,560 square feet, with the exception of manufactured housing, or a building containing two or more dwelling units shall comply with the masonry, architectural and site design standards listed in this section.

- (a) *Masonry.* Buildings in subdivisions platted after April 13, 2013, shall have all exterior walls constructed using masonry materials covering at least 60 percent of said walls, exclusive of doors and windows.
  - (1) A combination of at least three materials shall be used, two of which shall be masonry.
  - (2) Materials shall be used consistently on the same building plane. The minimum offset to establish a new building plane is six inches.
- (b) *Architectural.* New residential dwellings shall be constructed using at least two of the following design features to provide visual relief along the front of the residence as depicted in figure 3-3: 1) dormers; 2) gables; 3) recessed entries with a three-foot minimum; 4) covered front porches; 5) cupolas; 6) pillars or posts; 7) bay windows with a 24-inch minimum projection; or 8) other equivalent design feature approved by the director.



*Figure 3-3. Style Elements*

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(1) Front facing windows shall be provided with trim or shall be recessed. The windows shall not be flush with exterior wall treatment and shall be provided with an architectural surround at the jamb.

(2) Roofs shall have a minimum pitch of 12:4. Mansard roofs shall be allowed.

(c) *Site design.*

(1) Sidewalks in conformance with chapter 122 of the Code of Ordinances shall be installed from property line to property line at the expense of the property owner in all adjacent rights-of-way prior to the issuance of a certificate of occupancy for a new residential building.

(2) Entrances to attached garages shall have a 25-foot setback from the front property line and shall not exceed 35 feet in width or occupy more than 40 percent of the total building frontage, whichever is greater. The 25-foot setback does not apply to attached side entry garages.

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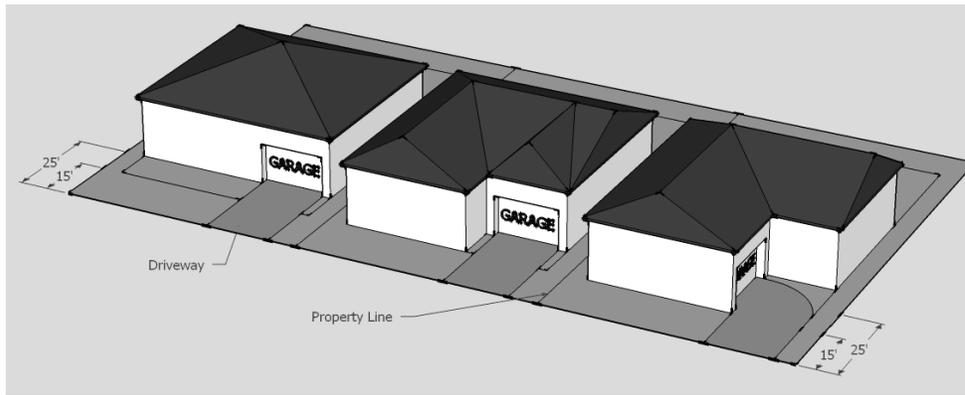


Figure 3-4. Garage Setback Options

- (3) Mechanical equipment shall not be located in the front yard. Mechanical equipment may be allowed in the street side yard setback if screened from view of the public right-of-way.

(Ord. No. 11,866, § 2(Exh. A), 2-23-12)

Sec. 3.115 - Residential accessory structures.

- (a) For a tract of land two acres or smaller:

- (1) The sum of all barns and stables shall not exceed the gross square footage of the primary structure on the same lot; and
- (2) The sum of all other residential accessory structures shall not exceed 75 percent of the gross square footage of the primary structure on the same lot.

- (b) For a tract of land larger than two acres:

- (1) The sum of all barns and stables may exceed the gross square footage of the primary structure on the same lot; and
- (2) The sum of all other residential accessory structures shall not exceed the gross square footage of the primary structure on the same lot.

(Ord. No. 14,406, § 4, 6-11-20)

Sec. 3.12 - Applicability, buildings with multiple units.

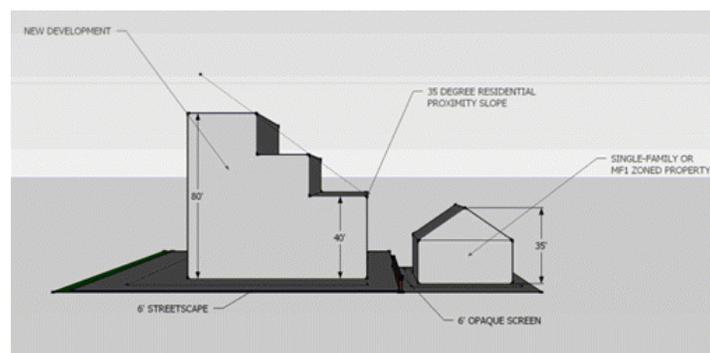
Any residential building designed for multiple units, including duplex or two-family either for rental or condo ownership shall comply with the masonry, architectural and site design standards listed in this section.

- (a) *Masonry.*

- (1) Sixty percent of the total exterior wall area of the first floor of each building elevation shall be constructed of masonry materials, excluding doors and windows.

- (2) Thirty percent of the total exterior wall area of the each floor above the first floor of each building shall be constructed of masonry materials, excluding doors and windows.
- (b) *Architectural.*
- (1) *Building articulation.*
- Building frontages greater than 75 feet in length shall have recessed places, projections, windows, arcades or other distinctive features to interrupt the length of the building façade.
  - Front and street sides of buildings visible from the public right-of-way shall include changes in relief such as columns, cornices, bases, fenestration, and fluted masonry, for at least 15 percent of all exterior wall area.
- (2) *Stairwells.* Open, unenclosed stairwells shall not be allowed along any façade facing a public street or private street system.
- (3) *False door or window openings.* Use of false door or window opening shall be defined by frames, sills and lintels.
- (c) *Site design.*
- All permitted uses and structures that require a commercial occupancy by the building code are subject to the off-street parking, open space, landscape, and streetscape requirements in division 3 of the ULDC, unless the standards are addressed in this division.
  - Sidewalks in conformance with chapter 122 of the Code of Ordinances shall be installed from property line to property line at the expense of the property owner in all adjacent rights-of-way prior to the issuance of a certificate of occupancy for a new multi-unit dwelling.
  - Building orientation:
    - Building(s) located on parcels that are adjacent to SFE, SF1 SF2, or MF1 zones shall have a maximum height of 40 feet or shall be constructed in conformance with the requirements of the 35-degree angle residential proximity slope as depicted in figure 3-5.

**Figure 3-5. Building Orientation**



- Building(s) located on parcels that are adjacent to SFE, SF1 SF2, or MF1 zones shall have a 15-foot building setback and shall provide opaque screening. Parking, dumpsters, and mechanical equipment shall not be allowed within the setback.

- c. Buildings shall front on public streets and/or private street systems.
- (4) Developments shall provide a private driving aisle system consisting of limited access driveways. At least one side of the private driving aisle system shall include sidewalks at least five-foot wide and a planting strip between the driveway and sidewalk at least five-foot wide that includes street trees 30-foot on center. The private street system shall provide vehicular and pedestrian access to all parking areas and on site amenities and must connect to the public sidewalk system in the public right-of-way.
- (5) Recreation space:
  - a. Each development shall provide at least 100 square feet of outdoor recreation space per dwelling unit that is intended to serve the entire development. Open space in the required setbacks can not be counted.
  - b. Outdoor recreation space shall be turf area at least 3,000 square foot in size with maximum slopes of three percent.
  - c. One perimeter shade tree is required for each 1,000 square foot of outdoor recreation space.

(Ord. No. 11,866, § 2(Exh. A), 2-23-12; Ord. No. 15,192, § 17, 9-8-22)

#### Sec. 3.13 - Applicability, manufactured housing.

Manufactured housing units shall comply with following standards:

- (a) *Roof.* A roof must be predominantly double pitched and have a minimum vertical rise of 2.2 inches for every 12 inches of horizontal run. The roof must be covered with material that is commonly used on site-built single-family dwellings within the city, including but not limited to wood, asphalt composition shingles or fiberglass, and excluding corrugated aluminum, corrugated fiberglass or corrugated metal. The roof shall have a minimum eave projection and roof overhang of eight inches.
- (b) *Siding.* Exterior siding shall be of a material commonly used on site-built single-family dwellings within the city, which material does not have a high-gloss finish and which may include wood, composition, simulated wood, clapboards, conventional vinyl or metal siding, brick, stucco or similar materials, but excluding smooth, ribbed or corrugated metal or plastic panels. Siding material shall extend below the top of the exterior of the foundation or curtain wall, or the joint between siding and enclosure wall shall be flashed in accordance with building codes.
- (c) *Transport equipment.* All manufactured homes must remove running gear, tongues, axles and wheels at the time of installation of the home on the parcel.
- (d) *Finished floor elevation.* The finished floor elevation of the residential design manufactured housing unit shall be a maximum of 24 inches above the exterior finished grade of the lot on which it is located, as measured at the main entrance into the dwelling.
- (e) *Attached additions.* Any attached addition to a residential design manufactured housing unit, including garages, shall comply with building code requirements. All of the design standards of this division shall

apply to all additions.

(Ord. No. 11,866, § 2(Exh. A), 2-23-12)

Sec. 3.13.5. - Residential off-street parking.

- (a) *Off-street parking applicability.* The off-street parking requirements specified in this section shall not apply in the arts, cultural and entertainment (ACE) zoning district and in certain central business district areas as depicted on the maps set forth in appendix 2 of this chapter which are on file with the city clerk. All private property shown in the shaded portions on such maps is exempted from the requirements of this chapter.
- (b) *Granting of exceptions.* The planning and development director is granted the authority to issue an administrative variance where there are minor discrepancies with regard to the requirements established in this section, where it is determined that the literal application of such requirements would constitute an undue hardship with regard to the applicant's particular circumstances and would not be essential in accomplishing the objectives of this chapter. In areas that are fully or near fully developed, a variance of up to 30 percent of the number of off-street parking spaces required in this chapter shall be allowed by the planning and development director. If the applicant is dissatisfied with the decision of the planning and development director with regard to a requested exception, he shall be entitled to appeal such decision to the board of adjustment and appeals.
- (c) *Minimum requirements for spaces.*
  - (1) Townhouse and two-family dwellings: 2¼ spaces per dwelling unit.
  - (2) Parking areas designed to serve multi-unit dwellings shall not be located between residential buildings and the street or drive isle system.
  - (3) Multi-family dwellings (three or more dwelling units):

Minimum Parking Spaces	Unit Size
1.0	Each one bedroom or efficiency up to 500 square feet in size
<u>1.5</u>	Each one bedroom apartment 500 square feet or greater in size or with two or more bathrooms
1.75	Each two bedroom apartment regardless of size
2.0	Each three bedroom regardless of size
3.0	Each apartment greater than three bedrooms

- (d) *Additional parking spaces for guests.* In addition to the minimum number of parking spaces provided for in subsection (a) of this section, there shall be provided, at such time as a building permit is issued for the erection, alteration or use change of a structure, additional off-street parking spaces in accordance with the following minimum requirements:
- (1) *Number.*
- a. Townhouses: Ten percent of the number parking of spaces required in subsection (a)(21).
  - b. Two-family dwellings: Ten percent of the number of parking spaces required in subsection (a)(21).
  - c. Multifamily dwellings: Ten percent of the number of parking spaces required in subsection (a)(22).
- (2) *Location.*
- a. All dwelling units of a townhouse, two-family dwelling or multifamily dwelling must have at least one parking space as required in subsection (b)(1) within 300 feet measured by the walking distance on sidewalks or along the street or driveway from the parking space to the nearest entrance to the dwelling unit.
  - b. All parking required by this subsection (b) must be on the same site as the townhouse, two-family dwelling or multifamily dwelling.
- (e) *Bicycle parking.* One bicycle rack (to accommodate three or more bicycles) per residential building and at the community facilities shall be installed and maintained. The bike rack shall be located not in a sidewalk and not in a required parking space but shall be located so as to provide the ability of the bike user to walk on a sidewalk or along with street to access the bicycle rack.
- (f) *Sidewalks from parking spaces.* Sidewalks connecting all parking areas to residential and to community buildings shall be provided and maintained. Where the sidewalks cross driving aisles (driveways) crosswalks and/or alternate paving materials shall be installed.
- (g) *Rules for computing number of spaces.* Computing number of spaces shall be conducted in accordance with the requirements of division 3, section 3.10.7(d).
- (1) The parking space requirement for a use not specifically mentioned in this chapter shall be the same as required for a use of a similar nature; and
  - (2) For mixed uses, the parking spaces required shall equal the sum of the requirements of the various uses computed separately.
- (h) *Minimum dimensions.* Minimum dimensions shall be provided in accordance with the requirements of Division 3, Section 3.10.7(g).
- (i) *Design standards.* Geometric design standards for driveways and off-street parking stalls are set forth in appendix 1 of chapter 112, which is on file in the offices of the city clerk and chief building official. Curb cuts shall conform to standards established in the engineering department. Permits for all curb cuts will be issued by the chief building official.
- (j) *Maintenance of off-street parking areas.* Parking spaces and pedestrian walkways must be clearly

delineated and parking spaces must meet the minimum dimensions specified in this section. Parking spaces must be clearly marked with appropriate striping if on a paved surface or appropriate marking if on an unpaved surface. All improved parking surfaces and walkways shall be maintained in a good and safe condition; and free of any defects affecting the use, safety, appearance or drainage of the surface or of the adjoining property.

(Ord. No. 15,192, § 18, 9-8-22)

**Note**— Appendix 1 and 2 referred to in this section is not set out in this Code. Copies are on file with the city clerk and chief building official.

## DIVISION 5. - DISTRICT COMPATIBILITY STANDARDS

### Sec. 3.14 - Compatibility standards.

The following additional standards are applicable to property that is located at the boundary of two or more zoning districts. The following standards are also applicable to the portion of the LI or HI boundary that is within 300 feet of the referenced zoning district. The more intense new non-residential or multifamily use shall implement the applicable compatibility standards before a certificate of occupancy or completion will be issued.

- (a) *Medium density mixed residential (MF1)*. New development that is zoned MF1 and located adjacent to a property zoned, UN, SFE, SF1, or SF2 shall meet all requirements of the property development standards table in article three, division 1 of the ULDC and install a minimum of a six-foot-tall opaque screen between any property zoned OR, UN, SFE, SF1 or SF2.
- (b) *Mid-rise density mixed residential dwellings (MF2)*. New development that is zoned MF2 and located adjacent to a property zoned, UN, SFE, SF1, SF2, or MF1 shall meet all requirements of the property development standards table in article three, division 1 of the ULDC, install a minimum of a six-foot-tall opaque screen, and provide a minimum of a 20-foot open space between any property zoned OR, UN, SFE, SF1, SF2, or MF1. Any building over 40 feet in height also shall comply with the residential proximity slope in subsection 3.12(c)(3) of the ULDC.
- (c) *High density residential dwelling units (MF3)*. New development that is zoned MF3 and located adjacent to a property zoned, UN, SFE, SF1, SF2, MF1, or MF2 shall meet all requirements of the property development standards table in article three, division 1 of the ULDC, install a minimum of a six-foot-tall opaque screen, and provide a minimum of a 20-foot open space between any property zoned OR, UN, SFE, SF1, SF2, MF1, or MF2. Any building over 40 feet in height also shall comply with the residential proximity slope in subsection 3.12(c)(3) of the ULDC.
- (d) *Neighborhood serving commercial (NSC)*. New development that is zoned NSC and located adjacent to a property zoned OR, UN, SFE, SF1, SF2, MF1 or MF2 shall meet all the requirements of the property development standards table in article three, division 1 of the ULDC and install a minimum of a six-foot-

tall opaque screen between any property zoned OR, UN, SFE, SF1, SF2, MF1 or MF2.

- (e) *General commercial (GC)*. New development that is zoned GC and located adjacent to a property zoned OR, UN, SFE, SF1, SF2, or MF1 shall meet all the requirements of the property development standards table in article three division 1 of the ULDC, install a minimum of a six-foot-tall opaque screen and provide a minimum of a 20-foot open space between any property zoned OR, UN, SFE, SF1, SF2, or MF1. Any building over 40 feet in height also shall comply with the residential proximity slope in subsection 3.12(c)(3) of the ULDC.

New development that is zoned GC and located adjacent to a property zoned MF2 or MF3 shall meet all the requirements of the property development standards table in article three, division 1 of the ULDC and install a minimum of a six-foot-tall opaque screen between any property zoned MF2 or MF3. Any building over 40 feet in height also shall comply with the residential proximity slope in subsection 3.12(c)(3) of the ULDC.

- (f) *Mixed use (MU)*. MU that is located adjacent to a property zoned OR, UN, SFE, SF1, SF2, MF1, MF2, MF3, or NSC shall meet all the requirements of the property development standards table in article three, division 1 of the ULDC, install a minimum of a six-foot tall opaque screen and provide a minimum of a 20-foot open space between any property zoned OR, UN, SFE, SF1, SF2, MF1, MF2, MF3, or NSC. Any building over 40 feet in height also shall comply with the residential proximity slope in subsection 3.12(c)(3) of the ULDC.

- (g) *Light industrial (LI)*. New development that is zoned LI and located adjacent to (i) a property zoned OR, UN, SFE, SF1, SF2, ACE, LC, MF1, MF2, MF3, or NSC; (ii) a lot that contains a single-family use; (iii) a public right-of-way designated as an arterial or collector on the city's adopted thoroughfare plan; or (iv) a navigable waterway shall meet all the requirements of the property development standards table in article three, division 1 of the ULDC and provide a minimum 200-foot building setback. New development that is zoned LI and located adjacent to a property zoned MU or GC shall meet all the requirements of the property development standards table in article three, division 1 of the ULDC and provide a minimum 100-foot building setback. Within the applicable setback, a 50-foot open space, a 50-foot vegetative buffer and an opaque screen shall be installed between any property zoned OR, UN, SFE, SF1, SF2, MF1, MF2, MF3, NSC, GC, or MU in accordance to section 3.14(i). Any building over 40 feet in height also shall comply with the residential proximity slope in subsection 3.12(c)(3) of the ULDC.

- (h) *Heavy industrial (HI)*. New development that is zoned HI and located (i) adjacent to a property zoned OR, NSC, MU, or GC; (ii) adjacent to a public right-of-way designated as an arterial or collector on the city's adopted thoroughfare plan; or (iii) adjacent to a navigable waterway shall meet all the requirements of the property development standards table in article three, division 1 of the ULDC, and provide a minimum 300-foot building setback between (i) any property zoned OR, NSC, or GC; (ii) a public right-of-way designated as an arterial or collector on the city's adopted thoroughfare plan; or (iii) a navigable waterway. Within the setback a 100-foot vegetative buffer and a minimum of a six-foot-tall opaque screen shall be installed between any property that is (i) zoned OR, NSC, or GC; (ii) a public right-of-way

designated as an arterial or collector on the city's adopted thoroughfare plan; or (iii) a navigable waterway. Any building over 40 feet in height also shall comply with the residential proximity slope in subsection 3.12(c)(3) of the ULDC.

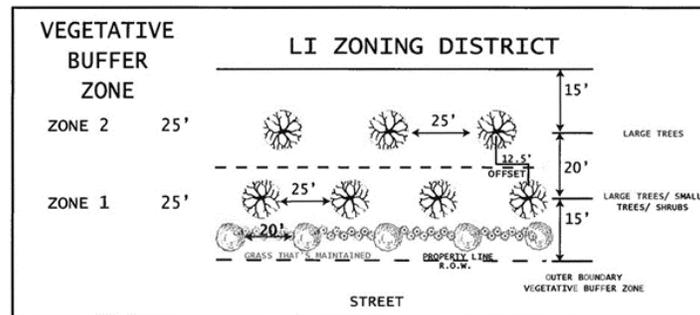
HI zoned property is not permitted to be located adjacent to OR, UN, SFE, SF1, SF2, MU, ACE, LC, MF1, MF2, or MF3 zoned properties.

(i) *Vegetative and transition buffer zones.*

- (1) *Purposes.* The purpose of the vegetative and transition buffer zones required herein is to guard against incompatible uses in adjacent zoning districts by providing a visual screen, a light barrier, a sound barrier and some containment of air movement near the ground level. The provisions of this section shall be construed to accomplish these purposes.
- (2) *Exemption.* Where vegetative and transition buffer zones are required, the property shall be exempt from section 3.10.5(c) but must provide interior landscaped open space, as required by section 3.10 for parking areas located in the front yard of the development. Side and rear yard parking areas are not required to provide interior landscaped open space.
- (3) *Landscaping requirements.* The landscaping requirements of this subsection are intended to provide a continuous vegetative screening of the district or land use. The following contain the minimum standards; however, additional plantings or other forms of opaque screening may be required to accomplish this purpose.
- (4) *Vegetative buffer zone.* Vegetative buffer zones shall have a minimum width of 50 feet.
- (5) *LI zoning district.* Vegetative buffer zones in a LI zoning district shall be in accordance with the following and as depicted in figure 3-6, "Vegetative Buffer Zone Layout":
  - a. LI zone 1 shall include an area adjacent to the property line, beginning at the property line and extending into the private property for a distance of 25 feet. The owner shall plant and maintain at least the following in LI zone 1:
    1. A staggered double row consisting of small evergreen trees on the front row, and large trees on the back row.
    2. The front row of trees shall be planted 20 feet on center.
    3. A minimum of 50 percent of the back row shall consist of large evergreen trees.
    4. The back row shall be planted 25 feet on center.
    5. A minimum of eight shrubs, not less than two feet in height, for every 20 feet forming an intermediate hedge, shall be planted in the front row along the right-of-way.
    6. Groundcover extending for 25 feet measured from the outside boundary of the LI zone 1, which groundcover shall be maintained in accordance with article II of chapter 42.
  - b. LI zone 2 shall include an area adjacent to LI zone 1, beginning at the interior boundary of LI zone 1 and extending into the property for a minimum distance of 25 feet. In LI zone 2, the owner shall plant and maintain at least the following:

1. A row of large trees planted 15 feet from the inner boundary of LI zone 2.
2. The trees shall be planted 25 feet on center.
3. Such trees shall be offset 12.5 feet from the trees in the back row of LI zone 1.

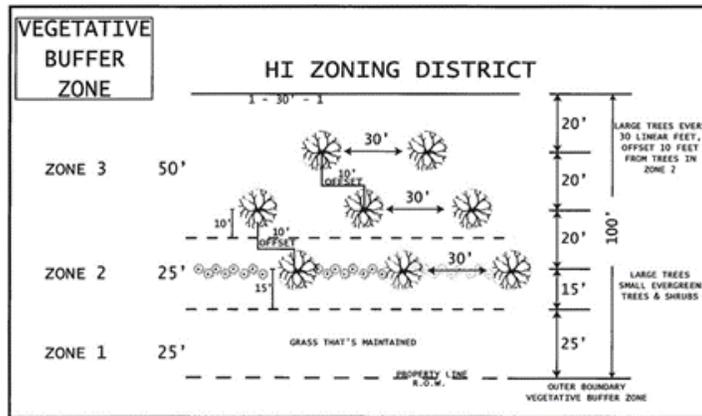
Figure 3-6. Vegetative Buffer Zone Layout



- (6) *Hi zoning district.* Vegetative buffer zones in an HI zoning district shall be in accordance with the following and as depicted in Figure 36 "Vegetative Buffer Zone Layout":
- a. HI zone 1 shall include an area adjacent to the property line, beginning at the property line and extending into the private property for a distance of 25 feet. The owner shall plant and maintain groundcover extending throughout the entire HI zone 1, which shall be maintained in accordance with article II of [chapter 42](#).
  - b. HI zone 2 shall include an area adjacent to HI zone 1, beginning at the interior boundary of HI zone 1 and extending into the property for a minimum distance of 25 feet. The owner shall plant and maintain at least the following in HI zone 2:
    1. Mixture of small trees and shade trees, which shall be planted every 30 linear feet, 15 feet from the inside boundary of HI zone 1; provided, however, that no more than 50 percent of trees may be small trees; and
    2. Eight shrubs for every 30 linear feet evenly spaced.

HI zone 2 shall be maintained so as to allow native trees, shrubs, vines, and other forms of vegetation to grow.
  - c. HI zone 3 shall include an area adjacent to HI zone 2, beginning at the interior boundary of HI zone 2 and extending into the property for a minimum distance of 25 feet. In HI zone 3, the owner shall plant and maintain the following:
    1. At least one shade tree every 30 linear feet with centers ten feet from the inner boundary of HI zone 2. Such trees shall be offset ten feet from the trees in HI zone 2; and
    2. At least one shade tree every 30 linear feet with centers 20 feet from the inner boundary of HI zone 3. Such trees shall be offset ten feet from the trees required in zone 2.

HI zone 3 shall be maintained so as to allow native trees, shrubs, vines, and other forms of vegetation to grow naturally.



- (j) *Transition buffer zone.* A transition buffer zone provides protection to adjacent land uses and shall consist of:
- A ten-foot wide vegetative buffer containing a row of moderate to fast-growing evergreen trees with an expected growth to a minimum height of 16 feet and a minimum width of ten feet at its maturity, along the side yard lines, rear yard lines, and frontage along a street. Tree types shall include, but are not limited to, Wax Myrtle, Leyland Cypress, and/or American Holly;
  - All trees shall be installed with ten feet of separation on center, at or above-grade of the public right-of-way, and shall be a minimum of five feet in height at time of planting; and
  - A wood or masonry fence with a minimum height of six feet shall be installed interior to the transition buffer.

(Ord. No. 11,866, § 2(Exh. A), 2-23-12; Ord. No. 12,207, § 15, 3-14-13; Ord. No. 13,062, § 6, 12-10-15; Ord. No. 15,192, § 19, 9-8-22)

#### ARTICLE IV. - SUBDIVISIONS

*Footnotes:*

--- (2) ---

**Editor's note**— Ord. No. 15,192, § 21, adopted Sep. 8, 2022, repealed Ch. 126 and added App. A, Art. IV., which pertains to similar subject matter, as set out herein. For stylistic purposes to follow the expression of the numbering in the appendix, and at the discretion of the editor, these sections have been renumbered from §§ 126-1—126-706 as §§ 4.01—4.119.

#### DIVISION I. - GENERAL

*Footnotes:*

--- (3) ---

**Cross reference**— Definitions generally, § 1-2.

**State Law reference**— Extraterritorial jurisdiction, V.T.C.A., Local Government Code § 42.021 et seq.

Sec. 4.01. - Plat required.

- (a) Except as provided in subsection (f) hereof, a plat is required for a subdivision as defined in appendix A, article IV.
- (b) To be recorded, the plat must:
  - (1) Describe the subdivision by metes and bounds;
  - (2) Locate the subdivision with respect to a corner of the survey or tract or an original corner of the original survey of which it is a part; and
  - (3) State the dimensions of the subdivision and of each street, alley, square, park or other part of the tract intended to be dedicated to public use or for the use of purchasers or owners of lots fronting on or adjacent to the street, alley, square, park or other part.
- (c) The owner or proprietor of the tract or the owner's or proprietor's agent must acknowledge the plat in the manner required for the acknowledgment of deeds.
- (d) The plat must be recorded with the county clerk of the county in which the tract is located.
- (e) The plat is subject to the filing and recording provisions of V.T.C.A., Property Code § 12.002.
- (f) A plat is not required for a subdivision that is a division of land into four or fewer parts if:
  - (1) Such division does not include streets, alleys, squares, parks or other parts intended to be dedicated to public use or for the use of purchasers or owners of lots fronting on or adjacent to the streets, alleys, squares or other parts;
  - (2) If each of the lots is to be sold, given, or otherwise transferred to an individual who is related to the owner within the third degree by consanguinity or affinity, as determined under V.T.C.A., Government Code ch. 573; and
  - (3) No development or construction is to occur on the property at the time of division of land.
- (g) A plat is required before any lot of a subdivision described by this subsection:
  - (1) Is sold, given, or otherwise transferred to an individual who is not related to the owner within the third degree by consanguinity or affinity as determined under V.T.C.A., Government Code ch. 573; or
  - (2) Is developed in any manner and used for any purpose other than agricultural, wildlife management or timber use within the meaning of Section 1-d-1, Article VIII, Texas Constitution; or
  - (3) Is developed in any manner which directly or indirectly impacts the city's infrastructure, water, wastewater or drainage system.

(Ord. No. 15,192, § 21, 9-8-22)

**State Law reference**— Similar provisions, V.T.C.A., Local Government Code § 212.004.

Sec. 4.02. - Scope of article.

This article shall govern every person owning any tract of land within the city limits or extraterritorial jurisdiction who may divide the tract of land into two or more parts for the purpose of laying out any tract of land or any addition to the city or for laying out suburban lots or building lots or any lots, streets, parks or other portions intended for the public use or the use of purchasers or owners of lots fronting thereon or adjacent thereto and has not yet presented such subdivision plans to the commission. This section is adopted to control the subdivision of land within the corporate limits or the extraterritorial jurisdiction in order to provide the orderly development of the areas and to secure adequate provision for light, air, recreation, transportation, water, drainage, sewage and other facilities.

(Ord. No. 15,192, § 21, 9-8-22)

Sec. 4.03. - Policy of commission.

It is an expressed policy of the commission to review the possible influences of items, not specifically detailed in appropriate ordinances, for each development proposed within the city and its extraterritorial jurisdiction. The items as discussed deal primarily with but are not limited to the following:

- (1) *Entrances.* Access and egress points for each development, whether single-family, multiple-family or commercial. In addition to actual numbers of points, the commission shall review setbacks at intersections for visual obstructions, whether parking is allowed along or within these driveways or roads; design of parking; and associated items that might have a negative effect on moving traffic into or out of a development;
- (2) *Traffic circulation and flow.* The commission, in addition to the items listed in subsection (1) of this section, will review traffic circulation and flow within and outside a proposed development for the purpose of identifying possible increases in traffic volumes and congestion and offering alternative solutions;
- (3) *Safety.* The underlying desire of the commission is to ensure that proposed projects are developed in a manner to minimize any detrimental effects to a neighborhood where safety is concerned. This safety concern can consist of vehicular, pedestrian, pedicycle conflicts; fire or explosion hazards; and natural disasters. The consideration of these items does not restrict the commission to the hazards themselves, but also to items associated with each subject as prevention, control and evacuation that may result from any of these items.

(Ord. No. 15,192, § 21, 9-8-22)

Sec. 4.04. - Enforcement; penalties.

- (a) No map or plat of any subdivision or resubdivision within the city or its extraterritorial jurisdiction shall be recorded unless and until the map or plat has been authorized by the commission.
- (b) It shall be unlawful for any owner or agent of any owner of land to lay out, subdivide, plat or replat any land into lots, blocks and streets within the city or its extraterritorial jurisdiction without the approval of

the commission.

- (c) It shall be unlawful for any owner or agent of any owner of land to offer for sale or sell property within the city or its extraterritorial jurisdiction which has not been laid out, subdivided, platted or replatted as required by this chapter.
- (d) The city shall withhold all utilities and maintenance of required improvements for all developments located inside the city limits and not approved by the commission. Additionally, other utility companies (gas, power, telephone, water, sewer and cable) shall withhold all connections for developments within the city's extraterritorial jurisdiction until they are provided with a certification authorizing connections by the city planning and community development department, as required in V.T.C.A., Local Government Code § 212.012.
- (e) No street number and no building permit shall be issued for the erection of any building in the city on any piece of property other than an original or a resubdivided lot in a duly approved and recorded subdivision without the written approval of the commission.
- (f) If any section of this chapter is violated within the city or its extraterritorial jurisdiction, the city may institute any appropriate action or proceedings in the district court to enjoin the violation of this chapter.
- (g) It shall be unlawful for any person to construct any improvement, other than public improvements such as streets, utilities and drainage structures, in any development that has not had its final plat approved by the commission and recorded with the county clerk. It is an exception to the application of this subsection if:
  - (1) Within a phased development containing public improvements that have not yet been finally accepted, a developer constructs no more than four model homes, provided that:
    - a. All off-site drainage or regional improvements have been installed, inspected and accepted by the city;
    - b. Each model home is inspected and found to meet all building, plumbing and fire code requirements prior to being opened to observation by the public; and
    - c. The home will not be sold or occupied as a dwelling unit until all public improvements within that phase have been completed and accepted by the city; or
  - (2) No extension of a street, public utility, or other public improvement, excluding a sidewalk, is required to support the proposed development of:
    - a. Property subdivided prior to July 13, 1978;
    - b. An accessory building is built on the same lot as a single-family dwelling; provided no additional drainage improvement is required by this Code to support such accessory building; or
    - c. An addition or alteration to a single-family dwelling existing on January 22, 2012; provided no additional drainage improvement is required by this Code to support such addition or alteration.
- (h) Any person who shall violate this chapter shall upon conviction be punished as provided in section 1-14.

(Ord. No. 15,192, § 21, 9-8-22)

Sec. 4.05. - Subdivision variance.

Subdivision variances, unless otherwise stated, shall be conducted in accordance with the requirements of article 1, division 3, section 1.29.5.

(Ord. No. 15,192, § 21, 9-8-22)

Sec. 4.06. - Utilization.

No building permit shall be issued until the city engineer has stated in writing his acceptance of the subdivision improvements, as provided in section 4.81, and the plat of the subdivision has been recorded.

(Ord. No. 15,192, § 21, 9-8-22)

**Cross reference**— Administration, ch. 2.

DIVISION 2. - ADMINISTRATION

Sec. 4.07. - Filing fee for plats.

- (a) *Fee to accompany application.* Every application to the commission for the approval of any proposed development shall be submitted to the planning and development services department and shall be accompanied by a filing fee in accordance with the schedule contained in section 2-595 of the code, and the commission shall not act upon any plat unless all fees as provided in that section have been received.
- (b) *Expiration.* These fees shall expire after a maximum time period between the preliminary and final approval of 180 days or as provided elsewhere in this chapter.
- (c) *Vacation of subdivisions.* For vacation of a subdivision, the filing fee shall be in accordance with the schedule contained in section 2-595 of the Code and in accordance with V.T.C.A., Local Government Code §§ 212.013—212.016.

(Ord. No. 15,192, § 21, 9-8-22)

Sec. 4.08. - Procedures for submissions and resubmissions.

- (a) *Initial submissions.* All plats shall be submitted to the planning and development services department on the 28th day prior to the date of a regularly scheduled planning and zoning commission meeting. The commission and the director shall consider timely submitted plats only after the same are filed.
- (b) *Resubmissions.* If a filed plat has not been unconditionally approved, it shall be resubmitted only on the 14th day prior to a regularly scheduled planning and zoning commission meeting. The commission and the director shall consider only timely resubmitted plats.
- (c) *Withdrawals.* A plat may be withdrawn at any time by applicant at its own request; and, upon its

resubmission, shall be considered an initial submission subject to subsection (a) of this section.

- (d) *Rejection.* Plat submissions or resubmissions failing to meet the time requirements of this section shall be automatically rejected and will not be received.

(Ord. No. 15,192, § 21, 9-8-22)

### DIVISION 3. - LOT CONSOLIDATION AND LOT LINE ADJUSTMENT

#### Sec. 4.09. - Scope of division.

Lot consolidation or adjustment may be accomplished without replatting, provided the appropriate regulations are followed. The director of planning and community development is authorized to approve, without concurrence of the commission, when all the requirements of this division are met.

(Ord. No. 15,192, § 21, 9-8-22)

#### Sec. 4.10. - Lot consolidation requirements.

- (a) Under this division, no more than three lots shall be affected by the proposed lot consolidation.
- (b) No such adjustment shall alter any public right-of-way or public easement.

(Ord. No. 15,192, § 21, 9-8-22)

#### Sec. 4.11. - Lot line adjustment requirements.

- (a) Under this division, lot line adjustments may be made, provided there is concurrence by the two owners of property involved in the lot line adjustment.
- (b) The proposed adjusted lot line shall be a single, straight line or shall be parallel to the existing lot line.
- (c) The lot line adjustment shall not be more than a minimum of ten feet average relocation from the existing lot line.
- (d) The lot line adjustment shall not be inconsistent with any provision of recorded subdivision restrictions or covenants.
- (e) No more than two lots shall be affected.

(Ord. No. 15,192, § 21, 9-8-22)

#### Sec. 4.12. - Procedure for commission approval.

- (a) Under this division, the following shall be submitted to the director of planning and community development seven days prior to the commission meeting at which action is sought:
- (1) A completed application form for the lot line adjustment or a lot consolidation, accompanied by a filing fee as prescribed in [section 2-595](#) of the Code;

- (2) Copies of deeds and restrictive covenants to all lots involved; and
- (3) A scale drawing on legal size paper showing all lots involved, as platted, and as desired.
- (b) Action of the commission shall be final, and no proposal regarding the same lots shall be considered for a period of six months.
- (c) Approval by the planning and development director requires the submittal of items in subsection (a) of this section at any time.

(Ord. No. 15,192, § 21, 9-8-22)

#### DIVISION 4. - SMALL SUBDIVISIONS

##### Sec. 4.13. - Scope of division.

Small subdivision means a subdivision of 12 or fewer lots.

(Ord. No. 15,192, § 21, 9-8-22)

**Cross reference**— Definitions generally, § 1-2.

##### Sec. 4.14. - Platting procedure.

- (a) *Submission*. Application for preliminary approval of a small subdivision shall be made by the owner or his authorized agent and shall be made on a form prescribed by the city planning staff. The application shall be accompanied by a filing fee and accompanied by digital submission of the preliminary development plan of the entire development drawn to scale and showing streets or drives, utility easements, lots and major landscaping features. A boundary survey or a certified boundary description by a registered public surveyor shall also be submitted.
- (b) *Filing fee*. Every application for a small subdivision shall be accompanied by a filing fee as prescribed in section 2-595 of the Code.
- (c) *Commission approval*. The commission shall examine such application and shall determine whether it conforms to all applicable criteria and standards.

(Ord. No. 15,192, § 21, 9-8-22)

##### Sec. 4.15. - General standards.

The developer of a small subdivision must comply in all respects with the engineering and construction standards for subdivisions established by this chapter, except as provided by section 4.16.

(Ord. No. 15,192, § 21, 9-8-22)

Sec. 4.16. - Variances.

As a part of the commission's examination and approval of a small subdivision, the commission may grant a variance from this division when in its opinion undue hardship will result from requiring strict compliance. The variance may be granted only for curbs, gutter, drainage storm sewers, sidewalks and street widths (but not less than 26 feet of concrete). No variance may be granted on sidewalks if they will connect to existing sidewalks.

(Ord. No. 15,192, § 21, 9-8-22)

DIVISION 5. - MINOR PLATS

Sec. 4.17. - Scope of division.

The following words, terms, and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Minor plat shall be defined as a plat of a tract of land, which includes four, or fewer lots, which also meets the following conditions:

- (1) Each lot of the subdivision shall have frontage on an existing public street, and shall not require the creation of any new street, or the extension of any existing street;
- (2) The subdivision shall be served by existing municipal utilities of adequate capacity, and shall not require the extension of any municipal utilities, except for the installation of service lines to the individual lot(s) from existing mains of adequate capacity; and
- (3) No variance from the standards of this Code is required.

(Ord. No. 15,192, § 21, 9-8-22)

Sec. 4.18. - Platting procedures.

- (a) *Submission of preliminary plat.* Application for the approval of a minor plat shall be made by the owner or his authorized agent and shall be made on a form prescribed by the director of planning and community development. The applicant shall submit the completed application form and five copies of the preliminary plat to the director.
- (b) *Application fee.* An application fee in the amount prescribed in section 2-595 shall accompany every application for a minor plat.
- (c) *Administrative review.* The director of planning and community development shall review the proposed minor plat to ensure compliance with all appropriate requirements of this Code. The director of planning and community development may submit the minor plat to other departments for review and comment,

as the director deems necessary. Within ten business days after the date of the application, the minor plat shall be returned to the applicant along with written analysis detailing the items which must be addressed in order to comply with the Code.

- (d) *Submission and approval of final plat.* Within ten business days of receipt of the written analysis, the applicant shall submit to the planning and development director its final plat which shall include the following items:
- (1) A reproducible mylar of the final plat, and the copies of the original submittal with staff analysis and commentary;
  - (2) Five true to scale 18-inch by 24-inch copies of the final plat;
  - (3) Tax certificates stating that no taxes are delinquent against the property; and
  - (4) The appropriate fees for filing the plat with the county clerk.

If the items listed in this subsection are timely submitted and if all of the issues and corrections have been addressed as required by the Code as determined by the director of planning and community development, the director may approve the minor plat.

- (e) *Expiration of preliminary plat.* If the items listed in subsection (d) of this section are not submitted within ten business days of the applicant's receipt of the written analysis or if the issues and corrections have not been addressed as required by the Code as determined by the director of planning and community development within such period of time, the minor plat application along with the preliminary plat shall automatically expire and the applicant will be required to submit a new application for the proposed subdivision.

(Ord. No. 15,192, § 21, 9-8-22)

#### Sec. 4.19. - Review by the commission.

- (a) The director of planning and community development may, for any reason, elect to forward the minor plat to the commission for review and approval.
- (b) The director of planning and community development must refer any minor plat, which he refuses to approve to the commission for its consideration.

(Ord. No. 15,192, § 21, 9-8-22)

#### Sec. 4.20. - Limitation.

Land subdivided through the minor plat process shall not be resubdivided or replatted by amendment or otherwise for a period of one year from the approval of the original minor plat, unless it is approved by the commission.

(Ord. No. 15,192, § 21, 9-8-22)

## DIVISION 6. - MINOR REPLATS

### Sec. 4.21. - Scope of division.

The following words, terms, and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Minor replat* shall be defined as a replat of a tract of land, which involves four, or fewer lots, which also meets the following conditions:

- (1) Each lot of the subdivision shall have frontage on an existing public street, and shall not require the creation of any new street, or the extension of any existing street;
- (2) The subdivision shall be served by existing municipal utilities of adequate capacity, and shall not require the extension of any municipal utilities, except for the installation of service lines to the individual lot(s) from existing mains of adequate capacity; and
- (3) No variance from the standards of this Code is required.

(Ord. No. 15,192, § 21, 9-8-22)

### Sec. 4.22. - Platting procedures.

- (a) *Submission of preliminary plat.* Application for the approval of a minor replat shall be made by the owner or his authorized agent and shall be made on a form prescribed by the director of planning and community development. The applicant shall submit the completed application form and five copies of the preliminary plat to the director.
- (b) *Application fee.* An application fee in the amount prescribed in section 2-595 shall accompany every application for a minor replat.
- (c) *Administrative review.* The director of planning and community development shall review the proposed minor replat to ensure compliance with all appropriate requirements of this Code. The director of planning and community development may submit the minor replat to other departments for review and comment, as the director deems necessary. Within ten business days after the date of the application, the minor replat shall be returned to the applicant along with written analysis detailing the items which must be addressed in order to comply with the Code.
- (d) *Submission and approval of final plat.* Within ten business days of receipt of the written analysis, the applicant shall submit to the director of planning and community development its final plat which shall include the following items:
  - (1) A reproducible mylar of the final plat, and the copies of the original submittal with staff analysis and commentary;
  - (2) Five true to scale 18-inch by 24-inch copies of the final plat;

- (3) Tax certificates stating that no taxes are delinquent against the property; and
- (4) The appropriate fees for filing the replat with the county clerk.

If the items listed in this subsection are timely submitted and if all of the issues and corrections have been addressed as required by the Code as determined by the director of planning and community development, the director may approve the minor replat.

- (e) *Expiration of preliminary plat.* If the items listed in subsection (d) of this section are not submitted within ten business days of the applicant's receipt of the written analysis or if the issues and corrections have not been addressed as required by the Code as determined by the director of planning and community development within such period of time, the minor replat application along with the preliminary replat shall automatically expire and the applicant will be required to submit a new application for the proposed subdivision.

(Ord. No. 15,192, § 21, 9-8-22)

#### Sec. 4.23. - Review by the commission.

- (a) The director of planning and community development may, for any reason, elect to forward the minor replat to the commission for review and approval.
- (b) The director of planning and community development must refer any minor replat, which he refuses to approve to the commission for its consideration.

(Ord. No. 15,192, § 21, 9-8-22)

#### Sec. 4.24. - Limitation.

Land subdivided through the minor replat process shall not be resubdivided or replatted by amendment or otherwise for a period of one year from the approval of the original minor replat, unless it is approved by the commission.

(Ord. No. 15,192, § 21, 9-8-22)

### DIVISION 7. - AMENDING PLATS

#### Sec. 4.25. - Scope of division.

Amending plat means an amendment to a plat, previously approved by the commission and duly recorded, which is submitted to the commission for approval and recording, which is signed by the applicants and is solely for one or more of the purposes enumerated in section 4.26. An amending plat is not to be considered as a replat or resubdivision and may not contain any changes or additions to the physical characteristics of the original subdivision, but is intended only to correct errors or miscalculations.

Sec. 4.26. - Purpose of amending plat.

An amending plat may be submitted solely for one or more of the following purposes:

- (1) To correct an error in a course or distance shown on the preceding plat;
- (2) To add a course or distance that was omitted on the preceding plat;
- (3) To correct an error in a real property description shown on the preceding plat;
- (4) To indicate monuments set after the death, disability, or retirement from practice of the engineer or surveyor responsible for setting monuments;
- (5) To show the location or character of a monument that has been changed in location or character or that is shown incorrectly as to location or character on the preceding plat;
- (6) To correct any other type of scrivener or clerical error or omission previously approved by the municipal authority responsible for approving plats, including lot numbers, acreage, street names, and identification of adjacent recorded plats;
- (7) To correct an error in courses and distances of lot lines between two adjacent lots if:
  - a. Both lot owners join in the application for amending the plat;
  - b. Neither lot is abolished;
  - c. The amendment does not attempt to remove recorded covenants or restrictions; and
  - d. The amendment does not have a material adverse effect on the property rights of the other owners in the plat;
- (8) To relocate a lot line to eliminate an inadvertent encroachment of a building or other improvement on a lot line or easement;
- (9) To relocate one or more lot lines between one or more adjacent lots if:
  - a. The owners of all those lots join in the application for amending the plat;
  - b. The amendment does not attempt to remove recorded covenants or restrictions; and
  - c. The amendment does not increase the number of lots;
- (10) To make necessary changes to the preceding plat to create six or fewer lots in the subdivision or a part of the subdivision covered by the preceding plat if:
  - a. The changes do not affect applicable zoning and other regulations of the municipality;
  - b. The changes do not attempt to amend or remove any covenants or restrictions; and
  - c. The area covered by the changes is located in an area that the municipal planning commission or other appropriate governing body of the municipality has approved, after a public hearing, as a residential improvement area; or
- (11) To replat one or more lots fronting on an existing street if:

- a. The owners of all those lots join in the application for amending the plat;
- b. The amendment does not attempt to remove recorded covenants or restrictions;
- c. The amendment does not increase the number of lots; and
- d. The amendment does not create or require the creation of a new street or make necessary the extension of municipal facilities.

(Ord. No. 15,192, § 21, 9-8-22)

Sec. 4.27. - Platting procedures.

- (a) *Submission of preliminary plat.* Application for the preliminary approval of an amending plat shall be made by the applicants or their authorized agent and shall be made on a form prescribed by the director of planning and community development. The application shall be accompanied by five copies of the preliminary development plan of the entire development drawn to scale and showing streets or drives, utility easements, and lots. A boundary survey or a certified boundary description by a registered public surveyor shall also be submitted.
- (b) *Application fee.* An application fee in the amount prescribed in section 2-595 shall accompany every application for an amending plat.
- (c) *Administrative review.* The director of planning and community development shall review the proposed amending plat to ensure compliance with all appropriate requirements of the Code. The director of planning and community development may submit the amending plat to other departments for review and comment, as the director deems necessary. Within ten business days after the date of the application, the amending plat shall be returned to the applicant along with written analysis detailing the items which must be addressed in order to comply with the Code.
- (d) *Submission and approval of final plat.* Within ten business days of receipt of the written analysis, the applicant shall submit to the director of planning and community development its final plat which shall include the following items:
  - (1) A reproducible mylar of the final plat, and the copies of the original submittal with staff analysis and commentary;
  - (2) Five true to scale 18-inch by 24-inch copies of the final plat;
  - (3) Tax certificates stating that no taxes are delinquent against the property; and
  - (4) The appropriate fees for filing the plat with the county clerk.If the items listed in this subsection are timely submitted, if all of the issues and corrections have been addressed as required by the Code as determined by the director of planning and community development, and if the amending plat is signed by the applicant only, the director may approve the amending plat.
- (e) *Expiration of preliminary plat.* If the items listed in subsection (d) of this section are not submitted within ten business days of the applicant's receipt of the written analysis or if the issues and corrections have

not been addressed as required by the Code as determined by the director of planning and community development within such period of time, the amending plat application along with the amending plat shall automatically expire and the applicant will be required to submit a new application for the amending plat.

(Ord. No. 15,192, § 21, 9-8-22)

Sec. 4.28. - Review by the commission.

- (a) The director of planning and community development may, for any reason, elect to forward the amending plat to the commission for review and approval.
- (b) The director of planning and community development must refer any amending plat, which he refuses to approve to the commission for its consideration.

(Ord. No. 15,192, § 21, 9-8-22)

DIVISION 8. - SUBDIVISION PLAT

Subdivision I. - In General

Sec. 4.29. - Scope of division.

Subdivision plat is a plat of a tract of land that does not qualify for a small subdivision, minor plat, or minor replat, and requires extension of municipal facilities to serve the tract, and its proposed development.

(Ord. No. 15,192, § 21, 9-8-22)

Sec. 4.30. - Platting procedure.

There shall be a three-stage process for subdivision plats required to be submitted to the commission for approval, consisting of a departmental review (stage one) as described in subdivision II of this division, preliminary approval (stage two) as described in subdivision III of this division and final approval (stage three) as described in subdivision IV of this division. The number of copies of the development plan required to be submitted at the appropriate times shall be two hardcopies and one electronic version in a city-approved format for stages two (preliminary approval) and three (final approval).

(Ord. No. 15,192, § 21, 9-8-22)

Subdivision II. - Departmental Review

Sec. 4.31. - Pre-application conference and general plan required.

The owner of the proposed subdivision or his authorized agent shall submit to the department of planning and community development a general plan, drawn to a scale of not less than one inch equals 100 feet (preferably the scale of one inch equals 20 feet or one inch equals 60 feet). The developer and the planning staff shall meet together and determine whether the applicable requirements of this Code have been complied with. If there is disagreement on this issue, the applicant, by request, or the staff may take this pre-preliminary information to the commission for its determination. If the staff and applicant reach a satisfactory agreement, the applicant may proceed to prepare data for preliminary approval.

(Ord. No. 15,192, § 21, 9-8-22)

Sec. 4.32. - Preliminary approval application.

Application for preliminary approval of the subdivision plat shall be made by the owner or his authorized agent of all affected property and shall be submitted on a form prescribed by the city planning staff and submitted with the planning and community development department. The application shall be accompanied by a fee prescribed in the fee schedule, section 4.07, and shall be accompanied by the following information:

- (1) Copies of the preliminary development plan of the entire development drawn to scale and showing streets, rights-of-way, utility easements, building lines, relevant operational data, drawings and elevations clearly establishing the scale and open space. Such development plan shall include a location map showing information on the surrounding area within 400 feet of the development. A boundary survey or a certified boundary description by a registered public surveyor, plus contour information, shall also be submitted. The contours shall be indicated on the preliminary plan, and such points shall be given to true elevation above mean sea level as determined by the datum specified by the city engineer. The base data shall be clearly indicated and shall be compatible to city datum, if benchmarks are not adjacent. The following intervals are required:
  - a. One-foot contour intervals for ground slopes up to five percent;
  - b. Two-foot contour intervals for ground slopes between five percent and ten percent; and
  - c. Five-foot contour intervals for ground slopes exceeding ten percent;All elements listed in this subsection shall be characterized as existing or proposed and sufficiently detailed to indicate intent and impact;
- (2) A tabulation of the land area to be devoted to various uses and a calculation of the average residential density per net acre;  
A development schedule demonstrating that the developer intends to commence construction within one year after the approval of the final development plan and will proceed diligently to completion;  
and
- (3) If it is proposed that the final plan will be executed in stages, a schedule thereof shall be required.

(Ord. No. 15,192, § 21, 9-8-22)

Sec. 4.33. - Submission of required data.

The data required under this subdivision shall be submitted to the director of planning and community development not less than 14 days prior to the commission meeting at which preliminary approval is sought.

(Ord. No. 15,192, § 21, 9-8-22)

Subdivision III. - Preliminary Approval

Sec. 4.34. - Procedures.

- (a) The application for preliminary approval of a subdivision plat shall be considered by the commission in a public meeting. The developer or his engineer shall be present.
- (b) The commission shall determine whether the proposal conforms to city and other applicable regulations and may approve or disapprove the application and the accompanying preliminary development plan or require such changes therein or impose such conditions of approval as are in its judgment necessary to ensure conformity to such regulations. If positive or negative action is not taken within 30 days after filing, the application and preliminary development plan shall be deemed approved, unless the time has been extended by the developer.
- (c) Preliminary approval does not constitute acceptance of the plat by the city, but is merely authority to proceed with preparation of the final plat. It shall be unlawful for any work to be done on the ground until the preliminary plat and plan has been approved, except basic site clearing may commence at the developer's risk.

(Ord. No. 15,192, § 21, 9-8-22)

Sec. 4.35. - Engineering report.

After preliminary approval of the subdivision plat by the commission, the developer shall file three copies of the engineering plans with the city engineer for review and approval. The developer shall forward copies to the appropriate county agency for review of all public improvements. When the development lies outside the city's extraterritorial jurisdiction, the plans shall be forwarded to the appropriate agencies and shall be designed to meet the county agencies' standards. Within the city and the city's extraterritorial jurisdiction, all improvements shall comply with the city's engineering specifications.

(Ord. No. 15,192, § 21, 9-8-22)

Subdivision IV. - Final Approval

Sec. 4.36. - Commission review; extension of time.

- (a) Within 1,095 days after preliminary subdivision plat approval and within 30 days of submission of the final plan, the commission shall examine such plat and determine whether it conforms to all applicable criteria and standards and whether it conforms in all substantial respects to the previously approved plat. The developer or his engineer shall be present at the meeting.
- (b) When the developer believes that an extension of time is needed beyond the time allowed in subsection (a) of this section, the developer may appeal in writing to the director of planning and community development for additional time and must specify the reasons therefor. The director of planning and community development may extend the 1,095 days by up to 90 days, which shall not be more than 1,185 days from preliminary approval action by the commission, if the director of planning and community development finds that the requested extension of time is not caused, directly or indirectly, by any action or omission of the developer, his engineer, or their respective officers, agents or employees or by the diligent pursuit thereof by such persons.
- (c) When the developer believes that an extension of time is needed beyond the time allowed in subsections (a) and (b) of this section, the developer may appeal in writing to the commission for additional time and must specify the reasons therefor. The commission then may grant an additional extension of time not to exceed:
  - (1) Ninety days from the extension granted pursuant to subsection (b) of this section, or
  - (2) One hundred eighty days if no extension was granted pursuant to subsection (b) of this section, if the commission finds that the requested extension of time is not caused, directly or indirectly, by any action or omission of the developer, his engineer, or their respective officers, agents or employees or by the diligent pursuit thereof by such persons.
- (d) When the developer believes that an extension of time is needed beyond the time allowed in subsections (a), (b) and (c) of this section, the developer may appeal in writing to the city council for additional time and must specify the reasons therefor. The city council then may grant an additional extension of time not to exceed:
  - (1) One hundred eighty days from the extensions granted pursuant to subsections (b) and (c) of this section,
  - (2) Two hundred seventy days if an extension was granted pursuant to subsection (b) or (c) of this section, but not both, or
  - (3) Three hundred sixty days if no extension was granted pursuant to subsections (b) and (c) of this section, if the city council finds that the requested extension of time is not caused, directly or indirectly, by any action or omission of the developer, his engineer, or their respective officers, agents or employees or by the diligent pursuit thereof by such persons.

(Ord. No. 15,192, § 21, 9-8-22)

Sec. 4.37. - Submission of plat to director.

The final plat of the subdivision shall be submitted to the director of planning and community development not less than 14 days prior to the commission meeting at which final approval is sought.

(Ord. No. 15,192, § 21, 9-8-22)

Sec. 4.38. - Engineering report.

Three sets of plans and specifications for water, sewer, paving and drainage prepared by an engineer registered in the state and approved in writing by the city engineer, along with one digital copy of such plans and specifications shall be submitted to the engineering department prior to the beginning of any construction of the subdivision. The digital copy shall be submitted in DXF, DWG, or DGN format containing state plane coordinates south central zone based on NAD 83 and elevations based on Geoid99 NAVD88 referenced to approved city monumentation and utilizing survey grade (RTK) procedures.

(Ord. No. 15,192, § 21, 9-8-22)

Sec. 4.39. - Contents of final plat; construction approval.

- (a) The final plat of the subdivision shall show or be accompanied by the following data:
- (1) Plats shall be drawn upon sheets 24 inches by 36 inches to the scale of 100 feet to the inch, unless another scale is approved by the director of planning and development services;
  - (2) A title, including the name of the subdivision, the owner and the certification of a registered public surveyor responsible for the plat; and the scale and location of the subdivision with reference to original land grants or surveys, the data and north point;
  - (3) A certificate of ownership and dedication of all streets, easements, parks and playgrounds to public use forever, signed and acknowledged before a notary public by the owner and lienholder of the land;
  - (4) An accurate on-the-ground boundary survey of the property with bearings and distances and showing the lines of all adjacent land, streets and easements with their names and width. Streets and lot lines in an adjacent subdivision shall be shown dotted. All necessary data to reproduce the plat on the ground must be shown on the plat, including building lines;
  - (5) A certificate of approval to be signed by the chairman and secretary of the commission shall be placed on the face of the plat;
  - (6) A certificate of approval from the county flood control district shall be placed on the face of the plat when one of its facilities is immediately adjacent or dedication to it is required;
  - (7) Two copies of the proposed deed restrictions; and
  - (8) If any part of the plat lies in a flood hazard area, one-foot contour lines shall be drawn with a very heavy line and designated. The plat shall also show the following statement in print equal in size to the certificates of approval:

"Parts of this plat lower than the 100-year flood elevation have a one percent chance each year of being inundated by flooding."

- (b) All construction shall be inspected while in progress by the city engineering department and must receive final approval upon completion by the city engineer. A letter by such officers stating that the construction conforms to the specifications and standards contained in or referred to in this division must be presented to the planning and development services department prior to filing the final plat unless a security is submitted in accordance with subsection (c) hereof.
- (c) If the subdivider chooses to file security in lieu of completing construction prior to final plat filing, he may utilize one of the methods of posting security detailed herein based upon the type of development.
  - (1) For all developments except for those listed in subsection (c)(2) and (c)(3) of this section, a subdivider may only file security in lieu of completing construction if all water lines, sanitary sewer lines, and stormwater systems are completed and approved by the city engineer and if at least 50 percent of all required improvements, including streets, sidewalks, and lift stations, if any, have been completed. If these requirements are met, the subdivider may:
    - a. File with the department of planning and development services a bond executed by a surety company licensed to do business in the state and acceptable to the city, on the form provided by the city, in an amount equal to 110 percent of the estimated cost of the improvements required by this chapter and conditioned upon the satisfactory completion of all required improvements, including streets and lift stations, if any, in full compliance with the Code within the time for completion as established by the city engineer. The estimated cost shall be approved by the city engineer, and the performance bond shall be approved as to form and legality by the city attorney;
    - b. Place on deposit in a bank or trust company in the name of the city and approved by the city and file a copy of such with the department of planning and development services in a trust account a sum of money equal to 110 percent of the estimated cost of all improvements required by this chapter, which account shall be conditioned upon the satisfactory completion of all required improvements, including streets and lift stations, if any, in full compliance with the Code within the time for completion as established by the city engineer. The estimated cost shall be approved by the city engineer. Selection of the trustee shall be subject to approval by the city, and the trust agreement shall be executed on the form provided by the city and approved as to form and legality by the city attorney;
    - c. File with the department of planning and development services a letter, on the form provided by the city, signed by a principal officer of a bank or federally insured savings and loan association or other financial institution acceptable to the city, agreeing to pay to the city, on demand, a stipulated sum of money equal to 110 percent of the estimated cost of improvements required by this chapter to apply to the costs of installation of all improvements for which the subdivider or developer is responsible under this chapter. The time for completion shall be established by the

city engineer and the guarantee payment sum shall be the estimated costs as approved by the city engineer. The letter shall state the name of the subdivision and shall list the improvements and amounts which the subdivider or developer is required to provide; or

File with the department of planning and development services a cashier's or certified check payable to the city in an amount equal to 110 percent of the estimated cost of the improvements required by this chapter.

- (2) For developments located within an area annexed for limited purposes by the city, a subdivider may file security in lieu of completing construction of water lines, sanitary sewer lines, stormwater systems, and required improvements, including streets, sidewalks, and lift stations, if any, if the development:
- a. Is located within a light industrial (LI) or heavy industrial (HI) zoning district; or
  - b. Is comprised of only commercial uses, one of which has a building footprint in excess of 100,000 square feet.

The security may be in any of the forms referenced in subsection (c)(1)a. through (c)(1)d. of this section.

- (3) For developments located within the corporate limits of the city, a subdivider may file for final plat prior to completing construction of water lines, sanitary sewer lines, stormwater systems, and required improvements, including streets, sidewalks, and lift stations, if any, if:
- a. The subdivider has entered into a cost-share agreement with the city regarding the construction of all or a portion of the required improvements;
  - b. The subdivider has rendered its share of the cost of the required improvements to the city in accordance with the cost-share agreement;
  - c. The cost-share agreement provides for the dedication of any easements or rights-of-way not shown on the final plat; and
  - d. Either:
    1. The development is comprised of only commercial uses, one of which has a building footprint in excess of 100,000 square feet; or
    2. The development is comprised of only commercial uses consisting of at least 30 acres.

For purposes of this subsection, "commercial uses" shall include multifamily and industrial uses.

The security for the required improvements not subject to the cost-share agreement may be in any of the forms referenced in subsections (c)(1)a. through (c)(1)d. of this section.

- (d) After final inspection, the city engineer shall notify the subdivider and the director of planning and development services in writing as to his acceptance or rejection of the construction. If accepted, the security is released. He shall reject such construction only if it fails to comply with the standards and specifications contained or referred to in this chapter. If he rejects such construction, the city attorney shall proceed to enforce the guarantees provided in this section. The city engineer may approve partial

releases of the security retained by the city upon partial acceptance by the city engineer of required improvements. Where good cause exists, the city engineer may extend the period of time for completion under subsection (b) of this section. Such extension of time shall be reported to the department of planning and development services. No such extension shall be granted unless security as provided in subsection (b) of this section has been provided by the subdivider covering the extended period of time.

(Ord. No. 15,192, § 21, 9-8-22)

## DIVISION 9. - SPECIAL DEVELOPMENTS AND SUBDIVISIONS

### SPECIAL DEVELOPMENT IN GENERAL

#### Sec. 4.40. - Requirements for developments falling outside existing categories.

With the rapid changes that occur in development ideas and layouts, it is impossible to write regulations to cover every conceivable development. The commission, upon recommendation of the director of planning and development and the city engineer, is empowered to determine the specific requirements for each development that does not logically fall in an existing category. The commission may adjust the requirements for lot size, street construction, individual metering and sidewalks in developments that are proposed which do not fit existing categories. In approving developments under this section, the commission should determine that:

- (1) The proposed use is appropriate and reasonable for the area;
- (2) Approval will not be detrimental to the public health, safety, and welfare;
- (3) The effect of the development will not prevent orderly subdivision of other land in the vicinity; and
- (4) The development will not cause the city to be required to provide city services at a level above that required in other subdivisions.

(Ord. No. 15,192, § 21, 9-8-22)

#### Sec. 4.41. - Floodprone areas.

- (a) Development of floodprone areas is prohibited except as permitted by this chapter and chapter 110 pertaining to flood hazard areas.
- (b) Subdivision of floodprone areas is prohibited where the cost of providing utilities and governmental services would pose an unreasonable economic burden.
- (c) The location, elevation and construction of all utilities and facilities, such as sewer, gas, electrical and water systems and streets, shall be in such manner as to minimize or eliminate damage by flooding.
- (d) Adequate drainage shall be provided to reduce the community's exposure to flood hazards with respect to adjacent, upstream and downstream developments.
- (e) No platted residential lot shall be approved that does not contain a suitable building site of sufficient

elevation to permit construction utilizing the lowest floor elevation, including the basement, above the base flood level elevation.

(Ord. No. 15,192, § 21, 9-8-22)

**Cross reference**— Floods generally, ch. 110.

Sec. 4.42. - Gate design for emergency access.

- (a) *Approval.* The construction plans of the design of any gate constructed in the development of commercial properties, industrial properties or private subdivisions must be submitted to and approved by the chief of the fire department as well as the city engineer.
- (b) *Access.* All restricted access entrances in commercial or industrial developments or in private subdivision developments must provide at all times a means for access by city employees discharging their responsibilities, providing any municipal services, or enforcing any of the rules and regulations contained in this code or any code adopted by this code as well as by all personnel of other governmental entities charged with enforcing laws, rules or regulations or providing services within the city into the subdivision in accordance with this section. If the corporation, community association or other legal entity responsible for maintaining the private streets fails to maintain reliable access as required to provide the city services, the city may enter the subdivision and remove any gate or device which constitutes a barrier to access at the sole expense of the corporation, community association or other legal entity responsible for maintaining the same. The corporation, community association or other legal entity responsible for maintaining the streets in need of repair shall be responsible for the costs associated with the removal of any and all gates from a private subdivision together with all maintenance expenses to bring the street in compliance with this division. Such costs must be paid within 30 days after receipt of a bill therefor.
- (c) *Location and specifications.* All plans for installation of gates shall be approved by the chief building official and the chief of the fire department prior to any construction. Gates shall be set back at least 45 feet from any public way to allow fire apparatus to park completely off the street while gaining access. The minimum clear opening for any gate shall be equal to the minimum width of the fire lane or fire apparatus access road. The minimum clear opening must remain unobstructed at all times. A minimum centerline turning radius on either side of the gate shall be 35 feet. Gates shall be equipped with an automatic reversing system in the event the gate strikes an object while opening or closing. There shall be neither exposed gears nor overhead electrical wiring in any gate system. Electric gates shall be equipped with a single key, city-approved emergency access system designed to open and lock open both the entry and exit gates. The key switch shall be installed in a location approved by the fire department. In addition, a system key controlled "fail safe" mechanism shall be installed to allow the gate to be manually opened in the event of a power or mechanical failure. All fittings for system padlocks shall have a minimum one-half inch diameter hole. The city-approved control access system shall be operational and pass inspections of both the chief building official as well as the chief of the fire department before the gate may be placed in operation. Secondary emergency access gates shall be equipped with city-approved

emergency access system padlocks and shall be unobstructed at all times. These gates shall be equipped with a positive mechanical latch to lock them in the open position. All fire lane widths, turning radiuses, set back and turnaround requirements of this Code will apply to the portion of the private street where the gate is installed.

(Ord. No. 15,192, § 21, 9-8-22)

## RESIDENTIAL SUBDIVISIONS

### Subdivision I. - In General

#### Sec. 4.43. - Location of fire hydrants.

Fire hydrants shall be spaced no further than 500 feet apart along access ways in residential areas.

(Ord. No. 15,192, § 21, 9-8-22)

### Subdivision III. - Condominium

#### Sec. 4.44. - Definitions.

The following words, terms and phrases, when used in this subdivision, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Apartment-type dwelling unit* means a structure designed for or to be used for occupancy by more than three families, or those units having more than two points or areas of attachment with other dwelling units, except that units located on the ends of structures shall have more than one common point or area of attachment.

*Condominium* means the separate ownership of single units or apartments in a multiple-unit structure with any common element.

*Condominium project* means a real estate condominium project; a plan or project whereby four or more apartments, rooms (office spaces), or other units in existing or proposed buildings or structures are offered or proposed to be offered for sale.

*Condominium regime* means the declaring, through the recordation of a master deed, lease or declaration, the intent to submit the property to joint ownership as a condominium.

*Co-owner* means a person, firm, corporation, partnership, association, trust or other legal entity or any combination thereof, owning a unit within the condominium project.

*Council of co-owners* means the association of unit owners that administers and maintains the common property and common elements of the condominium regime.

*Developer* means a person who undertakes to develop a real estate condominium project.

*General common elements* means and includes the following:

- (1) The land, whether leased or in fee simple, on which the building stands;
- (2) The foundations, bearing walls and columns, roofs, halls, lobbies, stairways and entrances and exits or communication ways;
- (3) The basement, flat roofs, yard and gardens, except as otherwise provided or stipulated;
- (4) The premises for the lodging of janitors or persons in charge of the building, except as otherwise provided or stipulated;
- (5) The compartments or installation of central services such as power, light, gas, cold and hot water, refrigeration, central air conditioning and central heating, reservoirs, water tanks and pumps, swimming pools and the like;
- (6) The elevators and shafts, garbage incinerators and in general all devices or installations existing for common use; and
- (7) All other elements of the building desirable or rationally of common use or necessary to the existence, upkeep and safety of the condominium regime and any other elements described in the declaration.

*Townhouse-type dwelling unit* means a structure that is one or a series of dwelling units designed for single-family occupancy, which dwelling units are structurally connected or immediately adjacent to each other without side yards between individual dwelling units.

*Unit* means an enclosed space consisting of one or more rooms occupying all or part of a floor in a building of one or more floors or stories, regardless of whether it is designed for residence, for business office or for any other type of independent use, provided it has a direct exit to a thoroughfare or to a given common space leading to a thoroughfare.

(Ord. No. 15,192, § 21, 9-8-22)

**Cross reference**— Definitions generally, § 1-2.

Sec. 4.45. - Commission approval required.

It shall be unlawful for any developer or agent of any developer to offer for sale or sell any structure or building or offer for sale or sell any unit of a condominium project without the approval of the commission.

(Ord. No. 15,192, § 21, 9-8-22)

Sec. 4.46. - Townhouse-type dwelling units.

A proposed condominium project consisting of townhouse-type dwelling units shall, in addition to the requirements of this subdivision, comply with all townhouse subdivision regulations and any amendments thereto.

(Ord. No. 15,192, § 21, 9-8-22)

Sec. 4.47. - Apartment-type dwelling units.

A proposed condominium project consisting of apartment-type dwelling units shall, in addition to the requirements of this subdivision, comply with all fire lane easement regulations and any amendments thereto.

(Ord. No. 15,192, § 21, 9-8-22)

Sec. 4.48. - Procedure for approval.

- (a) Every developer, sole owner or the co-owners of a building or proposed building within the city or its extraterritorial jurisdiction who expressly declares, through the recordation of a master deed, lease or declaration, the desire to submit the property to a condominium regime shall file a plat of such land with the commission for its approval in conformance with the standard rules of such commission and dedicating public streets, easements and all other dedications and covenants required in this subdivision.
- (b) Such map or plat shall accurately describe the entire area or tract of land upon which the building is located or is to be constructed and shall indicate the location of all public streets, buildings, easements and common areas. Such map or plat shall be prepared in conformance with the requirements and rules of the commission.
- (c) In addition to such map or plat, such persons shall file the declaration of covenants, conditions and restrictions establishing a condominium regime with the commission. Such declaration shall contain the following:
  - (1) The legal description of the land, which description shall be depicted by a plat showing the land involved and the location of each building or proposed building to be located thereon. Each building shall be denoted by letter: A, B, C, etc.;
  - (2) The general description and the number of each apartment, expressing its square footage, its location and any other data necessary for its identification, which information will be depicted by a plat of the floor of each building showing also the letter of the building and the number of the floor and the number of the apartment;
  - (3) The general description of each garage, carport or any other area to be subject to individual ownership and exclusive control, which information will be depicted by a plat showing such garage, carport or other area appropriately lettered or numbered;
  - (4) The description of the general common elements less subsection (a) of this section;
  - (5) The description of the limited common elements;
  - (6) The fractional or percentage interest that each apartment bears to the entire condominium regime, the sum of which shall be one if expressed in fractions and 100 if expressed in percentages; and
  - (7) Any further provisions, matters or covenants desired.
- (d) To ensure the proper administration of the condominium regime and the creation of a council of co-

owners, the developer shall submit the bylaws of the condominium project to the commission for their review.

(Ord. No. 15,192, § 21, 9-8-22)

#### Subdivision IV. - Townhouse Subdivisions

##### Sec. 4.49. - Definitions.

The following words, terms and phrases, when used in this subdivision, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Access street* means a public street within or bounding a townhouse subdivision that serves a townhouse subdivision and other adjacent property.

*Interior street* means a public street not more than 600 feet long with a townhouse subdivision, which street is located and designed to serve a limited area within such subdivision and shall not serve other properties outside the subdivision.

*Open space* means private property under common ownership designated for recreation area, private park for use of property owners within the subdivision, plat lot area, plaza area, building setbacks other than those normally required and ornamental areas open to general view within the subdivision. Open space does not include streets, alleys, utility easements and required building setbacks.

*Parcel* means that tract of land proposed to be developed and owned in fee by the developer.

*Townhouse* means a structure that is one of a series of dwelling units designed for single-family occupancy, which dwelling units are structurally connected or immediately adjacent to each other without side yards between individual dwelling units.

*Townhouse subdivision* means those developments in which it is proposed to partition land into individual lots and construct townhouses, which may be individually owned, and where the minimum lot sizes are to be less than those required under this chapter.

(Ord. No. 15,192, § 21, 9-8-22)

**Cross reference**— Definitions generally, § 1-2.

##### Sec. 4.50. - Requirements generally.

Any person proposing or intending to develop a townhouse subdivision within the city or its extraterritorial jurisdiction shall, before any building permit is issued, cause a plat of such townhouse subdivision to be approved by the commission, which plat shall be in conformance with all of the requirements of this chapter, except to the

extent that such requirements are inconsistent with the requirements in this subdivision, which shall control with regard to townhouse subdivisions.

(Ord. No. 15,192, § 21, 9-8-22)

Sec. 4.51. - Streets.

- (a) Interior streets in a townhouse subdivision shall have a minimum right-of-way of 50 feet and shall be developed with a minimum 29-foot paving section with concrete curbs and gutters in accordance with standards set forth in article IV of this chapter.
- (b) Access streets shall have a minimum right-of-way width of 60 feet and shall be developed with a minimum 39-foot paving section with concrete curbs and gutters in accordance with such standards.
- (c) All townhouse subdivisions shall have a direct access from at least one dedicated and accessible public street having a right-of-way width of not less than 50 feet.

(Ord. No. 15,192, § 21, 9-8-22)

Sec. 4.52. - Lots.

- (a) Lot area in a townhouse subdivision shall be a minimum of 2,500 square feet, except as provided in this section.
- (b) Lot width shall be a minimum of 24 feet, except as provided in this section.
- (c) Lot size may be reduced under the provision that open space, as defined in this chapter, is provided according to the following schedule: For every 100 square feet of open space per lot provided, the minimum lot area may be reduced by 200 square feet and the width of the lot may be reduced as shown in the following table. No lot shall, however, have a lot area of less than 2,000 square feet or a width of less than 20 feet.

Open Space Provided per Dwelling Unit Lot (in square feet)	Minimum Lot Area (in square feet)	Minimum Lot Width (in feet)
0	2,500	24
100	2,300	23
200	2,100	21
250	2,000	20

(d) Open space must be provided in increments as shown in subsection (c) of this section, and credit will not be allowed on a proportionate basis. The dedication, location and use of open space shall in all cases be subject to the approval of the commission.

(Ord. No. 15,192, § 21, 9-8-22)

Sec. 4.53. - Screening walls.

Where townhouse lots in a townhouse subdivision are backing or siding upon an existing public street, a two-foot-wide private easement shall be provided abutting the street, and a masonry wall not less than six feet high shall be constructed upon the easement to provide a visual screen.

(Ord. No. 15,192, § 21, 9-8-22)

## COMMERCIAL DEVELOPMENTS

Sec. 4.54. - Definitions.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Dwelling, single-family, detached* means a fixed building containing only one dwelling unit and occupied by only one family and entirely surrounded by open space on its building site.

*Easement* means a grant by the property owner to the city, a corporation or persons of the use of a strip of land for specific purposes.

*Fire lane easement* means an easement improved and maintained by the owner or co-owner of the land across which it is located for the primary purpose of providing ingress and egress to buildings served thereby for police officers, firefighters and firefighting and emergency vehicles and equipment and for the location therein of water mains, fire hydrants and other public utilities. A fire lane easement remains private property except for the restrictions imposed in this division.

*Permanent open space* means an open space that, in the judgment of the commission, may be expected to remain open and undeveloped. Examples of permanent open space are existing public parks or flood control drainage easements. Land in private ownership or a public street right-of-way does not constitute permanent open space.

*Street* means a public right-of-way that provides primary public vehicular access to abutting property and is designated as either a street, highway, thoroughfare, major thoroughfare, freeway, parkway, avenue, lane, boulevard, road or drive.

(Ord. No. 15,192, § 21, 9-8-22)

**Cross reference**— Definitions generally, § 1-2.

Sec. 4.55. - Plat required.

Before making application for building permit for the erection of any structure on any tract of land within the city's corporate limits and before receiving plat approval by the planning and zoning commission for lands in the city's extraterritorial jurisdiction, owner shall file either:

- (a) A plat of such land with the commission for its approval in conformance with the rules of such commission and dedicating thereon fire lane easements for approved fire access roads and all other dedications and covenants required in this division when the building is:
  - (1) Designed for or to be used for occupancy by two families;
  - (2) Designed for use or occupancy by more than one business, industrial or commercial establishment; or
  - (3) Located more than 150 feet from a public street or in conflict with the major thoroughfare plan;or
- (b) A fire lane easement with the planning department for its director's written approval in conformance with the standards of this division; provided that there are no covenants or dedications required, other than the dedication of a fire lane easement for approved fire access roads. The easement must be in a form approved by the city attorney.

(Ord. No. 15,192, § 21, 9-8-22)

Sec. 4.56. - Plat contents, preparation and filing.

- (a) The plat required in section 4.55(a) shall accurately describe the entire area or tract of land upon which the buildings are to be located and shall indicate the location of all public streets, fire lane easements, buildings, easements and fire hydrants. Such plat shall be prepared in conformance with the requirements in this division and with rules of the commission and shall be submitted according to the plat submittal procedure and requirements. Upon final approval of the commission, the plat shall be recorded in the map records of the county wherein the land is situated.
- (b) The easement required in section 4.55(b) shall accurately describe by a metes and bounds description the location of the fire lane easement. Such easement shall be prepared in conformance with the requirements in this division and with rules of the planning department for the written approval of the planning and development director. Upon approval by the planning and development director, the owner shall tender to the city an amount sufficient for the city to record the easement; and the easement shall be recorded in the deed records of the county wherein the land is situated.
- (c) Building permits may be issued only upon satisfactory compliance with this division.
- (d) If a fire lane is required by this Code, the planning and zoning commission may approve a final plat only if the plat dedicates the required fire lane or if a fire lane easement has been approved by the planning and development director and funds have been tendered to the city for the recording of the same.

(Ord. No. 15,192, § 21, 9-8-22)

Sec. 4.57. - Waiver of final plat.

- (a) Notwithstanding the general requirements in sections 4.55 and 4.56, the director of planning and community development may, upon review of the preliminary plat submittal as required, not require the filing of a final plat in the county records provided the following specific conditions are met:
- (1) A fire lane or utility easement will not be required due to the location and accessibility of the building with respect to the existing public street system;
  - (2) Density requirements are not exceeded;
  - (3) All structures lie within 150 feet of a dedicated and improved street;
  - (4) No conflict exists with the major thoroughfare plan; and
  - (5) No street right-of-way dedication is required.
- (b) This action does not release the developer from meeting drainage requirements.

(Ord. No. 15,192, § 21, 9-8-22)

Sec. 4.58. - Location of structures; fire hydrants; fire lane easements.

- (a) Approved fire apparatus access roads as defined in the city's fire prevention code adopted in section 38-61, including fire lanes, shall be provided for every structure or portion thereof in a commercial or industrial development within the city or its extraterritorial jurisdiction. The exterior walls of the first story of a building in a commercial or industrial development shall be located within a 150-foot travel distance from a dedicated, accessible, and approved public street or fire access lane easement. The fire chief is authorized to increase the distance of 150 feet in accordance with the city's fire prevention code adopted in section 38-61.
- (b) Fire hydrants shall be spaced no further than 300 feet apart along access ways in commercial and industrial developments. In commercial and industrial developments, fire hydrants shall be required in accordance with the city's fire prevention code adopted in section 38-61.
- (c) A fire lane easement shall have a minimum width of 24 feet of paved roadway. Fire lane easements shall receive primary access from a dedicated and improved public street of not less than 50 feet of right-of-way.
- (d) Fire lane easements that curve, turn or change directions shall meet the following standards:
- (1) All curves, turns or changes in direction shall have a minimum centerline curve radius of 35 feet.
  - (2) All reverse curves shall have a minimum tangent length of 50 feet between points of curve.
- (e) Dead-end fire apparatus access roads as defined in the city's fire prevention code adopted in section 38-61, including fire lanes, in excess of 150 feet in length shall be provided with an approved area for turning around fire apparatus, in accordance with the city's fire prevention code adopted in section 38-61.
- (f) Fire lanes and access to buildings shall comply with the specifications of the fire prevention code adopted

by the city dealing with access to buildings by fire apparatus.

(g) Dead-end fire lane easements in excess of 300 feet in length must be approved by the fire chief.

(Ord. No. 15,192, § 21, 9-8-22)

Sec. 4.59. - Off-street parking.

(a) The commission shall be responsible for off-street parking requirements for commercial developments that must be platted.

(b) The commission may grant an exception to the requirements of chapter 112 when in its opinion one or more of the following apply to the platted development:

(1) The exception is not inconsistent with the intent of the ordinance [from which this article derived from];

(2) The development of additional phases will include provisions for any shortage;

(3) The proposed development is shown to not fit existing categories; or

(4) The proposed structures include areas that will not be used as a part of the majority use proposed

(Ord. No. 15,192, § 21, 9-8-22)

### LARGE LOT ESTATE DEVELOPMENT

Sec. 4.60. - Definitions.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Large lot residential estate development* means a subdivision in which the minimum lot size is one acre and the minimum street frontage for any lot is 60 feet with a minimum lot width of 120 feet at the building setback line.

(Ord. No. 15,192, § 21, 9-8-22)

**Cross reference**— Definitions generally, § 1-2.

Sec. 4.61. - Scope.

Large lots with wide frontage result in less drainage and traffic demands than single-family residential developments consisting of small lots with narrow frontages and widths. Therefore, the facility requirements and public impacts of the larger estate-type developments are less intensive. Such developments are desirable for the community to attract and encourage development and should not have to conform to the same standards that apply to the more intense developments. Residential developments undertaken pursuant to this division shall conform to this division and are considered exempt from conflicting provisions specified elsewhere in this chapter.

(Ord. No. 15,192, § 21, 9-8-22)

Sec. 4.62. - Lot standards.

(a) *Minimum area.*

- (1) Except as provided in subsection (2) of this subsection, in a large lot estate development, the minimum lot area shall be one acre.
- (2) No more than 15 percent of the residential lots within a large lot development may be less than one acre, provided that:
  - a. The overall density remains at least one residential lot per acre; and
  - b. No residential lot within a large lot subdivision shall be less than 32,000 square feet.

As used in this subsection, the overall density shall be calculated by dividing the total acreage of all residential lots by the total number of lots.

(b) *Setback requirements.* Setbacks in the development shall be as follows:

- (1) Front yard, 40 feet;
- (2) Rear yard, 20 feet; and
- (3) Side yard, ten feet.

(c) *Street frontage.* The minimum street frontage shall be 60 feet.

(d) *Minimum width.* The minimum lot width shall be 120 feet, to be measured at the building setback line.

(Ord. No. 15,192, § 21, 9-8-22)

**Cross reference**— Table of property development standards, § 130-601.

Sec. 4.63. - Streets.

In a large lot development, streets can be constructed using either asphalt or concrete as follows:

- (1) *Right-of-way.* The street right-of-way shall be a minimum of 60 feet;
- (2) *Asphalt streets.* Asphalt streets shall be constructed as follows:
  - a. The width shall be 22 feet of paved HMA surface;
  - b. Shoulders shall be four feet on each side paved with an asphaltic chip seal; and
  - c. The pavement and shoulders shall both have an eight-inch flexible base and a six-inch lime stabilized subgrade. The HMA surface shall be one and one-half inches thick.
- (3) *Concrete streets.* Concrete streets shall be constructed as follows:
  - a. The width shall be 22 feet of paved surface;
  - b. Shoulders shall not be required on concrete streets; and
  - c. The concrete pavement shall be a minimum of six inches thick with a six-inch lime stabilized subgrade that extends one foot beyond the edge of the pavement. The concrete pavement shall be constructed in accordance with specifications for such pavement provided for in article V of

this chapter. The outer three feet of each side of the pavement shall have the steel reinforcement placed on 12-inch centers; and

(4) *Roadside ditches.* Roadside ditches may be used for drainage if constructed as follows:

- a. The maximum side slopes shall be three to one; and
- b. The maximum depth shall be five feet measured from the crown of the finished pavement.

(Ord. No. 15,192, § 21, 9-8-22)

Sec. 4.64. - Extension of utilities.

If municipal water or sewer utilities of sufficient capacity are available within 2,000 feet of the proposed site of a large lot estate development, the developer shall extend the utilities to the site and make them available to every lot in the development.

(Ord. No. 15,192, § 21, 9-8-22)

### PRIVATE SUBDIVISION DEVELOPMENT

Sec. 4.65. - Definitions.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Private street* means any street, alley, road, or right-of-way, not dedicated to the public.

*Private subdivision* means a subdivision containing one or more private streets.

(Ord. No. 15,192, § 21, 9-8-22)

Sec. 4.66. - Applicability of division.

The requirements in this division shall apply to all private subdivisions within the city's corporate limits and its extraterritorial jurisdiction, unless expressly stated otherwise, and shall be in addition to all otherwise applicable requirements in this chapter.

(Ord. No. 15,192, § 21, 9-8-22)

Sec. 4.67. - Infrastructure requirements.

- (a) *Private streets.* Improved portions of private streets shall comply with the specifications and design standards set forth in articles IV and V of this chapter. Private streets shall be owned and maintained by a corporation, community association or other legal entity established for this purpose.
- (b) *Sidewalks, driveways, curbs and gutters.* Cement or concrete sidewalks, driveways, curbs and gutters shall comply with the specifications and regulations contained in chapter 122. Deed restrictions shall be

required to ensure sidewalks remain unobstructed. Sidewalks, curbs and gutters in a private subdivision shall be owned and maintained by a corporation, community association or other legal entity established for this purpose.

(c) *Wheelchair ramps.*

- (1) Wheelchair ramps shall be constructed at the entrance to all crosswalks where sidewalks exists or where otherwise required by section 122-91.
- (2) Where sidewalks or curbs exist, wheelchair ramps shall be added at locations specified in subsection (1), above, whenever any work is proposed to existing driveways, curbs, or sidewalks. Also, wheelchair ramps shall be added wherever missing sidewalks or curb segments are added in front of any lot or block of subdivision.
- (3) Wheelchair ramps shall conform to the design and construction standards of the city. Any deviation from the standards must be approved in writing by the director of public works in consultation with the director of human resources.
- (4) Wheelchair ramps shall be owned and maintained by a corporation, community association or other legal entity established for this purpose.

(d) *Utilities.* All utility systems shall comply with the requirements of this chapter, chapter 98 and any other applicable regulations of the city. Water, sanitary sewer, and storm sewer systems within a private subdivision shall be dedicated to the public and maintained by the city in the same manner as its other water, sanitary sewer, and storm sewer systems. All utilities so dedicated within the city limits must be accepted in writing by the city prior to recording of the final plat.

(e) *Easements.* Publicly owned and/or maintained utilities shall be placed in public streets or easements dedicated to the public, which are a minimum of 16 feet in width unless a narrower width is approved by the city engineer.

(Ord. No. 15,192, § 21, 9-8-22)

Sec. 4.68. - Infrastructure compliance.

Upon completion of construction and prior to approval by the city engineer, the city engineer shall be provided with a written certification signed by a registered professional engineer certifying that all infrastructure enumerated in section 4.67 was designed and installed as required by the provisions of this chapter. The construction of all infrastructure detailed in section 4.67 shall be inspected while in progress by the city engineer and must receive final approval upon completion by the city engineer. The platting, review, approval and filing processes described in article II of this chapter shall govern all plats of private subdivisions.

(Ord. No. 15,192, § 21, 9-8-22)

Sec. 4.69. - Common areas and facilities maintenance.

*Responsibility for maintenance.* Adequate provision shall be made for a community association or other legal entity with direct responsibility to, and control by, the property owners involved to provide for the operation and maintenance of all common areas and facilities, including private streets and sidewalks which are a part of the private subdivision. The applicant shall submit a legal instrument establishing a plan for the use and permanent maintenance of the common areas/facilities and demonstrating that the community association is self-perpetuating and adequately funded to accomplish its purposes, and providing the city and other governmental authorities with written permission for access at any time without liability when on official business, and further to permit the city to remove obstructions if necessary for emergency vehicle access and assess the cost of removal to the owner of the obstruction. The instrument must be approved as to legal form by the city attorney prior to any plat recordation and shall be recorded at the same time as the plat.

- (a) *Inspections.* The city may periodically inspect private streets and sidewalks and require repairs necessary to ensure public health, safety and emergency access as specified in subsection (c), below.
- (b) *Repairs ordered by the city.* All repairs to and maintenance of private streets and sidewalks, which are ordered by the city engineer in writing and sent to the community association or other legal entity responsible for such repairs and/or maintenance as specified in the deed restrictions approved by the city attorney, must be completed within the time specified in the notice. Failure to timely complete the ordered repairs or maintenance may result in any one or more of the following, at the sole option of the city:
  - (1) Emergency services being withheld if emergency vehicles cannot safely access the emergency site; and/or
  - (2) The removal of all gates inhibiting access to the public and the dedication of the private streets, sidewalks, and rights-of-way to the public.

(Ord. No. 15,192, § 21, 9-8-22)

Sec. 4.70. - Lot size.

All lots within a private subdivision within the city limits shall conform to this chapter and the Unified Land Development Code, including, but not limited to, the property development standards enumerated therein.

(Ord. No. 15,192, § 21, 9-8-22)

Sec. 4.71. - Streetlights and signs.

Streetlights and street name signs shall be in compliance with sections 4.114 and 4.115 respectively. Furthermore, the entrances to all private streets from public ways must be marked with a sign stating that the street is a private street.

(Ord. No. 15,192, § 21, 9-8-22)

Sec. 4.72. - Location restrictions on private subdivisions.

- (a) A private subdivision may not cross an existing or proposed thoroughfare.
- (b) A private subdivision may not disrupt or cross any existing or proposed public pedestrian pathway, hike and bike trail, or park, as shown on the city's most recent park plan.

(Ord. No. 15,192, § 21, 9-8-22)

Sec. 4.73. - Garbage collection.

If in the opinion of the director of public works, private streets within the city limits are arranged so that garbage may be collected without creating a safety hazard, the city will collect the garbage. Garbage collection locations shall be subject to the approval of the director of public works. In the event the city does not collect garbage within a private subdivision within the city limits, all units may be exempted from payment of garbage fees upon furnishing evidence ensuring acceptable removal of all garbage and refuse by private means. To receive such exemption, written application must be submitted to and approved by the director of finance.

(Ord. No. 15,192, § 21, 9-8-22)

Sec. 4.74. - Additional information on plat required.

- (a) *Indemnification.* On the subdivision final plat shall be the following language:

It shall be expressly understood and agreed by and between the owner of the subdivided property that the owner, its officers, agents and employees and/or its successors, assigns (collectively the "owner") shall defend, indemnify and hold the city, its officers, agents and employees (collectively the "city"), harmless against any and all claims, lawsuits, judgments, costs and expenses, including attorneys' fees, for personal injury, death, property damage or other harm for which recovery of damages is sought, suffered by any person, that may arise out of or be occasioned in any way by the repair, maintenance or condition of any utility, private street, sidewalk, streetlight, or street sign located within the subdivision or the gates and/or barriers restricting access to the private subdivision, where such injuries, death or damages are caused by the joint negligence of the city and the owner, and/or by the joint or sole negligence of the owner. It is the expressed intention of the parties hereto, both the owner and the city, that the indemnity provided for in this subsection is indemnity by the owner to indemnify, protect and defend the city from the consequences of the city's own negligence where that negligence is a concurring cause of the injury, death or damage with that of the owner's joint and sole negligence. Furthermore, the indemnity provided for in this subsection shall have no application to any claim, loss, damage, cause of action, suit and liability where the injury, death or damage results from the sole or concurrent negligence of the city unmixed with the fault of the owner. If any action or proceeding is brought against the city by reason of any of the private subdivision in any way, the owner further agrees and covenants to defend the action or proceeding by legal counsel acceptable to the city, such acceptance not to be unreasonably withheld.

- (b) *Dedication to public.* The final subdivision plat shall also include verbiage approved by the city attorney

which results in the private streets, sidewalks and/or other common areas noted thereon being dedicated, without consideration, to the public at the option of the city should the private streets or sidewalks, or access to the same fail to comply with this division.

(Ord. No. 15,192, § 21, 9-8-22)

Sec. 4.75. - Notice to purchasers.

- (a) A person who sells or conveys real property located within a private subdivision shall tender a written notice to purchaser as provided in this section.
- (b) The provisions of this section shall not be applicable to:
  - (1) Transfers of title under any type of lien foreclosure;
  - (2) Transfers of title by deed in cancellation of indebtedness secured by a lien upon the property conveyed; or
  - (3) Transfers of title by reason of a will or probate proceedings.
- (c) The notice required herein shall be executed by the seller and shall read as follows:

The real property, described below, that you are about to purchase is located within a private subdivision as defined by Appendix A, Article IV, of the Code of Ordinances of the City of Baytown, Texas. The streets, sidewalks, driveways, curbs and gutters within the private subdivision are not maintained by the City of Baytown, but by a corporation, community association or other legal entity, with direct responsibility to, and controlled by, the property owners of property within the private subdivision. Such corporation, community association or other legal entity solely has the obligation to provide for the operation and maintenance of all streets, sidewalks, driveways, curbs, gutters, and other common areas within the subdivision.

Failure to timely complete repairs or maintenance to streets, sidewalks, driveways, curbs and gutters within as ordered by the city engineer may result in (i) emergency services being withheld if emergency vehicles cannot safely access the emergency site; and/or (ii) the removal of all gates inhibiting access to the public into the subdivision and the dedication of the private streets, sidewalks, and right-of-way to the public without consideration.

Additionally, because the private subdivision prevents access to the general public, emergency services may be delayed in order for the emergency vehicles to gain access to the private subdivision.

The legal description of the property you are acquiring is as follows:

Signed this the day of \_\_\_\_\_, 1998.

/s/ \_\_\_\_\_ Signature of Seller

The undersigned purchaser hereby acknowledges receipt of the foregoing notice at or prior to execution of a binding contract for the purchase of the real property described in such notice or at closing of purchase of the real property.

Signed this the day of , 1998.

/s/ \_\_\_\_\_ Signature of Purchaser

The notice required by this section shall be given to the prospective purchaser prior to execution of a binding contract of sale and purchase either separately or as an addendum or paragraph of a purchase contract. If, however, the seller fails to furnish the required notice at or prior to closing the purchase and sale contract and the purchaser closes on the property, it shall be conclusively presumed that the purchaser closed on such property with knowledge of all of the information contained in the notice.

- (d) At the closing of purchase and sale, a separate copy of such notice shall be executed by the seller and purchaser, acknowledged, and thereafter recorded in the deed records of the county in which the property is located.
- (e) For the purposes of this section, an executory contract of purchase and sale having a performance period of more than six months shall be considered a sale under subsection (a), above.

(Ord. No. 15,192, § 21, 9-8-22)

Sec. 4.76. - Petition to convert to private streets.

- (a) All petitions for the conversion of public streets to private streets shall be submitted by a corporation, community association or other legal entity, which will be responsible for the maintenance and repair of the streets and fulfill the other obligations specified in this division, to the city clerk, who will verify that all of the appropriate signatures are on the petition. The petition must be signed by each person owning property along or property accessed from each proposed private street and must include a metes and bounds description of each street to be conveyed as a private street. If not all of the requisite signatures are on the petition, the city clerk shall return the petition to the corporation, community association or other legal entity that submitted the same. On the other hand, if the city clerk determines that all of the requisite signatures are on the petition, the city clerk shall submit the petition to the commission for consideration and recommendation to the city council.
- (b) The commission shall review the location, alignment and width for a proposed private street. If such complies with this division as well as the thoroughfare plan, the commission shall recommend that the city council grant preliminary approval of the private street conversion. If the proposed public street dedication does not comply with the thoroughfare plan, the planning and zoning commission shall recommend disapproval.
- (c) The city council, after receipt of the recommendation of the commission shall grant approval or

disapproval of the conversion of the street from public to private. If approval is granted:

- (1) The conveyance of the property shall contain a possibility of reversion back to the city at its option should the street, sidewalks and gates not be maintained in accordance with this division;
- (2) The corporation, community association or other legal entity established for maintaining and repairing the private street shall tender in full the purchase price of the street to the city within ten days after receiving written notice of the city council's approval of the petition. The sales price shall be determined by an independent appraisal conducted by an appraiser approved by the city manager and certified by the state appraiser licensing and certification board. The appraiser shall be paid by the corporation, community association or other legal entity desiring to purchase the public street;
- (3) The corporation, community association or other legal entity established for maintaining and repairing the private street shall comply with all other provisions of this division.

(Ord. No. 15,192, § 21, 9-8-22)

## IMPROVEMENTS

Sec. 4.77. - Payment for required improvements.

The subdivider shall pay all costs for providing the subdivision with streets, water, sanitary sewers, storm sewers, streetlights and street markers, in accordance with the requirements of this chapter and in accordance with plans and specifications for such improvements approved by the appropriate city or county agencies. All improvements required in a subdivision will be installed at the developer's cost unless otherwise provided. The cost of utilities and streets that are required by the city to be larger than would normally be needed to serve the proposed addition may be cost-shared between the developer and the city in accordance with section 114-69.

(Ord. No. 15,192, § 21, 9-8-22)

Sec. 4.78. - Construction contracts.

The subdivider may award the contract for the installation of the approved improvements and make payment directly to the contractor. As an alternative a subdivider may present the approved plans and specifications for the approved improvements to the city council, and the city council may advertise for bids and award the contract, and the subdivider shall pay to the city the cost of the contract.

(Ord. No. 15,192, § 21, 9-8-22)

Sec. 4.79. - Inspection.

The subdivider or his contractor shall notify the public works and engineering department (PWE) when installation of all approved improvements commences. The installation of such improvements shall take place under the inspection of PWE.

(Ord. No. 15,192, § 21, 9-8-22)

Sec. 4.80. - As-built or record plans.

The subdivider shall present to PWE electronic versions of the complete as-built plans and designs for all paving, drainage structures, water lines and sewer lines in formats acceptable to the city prior to final inspection. As-built or record plans shall be prepared by a professional engineer, licensed in the State of Texas. The as-built or record plans shall be delivered to PWE prior to the filing of the plat or the release of any performance documents.

(Ord. No. 15,192, § 21, 9-8-22)

Sec. 4.81. - Final acceptance.

The subdivider shall request, in writing, the final inspection of completed improvements. Upon receipt of this request, the director shall approve in writing all improvements when they are in accordance with approved plans and specifications.

(Ord. No. 15,192, § 21, 9-8-22)

Sec. 4.82. - Guarantee.

(a) This section shall be applicable to:

(1) All subdivisions within the city limits; and

(2) All subdivisions within the extraterritorial jurisdiction of the city if:

a. The property is within an area listed in the city's annexation plan to be annexed during the guarantee period specified in subsection (b) of this section; or

b. The property is otherwise scheduled to be annexed within the guarantee period specified in subsection (b) of this section.

(b) The subdivider or developer shall guarantee that all materials and workmanship in connection with the improvements required under this chapter are free of defects for a period of one year after acceptance of the improvements by the city engineer. The subdivider or developer, if using construction contractors for furnishing the materials or installing the improvements required under this chapter, shall require that all contracts include such a guarantee. If the subdivider fails to perform the necessary work to correct defects during the guarantee period, the city will make necessary repairs and bill the subdivider for the total cost of the repair work.

(Ord. No. 15,192, § 21, 9-8-22)

Sec. 4.83. - Governmental liens.

When it is determined that a governmental lien is outstanding against any parcel proposed for development, it shall be the responsibility of the applicant to satisfy this lien prior to the filing of the plat. These liens shall include but not be limited to paving, tax, mowing or special assessments.

(Ord. No. 15,192, § 21, 9-8-22)

Sec. 4.84. - Traffic control devices.

All traffic control devices required under this chapter shall be in compliance with the current edition of the Texas Manual on Uniform Traffic Control Devices.

(Ord. No. 15,192, § 21, 9-8-22)

Sec. 4.85. - Cluster box mail service locations.

U.S. Postal Service policies require that cluster locations to serve developments be provided. These locations shall be within street rights-of-way whenever possible. A commercial location may necessitate an on-site location for this purpose. All slab locations required under this section shall be in conformance with postal service specifications and shall be provided by the developer.

(Ord. No. 15,192, § 21, 9-8-22)

Sec. 4.86. - Sidewalks.

Sidewalks conforming to the requirements of chapter 122 of this Code shall be required to be constructed along all roadways abutting property within the platted area.

(Ord. No. 15,192, § 21, 9-8-22)

## DESIGN STANDARDS

Subdivision I. - In General

Sec. 4.87. - Survey requirements.

- (a) *Monuments.* Monuments, consisting of a three-fourths-inch iron rod or larger, 36 inches in length, shall be placed at all corners of the block lines, the point of intersection of curves and tangents of the subdivision, flush with the finished grade.
- (b) *Benchmarks.*
  - (1) *Required.* One benchmark per subdivision section shall be permanently installed in an approved manner at a location designated by the city engineer. The location and elevation of the benchmark shall be shown on the plat. Permanent benchmarks shall be five-foot-long concrete posts six inches in diameter with the top to be no more than three inches below the finished grade. All benchmarks shall be installed to survey-grade accuracy.
  - (2) *Deposit.* The subdivider or developer shall deposit \$500.00 per required benchmark. The deposit shall

be:

- a. Refunded upon submission of a data sheet which satisfies the requirements of subsection (b)(3) below and upon acceptance by the city engineer of the installation of the benchmarks; or
  - b. Shall be forfeited 90 days after the submission of the final plat.
- (3) *Data sheet.* Unless the deposit is forfeited in accordance with subsection (b)(2)b. above, a reference sketch showing location of all benchmarks on a data sheet shall be submitted to the city engineer. The benchmark data sheet shall be sealed by a registered professional land surveyor licensed to practice in the state and shall contain latitude and longitude based on WGS 84 datum, Texas state plane coordinates south central zone based on NAD 83, ellipsoid height, combined scale factor and orthometric height (Geoid 99 NAVD 88).
- (4) *Waiver.* If the benchmark required in this subsection (b)(1) falls within such proximity to an existing benchmark that the required benchmark is determined by the director of engineering to be unnecessary to the global positioning satellite network of the city, the city engineer may waive the benchmark required in subsection (b)(1).
- (c) *Lot markers.* Lot markers shall be one-half-inch metal rods, at least 24 inches in length, placed at each corner of all lots, flush with the average ground elevation, or they may be countersunk if necessary to avoid being disturbed.

(Ord. No. 15,192, § 21, 9-8-22)

#### Sec. 4.88. - Park and playground sites.

- (a) Park and playground sites in a subdivision shall be reserved as indicated on the park plan. The size shall be in accordance with the parks and recreation board's plan for the park system.
- (b) Park sites within the city limits may be purchased, or a contract to purchase may be negotiated by the city prior to the submission of the final plat. If not, the subdivider shall not be required to reserve the land for such purpose, except at his option.
- (c) It is requested, but not required, that park sites outside the city be reserved for two years for purchase at the developer's cost plus prorated cost of improvements.

(Ord. No. 15,192, § 21, 9-8-22)

#### Subdivision II. - Streets

#### Sec. 4.89. - Circulation pattern.

The street pattern of a neighborhood should provide adequate circulation within the subdivision and yet discourage excessive through traffic on local streets.

(Ord. No. 15,192, § 21, 9-8-22)

Sec. 4.90. - Principal arterials, minor arterials and collectors.

In a subdivision, principal arterial, minor arterial and collector locations and alignments shall be determined by the commission.

(Ord. No. 15,192, § 21, 9-8-22)

Sec. 4.91. - Right-of-way width.

In a subdivision, the right-of-way width shall be as described in article III of chapter 109 of this Code.

(Ord. No. 15,192, § 21, 9-8-22)

Sec. 4.92. - Curves.

The design of curves in roadway alignments shall conform to the requirements of article III of chapter 109 of this Code.

(Ord. No. 15,192, § 21, 9-8-22)

Sec. 4.93. - Intersections.

The design of intersections shall conform to the requirements of article III of chapter 109 of this Code.

(Ord. No. 15,192, § 21, 9-8-22)

Sec. 4.94. - Culs-de-sac.

In a subdivision, culs-de-sac (dead-end streets with turnarounds) shall be subject to the following:

- (1) Turnarounds are to have a minimum right-of-way radius of 50 feet for a single-family use and 60 feet for apartments, commercial or other uses, except that turnarounds where other than curb and gutter development is used shall have a minimum right-of-way radius of 60 feet adjacent to land to be used for single-family residences and 70 feet adjacent to land to be used for other than single-family residences. No islands or planters shall be permitted;
- (2) The maximum length of a dead-end street with a pavement turnaround shall be 800 feet;
- (3) Temporary turnarounds are to be used only where curb and gutter is not installed at the end of a street more than 400 feet long that will be extended in the future. The base of turnarounds shall be composed of six-inch stabilization with asphaltic topping; and
- (4) Temporary turnarounds shall be indicated on a plat as a cross-hatched area. The city shall be given a temporary easement for a turnaround until the street is extended (directional) in a recorded plat.

(Ord. No. 15,192, § 21, 9-8-22)

Sec. 4.95. - Partial or half-streets.

Partial or half-streets in a subdivision may be provided when the commission feels that a street should be located on a property line. Inside the city limits, the partial street may be dedicated, with a one-foot reserve in fee along the property line. Outside the city limits, the following note shall be used on such partial streets:

"This foot strip is dedicated as an easement for all utility purposes including storm and sanitary sewers and shall automatically become dedicated for street purposes when and insofar as a foot strip adjacent to it is so dedicated."

(Ord. No. 15,192, § 21, 9-8-22)

Sec. 4.96. - Block length.

- (a) In a subdivision, the maximum block length for residential shall be 2,400 feet measured along the center of the block or 1,200 feet from each intersection, except under special conditions and upon approval by the commission.
- (b) The maximum block length along interstates or expressways, principal arterials and minor arterials shall be 3,000 feet or 1,500 feet from each intersection, except under special conditions and upon approval by the commission.

(Ord. No. 15,192, § 21, 9-8-22)

Sec. 4.97. - Reserves.

In a subdivision, a provisional one-foot reserve shall be used along the side or end of streets that abut acreage tracts as follows:

"One-foot reserve dedicated to the public in fee as a buffer separation between the side or end of streets in subdivision plats where such streets abut adjacent acreage tracts, the condition of such dedication being that when the adjacent property is subdivided in a recorded plat, the one-foot reserve shall thereupon become vested in the public for street right-of-way purposes (and the fee title thereto shall revert to and rest in the dedicator, his heirs, assigns, or successors)."

(Ord. No. 15,192, § 21, 9-8-22)

Sec. 4.98. - Temporary right-of-way.

In a subdivision, a temporary right-of-way shall be used to comply with the county road law requiring a minimum street width of 60 feet as follows:

"Cross-hatched strip \_\_\_\_\_ feet wide to be temporarily dedicated for street purposes and will revert to the adjacent lot owners upon and to the extent of the acquisition of \_\_\_\_\_ feet for street purposes on the opposite side of the street."

(Ord. No. 15,192, § 21, 9-8-22)

Sec. 4.99. - Names.

(a) Proposed new street names shall be submitted to the planning and development director for approval prior to the submittal of the final plat of the subdivision.

(b) Street names shall be continuations of existing street names adjacent to or on line with proposed streets.

(Ord. No. 15,192, § 21, 9-8-22)

Subdivision III. - Lots

Sec. 4.100. - Scope.

In a subdivision, the lot design of a neighborhood should provide for lots of adequate width and depth to provide open area and to eliminate overcrowding. Lots should be rectangular so far as practicable and should have the side lot lines at right angles to the streets on which the lot faces or radial to curved street lines. Where the commission approves a through lot, access to the rear of the lot shall be prohibited. Residential lots shall not front on collectors, arterials, or higher roadway classifications.

(Ord. No. 15,192, § 21, 9-8-22)

Sec. 4.101. - Designation of purposes.

All lots shown on the subdivision plat will be for residential purposes unless otherwise noted.

(Ord. No. 15,192, § 21, 9-8-22)

Sec. 4.102. - Side lot lines.

In a subdivision, side lot lines should be perpendicular or radial to the street frontage and the following note may be in lieu of bearings: "All side lot lines are either perpendicular or radial to street frontage unless otherwise noted."

(Ord. No. 15,192, § 21, 9-8-22)

Sec. 4.103. - Double fronts.

Double front lots are prohibited in a subdivision.

(Ord. No. 15,192, § 21, 9-8-22)

Sec. 4.104. - Rear and side driveway access.

In a subdivision, rear and side driveway access to interstates or expressways, principal arterials and minor arterials shall be prohibited.

(Ord. No. 15,192, § 21, 9-8-22)

Sec. 4.105. - Minimum sizes.

In a subdivision, the minimum lot sizes shall be as follows:

- (1) The minimum width shall be 50 [feet].
- (2) The minimum depth shall be 100 feet.
- (3) Radial lots shall have a minimum width of 40 feet at the building line.
- (4) The lot area shall be a minimum of 5,400 square feet.
- (5) Corner lots are to be five feet wider than the average interior lots in the block.
- (6) Corner lots with a width of less than 80 feet siding on interstates or expressways, principal arterials and minor arterials shall be at least 15 feet wider than the average interior lots in the block.

(Ord. No. 15,192, § 21, 9-8-22)

**Cross reference**— Zoning, ch. 130.

Sec. 4.106. - Land to be used for other than residential purposes.

- (a) For a subdivision, reserves shall be labeled A, B and C, rather than numbered as blocks and lots.
- (b) Minimum building lines are to be provided for reserves.

(Ord. No. 15,192, § 21, 9-8-22)

Sec. 4.107. - Numbering.

- (a) Subdivision blocks are to be numbered consecutively within the overall plat or sections of an overall plat as recorded.
- (b) All lots are to be numbered consecutively within each block. Lot numbering continues from block to block in a uniform manner that has been approved on an overall preliminary plat.

(Ord. No. 15,192, § 21, 9-8-22)

Sec. 4.108. - Building lines.

- (a) Residential building lines in a subdivision shall be as follows:
  - (1) The minimum building line shall be 15 feet on the front of all lots, ten feet on the side of corner lots, and five feet on the side of interior lots; and
  - (2) Lots adjacent to interstates or expressways, principal arterials and minor arterials shall have a

minimum 35-foot front building line when lots are facing or a minimum 20-foot side building line when lots are siding on streets.

- (b) Transitional building lines having a minimum angle of 45 degrees are to be provided where an offset in building lines is greater than five feet.

(Ord. No. 15,192, § 21, 9-8-22)

**Cross reference**— Table of property development standards, § 130-601.

#### Subdivision IV. - Easements

##### Sec. 4.109. - Drainage easement.

- (a) The location and width of a drainage easement in a subdivision shall be determined by the city engineer for plats within the city limits and by the county flood control engineer for plats outside the city or within the city adjacent to bayous or other major drainage facilities for which flood control is primarily responsible.
- (b) An easement for drainage adjacent to lots, tracts, or reserves shall be noted: "This easement shall be kept clear of fences, building, planting and other obstructions to the operations and maintenance of drainage facility, and abutting property shall not be permitted to drain into this easement except by means of an approved drainage structure."
- (c) The dedication of any drainage structure or facility used for the retention or detention of stormwater shall be accepted only at the city's option.
- (d) Drainage easements shall meet the requirements of article II of chapter 109 of this Code.

(Ord. No. 15,192, § 21, 9-8-22)

##### Sec. 4.110. - Utility easements.

Utility easements shall be provided in accordance with the requirements of article II of chapter 109 of this Code

(Ord. No. 15,192, § 21, 9-8-22)

##### Sec. 4.111. - Private easements.

In a subdivision, platting of public streets or easements across private easements or fee strips shall be subject to the following:

- (1) A copy of the instrument establishing any private easement shall be submitted with the preliminary plat;
- (2) Easement boundaries must be tied by dimension to adjacent lot and tract corners. Where the private easement has no defined location or width, an effort shall be made to reach an agreement on a

defined easement. Where no agreement can be reached, pipelines, electrical lines or other facilities shall be accurately located and tied to lot lines, and building setback lines shall be shown at a distance of ten feet from and parallel to the centerline of the pipeline;

- (3) Prior to approval of the final plat, the developer or dedicator of any subdivision plat wherein public streets or easements are shown crossing private easements or fee strips shall, by letter to the city engineer, assume responsibility for seeing that any adjustments and protection of existing pipelines, electrical transmission lines or other facilities shall be planned and provided for to the satisfaction of the holder of the private easements or fee strips and the city engineer prior to the filing of the plat for record; and
- (4) Prior to filing of the final plat for record, the following requirements shall be met:
  - a. The developer or dedicator of any plat shall obtain from the holder of any private easement or fee strip within the plat crossed by proposed streets or other public easements an instrument granting to the public the use of the public streets or easements over and across the private easements or fee strips for construction, operation and maintenance of those public facilities normally using the type of public streets and easements indicated. This instrument shall be delivered to the director of planning and community development to be recorded along with the plat.
  - b. The developer shall furnish the director of planning and community development with a letter from the holder of the private easements or fee strips in question stating that arrangements in pipelines, electric transmission lines or other similar facilities have been made to the satisfaction of the holder of the easement.
- (5) All other easements shall meet the requirements set forth in article II of chapter 109 of this Code.

(Ord. No. 15,192, § 21, 9-8-22)

## DIVISION 10. - ENGINEERING AND CONSTRUCTION STANDARDS

### Sec. 4.112. - Engineering data.

The following engineering data are required for subdivisions; all preliminary plats shall have approximate data:

- (1) *Streets*. Centerline survey data for rights-of-way shall be provided as follows:
  - a. Complete curve data chord length and bearing, radius, arc length, tangent, point of curvature, point of tangency and delta;
  - b. The length and bearings of all tangents; and
  - c. The dimensions from all angle points and points of curve to an adjacent side lot line.
- (2) *Lots*. Complete bearings and distances for front, rear and side lot lines shall be provided.
- (3) *Watercourses and easements*. Data for watercourses and easements shall be provided as follows:

- a. Distances along the side lot lines from the front lot line to the point where the sideline crosses the di easement line or the high bank of a stream; and
- b. The traverse line along the edges of all large watercourses in a convenient location, preferably along a utility easement if paralleling the drainage easement or stream.

(Ord. No. 15,192, § 21, 9-8-22)

## STREETS

### Sec. 4.113. - Standards.

Streets within all subdivisions shall be designed and constructed in accordance with the standards set forth in article III of chapter 109 of this Code.

(Ord. No. 15,192, § 21, 9-8-22)

### Sec. 4.114. - Streetlights.

Streetlights within all subdivisions shall be installed in accordance with the standards set forth in article III of chapter 109 of this Code.

(Ord. No. 15,192, § 21, 9-8-22)

### Sec. 4.115. - Street name signs.

Street name signs within all subdivisions shall be installed in accordance with the standards set forth in article III of chapter 109 of this Code.

(Ord. No. 15,192, § 21, 9-8-22)

### Sec. 4.116. - Access management.

Access management within all subdivisions shall be designed and constructed in accordance with the standards set forth in article III of chapter 109 of this Code.

(Ord. No. 15,192, § 21, 9-8-22)

## STORMWATER DRAINAGE

### Sec. 4.117. - Drainage facilities.

Drainage facilities and systems shall be designed and constructed in accordance with article IV of chapter 109 of this Code within the limits of each subdivision.

(Ord. No. 15,192, § 21, 9-8-22)

Sec. 4.118. - Detention facilities.

Detention facilities for all subdivisions shall be designed and constructed in accordance with article IV of chapter 109 of this Code.

(Ord. No. 15,192, § 21, 9-8-22)

## UTILITIES

Sec. 4.119. - Utility systems.

Water distribution and wastewater collection systems for all subdivisions shall be designed and constructed in accordance with the standards set forth in article V of chapter 109 of this Code.

(Ord. No. 15,192, § 21, 9-8-22)

**Cross reference**— Cross reference(s)—Utilities generally, ch. 98.

## ARTICLE V. - SIGNS

*Footnotes:*

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**Editor's note**— Ord. No. 15,192, § 22, adopted Sep. 8, 2022, repealed Ch. 118 and added App. A, Art. V., which pertains to similar subject matter, as set out herein. For stylistic purposes to follow the expression of the numbering in the appendix, and at the discretion of the editor, these sections have been renumbered from §§ 118-1—118-363 as §§ 5.01—5.84.

## DIVISION I. - IN GENERAL

Sec. 5.01. - Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Advertising* means to seek to attract or direct the attention of the public to and including, but not limited to, goods, merchandise, services, persons, activities, information or messages.

*Business purposes* means the erection or use of any property, building or structure, permanent or temporary, for the primary purpose of conducting in such building or structure or on such property a legitimate commercial enterprise in compliance with all ordinances and regulations of the city governing such activity. A business purpose does not include any property, building or structure erected or used for the primary purpose of securing a permit to erect a sign.

*Curbline* means an imaginary line drawn along the edge of the pavement on either side of a public street.

*Dwell time* shall mean the interval of change between each individual message. Dwell time shall not include the one second or less required to change a message.

*Federal-aid primary system* means that portion of connected main highways which were designated by the state transportation commission as the federal-aid primary system in existence on June 1, 1991, and any highway which is not on such system but which is on the national highway system.

*Interstate highway system* means that portion of the national system of interstate and defense highways located within the state which are or may be officially designated the "interstate system" by the state highway and public transportation commission, and approved pursuant to 23 USC 131, as amended.

*National highway system* means that portion of connected main highways located within the state which now or hereafter may be so designated officially by the state transportation commission and approved pursuant to 23 USC 103.

*Public right-of-way* means any part of a right-of-way not privately owned or controlled and which is the responsibility of the city or other similar public agency to maintain.

*Public street* means the entire width between property lines of any road, street, way, alley, bridge or other similar thoroughfare, not privately owned or controlled, when any part thereof is open to the public for vehicular traffic, is the responsibility of the city or other similar public agency to maintain and over which the city has legislative jurisdiction under its police power.

*Residential purposes* means property devoted to use as a single-family or multifamily residence. Residential purposes include but are not limited to property used for houses, duplexes, condominiums, townhouses, townhomes, patio homes and apartments. Property used for hotels, motels and boardinghouses shall not be considered as used for residential purposes. Property devoted to both residential and nonresidential use shall be considered as used for residential purposes.

*Right-of-way* means the property fronting on, immediately adjacent to and on either side of a public street or a nonpublic street.

*Sign* means any outdoor display, design, pictorial or other representation, which shall be so constructed, placed, attached, painted, erected, fastened or manufactured in any manner whatsoever so that such shall be used for advertising. The term "sign" includes the sign structure. Every sign shall be classified and shall conform to the requirements of each classification as set forth in this chapter.

*Sign area* shall mean the entire advertising area of a sign excluding any framing, trim, or molding and the supporting structure.

*Sign structure* means any structure that supports or is capable of supporting any sign. A sign structure may be a single pole and may or may not be an integral part of a building.

*Total front footage* means the total length of the footage of property fronting on both sides of a public street.

(Ord. No. 15,192, § 22, 9-8-22)

**Cross reference**— Definitions generally, § 1-2.

Sec. 5.02. - Scope.

This chapter shall apply to:

- (1) All signs, as that term is defined in section 5.01, within the city limits, and
- (2) All signs, which are classified as off-premises signs and either spectacular signs or digital billboard, as those terms are defined in section 5.04, within the city limits and the city's extraterritorial jurisdiction.

(Ord. No. 15,192, § 22, 9-8-22)

Sec. 5.03. - Violations and penalties.

Any person who shall violate any section of this chapter shall upon conviction be punished as provided in section 1-14. In addition, the city attorney is authorized to take all actions, both legal and equitable, necessary to ensure compliance with this chapter.

(Ord. No. 15,192, § 22, 9-8-22)

Sec. 5.04. - Classification.

- (a) *On-premises and off-premises signs*. For the purpose of this chapter, a sign shall be first classified as either an "on-premises sign" or an "off-premises sign" as follows:
  - (1) *On-premises sign* means any sign identifying or advertising the business, person, activity, goods, products or services primarily sold or offered for sale on the premises where the sign is installed and maintained, when such premises is used for business purposes, or that conveys information or messages.
  - (2) *Off-premises sign* means any sign advertising a business, person, activity, goods, products or services not usually located on the premises where the sign is installed and maintained or that directs persons to any location not on the premises.
- (b) *Types of signs*. All signs shall further be classified into one of the following types of signs:
  - (1) *Ground sign* means a sign that is supported by uprights or braces in or upon the ground, including portable signs as defined in subsection (c)(2) of this section.
  - (2) *Marquee sign* means a projecting sign attached to or hung from a canopy or covered structure projecting from and supported by a frame or pipe support extending beyond a building.
  - (3) *Projecting sign* means any sign that is affixed to any building wall or structure and that extends beyond the building wall or structure more than 12 inches.
  - (4) *Roof sign* means any sign erected, constructed or maintained above the roof of any building.
  - (5) *Wall sign* means any sign affixed to or painted upon the wall of any building.

- (c) *Special function signs.* Any on-premises or off-premises sign of any type may also be included within one or of the following additional classifications, according to special functions:
- (1) *Electrical sign* means any sign containing electrical wiring or utilizing electric current, but not including signs illuminated by an exterior light source.
  - (2) *Portable sign* means any sign designed or constructed to be easily moved from one location to another, including signs mounted upon or designed to be mounted upon a trailer, bench, wheeled carrier or other nonmotorized mobile structure; a portable sign that has its wheels removed shall still be considered a portable sign. For the purpose of this chapter, trailer signs and signs on benches are portable signs.
  - (3) *Spectacular sign* means any sign, other than a digital billboard, that:
    - a. Has automatically changing advertising;
    - b. Is equipped with glaring or rotating strobe lights or spotlights;
    - c. Uses flashing intermittent or moving lights;
    - d. Uses an electronic image on a digital display device capable of changing messages or copy by programmable electronic or mechanical processes; or
    - e. Has any moving message whatsoever, including animated, moving video and scrolling displays, such as an LED (light emitting diode) screen or any other type of video display, even if the message is stationary.
  - (4) *Temporary sign* means any sign constructed of cloth, canvas, light fabric, cardboard, wallboard or other light materials, not to exceed six square feet in size. A portable sign shall not be considered a temporary sign.
  - (5) *Digital billboard* means an off-premises sign, display, or device, which changes the "static" message or copy on the sign by electronic means.

(Ord. No. 15,192, § 22, 9-8-22)

## DIVISION II. - ADMINISTRATION

### GENERALLY

#### Sec. 5.05. - Sign committee.

- (a) The mayor shall appoint a five-member committee on sign control. The sign committee shall be composed of:
  - (1) Two real estate appraisers, each of whom must be a member in good standing of a nationally recognized professional appraiser society or trade organization that has an established code of ethics, educational program and professional certification program;
  - (2) One person engaged in the sign business in the city;

- (3) One employee of the state department of transportation who is familiar with real state valuations in eminent domain proceedings; and
  - (4) One architect or landscape architect licensed by the state.
- (b) A member of the committee is appointed for a term of two years.

(Ord. No. 15,192, § 22, 9-8-22)

**Cross reference**— Boards and commissions, § 2-256 et seq.

## SIGN ADMINISTRATOR

### Sec. 5.06. - Duties generally.

The chief building official shall be the sign administrator charged with administering and enforcing the terms and conditions of this chapter and all other provisions of laws relating to signs. The sign administrator is empowered to delegate the duties and powers granted to and imposed upon him by this chapter to other persons serving under the sign administrator. The sign administrator and such other persons shall constitute the sign administration section of the building inspections division. The sign administrator is directed to enforce and carry out all sections of this chapter and shall work under the direction and supervision of the city manager.

(Ord. No. 15,192, § 22, 9-8-22)

### Sec. 5.07. - Enforcement responsibility.

The duties of the sign administrator shall include not only the issuance of permits as required by this chapter, but also the responsibility of ensuring that all signs comply with this chapter and any other applicable laws and that every sign for which a permit is required does in fact have a permit. The sign administrator shall make such inspections as may be necessary and shall initiate appropriate action to bring about compliance with this chapter and other applicable law if such inspection discloses any instance of noncompliance. The sign administrator shall investigate thoroughly any complaints of alleged violations of this chapter.

(Ord. No. 15,192, § 22, 9-8-22)

### Sec. 5.08. - Powers.

The sign administrator shall have the power and authority to administer and enforce the conditions of this chapter and all other laws relating to signs. Included among such powers are the following specific powers:

- (1) Every sign for which a permit is required shall be subject to the inspection and approval of the sign administrator. When deemed advisable by the sign administrator, a sign may be inspected at the point of manufacture, if such point is within or adjacent to the city.
- (2) Upon presentation of proper identification to the owner, agent or tenant in charge of such property, the sign administrator may enter, for the purpose of inspecting and investigating signs or sign

structures, any building, structure, or other premises or property between the hours of 8:00 a.m. and 5:00 p.m., Monday through Friday. However, in an emergency where extreme hazards are known to exist that may involve imminent injury to persons, loss of life or severe property damage and when the owner, agent or tenant in charge of the property is not available after the sign administrator has made a good faith effort to locate him, the sign administrator may enter such structures and premises at any time upon presentation of proper identification to any other person on the premises. Whenever the sign administrator shall enter upon private property, under any circumstances, for the purpose of inspecting or investigating signs or sign structures, which property has management in residence, such management or the person then in charge shall be notified of his presence and shown his proper and official credentials. The sign administrator, when on private property, shall observe the establishment's rules and regulations concerning safety, internal security and fire protection. Whenever the sign administrator is denied admission to inspect any premises, inspection shall be made only under authority of a warrant issued by a magistrate authorizing the inspection for violations of this chapter. In applying for such warrant, the sign administrator shall submit to the magistrate his affidavit setting forth his belief that a violation of this chapter exists with respect to the place sought to be inspected and his reasons for such belief. Such affidavit shall designate the location of such place and the name of the person believed to be the owner, operator or occupant thereof. If the magistrate finds that probable cause exists for a search of the premises in question, he shall issue a warrant authorizing the search, such warrant describing the premises with sufficient certainty to identify the premises. Any warrant so issued shall constitute authority for the sign administrator to enter upon and inspect the premises described therein.

- (3) Upon notice and issuance of a stop order from the sign administrator, work on any sign that is being conducted shall be immediately stopped. Such notice and order shall be in writing and shall be given to the owner of the property or to his agent or to the person doing the work and shall state the conditions under which work may be resumed. Where an emergency exists, written notice shall not be required to be given by the sign administrator. Following the issuance of a stop order, the sign administrator shall initiate proceedings to revoke any permit issued for the work covered by such stop order, consistent with subsection (4) of this section, unless the cause of the stop order is resolved to the sign administrator's satisfaction. It shall be unlawful for a person to intentionally or knowingly work upon a sign for which a written stop order is issued by the sign administrator.
- (4) The sign administrator shall have the power and authority to revoke any and all permits authorized by this chapter for violation of the terms of this chapter, provided that the sign administrator shall conduct a hearing prior to the revocation of any permit authorized under this chapter to determine the facts incident to the pending revocation. The person whose permit is under consideration shall be given at least ten calendar days' written notice of the hearing and shall be permitted to present relevant facts and legal argument regarding the pending revocation. Following such hearing, the sign administrator shall consider the merits of the case and shall present a written opinion prior to any action. However, if in the opinion of the sign administrator the health, safety or welfare of the citizens

of the city is endangered by any violation of this chapter, the sign administrator may immediately revoke any or all permits authorized by this chapter and shall conduct the necessary hearing as soon as possible thereafter, but in no case later than three business days after the effective date of the revocation unless the affected permittee shall request in writing a later date.

- (5) The sign administrator shall have the authority to adopt regulations required to implement this division.

(Ord. No. 15,192, § 22, 9-8-22)

#### Sec. 5.09. - Appeals.

Any person wishing to appeal a decision of the sign administrator on the grounds that the decision misconstrues or wrongly interprets this chapter may, within 30 days after the decision, appeal the decision to the sign committee, provided that the appealing party shall give notice of appeal in writing to the city clerk no less than ten days following the decision appealed from. The appealing party shall comply with the sign administrator's decision pending appeal unless the sign administrator shall direct otherwise.

(Ord. No. 15,192, § 22, 9-8-22)

### VARIANCES

#### Sec. 5.10. - Submission of request.

All requests for variances from this chapter shall be submitted in writing to the chief building official and shall demonstrate compliance with all of the requirements for a variance as set forth in this division.

(Ord. No. 15,192, § 22, 9-8-22)

#### Sec. 5.11. - Criteria.

The chief building official shall hear and render judgment on any request for variance from the requirements of this chapter only if:

- (1) The variance concerns the height restrictions of this chapter;
- (2) The proposed sign for which a variance is requested does not exceed 80 feet in height;
- (3) The sign for which a variance is requested is an on-premises sign;
- (4) There are no other signs on the same premises that exceed the height limitation of this chapter; and
- (5) The proposed sign for which a variance is requested will be located within 200 feet of the interstate highway system.

(Ord. No. 15,192, § 22, 9-8-22)

#### Sec. 5.12. - Issuance.

(a) Variances from this chapter shall only be issued upon:

- (1) A showing of good and sufficient cause;
- (2) A determination that failure to grant the variance would result in exceptional hardship to the applicant; and
- (3) A determination that the granting of variance will not:
  - a. Result in increased visual obstruction on any highway, street or road within the viewing area of such sign;
  - b. Result in additional threats to public safety;
  - c. Result in public expense;
  - d. Create nuisances;
  - e. Cause fraud on or victimization of the public;
  - f. Be injurious to other property in the area; or
  - g. Conflict with existing local laws or ordinances.

(b) Pecuniary hardship to the property owner or sign owner shall not be sufficient reason, standing alone, to constitute hardship requiring a variance.

(Ord. No. 15,192, § 22, 9-8-22)

#### Sec. 5.13. - Appeals.

Under this division, any person aggrieved by the decision of the chief building official may appeal such decision to the city council.

(Ord. No. 15,192, § 22, 9-8-22)

#### Sec. 5.14. - Conditions for granting.

Upon consideration of the factors noted in this division and the intent of this chapter, the chief building official or the city council may attach such conditions to the granting of variances as they deem necessary to further the purpose and objectives of this chapter.

(Ord. No. 15,192, § 22, 9-8-22)

#### Sec. 5.15. - Nonconformities.

If a sign built in nonconformance with this chapter as a result of a variance granted by the chief building official or city council is blown or knocked down or a substantial part of such sign is destroyed, damaged or taken down or removed for any purpose other than maintenance operations or for changing the letters, symbols or other matter

on such sign, such sign shall not be reerected, reconstructed or rebuilt, except in full conformance with this chapter, unless another variance is requested by the owner and granted by the chief building official or the city council in conformance with this chapter.

(Ord. No. 15,192, § 22, 9-8-22)

## PERMITS

### Sec. 5.16. - Violations and penalties.

- (a) *Generally.* An offense under section 5.17 is a violation, and any person adjudged guilty shall be punished as provided in section 1-14. Each day such sign is erected, constructed, reconstructed, built, altered or maintained without a building permit or operated, used, or maintained without an operating permit shall constitute a separate offense. In addition, the city attorney is authorized to take all actions, both legal and equitable, civilly and criminally, necessary to ensure compliance with this chapter. However, it is an affirmative defense to prosecution under section 5.17 if a sign is excepted from having a permit under subsection (b), below.
- (b) *Exceptions.* No permit shall be required under this chapter for on-premises signs of the following descriptions, unless any such sign is a spectacular sign. Any sign listed hereunder shall be erected and maintained in a safe condition in conformity with the building code as well as the fire prevention code and rules and regulations for fire safety promulgated by the fire marshal, as applicable.
- (1) Signs painted on glass surfaces, windows or doors;
  - (2) Wall signs not over 100 square feet in area;
  - (3) Signs erected by the city, state (including its political subdivisions, such as counties and school districts), or the federal government or the lessees of such governmental entities for a public purpose;
  - (4) Railroad signs placed or maintained in reference to the operation of the railway;
  - (5) Legal notices and house numbers;
  - (6) Ground signs that do not exceed four square feet in area and four feet in total height setting forth information concerning a building or other structure under repair or construction or advertising the sale or rental of the premises;
  - (7) Signs marking utility or underground communication or transmission lines and hazards as required by law;
  - (8) Temporary signs, provided the number of such signs on any premises does not exceed two in number and provided such signs are displayed on consecutive days, and for only a maximum of seven days in any 30-day period;
  - (9) Signs setting forth the location of or directions to parking or buildings located on the premises, warning of on-premises obstacles or overhead clearances, or regulating the flow of on-premises traffic, including entrance and exit signs. Such directional signs may be lighted, consistent with other

requirements for electrical signs in the code and all codes adopted thereby;

- (10) Signs displayed upon an operable motor vehicle or trailer; provided that such vehicle or trailer is not parked or located for the primary purpose of displaying the sign and is not parked on a site for a continuous period exceeding 72 hours;
- (11) Signs displayed upon an operable lighter-than-air or heavier-than-air aircraft; or
- (12) Signs which are mounted on the face of a building no higher than the roofline or form an integral part of a canopy or marquee entrance and are not over 100 square feet in area, provided that the number of such signs shall not exceed the number of entrances to such building; and
- (13) Holiday displays or similar temporary displays erected without advertising; provided that such displays are erected no more than 45 days before and removed no later than 14 days after the national holiday.

(Ord. No. 15,192, § 22, 9-8-22)

Sec. 5.17. - Required.

- (a) *Building permit required.* It shall be unlawful for a person to intentionally or knowingly erect, construct, build, reconstruct or alter a sign without a prior written building permit for such sign from the sign administrator or for such person to maintain a sign so erected, constructed, built, reconstructed or altered without such permit.
- (b) *Operating permit required.* It shall be unlawful for a person to intentionally or knowingly operate, use or maintain a sign without first obtaining a written operating permit for such sign from the sign administrator.

(Ord. No. 15,192, § 22, 9-8-22)

Sec. 5.18. - Operating permit application procedure.

- (a) The application for an operating permit required under this division shall be submitted in such form as the sign administrator may prescribe and shall be accompanied by drawings and descriptive data to verify compliance with this chapter. Permit applications for new ground signs when erected or constructed to heights exceeding 30 feet above the ground level or for new roof signs when erected or constructed to heights exceeding 30 feet above the ground level or for new roof signs when erected 30 feet above the roof level shall be accompanied by a drawing of the sign structure and the sign prepared by and certified by a professional engineer registered in the state. The sign administrator, at his option, may also require similar certification by a registered professional engineer where any unusual structural provisions of a proposed sign indicate such certification is necessary in the interest of public safety.
- (b) Every initial application for an off-premises sign shall be executed and verified under oath by both the owner of the premises upon which the sign is to be or has been constructed or the authorized lessee of such premises and the sign company. The applicant shall state in such application that the sign is

authorized to be erected or to be thereafter maintained on the premises, and the application shall contain the sworn affidavit of the owner or lessee and the sign company that the sign does not violate any applicable deed restrictions or other similar restriction on the premises. Subsequent renewal applications for off-premises signs do not require the affidavit or signature of the landowner.

- (c) If the location, plans and specifications set forth in any application for a permit conform to all of the requirements of this chapter and other applicable provisions of the building code, the sign administrator shall issue the permit.

(Ord. No. 15,192, § 22, 9-8-22)

#### Sec. 5.19. - Fees.

- (a) *Required.* Fees for the permits required under this division shall be paid to the inspections division as follows:
- (1) *Construction permit.* The fee for a construction permit shall be \$0.60 per square foot for a permanent sign construction permit.
  - (2) *Operating permit.* The fee for an operating permit shall be \$25.00 plus \$0.25 for each square foot or fraction thereof to the sign face in excess of 100 square feet.
- (b) *Refund.* The applicant for a permit or holder of a permit shall not be entitled to a refund of any fee paid if the permit is revoked.

(Ord. No. 15,192, § 22, 9-8-22)

#### Sec. 5.20. - Bond; insurance.

- (a) *Insurance.* No sign permit shall be issued until a certificate of insurance evidencing at least the following coverage is filed:
- Commercial general liability insurance with an aggregate of \$500,000.00 and a per occurrence limit of \$250,000.00.
- (b) *Insurance policy requirements.* Such insurance shall be written by an insurance carrier licensed to do business in this state and shall provide that coverages afforded under the policy will not be canceled, suspended, voided or reduced until at least 30 days' prior written notice has been endeavored to be given to the city via certified mail, return receipt requested.
- (c) *Removal bond.* Each person applying for an operating permit for an off-premises sign shall furnish a bond with a surety licensed to do business in the state in the amount of \$25,000.00, in a form determined by the city attorney, or post a deposit in such amount, as a guaranty of compliance with this chapter and other applicable laws, including the removal of signs when required. One removal bond shall be required for each operating permit issued. The city may draw against this bond to recover its cost of removing a sign as allowed by this chapter.

(Ord. No. 15,192, § 22, 9-8-22)

Sec. 5.21. - Conditions for issuing operating permit.

- (a) Every sign must have an operating permit.
- (b) In order to receive an operating permit, every sign existing on April 14, 1983, must conform to the requirements of division II, under sign administrator, of this article and sections 5.30 through 5.41 when an operating permit is issued. With reference to the remainder of this article, all signs existing on April 14, 1983, must conform to the requirements of this article as follows:
  - (1) Existing portable signs must conform with the requirements of section 5.30 at the time an operating permit is issued.
  - (2) All other existing signs need not conform if they were legally and properly permitted or legally and properly exempt from having a permit prior to April 14, 1983, provided that when constructed such signs were built in accordance with the building code. If such existing signs were not legally erected and maintained prior to April 14, 1983, they shall conform to the requirements of this chapter before an operating permit may be issued.
  - (3) Signs previously erected or in the process of being erected in an unincorporated area and the area is thereafter annexed by the city shall be considered as existing sign under this subsection. However, the date of the first publication of notice for a public hearing, as required by V.T.C.A., Local Government Code §§ 43.052 and 43.053, regarding the proposed annexation of the area wherein such signs are located shall, for the purposes of this article, be considered the date of passage of this chapter to determine the applicability of this article to such signs. Any sign required by any proper authority to be licensed or permitted in an unincorporated area and not so licensed or permitted when such area is annexed by the city shall not be considered to have been legally permitted for the purposes of this subsection.
- (c) When any sign or a substantial part of a sign is destroyed, damaged or taken down or removed for any purpose other than maintenance operations or for changing the letters, symbols or other matter on such sign, it shall not be reerected, reconstructed or rebuilt, except in full conformance with this article. A sign or substantial part of it is considered to have been destroyed only if the cost of repairing the sign is more than 60 percent of the cost of erecting a new sign of the same type at the same location.

(Ord. No. 15,192, § 22, 9-8-22)

Sec. 5.22. - Term and renewal of operating permit.

Each operating permit issued under this division shall be effective for a period of two years. Not less than 30 days or more than 60 days prior to the conclusion of each two-year period, application may be made for a new permit. Such application shall be submitted in such form as the sign administrator may prescribe, accompanied by payment of applicable fees, and shall be executed, verified and shall contain the sworn affidavit described in subsection 5.18

(b). If the application for extension of the permit fully meets the requirements of applicable law in effect at the time

of such application, the sign administrator shall issue a new permit for a two-year period or such other time as may be required by law. Operating permits shall be obtained from the sign administrator not later than three days after final structural approval.

(Ord. No. 15,192, § 22, 9-8-22)

Sec. 5.23. - Subterfuge.

Any permit required under this division that, in the opinion of the sign administrator, has been secured through subterfuge and not in full compliance with this article shall be revoked by the sign administrator. Such revocation shall conform with subsection 5.08(4) regarding notice and hearing.

(Ord. No. 15,192, § 22, 9-8-22)

Sec. 5.24. - Identification of signs.

Under this division, every sign for which a permit is required shall be plainly marked with the name and address of the owner, lessee or the sign company erecting and maintaining the sign and shall have affixed on the front thereof or on some other location so as to be conspicuous and easily identifiable from an adjacent public street an individually numbered sticker, tag or token provided by the city.

(Ord. No. 15,192, § 22, 9-8-22)

Sec. 5.25. - Time limits for completion of construction.

Any permit for a sign shall become null and void unless construction of the sign is completed within 180 days or the permit is renewed for an additional 180 days, in which case an additional fee shall be payable equal to one-half the original fee paid, and the proposed sign shall meet all of the requirements of this article on the date of renewal.

(Ord. No. 15,192, § 22, 9-8-22)

Sec. 5.26. - Electrical signs.

Any electrical sign shall conform fully to the requirements of the city electrical code and shall receive a permit under division III of article IV.

(Ord. No. 15,192, § 22, 9-8-22)

Sec. 5.27. - Church signs.

Any sign owned by a church shall be required to meet all appropriate sections of this article, except that the sign shall be exempt from the renewal operating permit fee required in section 5.22.

(Ord. No. 15,192, § 22, 9-8-22)

Sec. 5.28. - Temporary use directional signs.

No permit shall be required under this article for a temporary use directional sign, which may be located within the rights-of-way along city streets, provided that such signs do not cause a visual obstruction as stated in section 122-3 and are not located in a median. Temporary use directional signs may be displayed from 12:00 noon Friday until 12:00 noon the following Monday only. Such signs shall not exceed 24 inches by 30 inches in size and shall not be installed more than four feet above grade. Such signs shall have a minimum separation of 25 feet and signs for any one advertiser must be at least 200 feet apart. A temporary use directional sign not erected in strict conformity with this section is a violation hereof and, therefore, subject to the penalties stated in section 5.03.

(Ord. No. 15,192, § 22, 9-8-22)

Sec. 5.29. - Electioneering with placement of signs during voting periods.

(a) *Definitions.*

- (1) *Voting period.* In this section, voting period means the period beginning when the polls open for voting and ending when the polls close or the last voter has voted, whichever is later, as provided for in V.T.C.A., Election Code § 61.003, as amended.
- (2) *Public property.* In this section, public property means any property owned or operated by a government entity and open to the public and used for a public purpose.
- (3) *Electioneering.* In this section, electioneering includes the posting, use, or distribution of political signs or literature, as provided in V.T.C.A., Election Code § 61.003, as amended.
- (4) *Signs.* In this section, sign means a sign used to electioneer by containing messages that refer to issues or candidates involved in an election ordered by a governmental entity, as provided in V.T.C.A., Election Code Ch. 61, as amended.

(b) *Public property.*

- (1) Public property that serves as an early voting location or election day voting location for an election ordered by a governmental entity may be used to electioneer by sign placement. A sign placed on public property under this section may not:
  - a. Be placed in a location within 100 feet of any building entrance;
  - b. Have a surface area greater than 36 feet, excluding the sign structure;
  - c. Be more than eight feet high;
  - d. Be cemented into the ground or otherwise become permanently affixed to public property;
  - e. Be illuminated;
  - f. Be affixed to any utilities;
  - g. Have any moving elements;
  - h. Be placed in a manner that creates a safety hazard, as interpreted by the sign administrator; or
  - i. Be placed in or over any public right-of-way.

- (2) Nothing in this section permits a person to place a sign on public property owned or operated by a governmental entity, other than the city, if such placement is not allowed by the governmental entity; nor does it permit a person to place a sign in a form, manner, or location prohibited by another city ordinance or state or federal law.
- (3) *Placement and removal of signs.* A person who chooses to electioneer by sign shall:
  - a. Not place or cause the placement of a sign on public property in violation of any provision of this ULDC;
  - b. Comply with section 5.79 of this ULDC;
  - c. Remove any said sign from a public property within 24 hours after notification from the city that a sign is in violation of this section.
- (4) The sign administrator may, without notice, confiscate and dispose of any sign that is:
  - a. Placed on public property in violation of this section; or
  - b. Not removed as required by this section.

(Ord. No. 15,192, § 22, 9-8-22; Ord. No. 15,246, § 3, 10-27-22; Ord. No. 15,430, § 5, 4-27-23; Ord. No. 15,593, § 1, 10-26-23; Ord. No. 15,870, §§ 1, 2, 8-8-24)

#### DIVISION III. - REGULATIONS

##### GENERALLY

#### Sec. 5.30. - Portable signs.

- (a) It shall be unlawful to place or maintain a portable sign at any location, unless the sign has a permit as described in division III, under construction and structural requirements, of this article.
- (b) A person applying for an operating permit for a portable sign must meet the following requirements to be given a permit; after receiving a permit, failure to maintain a portable sign in compliance with the following requirements shall be cause for the sign administrator to revoke the permit for the sign:
  - (1) Every portable sign mounted on a trailer shall be equipped with a trailer hitch and locking device approved by the sign administrator to hold the trailer in a securely locked position during transport. All such hitching equipment shall also comply with all applicable federal, state and local laws regulating such;
  - (2) Every portable sign not in transit shall be securely anchored to the ground by cables, ground supports or other means acceptable to the sign administrator to prevent such sign from being blown from the site. The sign shall be constructed in a manner to prevent letters or pieces of the sign from falling off the sign or from being blown off the sign by wind;
  - (3) Portable signs shall, for the purposes of this article, be considered nonmobile, nonportable ground signs and thereby are subject to all sections of this article, including the structural requirements,

spacing requirements, permitting and fee requirements, on-premises sections, and all other sections of this article applicable to ground signs, unless a section which applies by its terms to portable signs is in conflict with a section applying to ground signs, in which case the section applying specifically to portable signs would control;

- (4) Portable signs are prohibited from having any flashing or blinking lights; and
  - (5) All electrically illuminated portable signs must be wired through operable ground-fault circuit interrupters.
- (c) A portable sign operating permit is nontransferable, i.e., a permit issued for one sign cannot be used on another sign.

(Ord. No. 15,192, § 22, 9-8-22)

Sec. 5.31. - Location on public rights-of-way.

- (a) It shall be unlawful to place a sign upon a public street, public sidewalk, public alley, public right-of-way, public curb or other public improvement in any public street or grounds; on any public bridge or part of a bridge; on any public building or structure of any kind belonging to the city; or in any public place or on any public improvement unless express consent therefor shall have been first granted by the city council. However, coin-operated devices used to display and vend newspapers may be so placed, so long as they are not placed to impede vehicular or pedestrian traffic. This subsection does not apply to public property leased for private business purposes or to permitted garage sale signs, temporary directional signs, political signs and off-premises signs for city sponsored or co-sponsored events erected in accordance with this article.
- (b) Signs placed in violation of this section are abandoned trash at the time of posting and are hereby declared a nuisance to the public health, safety and welfare and may be confiscated and disposed of immediately and without notice.
- (c) The sign administrator, employees of the police department, the department of public works, the department of planning and community development, the department of parks and recreation, and the department of health are authorized, without notice, to confiscate, remove, and discard any sign found placed in violation of this article.
- (d) The primary beneficiary of any sign installed in violation of this section is presumed to have authorized or caused the installation, use, or maintenance of the sign in violation of this section and commits an offense.

(Ord. No. 15,192, § 22, 9-8-22)

Sec. 5.32. - Location on private property.

It shall be unlawful for a person to intentionally or knowingly erect or maintain a sign on or above private property he has no right to occupy without the written consent of the owner of such property.

(Ord. No. 15,192, § 22, 9-8-22)

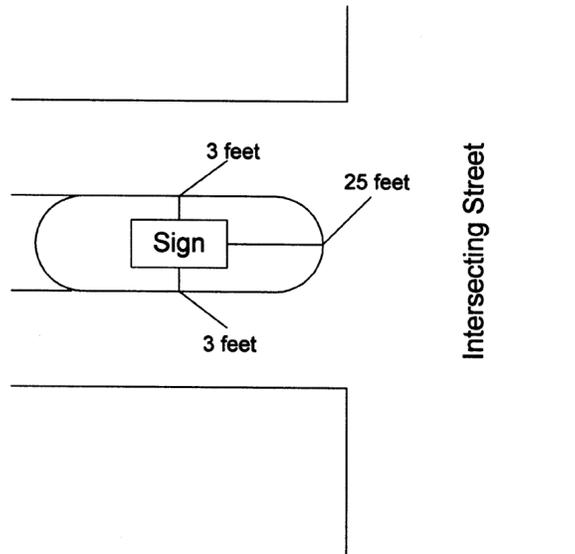
Sec. 5.33. - Resemblance to official signs.

No sign shall be constructed that resembles any official marker erected by the city, state or any governmental agency or that, because of position, shape or color, would conflict with the proper functioning of any traffic sign, signal or that, by its shape or color, would conflict with or be confused with emergency vehicle lights, especially blinking lights. Use of a word such as "stop," "look," "danger," or any other word, phrase, symbol or character in such a manner as to interfere with, mislead or confuse traffic is prohibited.

(Ord. No. 15,192, § 22, 9-8-22)

Sec. 5.34. - Location on traffic islands.

- (a) Signs are prohibited on traffic islands, being areas less than 5,000 square feet entirely bounded by or located within the curblines of a public street. Signs are prohibited on any area having a minimum distance of less than 50 feet between the curblines of any street.
- (b) It shall be an exception to subsection (a) of this section if:
  - (1) The sign:
    - a. Denotes the entrance to a platted and recorded subdivision;
    - b. Does not contain commercial advertising or other signs;
    - c. Is located on property owned by the homeowners' association of the platted and recorded subdivision;
    - d. Is maintained by the homeowners' association;
    - e. Is set back at least three feet from each curbline of the width of the traffic island and at least 25 feet from the curbline of the traffic island closest to the intersecting street, and depicted as follows:



**Traffic Island**

- f. Is not within a public right-of-way;
  - g. Does not create a visual obstruction as described in section 122-3 of this Code; and
  - h. Complies with all other provisions of this Code; and
- (2) The final plat of the subdivision includes verbiage approved by the city attorney which results in the traffic median being dedicated, without consideration, to the public at the option of the city should the sign or traffic island fail to be maintained or cause a visual obstruction; and
- (3) A person who sells or conveys property in the platted and recorded subdivision tenders written notice to the purchaser as prescribed in subsection (c) of this section.
- (c) The notice in subsection (b)(3) shall be executed by the seller and purchaser and shall read as follows:
- The real property, described below, that you are about to purchase is located within a platted and recorded subdivision, whose homeowners' association owns and is responsible for the maintenance of the traffic island and the sign thereon. Failure to maintain the traffic island or the sign in a timely manner as determined by the city may result in the dedication of the traffic island and sign to the public without further consideration. Additionally such dedication to the public may occur if the sign creates a visual obstruction as determined by the city.

The legal description of the property you are acquiring is as follows:

Signed this the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

/s/ \_\_\_\_\_ Signature of Seller

The undersigned purchaser hereby acknowledges receipt of the foregoing notice at or prior to execution of a binding contract for the purchase of the real property described in such notice or at closing of purchase of the real property.

Signed this the \_\_\_ day of \_\_\_, 20\_\_\_.

Signature of Purchaser

(d) The notice in subsection (b)(3):

- (1) Shall be applicable to executory contract of purchase and sale having a performance period of more than six months;
- (2) Shall not be applicable to:
  - a. Transfers of title under any type of lien foreclosure;
  - b. Transfers of title by deed in cancellation of indebtedness secured by a lien upon the property conveyed; or
  - c. Transfers of title by reason of a will or probate proceedings.
- (3) Be executed and acknowledged at or before closing by the seller and the purchaser and recorded in the deed records of the county in which the property is located.

(e) The determination regarding the proper maintenance and regarding the creation of a visual obstruction shall be made by the city manager.

(Ord. No. 15,192, § 22, 9-8-22)

#### Sec. 5.35. - Obstructions.

- (a) No sign shall be erected, constructed or maintained so as to obstruct any means of egress or any opening necessary for required light, ventilation or firefighting or for escape from the premises or so as to prevent free passage from one part of a roof to any other part thereof.
- (b) No sign shall be attached to any exterior stairway, fire escape, fire tower balcony or balcony serving as a horizontal exit.
- (c) No sign shall be erected, constructed or maintained so as to interfere with the free operation of a counterbalanced section of a fire escape, and no projecting sign shall be erected, constructed or maintained without a minimum of seven feet of clearance over any such counterbalanced section.
- (d) No sign shall obstruct the free use of any window above the first story.

(Ord. No. 15,192, § 22, 9-8-22)

#### Sec. 5.36. - Use of motion picture machines.

No sign shall employ a stereopticon, motion picture machine or other type of video display capable of displaying moving video, even if the message is stationary.

(Ord. No. 15,192, § 22, 9-8-22)

Sec. 5.37. - Creation of easement.

No permit for a sign extending beyond private property onto a public street, public sidewalk or public alley shall constitute a permanent easement, and every such permit shall be revocable at any time by action of the city council. The city shall not be liable for any damages to the owner because of such revocation.

(Ord. No. 15,192, § 22, 9-8-22)

Sec. 5.38. - Change of ornamental features, electric wiring or advertising display.

No sign permit is required for the change of any of the ornamental features or devices or the advertising display of a sign previously permitted. This section shall not release a person from complying with all other applicable permitting requirements of the city, including those of the city building code and the city electrical code.

(Ord. No. 15,192, § 22, 9-8-22)

Sec. 5.39. - Obscuring or interfering with view.

Signs may not be located or illuminated in such a manner as to:

- (1) Obscure or otherwise interfere with the effectiveness of an official traffic sign, signal or device;
- (2) Obstruct or interfere with the view of a driver of approaching, emerging or intersecting traffic from any street or driveway;
- (3) Prevent any traveler on any street from obtaining a clear view of approaching, emerging or intersecting traffic from any street or driveway; or
- (4) Prevent any traveler on any street or driveway from obtaining a clear view of approaching vehicles for a distance of 250 feet along the street.

(Ord. No. 15,192, § 22, 9-8-22)

**Cross reference**— Visibility triangle, § 118-362.

Sec. 5.40. - Shielding of lighted signs.

A sign containing lights that are not effectively shielded as to prevent beams or rays of light from being directed at any portion of the traveled way from which the sign is primarily viewed and that are of such intensity or brilliance as to cause glare or to impair the vision of the driver of any motor vehicle or that otherwise interferes with any driver's operation of a motor vehicle is prohibited.

(Ord. No. 15,192, § 22, 9-8-22)

Sec. 5.41. - Spectacular signs.

The following types of spectacular signs are prohibited:

- (1) Signs with strobe, rotating strobe, or blinking strobe lights;
- (2) Signs with flashing spotlights, rotating spot lights or blinking spotlights;
- (3) Automatically changeable advertising signs which display more than one message every three seconds;
- (4) Flashing lights with bulbs of greater than 15 watts;
- (5) Signs employing a stereopticon, motion picture machine or other type of video display capable of displaying moving video, even if the message is stationary;
- (6) Signs consisting of a static image projected upon a stationary object;
- (7) Signs which move or contain visible moving parts, including television signs with rotating slat messages; and
- (8) Signs placed perpendicular to the roadway with the exception of automatically changeable advertising which display no more than one message every three seconds.

(Ord. No. 15,192, § 22, 9-8-22)

#### MAINTENANCE AND REMOVAL

##### Sec. 5.42. - Maintenance.

All signs shall be kept in good repair and, unless of galvanized or noncorroding metal or treated with appropriate wood preservative, shall be thoroughly painted as often as is necessary, consistent with good maintenance. All braces, belts, clips, supporting frames and fastenings shall be free from deterioration, termite infestation, rot or loosening. All signs shall be able to withstand safely at all times the wind pressure specified in this article. If any sign is not so maintained, the sign administrator shall give written notice to the owner or lessee thereof to so maintain the sign or to remove the sign.

(Ord. No. 15,192, § 22, 9-8-22)

##### Sec. 5.43. - Unsafe signs.

If any sign, in the opinion of the sign administrator, becomes insecure or in danger of falling or otherwise unsafe, the sign administrator shall give written notice of the condition of the sign to the person owning, leasing or responsible for the sign. The person so notified shall correct the unsafe condition of the sign in a manner to be approved by the sign administrator in conformity with this article.

(Ord. No. 15,192, § 22, 9-8-22)

##### Sec. 5.44. - Unlawful signs.

If any sign shall be installed, erected, constructed or maintained in violation of any of the terms of this article, the sign administrator shall give written notice to the owner, lessee or person responsible for the sign, ordering the owner, lessee or person to alter the sign so as to comply with this article or to remove the sign.

(Ord. No. 15,192, § 22, 9-8-22)

Sec. 5.45. - Abandonment of sign structures.

Any sign structure lawfully erected and maintained that has no copy, transcript, reproduction, model, likeness, image, advertisement or written material for a period of 120 consecutive days is declared to be a violation of this division and as such shall be restored to use or removed by the owner or permittee within 30 days after notice by the sign administrator of such violation. If the owner or permittee fails to restore the sign structure to use or to remove the abandoned sign structure within the specified 30 days, the sign administrator shall remove the abandoned sign structure at the property owner's expense.

(Ord. No. 15,192, § 22, 9-8-22)

Sec. 5.46. - Removal.

Any written notice to alter or to remove a sign shall be given by the sign administrator by certified mail or written notice served personally upon the owner, lessee or person responsible for the sign or the owner's agent. If compliance with such order is not completed within ten days, the sign administrator shall initiate proceedings under subsection 5.08(4) to revoke the permit and remove the sign at the expense of the owner, lessee or person responsible therefor.

(Ord. No. 15,192, § 22, 9-8-22)

Sec. 5.47. - Maintaining sign after notice of violation.

It shall be unlawful for a person to intentionally or knowingly maintain a sign in violation of this division for which a written notice is issued by the sign administrator citing such violation.

(Ord. No. 15,192, § 22, 9-8-22)

Sec. 5.48. - Obsolete signs.

Any on-premises sign that no longer advertises a bona fide business or that has become dysfunctional due to closing of a business or for any other reason that renders the sign nonapplicable to the property involved is considered an obsolete sign. The sign administrator may require that all obsolete signs be removed or rendered blank by the property owner within 30 days from the date of the action that caused the sign to be considered

obsolete. If the owner fails to remove or render blank the sign within the 30 days, the sign administrator shall notify the owner by certified mail to correct the violation within ten days after receipt of notification of violation. If the owner does not correct the violation, the sign administrator shall remove the sign at the property owner's expense.

(Ord. No. 15,192, § 22, 9-8-22)

### CONSTRUCTION AND STRUCTURAL REQUIREMENTS

#### Sec. 5.49. - Design.

(a) *Generally.* All signs and sign structures shall be designed and constructed to resist wind forces as specified in this division. All bracing systems shall be designed and constructed to transfer lateral forces to the foundations. For signs on buildings, the dead and lateral loads shall be transmitted through the structural frame of the building to the ground in such manner as not to overstress any of the elements thereof. The overturning movement produced from lateral forces shall in no case exceed two-thirds of the dead-load resisting moment for all signs. Uplift due to overturning shall be adequately resisted by proper anchorage to the ground or to the structural frame of the building for all signs. The weight of earth superimposed over footings may be used in determining the dead-load resisting moment. Such earth shall be carefully placed and thoroughly compacted. The allowable stresses in wire ropes and steel guy rods and their fastenings shall not exceed one-fourth of their rated tensile strength.

(b) *Wind loads.* All signs and sign structures shall be designed to resist wind loads as follows:

(Ord. No. 15,192, § 22, 9-8-22)

#### WIND LOAD PRESSURES FOR ALL SIGNS

Height Above Ground (In Feet)*	Pressure (In Pounds per Square Foot)
0—30	20
31—50	25
51—99	35
100—199	45
200—299	50
300—399	55
400—500	60

501—800	70
Over 800	77
* Measured above the average level of the ground adjacent to the structure.	

- (c) *Vertical design loads.* Vertical design loads, except roof live loads, shall be assumed to be acting simultaneously with the wind loads.
- (d) *Working stresses.* All signs shall be designed to conform with the requirements of the building code regarding allowable working stresses. The working strength of chains, cables, guys or steel rods shall not exceed one-fifth of the ultimate strength of such chains, cables, guys or steel rods.

(Ord. No. 15,192, § 22, 9-8-22)

Sec. 5.50. - Construction.

- (a) *Generally.* The supports for all signs or sign structures shall be placed in or upon private property and shall be securely built, constructed and erected in conformance with the requirements of the building code and this article. If any inconsistency occurs between this article and the building code, this article controls.
- (b) *Materials.* Materials for construction of all signs and sign structures shall be of the quality and grade as specified for buildings in the building code and consistent with the fire prevention code.
- (c) *Nonstructural trim.* Nonstructural trim and portable display surfaces may be of wood, metal, approved plastics or any combination thereof, consistent with the fire prevention code.
- (d) *Anchorage.* Members supporting unbraced signs shall be so proportioned that the bearing loads imposed on the soil in either direction, horizontal or vertical, shall not exceed the safe values stated in subsection 5.49(a). All ground signs shall be anchored to resist the wind load specified in subsection 5.49(b) acting in any direction. Anchors and supports shall be designed for safe bearing loads on the soil and for an effective resistance to pullout amounting to a force 25 percent greater than the required resistance to overturning.
- (e) *Signs attached to masonry.* Signs attached to masonry, concrete or steel shall be safely and securely fastened thereto by means of metal anchors, bolts or approved expansion screws of sufficient size and anchorage to safely support the loads applied.
- (f) *Wooden blocks.* No wooden blocks or plugs or anchors with wood used in connection with screws or nails shall be considered proper anchorage, except for signs attached to wood framing. Whenever anchors or supports consist of wood embedded in the soil, the wood shall be pressure treated with a preservative approved by the sign administrator.

- (g) *Unbraced parapet wall.* No anchor or support of any sign will be connected to or supported by an unbraced parapet wall, unless such wall is designed in accordance with the requirements for parapet walls specified in building code.
- (h) *Display surfaces.* Display surfaces in all types of signs may be made of metal, wood, glass or approved plastics as noted in section 5.52, unless otherwise prohibited in this division or prohibited by the fire prevention code. A sign designed so that the message can be changed by the use of removable letters shall be constructed in a manner to prevent letters or pieces of the sign from falling off the sign or from being blown off the sign by wind.
- (i) *Glass.* Glass thickness and area limitations shall be as follows:

(Ord. No. 15,192, § 22, 9-8-22)

**SIZE, THICKNESS AND TYPE OF GLASS PANELS IN SIGNS**

Maximum Size of Exposed Glass Panel (Any Dimension Area)			
In Inches	In Square Inches	Minimum Thickness of Glass (In Inches)	Type of Glass
30	500	1/8	Plain, Plate or W
45	700	3/16	Plain, Plate or W
144	3,600	1/4	Plain, Plate or W
Over 144	Over 3,600	1/4	Plain, Plate or W

(Ord. No. 15,192, § 22, 9-8-22)

Sec. 5.51. - Electrical requirements.

- (a) All electrical fixtures, equipment and appurtenances installed in conjunction with a sign shall be designed and installed in accordance with the electrical code.

- (b) With the exception of electrical signs covered by subsection 5.75(3), all electrical signs shall be limited to bulbs not exceeding 150 watts for bulbs located in the face of the sign, shall be limited to lighting circuits of 270 volts, shall contain a sunshade screen dimmer and shall not use reflectorized lights as part of the face of the sign. For the purposes of this subsection, reflectorized lights shall mean any lamp constructed with reflector-type materials so as to focus and intensify, flood or spot such lamp in a certain direction, including but not limited to lamps designated by the manufacturer as flood, spot, reflector or flood, reflector light or clear reflector.

(Ord. No. 15,192, § 22, 9-8-22)

Sec. 5.52. - Use of plastic materials.

- (a) The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

*Display surface* means the entire surface of a sign, on one side, devoted to exhibiting or contrasting exhibits of advertising. The display surface shall generally include the entire sign surface except for the sign frame and incidental supports thereto.

*Sign facing* or *facing* means a separate and distinguishable portion of the overall display surface.

- (b) Notwithstanding any other section of this Code, plastic materials that burn at a maximum rate of 2½ inches per minute, in sheets of 0.060 thickness when tested in accordance with the Test for Flammability of Rigid Plastics Over 0.050 Inches in Thickness, ASTM D635-1974, shall be deemed "approved plastics" for the purposes of this article and may be used as the display surface material and for the letters, decorations and facings on signs, provided that the structure of the sign in which the plastic is mounted or installed is noncombustible.
- (c) Individual plastic facings of electrical signs shall not exceed 200 square feet in area. If the area of a display surface exceeds 200 square feet, the area occupied or covered by approved plastics shall be limited to 200 square feet plus 50 percent of the difference between 200 square feet and the total square footage area of the sign.
- (d) The area of plastic on the display surface shall not in any case exceed 550 square feet.
- (e) Letters and decorations mounted upon an approved plastic facing or display surface shall be made of approved plastics.

(Ord. No. 15,192, § 22, 9-8-22)

Sec. 5.53. - Height limitations.

- (a) *Generally*. Except as stated in this section, no ground sign shall be established, constructed or erected that exceeds an overall height of 42½ feet, including cutouts extending above the rectangular border, measured from the highest point on the sign to the grade level of the ground surface in which the sign supports are placed. Signs located immediately adjacent to an overpass or elevated roadway may be constructed in excess of the limitation of 42½ feet, but the highest point of the sign may not be greater

than 25 feet above the road level of such overpass or elevated roadway, such measurement to be made from the closest point of the roadway to such sign. A roof sign having a tight or solid surface shall not at any point exceed 24 feet above the roof level. Projecting signs shall be a minimum of 14 feet in height above grade. These height limitations shall not apply to on-premises signs lawfully permitted or lawfully erected on April 14, 1983.

- (b) *Exception.* On-premises signs may be constructed 80 feet in height if located within 200 feet of the interstate highway system. Only one 80-foot sign shall be permitted on one parcel of property.

(Ord. No. 15,192, § 22, 9-8-22)

#### Sec. 5.54. - Size limitations.

- (a) *Generally.* Except as stated in this section, no on-premises sign other than an on-premises wall sign shall be established, constructed or erected that has a face area exceeding 300 square feet, including cutouts, but excluding uprights, or that has face dimensions that exceed 15 feet in height or 30 feet in width. No off-premises sign shall be established, constructed or erected that has a face area exceeding 672 square feet, including cutouts, but excluding uprights. No double-faced off-premises sign shall be established, constructed or erected unless each face is 75 square feet or less and the faces are abutting on one edge. Temporary space extensions may be added to off-premises signs for a period not to exceed 90 days. These size limitations shall not apply to signs lawfully permitted or lawfully erected on April 14, 1983.
- (b) *Multioccupancy.* An on-premises sign located within 200 feet of the interstate and freeway primary system and advertising multioccupancy shall not exceed 600 square feet. None of the multioccupancy signs shall exceed 300 square feet.

(Ord. No. 15,192, § 22, 9-8-22)

#### Sec. 5.55. - Method of determining area.

In determining the area of any sign, the dimensions of the rectangle enclosing the signboard, excluding the supporting structure, shall be used. If the sign includes cutouts or facings extending beyond the dimensions of the rectangular signboard, the measurement of sign area shall include the actual area of the cutout or extended facing. For signs of a double-faced, back-to-back or V-type nature, each face shall be considered as separate signs in computing the face area.

(Ord. No. 15,192, § 22, 9-8-22)

#### Sec. 5.56. - Clearances.

- (a) Signs shall be located a minimum distance of eight feet measured horizontally and 12 feet measured vertically from overhead electric conductors that are energized in excess of 750 volts. The term "overhead conductors," as used in this subsection, means any electrical conductor, either bare or insulated, installed above the ground.

- (b) No portion of a sign or sign structure shall project into any public alley, unless the portion is a minimum of 1 in height above grade.

(Ord. No. 15,192, § 22, 9-8-22)

Sec. 5.57. - Fire prevention requirements.

- (a) The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

*Combustible material* means material more flammable than metal, but no more flammable than wood or approved plastic, as that term is defined in subsection 5.52(b). No material more flammable than wood or approved plastic shall be used in any sign.

*Noncombustible material* means material no less flammable than steel, iron or other similar metal, or as the term shall be otherwise defined by the city fire or building code or by the sign administrator; noncombustible materials include incombustible material.

- (b) When signs are required in this article to be constructed of noncombustible material, all parts of such signs, including the sign structures, shall be of noncombustible material, except that the following parts made out of combustible material shall be permitted:
  - (1) Small ornamental moldings, battens, cappings and nailing strips;
  - (2) Individual letters, symbols, figures and insignia supported by or within a noncombustible frame or a permitted combustible facing as permitted by this division;
  - (3) Portions of each face of a sign, up to but not exceeding 100 square feet of facing, as long as the total area of facing for such sign does not exceed 200 square feet; and
  - (4) Wood posts and braces for signs whose surface is no more than ten feet six inches in height when such signs are determined to be nonhazardous by the sign administrator, based on health and safety considerations, including but not limited to their location, their proximity to other flammable materials, their proximity to occupied structures and their proximity to necessary firefighting equipment.
- (c) Subject to the specific exceptions stated in this division or as otherwise stated in this chapter, all roof signs, projecting signs and marquee signs shall be constructed of noncombustible materials.

(Ord. No. 15,192, § 22, 9-8-22)

Sec. 5.58. - Ground signs.

- (a) Lighting reflectors on ground signs may project beyond the face of the sign.
- (b) Every ground sign shall provide rigid construction to withstand wind action in all directions.
- (c) Any person, including the owner, lessee or other person, using any vacant lot or premises for the location of a ground sign shall keep such premises clean, sanitary, inoffensive and free and clear of all obnoxious

substances, unsightly conditions and remnants of replaced sign faces on the ground in the vicinity of such ground signs.

(Ord. No. 15,192, § 22, 9-8-22)

Sec. 5.59. - Wall signs.

- (a) Wall signs attached to exterior walls of solid masonry, concrete or stone shall be safely and securely attached to such by means of metal anchors, bolts or expansion screws of not less than three-eighths-inch in diameter and shall be embedded at least five inches. Wood blocks shall not be used for anchorage, except for wall signs attached to buildings with walls of wood. A wall sign shall not be supported by anchorages secured to an unbraced parapet wall.
- (b) The surface face of all sign bulletins must be of sheet metal.

(Ord. No. 15,192, § 22, 9-8-22)

Sec. 5.60. - Roof signs.

- (a) All roof signs shall be so constructed as to leave a clear space of not less than six feet between the roof level and the lowest part of the sign and shall have at least five feet of clearance between the vertical supports thereof; provided, however, no portion of any roof sign structure shall project beyond an exterior wall.
- (b) Every roof sign shall be constructed entirely of steel, including the upright supports and braces.
- (c) The bearing plates of all roof signs shall distribute the load directly to or upon masonry walls, steel roof girders, columns or beams. The building shall be designed to avoid overstress of these members.
- (d) All roof signs shall be thoroughly secured to the building upon which they are installed, erected or constructed by iron, metal anchors, bolts, supports, chains, stranded cables, steel rods or braces, and they shall be maintained in good condition as set forth in section 5.42.

(Ord. No. 15,192, § 22, 9-8-22)

Sec. 5.61. - Projecting signs.

- (a) All projecting signs shall be constructed entirely of metal or other noncombustible material and shall be securely attached to a building or structure by metal supports such as bolts, anchors, supports, chains, guys or steel rods. Staples or nails shall not be used to secure any projecting sign to any building or structure.
- (b) The dead load of projecting signs, not parallel to the building or structure, and the load due to wind pressure shall be supported with chains, guys or steel rods having a net cross sectional dimension of not less than three-eighths-inch in diameter. Such supports shall be erected or maintained at an angle of at least 45 degrees with the horizontal to resist the dead load and at an angle of 45 degrees or more with

the face of the sign to resist the specified wind pressure. If such projecting sign exceeds 30 square feet in one facial area, there shall be provided at least two such supports on each side of the sign not more than eight feet apart to resist the wind pressure.

- (c) All supports shall be secured by an expansion shield to a bolt or expansion screw of such size that will develop the strength of the supporting chain, guys or steel rods, with a minimum five-eighths-inch bolt or lag screw. Turnbuckles shall be placed in all chains, guys or steel rods supporting projecting signs.
- (d) Chains, cables, guys or steel rods used to support the live or dead load of projecting signs may be fastened to solid masonry walls with expansion bolts or by machine screws in or on supports, but such supports shall not be attached to an unbraced parapet wall. Where the supports must be fastened to walls made of wood, the supporting anchor bolts must go through the wall and be plated and fastened on the wall in a secure manner.
- (e) A projecting sign shall not be erected on the wall of any building so as to project above the roof or cornice wall or above the roof level where there is no cornice wall.
- (f) A projecting sign shall have a clearance of 14 feet above the right-of-way and may not extend more than ten feet from the building wall or structure or within two feet of a curbline.
- (g) If a curbline is altered, such projecting sign that fails to meet the requirements of this section shall be altered or removed at the owner's expense.

(Ord. No. 15,192, § 22, 9-8-22)

#### Sec. 5.62. - Marquee signs.

Marquee signs shall be constructed entirely of metal or noncombustible material and may be attached to or hung from a marquee. The lowest point of a sign hung from a marquee shall be at least ten feet above the sidewalk or ground level, and such signs shall not extend or project beyond the corners of the marquee. Marquee signs may be attached to the sides and front of a marquee, and a sign may extend the entire length and width of the marquee, provided that no sign shall extend more than six feet above or one foot below such marquee or have a vertical dimension greater than eight feet.

(Ord. No. 15,192, § 22, 9-8-22)

#### Sec. 5.63. - V-type or back-to-back construction.

- (a) The angle between the faces of V-type signs shall be no greater than 45 degrees measured back to back, and if the area of each face is 300 square feet or less, the maximum distance at the nearest point between the two backs, as measured at the apex, shall not exceed 1½ feet. If the area of either face exceeds 300 square feet, the maximum distance between the two backs, as measured at the apex, shall not exceed 3½ feet.
- (b) Back-to-back signs must be on common supports. If the area of each is 300 square feet or less, the nearest point between the two backs shall not exceed five feet, plus the diameter of the intervening

upright or support.

(Ord. No. 15,192, § 22, 9-8-22)

## LOCATION

### Subdivision II. - Scenic or Historic Areas

#### Sec. 5.64. - Applicability.

- (a) This subdivision shall govern the designation of scenic or historic rights-of-way or districts within the city limits.
- (b) This subdivision shall not apply to signs lawfully erected and lawfully existing on April 14, 1983, that are on the federal aid primary system and subject to regulation under the Texas Litter Abatement Act, V.T.C.A., Transportation Code § 391.001 et seq., including all amendments (the state act), or that are subject to regulation under the Federal Highway Beautification Act, 23 USC 131 et seq., including all amendments (the federal act).

(Ord. No. 15,192, § 22, 9-8-22)

#### Sec. 5.65. - Petition.

Citizens of the city may petition the city council to designate any area or any public right-of-way within the city as a scenic or historic right-of-way or district. Any such petition must meet the requirements of this section to be considered by the city council. The petition shall:

- (1) Contain the signatures of property owners whose property fronts on either side of the right-of-way proposed for designation or who own property in the area proposed for designation as a district and who represent 51 percent of the total front footage along the right-of-way or 51 percent of the total area;
- (2) Contain the signatures of at least 1,000 citizens of the city, each of whom was above the age of 18 years old when signing the petition;
- (3) Indicate that the signatures thereon were collected within a 60-calendar-day period; and
- (4) Indicate that the signatories thereon desire the area or right-of-way to be designated a scenic or historic right-of-way or district.

(Ord. No. 15,192, § 22, 9-8-22)

#### Sec. 5.66. - Hearing date.

Any petition as required in section 5.65 must be submitted to the city council within 90 calendar days of the date of the first signature thereon. Following the filing of any such petition with the city clerk, the city council shall, within 45 days of the date of filing, conduct a public hearing to consider the merits of the petition.

(Ord. No. 15,192, § 22, 9-8-22)

Sec. 5.67. - Notices of hearing.

Under this subdivision, the city clerk shall give notice as to the filing of any such petition and the date, time and place of the city council hearing by posting such, at least 14 days in advance of the hearing, at a place convenient to the public in the city hall. Any interested person shall have the opportunity to participate in any hearing conducted under this subdivision and to present any relevant evidence and testimony.

(Ord. No. 15,192, § 22, 9-8-22)

Sec. 5.68. - Decision of city council.

As a result of the hearing held pursuant to this subdivision, the city council shall determine whether or not:

- (1) The petition complies with the requirements of this section;
- (2) The proposed right-of-way or area has scenic or historic significance;
- (3) The proposed right-of-way or area has scenic or historic significance sufficient to justify preservation;  
and
- (4) Designation of the proposed right-of-way or area would best serve the health, safety, welfare and public convenience and necessity for the citizens of the city.

(Ord. No. 15,192, § 22, 9-8-22)

Sec. 5.69. - Approval by city council.

If a majority of the city council decides that the proposed right-of-way or area meets all the criteria stated in this subdivision, the city council shall designate the proposed area or right-of-way as a scenic or historic right-of-way or district. Any such designation shall not affect existing signs; such signs may remain as long as they are permitted and comply with the other sections of this article, including subsection 5.21(3). No new off-premises signs and only on-premises signs conforming with section 5.75 shall be permitted in an area or on a right-of-way after designation as a scenic or historic right-of-way or district.

(Ord. No. 15,192, § 22, 9-8-22)

Sec. 5.70. - Disapproval by city council.

If a majority of the city council decides that the proposed right-of-way or area does not meet the criteria stated in section 5.68, the proposed area or right-of-way shall not be designated as a scenic or historic right-of-way. No

subsequent petition seeking designation of any portion of a right-of-way or area under this subdivision under a prior petition shall be considered by the city council until one year has elapsed from the date of the filing of the prior petition.

(Ord. No. 15,192, § 22, 9-8-22)

Sec. 5.71. - Designation by council.

This subdivision shall not be construed to limit the authority of the city council, consistent with this subdivision, to designate other areas as scenic or historic rights-of-way or districts without a public petition.

(Ord. No. 15,192, § 22, 9-8-22)

Subdivision III. - On-Premises Signs

Sec. 5.72. - Definitions.

The following words, terms and phrases, when used in this subdivision, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*General right-of-way* means a right-of-way that is not classified as a predominantly residential right-of-way or scenic or historic right-of-way or district and that is owned, leased or otherwise legally controlled by the person placing a sign thereon.

*Predominately residential right-of way* means a public right-of-way between two intersecting public streets in which a majority of the total front footage is used for residential purposes.

(Ord. No. 15,192, § 22, 9-8-22)

**Cross reference**— Definitions generally, § 1-2.

Sec. 5.73. - Applicability.

This subdivision shall apply only to on-premises signs, as that term is defined in subsection 5.04(a)(1), within the city limits.

(Ord. No. 15,192, § 22, 9-8-22)

Sec. 5.74. - Signs adjacent to general rights-of-way.

Signs adjacent to general rights-of-way shall be subject to the following limitations:

- (1) No business shall have more than a total of five on-premises signs; provided, however, that each business may select any combination of the signs described in this subsection to reach that total.

Each business shall place no more than the following:

- a. Two on-premises ground signs, no more than one of which may be a portable sign;
  - b. Three on-premises wall signs, which shall not occupy more than 50 percent of the total wall surface;
  - c. Three on-premises roof signs, designed to be architecturally compatible with the building;
  - d. Three on-premises projecting signs, which shall not extend above the uppermost portion of the building to which it is attached except as provided in subsection 5.61(e); and
  - e. Three on-premises marquee signs.
- (2) With the exception of on-premises signs lawfully permitted and erected on April 14, 1983, all on-premises signs and sign structures shall be contained wholly within the premises upon which they are located and shall not extend onto the public right-of-way. However, on-premises projecting signs may extend up to ten feet outward from the building to which they are attached as long as such extension is no closer than two feet behind the curbline, and such signs shall have a clearance of 14 feet above the public right-of-way.
- (3) Spectacular signs shall be prohibited, except for automatically changeable advertising signs which display no more than one message every three seconds.

(Ord. No. 15,192, § 22, 9-8-22)

#### Sec. 5.75. - Residential rights-of-way; scenic and historic rights-of-way and districts.

All on-premises signs on residential rights-of-way and scenic and historic rights-of-way and districts shall conform in all respects to the requirements set forth in section 5.74 for general rights-of-way and shall be subject to the following additional restrictions:

- (1) Ground signs shall not exceed 12 feet in height or 75 square feet in size;
- (2) Spectacular signs and portable signs shall be prohibited; and
- (3) Electrical signs shall be limited to not more than ten bulbs of 100 watts or less, shall be limited to 120 volts in the lighting circuit and may be illuminated only indirectly.

(Ord. No. 15,192, § 22, 9-8-22)

#### Sec. 5.76. - Business purpose required.

An on-premises sign must be erected in connection with a business purpose or for information or message purposes, as defined in this article. Any sign not connected with a business purpose or that is not an information or message sign shall be considered an off-premises sign.

(Ord. No. 15,192, § 22, 9-8-22)

#### Subdivision IV. - Off-Premises Signs

Sec. 5.77. - Definitions.

The following words, terms and phrases, when used in this subdivision, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Commercial or industrial activity* means property that is devoted to use for commercial or industrial purposes, and not for residential purposes. Commercial or industrial activity shall not include the following:

- (1) Signs;
- (2) Agricultural, forestry, ranching, grazing, farming and related activities, including but not limited to temporary wayside fresh produce stands;
- (3) Activities not housed in a permanent building or structure;
- (4) Activities not visible from the traffic lanes of the main-traveled way; or
- (5) Railroad right-of-way.

*Primarily residential area* means the right-of-way and adjoining property area between two public streets intersecting such right-of-way in which a majority of the total front footage is used for residential purposes.

(Ord. No. 15,192, § 22, 9-8-22)

**Cross reference**— Definitions generally, § 1-2.

Sec. 5.78. - Applicability.

This subdivision shall apply only to off-premises signs, as that term is defined in section 5.04, within the city limits and to off-premises signs, as that term is defined in section 5.04, which are also spectacular signs, as that term is defined in section 5.04, within the city limits and the extraterritorial jurisdiction of the city.

(Ord. No. 15,192, § 22, 9-8-22)

Sec. 5.79. - New signs.

- (a) *New off-premises signs generally prohibited.* Except as provided for in subsections (b) and (c), or otherwise allowed by state law, from and after September 28, 2023, no new construction permits shall be issued for off-premises signs and no new off-premises signs shall be allowed within the city limits. This prohibition shall apply to all classifications of signs, types of signs, and special function signs and all other signs used as off-premises signs, including portable signs, unless otherwise specified by subsection (b) or (c).
- (b) *Certain new off-premises signs permitted on public property and property used for commercial activity.* From and after September 28, 2023, no new off-premises signs shall be allowed in the city limits or in the extraterritorial jurisdiction of the city, except for signs on public property or property that is primarily

used for commercial activity if the sign is:

- (1) Attached, painted, or fastened on off-premises signs which were properly permitted on June 27, 1996, and have continuously remained permitted from and after such date; provided that such new temporary sign does not change the classification of the off-premises sign; or
  - (2) Erected for a period of no more than seven days in a 30-day period if limited in size to no greater than four feet by eight feet or, if an overhead street banner, to the size necessary to fit the hardware on the lighting standards to which it will be attached; and
  - (3) In compliance with all other requirements of this article and of the director of parks and recreation in consultation with the city manager and other city staff.
- (c) Off-premises signs on property used for residential purposes. Nothing in subsection (a) shall limit or affect the ability of a person to erect off-premises signs on property primarily used for residential purposes by the property owner or any person who has a legal right-of-access to the property.
- (d) *Permit not required for certain signs.* No permit as required in division 4 of this article shall be required for a sign satisfying the requirements referenced in subsection (b) or (c) herein, provided that such sign is erected and maintained in a safe condition in conformity with the building code as well as the fire prevention code and rules and regulations for fire safety promulgated by the fire marshal.
- (e) *Digital billboards.* Digital billboards are prohibited within the city limits and the extraterritorial jurisdiction of the city, provided however, that the sign administrator may issue digital billboard sign permits for the construction of new off-premises sign faces or the conversion and reconstruction of existing off-premises sign faces as authorized by this subsection upon the submission of a completed application if (i) the same are located within 200 feet of the interstate highway system, (ii) four square feet of existing off-premises sign area from existing permitted off-premises signs are removed from within the city limits for each square foot of digital billboard sign area proposed, and (iii) if all other applicable requirements have been satisfied. All such digital billboards shall be subject to this section and all other relevant provisions of this chapter. In determining the square feet of existing off-premises sign area necessary to be removed to meet the four-to-one conversion ratio specified in this subsection, the square footage of any off-premises sign removed within 200 feet of the interstate highway system will not be counted.
- (1) *Application.* An applicant for a digital billboard must file a building permit application in accordance with [section 5.17](#) and obtain an operating permit in accordance with [section 5.18](#). The building permit application must identify the demolition permit numbers for existing off-premises signs. The building permit for a digital billboard may be issued only after removal of the existing permitted off-premises signs in accordance with the four-to-one conversion ratio specified in this section. In the application for a digital billboard, the sign administrator may request information necessary to ensure compliance with this subsection and shall require a certificate of compliance be included in each application for an operating permit. In the certificate of compliance, the sign operator shall warrant that it is in full compliance with this article.
  - (2) *Requirements.* Sign operators installing, testing, or maintaining off-premises digital billboards shall

comply with the following requirements:

- a. *Static messages.* The digital billboard shall contain static messages only, and not have animation, movement, or the appearance or optical illusion of movement, of any part of the sign structure. Each static message shall not include flashing or the varying of light intensity.
- b. *Dwell time.* The dwell time shall be at least eight seconds, and a change of message must be accomplished within one second or less.
- c. *Display upon malfunction.* The digital billboard shall be operated with systems and monitoring in place to either turn the display off or freeze the display image in one position in the event of a malfunction.
- d. *Brightness level.* The digital billboard may not display light of such intensity or brilliance to cause glare or otherwise impair the vision of the driver, or results in a nuisance to the driver and is subject to all existing restrictions on light intensity, brilliance, or glare contained in the section 3.08(d)(1), (4), and (5) of the Unified Land Development Code.
  - 1. Digital billboards shall not operate at brightness levels of more than 0.3 foot candles above ambient light, as measured using a foot candle meter the following pre-set distances:

Nominal Face Size	Distance from which to be Measured
12' × 25'	150'
10'6" × 36'	200'
14' × 48'	250'

- 2. Prior to the issuance of a permit under this article, the applicant shall provide written certification from the sign manufacturer that the light intensity has been factory pre-set not to exceed the brightness level specified in subsection (g)(2)d.1. and that the intensity level is protected from end-user manipulation by password-protected software or other method as deemed appropriate by the sign administrator.
- e. *Dimmer.* A digital billboard must be equipped with both a dimmer control and a photocell, which automatically adjusts the display's intensity according to natural ambient light conditions.
- f. *No resemblance to traffic control device.* The digital billboard shall not be configured to resemble a warning or danger signal, to simulate any lights or official signage used to control traffic, or to cause a driver to mistake the digital billboard for a warning or danger signal.
- g. *Dimensions.* Off-premises digital billboard sign area may have dimensions of up to 672 square feet and otherwise subject to section 5.54.

h. *Spacing requirements.*

1. A digital billboard may not be located within 1,500 feet of another digital billboard facing the same traveled way or within the distance specified in section 5.80(4) of another off-premises sign, which is facing the same traveled way and is not classified as a digital billboard.
  2. Notwithstanding subsection (e)(2)h.1., a digital billboard may be located on the same sign structure as another digital billboard or off-premises sign if each sign face is visible only from a different direction of travel; provided, there are no more than two sign faces on a single sign structure.
- i. *Public safety/emergency notices.* The city, through appropriate personnel, may exercise its police powers to protect public health, safety, and welfare by requiring emergency information to be displayed via digital billboards. Emergency information includes, but is not limited to, AMBER Alerts, FBI wanted messages, dangerous criminal alerts, fugitives from justice, weather alerts, and emergency management information. Upon notification and at no cost to the city, the sign operator shall exclusively display the emergency alert for the period of one hour, which may be extended by the city. Thereafter, emergency alerts are to remain in rotation according to the designated issuing agencies protocols.

(Ord. No. 15,192, § 22, 9-8-22; Ord. No. 15,593, § 2, 10-26-23)

Sec. 5.80. - General location.

To the extent off-premises signs are allowed within the city, the following shall apply:

- (1) All off-premises signs shall be located within 800 feet of a commercial or industrial activity;
- (2) No off-premises sign shall be located in OR, SFE, SF1, SF2, MF1, MF2, MF3, ACE, UN, and LC zoning districts;
- (3) No off-premises sign shall be erected, constructed or established such that the face of the structure may be viewed from a scenic or historic right-of-way district; and
- (4) All off-premises signs shall be subject to the following spacing requirements from other off-premises signs on the same side of the public right-of-way:
  - a. No off-premises sign having a face area in excess of 300 square feet shall be located within 400 feet of another off-premises sign;
  - b. No off-premises sign having a face area from 100 to 300 square feet shall be located within 200 feet of another off-premises sign;
  - c. No off-premises sign having a face area up to 100 square feet shall be located within 100 feet of another off-premises sign; and
  - d. No off-premises sign to be constructed within 200 feet of the interstate highway system shall be located within 1,200 feet of another off-premises sign.

**Spacing of Off-Premises Signs**

Face Area of Sign	Distance to Other Signs (in feet)
In excess of 300 square feet	400
100—300 square feet	200
Less than 100 square feet	100
All signs within 200 feet interstate highway system	1,200

- (5) Each double-faced, back-to-back or V-type sign shall be considered as a single off-premises sign for spacing purposes. The largest face on a double-faced, back-to-back or V-type sign will govern spacing requirements.
- (6) In computing the distance between off-premises signs, all measurements shall be made parallel to the edge of the street and on the same side of the street. In measuring the distance from back-to-back and V-type signs, the measurements shall be made from the street end of the nearest sign on the back-to-back or V-type structure.
- (7) No portable sign may be erected or placed as an off-premises sign.

(Ord. No. 15,192, § 22, 9-8-22)

Sec. 5.81. - Location on property.

All off-premises signs and sign structures shall be within the deeded front building line or, if no such line exists, within the property line, but in no event closer than 20 feet to the curblines of any public street.

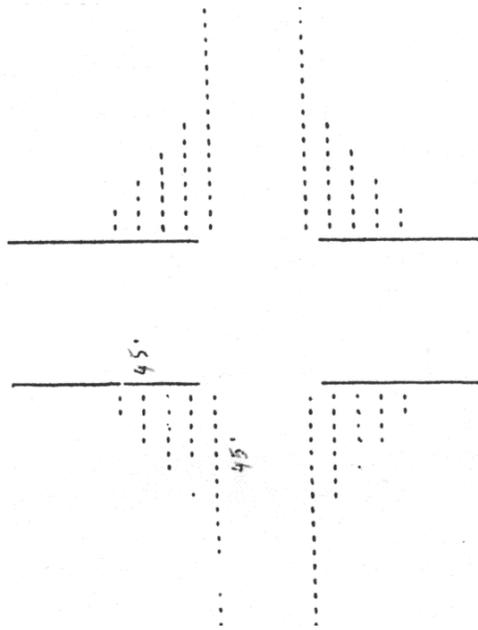
(Ord. No. 15,192, § 22, 9-8-22)

Sec. 5.82. - Construction of certain structures.

All off-premises sign structures constructed, established or erected after May 1, 1975, which are not located on the interstate highway system shall be supported by columns spaced a minimum of eight feet apart.

(Ord. No. 15,192, § 22, 9-8-22)

Sec. 5.83. - Visibility triangle.



(Ord. No. 15,192, § 22, 9-8-22)

**Cross reference**— Obscuring or interfering with view, § 118-177.

#### Sec. 5.84. - Lists.

Each person engaging in the off-premises sign business shall file with the sign administrator a certified list of all off-premises sign structures owned by him as of January 1 of each year. This list shall be filed on or before January 1 of each year and shall describe the location of an off-premises sign. The owner shall give the street address of the sign location and the facing direction or the owner shall first reference the sign structure to the street from which the sign is to be primarily viewed, then the side of such street, then the distance in feet to the nearest intersecting street on the same side of the primary street as the sign structure is located, then reference is to be made to the direction the sign faces. For example: 303 X Street, west facing on X Street, north line, 120 feet east of Y Street, west facing (303 X Street NL 120' E Y Street WF).

(Ord. No. 15,192, § 22, 9-8-22)

#### ARTICLE VI. - DEFINITIONS

The following words, terms and phrases, when used in this ULDC, shall have the meanings ascribed to them in this article, except where the context clearly indicates a different meaning.

*Abandonment* means a use or structure that is determined to be abandoned by the nonconformities section of this ULDC.

*Abattoir* means a building used for the slaughtering of animals and includes the processing and storage of animal products and waste that results from the slaughtering process.

*Accessory dwelling unit* means a secondary dwelling unit established in conjunction with a primary dwelling unit, clearly subordinate to that primary unit. Accessory dwelling units are commonly referred to as granny flats. Accessory dwelling units are not intended for sale or to be rented.

*Accessory structure* is used to serve the primary function on the same premises; is subordinate in area, extent and purpose to the primary use or structure served; contributes to the comfort, convenience or necessity of occupants of the principal use or structure served; and is located on the same lot and in the same district as the primary use.

*Accessory use* means a use incidental and subordinate to the principal use, located on the same lot as the principal use and in the same zoning district.

*Agriculture* refers to use of land that is actively used in the production of food or fiber, including the plowing, tillage, cropping, installing best management practices, seeding, cultivating, harvesting and storing food or fiber produced on site. This term also includes the raising of grazing animals, including but not limited to cattle, horses, sheep, goats or other exotic grazing animals, but excludes swine. This use does not include feedlots, animal hospital, kennel/boarding facility, pet store, livestock distribution, meat packing/processing operations and related uses such as abattoir, slaughterhouse, or rendering plant, stockyard or similar confined animal feeding and holding operations.

*Amending plat* means an amendment to a plat, previously approved by the commission and duly recorded, which is submitted to the commission for approval and recording, which is signed by the applicants and is solely intended to correct errors or miscalculations.

*Animal hospital* means a building in which animals and pets are given medical treatment and are cared for during the time of such treatment. Use as a kennel shall be limited to short-time boarding and such boarding shall be incidental to the hospital use.

*Animals* include all nonhuman members of the animal kingdom including domestic, exotic, and livestock. This term also includes pet/companion animal operations such as animal hospital, kennel/boarding facility, or pet store and/or live outdoor exhibitions.

*Approved* means as approved by the City of Baytown authority having jurisdiction.

*Appurtenances* means the visible, functional, or ornamental objects accessory to and part of a building.

"Appurtenance" shall include lighting, a generator, a tank, or any structure or equipment, which supports the drilling, oil or gas operations and which is three feet or more in height measured from finished grade.

*Arterial street* means a high volume, medium speed (up to 45 mph) medium capacity street usually shown on the major thoroughfare plan map.

*Assisted living facility* means a facility regulated by V.T.C.A. Health and Safety Code ch. 247 that provides room, board, and personal care services to its residents within a structure containing multiple living quarters for seven or more elderly or disabled persons who are unrelated to the owner of the establishment by blood or marriage. Assisted living facilities for six or fewer disabled persons are considered and regulated as group homes for disabled persons.

*Automobile repair, major* means repairs of a nature that usually cannot be done quickly and which will encompass more highly skilled work. Such repairs include removal of the engine head or pan, engine transmission or differential. Often this work is necessary because of a major component failure or an accident. These types of repairs cannot be done while the customer waits, and will often take more than one day to complete. Such repairs include, but are not limited to:

- Accident repairs;
- Automotive machine shops;
- Framework and frame straightening;
- Grinding valves, cleaning carbon or removing the head of engines or crankcases;
- Major engine repair, replacement, rebuilding or reconditioning;
- Paint and body work;
- Radiator re-coring and rebuilding;
- Replacement of body parts and fenders;
- Sandblasting as an accessory use only;
- Tire recapping;
- Transmission and differential repair, replacement, or rebuilding; and
- Welding.

*Automobile repair, minor* means repairs of a nature that can usually be done quickly with minimum noise, odor or other negative impacts. This includes preventative maintenance or replacement of easily accessible parts that routinely wear out. This does not include removal of the engine head or pan, engine transmission or differential. These types of repairs can be often done while the customer waits, and usually will not take more than one day to complete. Such repairs include but are not limited to:

- Air conditioning maintenance and refrigerant replacement;
- Audio installation and repairs;
- Brake pads, shoes, rotors and drums replacement;
- Chassis lubrication;

- Electrical components repair and replacement;
- Fuel injection systems and carburetor replacement;
- Fuel pumps and fuel lines;
- Ignition systems, sparkplugs, and batteries;
- Motor oil, engine cooling and lubrication, brake fluid, transmission and other fluid replacement;
- Mufflers, tailpipes, water hoses, fan belts, headlights and light bulbs, floor mats, seat covers, wipers and wiper blades, and replacement of grease retainers and wheel bearings;
- Rustproofing;
- Sale of gasoline;
- Sandblasting as an accessory use only;
- Shock absorbers or other suspension systems replacement;
- Tire replacement, repair and servicing, but no recapping;
- Tuning engines, with the exception of grinding valves, cleaning carbon or removing the head of engines or crankcases;
- Washing, polishing and detailing;
- Wheel balancing and alignment;
- Windshield, window replacement; and
- Wiring repairs.

*Barn* means an accessory building used exclusively for the non-commercial storage of animal feed and/or the sheltering of livestock or farm equipment.

*Bars and lounges* means establishments that are devoted to the serving of alcoholic beverages for consumption by guests on the premises and in which the serving of food is only incidental to the consumption of those beverages, including, but not limited to, taverns, nightclubs, cocktail lounges, and cabarets.

*Berm* means a mound or embankment of earth, man made, usually two to six feet in height.

*Big box* means a single retail establishment consisting of 35,000 square feet or more of gross floor area, requiring high parking-to-building ratios, and having a regional sales market. The single retail establishment may include internal leased space for coffee shops, banking, photography, limited service food and other similar personal services.

*Boardinghouse* means a multifamily residential use providing room and board, common eating, and sanitary facilities for five or more persons, but not exceeding 20 persons, with two or more rooms that are rented or intended to be rented, but which rooms, individually or collectively, do not constitute separate dwelling units.

*Boat and boat parts and accessories sales* means a retail facility for marine vehicles 16 feet or greater in size and the accessories thereto.

*Boat and RV storage* means a facility which is used for the temporary location of boats and recreational vehicle for a fee. This may include a boat slip or boat yard where the storage is covered or uncovered dock space or enclosed dry dock storage.

*Brick* means kiln-fired clay or shale brick manufactured to ASTM C216 or C652, Grade SW. This includes concrete brick if the coloration is integral, shall not be painted, and it is manufactured to ASTM C1634. An applied brick veneer means a minimum thickness of two and one-quarter inches that does not include underfired clay or shale brick.

*Building envelope* means the three-dimensional space within which a structure is permitted to be built on a lot and which is defined by regulations governing building setbacks and maximum height.

*Building frontage* means the portion of a building oriented towards a street or public right-of-way.

*Building, heating, plumbing, service contractors, or contractors in general* means a business involving the administration and implementation of multidiscipline projects. Requires vehicle and equipment parking and the storage and warehousing of supplies and materials including outdoor storage.

*Caliper* means the diameter of a tree at 18 inches above ground level.

*Campground* means an area on which campsites intended for occupancy overnight or longer by persons using a tent, recreational vehicle, motor home, or mobile trailer for dwelling, lodging or sleeping purposes and is held out as such to the public. Campground does not include any manufactured housing community.

*Clinic* means a facility used by licensed physicians, dentists, or other health care professionals for the purpose of providing medical, psychiatric, or surgical service for sick or injured persons exclusively on an out-patient basis where overnight lodging is not routine, including emergency treatment, diagnostic services, training, administration, and services to outpatients, employees, or visitors. Clinics include immediate care facilities where emergency treatment is the dominant form of care.

*Code of Ordinances* means the City of Baytown's Code of Ordinances as set forth at [section 1-1](#) of the Code, constituting the "Code of Ordinances."

*Collector street* means a relatively low volume street providing circulation within and between neighborhoods. They collect traffic from local streets and distribute them to arterials and may be shown on the major thoroughfare plan map.

*Commercial motor vehicle* means a motor vehicle or combination of motor vehicles used to transport passengers or property that: (1) has a gross combination weight rating of 26,001 or more pounds including a towed unit with a gross vehicle weight rating of more than 10,000 pounds; (2) has a gross vehicle weight rating of 26,001 or more pounds; or (3) is transporting hazardous materials and is required to be placarded under 49 C.F.R. Part 172, Subpart F.

*Commercial waste container* means a container, dumpster, collection receptacle, or compactor used to store or transport garbage and/or commercial waste, which is (i) totally enclosed; (ii) of adequate strength and design to prevent leakage of leachates and spillage of other waste during storage, transport and emptying or loading; and (iii) regularly replaced or cleaned to prevent offensive odor and harborage, feeding and propagation of vectors.

*Commercial waste enclosure* means a structure to be used for the screening and storage of commercial waste container(s) and brush.

*Community building* means a building to be used for entertainment, recreation, and management that is designed to serve the residential area (primarily townhouses and/or multifamily) in which it is located.

*Community service* means a use conducted by or a facility or structure owned or managed by the federal, state, county or city government or other government entity that provides a governmental function or service for public benefit, such as libraries, schools, post offices, police and fire stations, public utilizes but not including the operation of a public bar, restaurant or recreational facility as a commercial enterprise.

*Conditions* means a set of standards with which a property owner must comply in order to obtain any land development permit.

*Container* means a reusable transport and storage unit for moving products and raw materials between locations or countries, typically made of corrugated weathering steel with a fitted door at one end that is designed to allow multiple units to be craned, fitted and locked for stacking purposes.

*Country club* means a building or a campus that provides facilities for the purpose of recreation, athletic, and social activities for paying members, their families and invited guests. The buildings and facilities are owned by a corporation operated as a non-profit.

*Day care* means a non-residential facility providing care for more than six children or six adults at one time and licensed by the state as a group day care center. Such a facility may also be known as a nursery school, day nursery, child care center, day care center for school aged children after school program, or a Head Start program center. It excludes public and private schools or any facility that offers care to individuals for any full 24-hour period.

*Decorative concrete block* means concrete block with a highly textured finish, such as split faced, indented, hammered, fluted, ribbed or similar architectural finish. The coloration shall be integral to the masonry material and shall not be painted on. Decorative concrete block includes light weight and featherweight concrete block or cinder block units and has a minimum thickness of three and five-eighths inches when applied as a veneer.

*Decorative precast concrete panels* means products often associated with tilt-up wall construction but is only considered decorative precast concrete panels if post-constructed wall areas have a highly textured finish, integral color or are covered by defined masonry materials that can be laid up unit by unit set in mortar and meet the required percentage of coverage as defined in this ULDC.

*Density* means the number of dwelling units permitted per net acre of land and is determined by dividing the number of units by the total area of land within the boundaries of a lot or parcel not including the street rights-of-way and land dedicated for public use, such as schools and public parks. In determination of the number of dwelling

units permitted on a specific parcel of land, a fractional unit shall not entitle the applicant to an additional unit.

*Destroyed structure* refers to a structure which, upon determination by an appraisal, requires repairs exceeding 50 percent or more of the appraised value of the structure.

*Detention facility* means an excavated area that is designed by a professional engineer to temporarily hold and slowly drain excess stormwater in order to allow water levels in the receiving channel to recede. Detention facilities, which are often called "dry ponds" or "detention ponds" are not the same as retention facilities which are designed to hold water indefinitely.

*Developed land* means that portion of real property which has been altered from its natural landscape by the construction or reconstruction of any structure, parking lot, or other improvement.

*Development review committee* or *DRC* means that committee described in section 1-10 of this ULDC.

*Director* means the city's director of planning and development services.

*Disabled person* refers to a person that has one of the following: 1) a physical or mental impairment that substantially limits one or more of such person's major life activities so that such person is incapable of living independently; 2) a record of having such an impairment; or 3) being regarded as having such an impairment. The term "disabled" shall not include current illegal use of or addiction to a controlled substance.

*Dog run* means an enclosed outdoor area intended for exercise and containment of a dog.

*Dormitory* means a building that is owned and/or operated by an educational institution whose primary purpose is to provide living accommodations for individuals associated with the institution. The term "dormitory" shall not include for-profit facilities operated on or near a university campus that provide the same or similar services as a dormitory.

*Drilling, oil or gas operations* shall mean the drilling, completion or re-working of any type of oil, gas, disposal, exploratory or injection well or pipeline and subsequent life of a well or pipeline or any associated appurtenances or operations, including changes to existing operations and all related equipment and structures, including associated non-residential temporary office structures.

*Drilling site* means the surface premises used for drilling, oil or gas operations.

*Drive-through restaurant* means an establishment in which food or drink is served to customers within automobiles outside of the confines of the building and/or where the consumption of such food or drink is intended to occur off the premises.

*Driveway approach* means an improvement to provide vehicular access from the roadway to public or private property.

*Dwelling unit* means a building or portion of a building, other than a mobile home, that is arranged, occupied or intended to be occupied as a residence and includes facilities for sleeping, cooking and sanitation. Dwelling units are further defined as follows:

- (1) Detached single-family dwelling means the use of a lot for one dwelling unit that has no physical connection to another dwelling unit or building;
- (2) Attached single-family dwelling means the use of a lot for one dwelling unit that is joined to another dwelling unit on an adjacent lot at one or more points by a party wall or abutting separate wall, including but not limited to row houses and townhomes; and
- (3) Duplex dwelling means the use of a lot for two dwelling units within a single building.

*Entertainment, interior* means establishments that are primarily enclosed within a building including motion picture theaters, comedy clubs, art galleries and studios, concert or music halls, (not including adult entertainment of any kind) and which may include such activity centers as indoor miniature golf courses, athletic and health clubs, billiard halls, bowling alleys, arcades, skating and similar uses, and such accessory uses as restaurants and bars.

*Entertainment, outdoor* means any commercial recreational land use conducted primarily outdoors whose main purpose is to provide the general public with an amusing or entertaining activity and where tickets are sold or fees are collected for the activity. Uses may include, but are not limited to, water parks, golf courses, miniature golf courses, country clubs, athletic fields, and amusement parks.

*Environmental analysis* means an analysis of predictable short and long-term environmental effects.

*Environmentally sensitive area ("ESA")* means an area which needs special protection because of its landscape, wildlife or historical value.

*Equipment sales and rental facility* means an establishment that is engaged in the sale or rental of tools, tractors, construction equipment, farm equipment, or other similar equipment. This includes the servicing of such equipment.

*Equipment storage* means the storage of any equipment outdoors. The term does not include equipment that is loaded on to a trailer. The term does not include new vehicles or new equipment that is advertised for sale as part of the primary use of the business, such as lawnmowers or playground equipment displayed outside of a retail goods establishment.

*Evergreen screen* means an arrangement of evergreen shrubs and/or trees that creates a continuous opaque visual screening device at least six feet in height as measured after the first full growing season.

*Evergreen tree* means a tree that retains some or all of its leaves throughout the year, which can be used for the purposes of providing a visual screen.

*Excavation* means any act by which soil, earth, clay, sand, gravel, rock, loam, caliche, dirt, humus or any other similar matter is dug, cut into, quarried, uncovered, removed, displaced, relocated or bulldozed over five feet in depth in the earth.

*Existing tree* means a tree which is located on the property prior to a new construction permit being issued by the city.

*Extraterritorial jurisdiction* means that land within three and one-half miles of the corporate limits of the city or as otherwise established by state law.

*Facade* means that portion of any exterior elevation on the building extending from grade to top of the parapet, wall or eaves and the entire width of the building elevation.

*Family* means a group of two or more persons, each related to the other by blood, marriage, or adoption; or a group of not more than six persons not related by blood, marriage or adoption that are living together in a dwelling unit.

*Family home day care* means a dwelling in which a resident of the dwelling provides day care of children, meeting all requirements of state law, the administrative code and this ULDC.

*Fence* means a barrier of wood, masonry, stone, wire, metal, or other manufactured material or combination of materials or other materials defined in chapter 18 of the Code of Ordinances erected to enclose, screen, separate or decorate areas.

*Filed* means placed on the planning and zoning commission's posted agenda or forwarded to the director for final approval, which may occur only after the city has completed its administrative review of the submitted plat.

*Fire station* means a structure for storage of firefighting apparatus (i.e., fire engines and related vehicles), personal protective equipment, fire hose, fire extinguishers, and other fire extinguishing equipment. It may have dormitory living facilities and work areas such as meeting rooms, workshop, or laundry. Living areas are sometimes arranged above the garage bays.

*Food service establishment* is a facility where food is prepared for consumption on- and/or off-premises regardless of whether there is a charge for the food with the intent to distribute to persons rather than wholesale distribution.

*Footprint, building* means the horizontal area as seen in plain view and measured from the outside of all exterior walls and supporting columns. It includes residences, garages, covered carports and accessory structures for which a permit has been obtained. It does not include patios, porches, trellises and decks that are 30 inches or less above the ground.

*Frontage* means the horizontal distance between the side lot lines measured at the point where the side lot lines intersect the street right-of-way. All sides of a lot that abut a street shall be considered frontage. Reference the definition of radial lots for more information on where the frontage width of curvilinear lots is measured.

*Garage sale* means a sale as defined in section 82-201 of the Code of Ordinances.

*Gas well* means a well producing natural gas, including all of its constituent elements including gasoline, distillates, butanes, propane, and other hydrocarbons, and which produces less than one barrel of oil to each 100,000 cubic feet of gas.

*Gazebo* means a residential accessory structure that is a covered, free-standing structure used for outdoor gathering.

*General retail* means the sale of goods and/or services directly to the consumer where such goods are available for immediate purchase.

*Glazing* means a transparent part of a wall or door made of glass.

*Golf course* means land designed and built for the purpose of playing golf and may include a club house and a golf cart barn. The term does not include putt-golf, miniature golf, or driving ranges.

*Goose Creek Oil Field* means that area described by Lambert Coordinates in section 62-96 plus the following described area:

Beginning at the most easterly boundary line of the field described in section 62-96 with the intersection of the south bank of Cedar Bayou Stream. Continuing along the south bank meandering in an easterly southerly direction to the north east point of TR 7C in the ABST 65 W Scott thence along the north boundary line in a southerly westerly direction approximately 2,811 feet to a point. Thence in a northwesterly direction approximately 140 feet to the easterly boundary line of the Goose Creek fields. Thence north along said boundary line to the beginning said point on Cedar Bayou Stream being approximate 172.96 acres herein described.

*Gravel pit* means an open land area where sand, gravel, dirt, and rock fragments are mined or excavated for sale or for off-site use.

*Grocery or drug store* means a single retail establishment that uses the premises to sell to the ultimate end user, food or drugs, including food and drugs which are manufactured on the premises as an integral part of the retail operation, and includes any such premises which may be described as a warehouse store, discount warehouse, or factory outlet, or a warehouse or wholesale club whose membership is open to other than institutions, government agencies and businesses. A minimum of 50 percent of the sales floor area is devoted to food items including, but not limited to, fresh produce, fresh meats, fresh dairy products, and packaged foods; and general merchandise is incidental.

*Groundcover* means a spreading plant including sods and grasses less than 18 inches in height that may be used for erosion control.

*Group home for substitute care* means a facility regulated by the state that provides for the placement of six or more children who are in the conservatorship of the state department of protective and regulatory services, the state department of family and protective services or another state-authorized agency in care outside the children's homes. The term includes group foster care homes, institutional care, adoption centers, or commitment to the state youth commission. Nothing in this ULDC shall be interpreted to restrict the right of a private homeowner to act as a placement option for a relative or to provide state regulated foster care for less than five or fewer children that are in the conservatorship of the state.

*Group home for the disabled* means a dwelling shared by no more than two resident staff and six disabled persons who are unrelated to the owner of the dwelling by blood or marriage, who live together as a single housekeeping unit in a long-term, family-like environment, in which staff persons provide care services, education

and participation in community activities for the residents with the primary goal of enabling the resident to live as independently as possible. The term "group home for the disabled" shall not include alcoholism or drug treatment centers, work release facilities for convicts or ex-convicts or other housing facilities serving as an alternative to incarceration.

*Guest housing* means attached or detached building that provides living quarters for guests and contains no kitchen or cooking facility. It is a building that is clearly subordinate and incidental to the primary residence on the same lot.

*Guest parking* means a parking area used exclusively by the guest of residents of the townhouse or multifamily development in which it is located.

*Halfway house* means a state licensed home for inmates on release from more restrictive custodial confinement or initially placed in lieu of such more restrictive custodial confinement, wherein supervision, rehabilitation, and counseling are provided to mainstream residents back into society, enabling them to live independently. Such placement is pursuant to the authority of the state department of corrections.

*Heavy equipment* means machinery that is used for activities industrial in nature such as, but not limited to, construction, mining, forestry, and transport of large equipment like bulldozers, earthmoving equipment, well-drilling machinery, cranes or heavy haul trailers.

*Heavy industrial* means a use engaged in the basic processing and manufacturing of materials or products predominantly from extracted or raw materials, including, but not limited to uses that have potentially significant external effects due to the involvement of hazardous materials or commonly recognized offensive conditions such as the use of explosives, radioactive materials, poisons, pesticides, or herbicides.

*Home occupation* means work that is carried out in a dwelling by the resident thereof and is an incidental use to the primary use of the dwelling.

*Homeless shelter* means a building providing temporary shelter to indigent, homeless people.

*Horizontal mixed-use development* means a development consisting of two or more attached or detached buildings of differing use categories (e.g., residential and nonresidential) within the same project area.

*Hospital* means an institution that is licensed by a state agency to provide primary health services and medical or surgical care to persons, primarily in-patients, suffering from a variety of abnormal physical or mental conditions where overnight care is available. A hospital may include various medical support and accessory uses such as: laboratories; outpatient facilities; training facilities; short-term, on-site medical waste storage (not disposal); short-term warehousing and storage of medical-related equipment and supplies; garages; and other facilities commonly associated with medical institutions.

*Hotel* means a building with habitable suites/rooms for temporary occupancy by guest(s) who rent the suites/rooms on a daily basis. This term excludes rooming house or boarding house.

*Impervious surface area* means any surface area that prevents infiltration of water into the soil. Impervious surface may include, but not be limited to, those surfaces covered by asphalt, concrete, crushed stone, clay, bedrock, limestone and compacted soil.

*Industrialized housing* means a residential structure that is: 1) designed for the occupancy of one or more families; 2) constructed in one or more modules or constructed using one or more modular components built at a location other than the permanent site; and 3) designed to be used as a permanent residential structure when the module or the modular component is transported to the permanent site and erected or installed on a permanent foundation system.

*Interstate, expressway, or freeway* means a multilane divided street network, including the frontage streets that provide ingress and egress to controlled access lanes, as indicated on the major thoroughfare plan.

*Junk* shall have the meaning ascribed to it in [section 82-131](#) of the Code of Ordinances.

*Junk dealer* shall have the meaning ascribed to it in [section 82-131](#) of the Code of Ordinances.

*Junk or salvage yard* shall have the meaning ascribed to "junk yard" in [section 82-161](#) of the Code of Ordinances.

*Kenel* means any lot, enclosure, premises, structure or building or outside feature where four or more dogs over the age of six months are kept or maintained for the purpose of boarding or breeding.

*Kitchen* means a room intended and designed to be used for food preparation and meeting the requirements of the International Building Code for the use for which it is intended (e.g., residential or non-residential).

*Landfill, sanitary* means a site for the burial of non-hazardous and non-medical farm, residential, institutional, commercial, municipal and industrial waste.

*Landscape reserve* means undeveloped property which is left in its natural state and is of sufficient size for the growth of plants and trees.

*Large tree* means a tree, under normal growth conditions, that reaches a mature height at or above 40 feet. A tree that, at the time of planting, is at least 12 feet tall above grade and has a minimum caliper of three inches.

*Laundry building* means a facility where residents of a multifamily dwelling development may wash and dry their personal laundry.

*Light industry* means a use engaged in the manufacture, predominately from previously prepared materials, of finished products or parts, including processing, fabrication, assembly, treatment, incidental storage, sales and distribution of such products and excluding heavy industry. Light industry is capably of operating in such a manner as to control the external effects of the manufacturing process, such as smoke, noise, soot, dirt, particulates, light, vibration, odor and the like and does not pose significant risks from explosives, radioactive materials, poisons, pesticides, herbicides, or other hazardous materials in the manufacturing, packaging, fabricating, assembling, or distributing processes.

*Live outdoor exhibitions* means any live performance outdoors and includes such activities as exhibitions, carnivals, circuses in which humans, animals or machines perform. Such term means and includes those events that are regulated pursuant to chapter 42, article V of the Code of Ordinances.

*Livestock* means any grazing animal, including but not limited to cattle, horses, mules, asses, burros, sheep and goats.

*Loading dock* means a recessed bay (in a well) in a building or facility or on a raised slab where trucks are loaded and unloaded. They are commonly found on commercial and industrial buildings and warehouses in particular. The mere existence of an overhead door does not make a location a loading dock. Loading docks may be exterior, flush with the building envelope, or fully enclosed. They are part of a facility's service or utility infrastructure.

*Local street* means all other streets not otherwise indicated on the major thoroughfare plan, such plan being on file with the director of planning and community development.

*Lot* means a parcel of land recorded in the public records of the county, or a parcel described by metes and bounds, the description of which has been so recorded. This definition does not address the requirements of the subdivision regulations.

*Lot consolidation* means the incorporation of a number of lots into fewer lots, each of a larger size than the original lots.

*Lot coverage* means that portion of the lot that is covered by buildings, structures, or any other manmade improvement on the ground surface which are more impervious than the natural surface, such as paving, driveways, etc. Detention facilities lined with asphalt, concrete, rock or any other like materials are considered impervious surfaces for the purpose of calculating lot coverage.

*Lot line adjustment* means a minor change in lot line location.

*Lumber and other building materials, retail* means an establishment where lumber and other building materials such as brick, tile, cement, insulation, roofing materials, and the like are sold at retail. The sale of items such as heating and plumbing supplies, electrical supplies, paint, glass, and hardware is permitted since it is customarily incidental to the sale of lumber and other building materials.

*Major thoroughfare* means a designation of collector, minor arterial or principal arterial that may be set forth on the city's major thoroughfare plan.

*Management office, on site for multifamily and single-family dwellings* means a room or suite of rooms set aside for the use of persons who run the business of leasing or renting dwellings, running the homeowners association, or maintaining the grounds or buildings. Does not include the outside storage of lawnmowers and other equipment or materials for maintenance.

*Manufactured home* means a single-family detached dwelling that is built to the National Manufactured Housing Construction and Safety Standards Act of 1974 (42 USC Sec 5401).

*Manufactured home park* shall have the meaning ascribed to it in section 58-1 of the Code of Ordinances.

*Manufacturing (custom)* means the on-site production or arrangement of goods that are of artistic quality or that involve handmade craftsmanship commonly associated with residential or commercial uses. The term includes the display, sale, and distribution of crafted goods, such as jewelry, pottery, beer, wine, portraits, and furniture.

*Manufacturing (heavy)* means the mechanical or chemical transformation, assembly, fabrication, packing or other industrial processing of products predominantly from extracted or raw materials, including, but not limited to uses that have potentially significant external effects due to the involvement of hazardous materials or commonly recognized offensive conditions such as the use of flammable, toxic, explosive, or radioactive materials. The term includes the incidental storage, sales, and distribution of such materials.

*Manufacturing (light)* means the mechanical or chemical transformation, predominately from previously prepared materials, of finished products or parts, including processing, fabrication, assembly, treatment, and packaging of such products; and incidental storage, sales, and distribution of such products.

*Masonry materials* means and includes that form of construction defined below and composed of clay brick, natural stone, decorative concrete block, stucco, glass block, tilt-wall, rock, synthetic stucco material meeting applicable windspeed requirements, exterior insulation and finish systems (EIFS) complying with ASTM-E 330 structural testing and ASTM-C 1093 fastening, or other materials of equal characteristics laid up unit by unit set in mortar. The following materials shall not qualify nor be defined as "masonry materials" in meeting the minimum requirements for exterior construction of buildings, unless specifically approved by variance: exterior plaster or mortar wash surface material; acrylic matrix, synthetic plaster, or other similar synthetic material; cementitious fiber board siding (such as "Hardy Plank" or "Hardy Board").

*Medical equipment storage and/or research facilities* means a facility whose primary function is the warehousing and storage of medical equipment or the conducting of medical-related research activities totally within an enclosed building.

*Medical services establishment* means a facility such as a clinic, hospital, laboratory, or medical waste storage and disposal, storage of medical equipment and research facilities.

*Medical waste storage and disposal center* means a facility whose primary function is to store and/or repackage medical waste for transportation to a processing facility.

*Minor arterial* means a street so indicated on the major thoroughfare plan, such plan being on file with the director of planning and community development.

*Minor plat* means a plat of a tract of land, which includes four or fewer lots, which also meets the conditions defined in Article IV of the ULDC.

*Minor replat* means as a replat of a tract of land, which involves four or fewer lots, which also meets the conditions defined in Article IV of the ULDC.

*Mixed-use building* means a building that contains at least one floor, or a portion thereof, devoted to permitted nonresidential uses, and at least one floor devoted to permitted residential uses.

*Monument sign* means any permanent low-profile sign built on a monument base as opposed to a pole base, solid from the ground up, and which has no clear space for the full width of the sign between the bottom of the sign and the ground. Poles or supports must be concealed.

*Mulch* means various substances that are placed around plants to prevent evaporation, to control weeds and to control soil erosion. Mulch material includes, but is not limited to, organic substances and various forms and sizes of natural rocks.

*Multifamily* means the use of a lot or any residential dwelling consisting of five or more units to include, but not be limited to, common accessory structures such as garages, laundry buildings, and guest parking.

*Multifamily complex* means any residential dwelling complex consisting of four or more units to include, but not be limited to common accessory structures such as garages, laundry buildings, and guest parking.

*Neighborhood* means: 1) a quarter-mile (approximately 1,300 feet) radius around the nonconforming condition; 2) in commercial areas, the area along a transportation corridor that is between the two closed signalized major thoroughfare intersections in opposite directions from the nonconforming condition and that has a depth at least back to the local streets paralleling the major thoroughfares; or 3) If in a residential subdivision, the residential subdivision of at least ten lots may also meet these criteria.

*Nonconforming structure* means a structure in existence prior to the adoption of this ULDC that fails to meet one or more of the zoning standards in this Code applicable to such structure.

*Nonconforming use* means a land use in existence prior the date of adoption of this ULDC that fails to meet one or more of the zoning standards in this Code applicable to such use.

*Nursing home* means an institution licensed by the state that provides meals, resident care and services for persons who are generally admitted for periods of time exceeding 30 days. Such service includes custodial or attendant care, but may or may not provide for routine and regular medical and nursing services. The term nursing home includes care homes, homes for the aged, convalescent homes, rest homes, and other related institutions not otherwise defined in this section, where such persons are mostly incapable of self-preservation due to age, physical or mental disability, or because of security measures not under the occupants' control. The term "nursing home" excludes facilities that provide surgical or emergency medical services or that provide care for alcoholism, mental disease, drug addiction or communicable disease.

*Office* means administrative, executive, professional, research or similar facilities that have limited customers. An office may be a room, a suite of rooms, or a portion of a building.

*Oil well* shall have the meaning ascribed to it in [section 62-26](#) of the Code of Ordinances.

*Opaque screening* means a method of visually shielding or obscuring one abutting or nearby land use from another nearby or abutting land use. The opaque screen shall be made of any combination of the following: a minimum six-foot-high berm, fence, wall or evergreen screening shrubs six foot high at the at the time of installation or to be six feet high at the end of the first growing season with no visible breaks between shrubs or any combination of the four.

*Open space* means land use for recreation, resource protection, and/or buffers; usually privately owned and maintained.

*Outdoor living area* means a common outdoor area designed to provide a more pleasant and healthful environment for the occupants of a dwelling unit and the neighborhood in which such dwelling unit is located. It includes natural ground areas, patios, terraces or similar areas developed for active or passive recreational activities. All areas designated for retention or detention facilities shall not be considered as qualifying under this definition.

*Outdoor storage* means a holding area for stockpiling, collecting, or displaying of any products, materials, equipment, appliances, and/or personal property of any kind on a stabilized surface or in a structure that includes a roof but has no side walls, or screening or walls without a roof. This term includes a lay-down yard but does not include containers, towing yards, vehicle storage, or vehicle and boat sales, rental or leasing facility.

*Outdoor storage (accessory)* means a holding area for the accessory use of stockpiling, collecting, or displaying of any products, materials, equipment, appliances, and/or personal property of any kind, which are neither noxious noncombustible, on an asphalt- or concrete-paved surface or in a structure that includes a roof but has no side walls, or screening or walls without a roof. This term includes a lay-down yard as an accessory use but does not include a container, towing yard, vehicle storage, or vehicle and boat sales, rental or leasing facility.

*Outside sales and display* is an unenclosed area used for retail sales and placement of products as an accessory use associated with the primary retail use on the same premises. This term does not include open air vendors as defined in [section 74-26](#) of the Code.

*Overnight accommodations* means temporary living quarters provided for public convenience including hotels and motels.

*Package store (alcohol)* means an establishment which may sell liquor in unbroken original containers on or from the licensed premises at retail to consumers for off-premises consumption only and not for the purpose of resale, except that if the permittee is a hotel, the permittee may deliver unbroken packages of liquor to bona fide guests of the hotel in their rooms for consumption in their rooms. Reference V.T.C.A., Alcohol Code § 11.29.

*Packaging* means the placement of products into bulk containers or placing hazardous products in to containers of any kind for the purpose of transport to another location. Packaging does not include the placement of non-hazardous products into individual containers for shipment that are picked up on-site by the USPS, FedEx or similar carrier routinely allowed in residential areas.

*Park* means public land set aside for recreation, culture or passive recreation uses for residents and workers and may include neighborhood parks, community parks and regional parks, trails and sports fields.

*Parking, commercial* means a parcel of land or a structure used for the temporary parking of vehicles for a fee which may be charged regardless of any other fee for the premises. Structure: a facility with one or more floors used for the temporary storage of vehicles. Delivery of items is not considered commercial parking.

*Parking space* means a space used for parking a motor vehicle and satisfying all of the applicable requirements for off-street parking.

*Personal care home* means a residential facility where room and board and personal care services are provided within a dwelling unit to not more than six elderly persons, regardless of the relationship to the owner.

*Personal care services* means assistance with feeding, dressing, moving, bathing, or other personal needs or maintenance or general supervision or oversight of the physical and mental well-being of a person who needs assistance to maintain a private and independent residence in an assisted living environment or who needs assistance to manage the person's personal life, regardless of whether a guardian has been appointed for the person. Personal care services also include the administration of medication by a person licensed to administer medication, as defined by the V.T.C.A., Health and Safety Code § 247.002.

*Personal pleasure boat* means a vehicle designed for operation in water by oars, sails or internal combustion engine for personal use.

*Personal service* means an establishment engaged in the sale of frequent or recurring services on site such as hairdressing, barbershops, associated trade schools, and shoe repair. This does not include such services as real estate, attorney, accountant and the like which are categorized in office.

*Personal storage building* means a structure used for solely for the storage of inanimate objects that is not connected to a dwelling or other building and does not have water or sewer service.

*Pet kennel* means the temporary keeping of pets.

*Pets* means those animals and fowl normally domesticated in the United States, typically obtained at pet shops, and kept in or around the home for pleasure rather than utility, e.g., dogs, cats, canaries, mynahs, parrots, parakeets, fish, rabbits and rodents and excluding animals defined by state or federal regulations as wildlife, as set forth in state law and in chapter 14 of the Code of Ordinances.

*Pet store* means a retail store whose primary purpose is to sell products and services that support pets. The sale of pets, grooming and housing for pets shall be an accessory and incidental use in the pet store. Animal housed overnight shall be housed inside the pet store.

*Place of assembly* means a building or portions of a building in which facilities are provided for civic, educational, religious, deliberation or social purposes for regular or occasional use. Such facilities include theaters, lecture halls, places of worship, lodges, exhibit rooms, banquet facilities and other uses which meet the requirements for "places of assembly" or A1 through A5 occupancy under the International Building Code.

*Planning and zoning commission* means the body appointed by the city council to exercise the powers and duties set forth at [section 2-326](#) of the Code of Ordinances.

*Plat* means a map or chart of the subdivision. It shall include a plan, plat or replat, in both singular and plural.

*Plot plan* means a site plan of the project area, which identifies residential boundaries where residential uses are proposed in this overlay district.

*Police station* means a building that accommodates police officers and members of staff. The building often contains offices and accommodations for personnel and vehicles, along with locker rooms, temporary holding cells and interview/interrogation rooms.

*Primary building(s)* means a structure that is developed along the street frontage that is subject to the front yard setback standards.

*Primary entrance(s)* means an ingress and egress point of a building or suite, which is designed for pedestrians, that is oriented towards the street frontage and usable open space.

*Principal or major arterial* means a street so indicated on the major thoroughfare plan, such plan being on file with the director of planning and community development.

*Private open space* means usable open space directly associated with a dwelling unit or part of a common area of a development and having clearly delineated boundaries.

*Private recreation space* means privately owned, maintained and operated outdoor space for the refreshment and relaxation of mind and body through active or passive use.

*Project area* means a single parcel or multiple parcels, planned and constructed as one, coordinated and unified project.

*Property line* means the line bounding a parcel, lot or tract.

*Public services* means a service or a facility provided by a local, state, regional or federal agency that provides a service, function or activity for direct public benefit. This term does not include prisons.

*Qualified applicant* means the party that meets all the requirements under this ULDC in order to make application under this ULDC.

*Radial lot* means any lot located along a curved road or at the end of cul-de-sac, and where the distance along the road frontage is less than the amount required per the ULDC for that district. The minimum lot width must be met at the front building line. Side property lines should be radial to the curve of the road or cul-de-sac.

*Recreational vehicle* means a portable vehicle built on a chassis and designed as a temporary dwelling for travel, recreation, and vacation use, which does not exceed eight feet in width and 40 feet in length, exclusive of tongue. The term recreational vehicle shall also include all portable structures which may be moved under their own power, towed, or transported by another vehicle, and for purposes of this chapter, shall also include other types of vehicles such as, but not limited to, trucks, vans and buses that have been converted to temporary dwellings for travel, recreation, and vacation use, regardless of size.

*Recreational vehicle park* means a lot used for the accommodation of recreational vehicles for vacation or short term transient lodging and which contains three or more of the following: on-site laundry, restaurant, recreation facilities such as swimming pools, fishing ponds, bicycle paths, a recreation hall or club house, or other similar features and does not contain facilities for the sale or repair of recreational or other mobile vehicles of any kind or for the sale of parts or accessories for such vehicles.

*Recycling collection center* means a facility at which fabricated paper, glass, metal and plastics are collected and bundled prior to shipment to end user.

*Regional commercial* means a large commercial development that offers services and products at a scale and function to serve a regional market. Regional market pertains to a broad geographic area rather than a single jurisdiction.

*Repair business* means an establishment that primarily provides services to individuals and households, rather than to businesses and excluding automotive repair, large equipment repair or activities involving hazardous materials. Typical uses include appliance, shoe, watch or jewelry, computer and musical instrument repair, and the like.

*Replacement oil or gas well* means an oil or gas well drilled so the well and its housing and other appurtenances are in the same place on the site plan and so located on the property as the well it is meant to replace. "To replace" means that a well has been operating until the time that the work to replace it is commenced. Work to install a new well where an inoperative well exists is not replacement.

*Residential proximity slope line* means a line that describes a relationship between non-residential setbacks where the non-residential building exceeds the height of the adjacent residential building from which the non-commercial building is required to setback.

*Resource extraction* means the extraction of minerals including solids (gravel, dirt) or non-solids (gas and oil). Extraction as defined herein also includes the operation, milling, crushing, washing or other preparation customarily performed at the extraction site.

*Resubdivision* means the division or alteration of a tract or parcel of an existing subdivision, except lot consolidation and lot line adjustment.

*Resubmitted* means placed on the planning and zoning commission's posted agenda or forwarded to the director for final approval, which may occur only after the city has determined that a response that satisfies each condition for the conditional approval or remedies each reason for disapproval is provided.

*Retail* means the activity of offering to sell or rent, or to sell or rent merchandise to a consumer who buys or rents the merchandise as the ultimate consumer or end user, being the last person in the chain of distribution, for personal consumption or use and not for further sale or rent. This term includes "general retail," "big box," "small discount box," and "grocery stores."

*Retention facility* means an excavated area that is designed by a professional engineer to capture and store stormwater on a permanent or semi-permanent basis, often indefinitely with the exception of the water volume lost to evaporation or absorption into the soils. Retention facilities, which are often called "wet ponds" or "retention ponds", are not the same as detention facilities which are designed to hold water temporarily and release their volume completely after or during the peak of the storm event.

*Roof pitch* means a roof having a slope or pitch determined by rise over run in direction of the slope or pitch of the roof, 1:4 slope for example.

*School* means an institution for the teaching of children or adults including primary and secondary schools, colleges, professional schools, dance schools, business schools, art schools and other similar schools.

*Screening* means an opaque separation between properties made of any combination of the following: six-foot-high berm, wall or fence, or evergreen shrubs. Evergreen shrubs shall be six foot high at the time of installation or shall be six foot high at the end of the first growing season after they are installed with no visible break between the shrubs or any combination of the four.

*Secondary building(s)* means a structure that is developed in the project area but does not have direct street frontage to the adjacent street due to a primary building that has been constructed along the street frontage.

*Secondary entrance(s)* means ingress and egress point(s) of a building or suite, which is designed for pedestrians, that is not the primary entrance(s).

*Self-storage* means a facility containing independent, fully enclosed bays that are leased to individuals exclusively for storage of their household goods, small business records, or personal property. The term does not include outdoor storage.

*Setback* means the unobstructed, unoccupied open space between a structure and the property line of the lot on which the structure is located. Setbacks are unobstructed open space from the ground to the sky and measured as the horizontal distance between a property line and the furthestmost projection of the structure, except in cases in which this appendix specifically allows parking.

*Shade tree* means any self-supporting woody plant with one well-defined trunk and a distinct definite formed crown.

*Shrub* means a woody perennial plant differing from a perennial herb by its more woody stem and from a tree by its low stature and habit of branching from the base.

*Single-family dwelling use* means the use of a lot for one dwelling unit.

*Small box discount retail* means a single retail establishment consisting of 12,000 square feet or less of gross floor area, offering for sale an assortment of discounted general merchandise directly to the consumer. Such merchandise may include, but not be limited to, food and beverage for off-premises consumption, processed foods, household products, personal grooming and health products, clothing, and other consumer goods. This term does not include a retail establishment providing a prescription pharmacy, gasoline or diesel fuel, specialty gifts or food and beverage items intended for on-premises consumption.

*Small subdivision* means a subdivision of 12 or fewer lots.

*Small tree* means a type of tree that, under normal growth conditions, that reaches a mature height between 20 and 40 feet. A tree that, at the time of planting, is at least six feet tall above grade and has a minimum caliper of two inches.

*Small vet or home kennel* means an enclosed premises or building where three or less dogs are housed for medical treatment or for personal use as family pets.

*Solar energy facility* means a device or combination of devices that use direct sunlight as a source of energy for the non-commercial direct use of the structure on the same lot with the system. Examples include photovoltaic systems, a solar hot water heater, solar panels, or a south-facing window.

*Spire* means a structure or formation, such as a steeple, that tapers to a point at the top.

*Sports court* means a space, indoor or outdoor, design used and maintained for basketball, racquetball, shuffleboard or other similar sports that use a court.

*Stable* means a building in which horses are sheltered and maintained as an accessory use to a principal residential use on the same lot.

*Stone* means naturally occurring granite, marble, limestone, slate, river rock, and other similar hard and durable all weather stone that is customarily used in exterior building construction. This includes cast or manufactured stone product, provided that such product yields a highly textured stone-like appearance, its coloration is integral to the masonry material and shall not be painted on, and it is demonstrated to be highly durable and maintenance free. Natural or manmade stone shall have a minimum thickness of two and five-eighths inches when applied as a veneer.

*Storage building* means an accessory structure used for materials, equipment and vehicles that are "in transit" or not in use.

*Streetscape* means the landscaping along the property adjacent to the street rights-of-way as required to be landscaped pursuant to this article.

*Stucco* means conventional three-step hard coat stucco with a minimum thickness of seven-eighths-inch.

*Studio* means a workshop, work place or work room for a person doing crafts, photography, woodworking, painting textiles for personal pleasure or production on a very small scale.

*Subdivision* means a division of a tract or parcel of land within the limits or in the extraterritorial jurisdiction of the city into two or more parts to lay out a subdivision of the tract, including an addition to the city, to lay out suburban, building, or other lots, or to lay out streets, alleys, squares, parks or other parts of the tract intended to be dedicated to public use or for the use of purchasers or owner of lots fronting on or adjacent to the streets, alleys, squares, parks, or other parts. A subdivision in this chapter includes a division regardless of whether it is made by using a metes and bounds description in a deed of conveyance or in a contract for a deed, by using a contract of sale or other executory contract to convey or by using any other method. The term "subdivision" includes a re-subdivision (replat) but does not include the following:

- (1) A division of land into parts greater than five acres, where each part has access and no public improvement is being dedicated as described hereinabove;
- (2) A division of land owned by the city;
- (3) A division of land created solely by the city's acquisition of a portion thereof; or
- (4) A division of land created by order of a court of competent jurisdiction.

*Subdivision plat* means a plat of a tract of land that does not qualify for a small subdivision, minor plat, or minor replat, and requires extension of municipal facilities to serve the tract, and its proposed development.

*Supply house* means an establishment at which wholesale customers or persons directly representing industry may purchase industrial supplies at wholesale or where such items are repaired or serviced. These establishments do not have retail customers.

*Tire sales* means a lot on which the principal business is the sale or installation of new, used or retread tires and tubes.

*Towing yard* shall mean a vehicle storage facility, as defined in section 102-136 of the Code of Ordinances.

*Transition buffer zone* means an area, which extends inward from the property line of a site, provides protection between land uses consisting of ground cover and trees as ascribed to it in article XIV, chapter 18 of the Code of Ordinances.

*Transitional housing* means shelter provided to the homeless for an extended period, often as long as 18 months and generally integrated with other social services and counseling programs to assist in the transition to self-sufficiency through the acquisition of a stable income and permanent housing.

*Travel center* means a facility associated with the refueling of domestic and commercial vehicles, including the retail sale of food and beverages, limited service restaurants, and general merchandise. A travel center does not include a truck stop or a facility associated with commercial vehicle washing and/or repairs of any vehicle type, showering, laundry, temporary sleeping, and/or overnight parking. This use may also be referred to as a travel plaza.

*Tree* means any self-supporting woody plant with one well-defined trunk two inches in diameter or greater.

*Truck stop* means a facility primarily for parking, refueling, washing and/or minor repair of commercial vehicles, and may include retail sales of food, beverages, and/or other items, full-service restaurant(s), restroom/shower facilities, and/or temporary sleeping quarters. This use may also be referred to as transport stop or truck service/filling station; however, a truck stop does not include a travel center.

*Truck terminal* means an area and building where cargo is stored and where trucks, including tractor and trailer units, load and unload cargo on a regular basis. May include facilities for the temporary storage of loads prior to shipment. Includes rail to truck, truck to truck and dock to truck.

*ULDC* means this Unified Land Development Code.

*Usable open space* means accessible hardscape or landscape areas, including, but not limited to, plazas, courtyards, pocket parks, and other publicly accessible amenities.

*Vegetative buffer* shall have the meaning ascribed to it in article XIV, chapter 18 of the Code of Ordinances.

*Vegetative buffer zone* means an area, which extends inward from the property line of a site, provides protection between land uses, and contains plantings consisting of ground cover, shrubs and trees.

*Vehicle and boat sales, rental or leasing facility* means and includes a structure(s) and associated real property used for the sale, rental, and leasing of new or used, operable vehicles, including, but not limited to, tractors, tractor trailers, recreational vehicles, buses, boats, and similar size vehicles/equipment.

*Vehicle, commercial* means a motor vehicle or combination of motor vehicles used to transport passengers or property that: (1) has a gross combination weight rating of 26,001 or more pounds including a towed unit with a gross vehicle weight rating of more than 10,000 pounds; (2) has a gross vehicle weight rating of 26,001 or more pounds; or (3) is transporting hazardous materials and is required to be placarded under 49 C.F.R., Part 172, Subpart F.

*Vehicle fueling station* means a site used for the retail sale of vehicle fuels and oils for domestic vehicles, pre-packaged food items, and limited merchandise. A vehicle fueling station is meant to include fueling for vehicles that use alternative fuels or a combination of conventional and alternative fuels. This use may also be referred to as gas station, service station, filling station, or petrol station.

*Vehicle fueling station minimart* means a facility associated with the sale of vehicle fuels for domestic vehicles that also offers for sale food items and general merchandise. Hot beverages, fountain-type beverages, and food, prepackaged or prepared on-site, may be included in the food items for sale. The facility may be associated with another use but may not include automobile repair or service of any kind, or any services for commercial vehicles. A vehicle fueling station minimart is meant to include fueling for vehicles that use alternative fuels or a combination of conventional and alternative fuels. This use may also be referred to as gas/service/filling/petro station with: convenience store, corner store, food mart, or bodega.

*Vehicle, non-commercial* means a motor vehicle, including a motorcycle, or other device in or by which a person or property is or may be transported or drawn on a public highway, but is otherwise not considered a commercial vehicle, farm vehicle, farm equipment, or farm implement.

*Vehicle storage* means a room, structure or parking lot that is used to house or store vehicles. It includes structures, buildings, and rooms generally called garages, boathouses, and airplane hangars. This term excludes "parking commercial," "public service," "towing yards," "vehicle repair, major," "vehicle repair, minor" or "boat and RV storage."

*Wall* means a constructed solid barrier of concrete, stone, brick, tile, masonry, wood or similar material that encloses, borders or decorates an area.

*Warehouse and freight movement* means a use engaged in storing and distribution of manufactured products or equipment and typically characterized by heavy trucking or rail activity and outdoor storage.

*Well* means a hole or bore to any sand, formation, strata, or depth which is drilled, bored, sunk, dug or put down for the purpose of either exploring or for ascertaining the existence of any oil, gas, or liquid hydrocarbon for the purposes of producing or recovering and oil, gas or liquid hydrocarbon.

*Wholesale and warehouse activities within an enclosed structure* means those retail activities typically conducted at facilities such as a "wholesale club," "warehouse store," "discount warehouse," "factory outlet," and other similar retail establishments that sell directly to the public.

*Wholesale trade* means to offer to sell or rent, or to sell or rent, merchandise other than at retail. Establishments engaged in selling merchandise to other wholesalers or to retailers, generally without transformation, and rendering services incidental to the sale of merchandise and normally operate from a warehouse or showroom/office. Wholesalers are organized to sell or arrange the purchase or sale of goods for resale (i.e., goods sold to other wholesalers or retailers), capital or durable non-consumer goods, or raw and intermediate materials and supplies used in production. The intent is to permit the warehousing of products, and to permit the packaging, sale to other wholesalers or to retailers, assembly or treatment of products within an enclosed structure.

*Wild animal* means a wild animal as defined in section 14-1 of the Code of Ordinances.

*Wine and beer retailer* means an establishment licensed by the state to sell ale, wine, and vinous liquors to consumers at retail on or from the licensed premises in unbroken original containers of not less than six ounces for off-premises consumption only and not for the purpose of resale.

*Working days or business days* means week days that are not holidays celebrated by the city.

*Yard, front* means the area situated between the front building line and the front lot line extending the full width of the lot.

*Yard, rear* means the area situated between the rear building line and a rear lot line, and extending the full width of the lot.

*Yard, side* means the area situated between the side building line and a side lot line, and extending from the front yard to the rear yard.

(Ord. No. 11,866, § 2(Exh. A), 2-23-12; Ord. No. 12,207, § 16, 3-14-13; Ord. No. 12,473, § 18, 2-13-14; Ord. No. 12,902, §§ 6, 7, 7-23-15; Ord. No. 12,903, § 4, 7-23-15; Ord. No. 13,062, § 7, 12-10-15; Ord. No. 13,190, § 3, 5-12-16; Ord. No. 13,521, § 2, 7-27-17; Ord. No. 13,523, § 6, 7-27-17; Ord. No. 13,762, § 3, 5-10-18; Ord. No. 13,763, § 7, 5-10-18; Ord. No. 13,764, § 3, 5-10-18; Ord. No. 14,380, § 3, 5-14-20; Ord. No. 14,381, § 3, 5-14-20; Ord. No. 15,192, § 20, 9-8-22; Ord. No. 15,400, § 2, 3-23-23)

*Footnotes:*

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**Editor's note—** Ord. No. 15,192, § 20, adopted Sep. 8, 2022, renumbered former Art. IV as Art. VI, as set out herein.