Exhibit D

to Development Agreement

Code of Ordinances

City of New Braunfels Code of Ordinances and all uncodified Ordinances as of the Full Execution Date.

Sec. 10-107. - Penalty for violation.

(a) Any person operating or handling an aircraft in violation of any of these rules or refusing to comply herewith, may, at once, be ejected from the airport, or may for any period of time, not exceeding 15 days, be denied use of the airport by the airport manager, and upon hearing by the city council, may be deprived of the further use of the airport and its facilities for such period of time as may appear necessary for the protection of life and property.

(b) Any violation of the ordinance adopting these minimum standards, rules and regulations shall be a misdemeanor and upon conviction, be punishable by a fine in any sum not exceeding $500.00. This section is cumulative of all other penalties for violation of federal, state and local laws, rules, regulations and ordinances.

(Ord. No. 96-40, § I(Exh. A, pt. A, § 7), 8-12-96)

Secs. 10-108—10-120. - Reserved.

FOOTNOTE(S):

--- (5) ---

Editor's note—*Ord. No. of 96-40, adopted Aug. 12, 1996, did not specifically amend this Code; hence codification of § I(Exh. A) of said ordinance as §§ 10-101—10-107 herein was at the editor's discretion. See the history note following each section for specific derivation thereof.* *(Back)*

New Braunfels, Texas, Code of Ordinances >> PART II - CODE OF ORDINANCES >> Chapter 10 - AVIATION >> ARTICLE VI. - NEW BRAUNFELS AIRPORT MINIMUM STANDARDS >>

ARTICLE VI. - NEW BRAUNFELS AIRPORT MINIMUM STANDARDS [6]

Sec. 10-121. - Minimum standards.

Sec. 10-121. - Minimum standards.

The city council has adopted the New Braunfels Municipal Airport Minimum Standards which are attached hereto as Exhibit "A" and apply to commercial operators and commercial tenants of the airport. The minimum standards are not codified, but copies of the same are on file with the city secretary's office and the airport director's office and may be reviewed during normal business hours at the locations of those offices. Any changes or amendments to the minimum standards shall be approved by the city council.

(Ord. No. 2010-56, § 2, 9-13-10)

FOOTNOTE(S):

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Editor's note—*Ord. No. 2010-56, § 2, adopted September 13, 2010, repealed and reenacted article VI in its entirety to read as herein set out. Formerly, article VI, §§ 10-121—10-136, pertained to the minimum standards for fixed base operators, commercial operators and tenants, and derived from Ord. No. 96-40, § I(Exh. A, pt. B, §§ 1, 2), adopted August 12, 1996.* *(Back)*

New Braunfels, Texas, Code of Ordinances >> PART II - CODE OF ORDINANCES >> Chapters 11—13 - RESERVED >>

Chapters 11—13 - RESERVED

New Braunfels, Texas, Code of Ordinances >> PART II - CODE OF ORDINANCES >> Chapter 14 - BUILDINGS AND BUILDING REGULATIONS >>

Chapter 14 - BUILDINGS AND BUILDING REGULATIONS [1]

ARTICLE I. - IN GENERAL
ARTICLE II. - BUILDING CODE
ARTICLE III. - ELECTRICAL CODE
ARTICLE IV. - PLUMBING CODE
ARTICLE V. - MECHANICAL CODE
ARTICLE VI. - LIQUEFIED PETROLEUM GAS CODE

ARTICLE VII. - NATURAL GAS CODE
ARTICLE VIII. - PROPERTY MAINTENANCE CODE
ARTICLE IX. - ENERGY CONSERVATION CODE
ARTICLE X. - VIOLATIONS, PENALTIES, FEE REFUND POLICY, BOARD OF APPEALS AND ADMINISTRATIVE

FOOTNOTE(S):

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Cross reference— *Contractors, § 18-66 et seq.; cable communications, ch. 22; civic and cultural facilities and affairs, ch. 30; condition of premises, § 50-56 et seq.; fire prevention and protection, ch. 54; fire lanes, § 54-121 et seq.; water distribution system for fire protection, § 54-146 et seq.; floods, ch. 58; mobile homes, house cars and tourist courts, § 62-196 et seq.; tent campgrounds, § 62-311 et seq.; historic preservation, ch. 66; planning, ch. 98; signs, ch. 106; streets, sidewalks and other public places, ch. 114; address numbering, § 114-61 et seq.; utilities, ch. 130; zoning, app. A; mobile home communities, app. B.* *(Back)*

State Law reference— *Trench excavation safety, V.T.C.A., Health and Safety Code § 756.021 et seq.; fire escapes, V.T.C.A., Health and Safety Code § 791.001 et seq.; protection of workmen on buildings, Vernon's Ann. Civ. St. arts. 5182, 5182-1; Manufactured Housing Standards Act, Vernon's Ann. Civ. St. art. 5221f; industrialized housing and buildings, Vernon's Ann. Civ. St. art. 5221f-1; Plumbing License Law, Vernon's Ann. Civ. St. art. 6243-101; Residential Service Company Act, Vernon's Ann. Civ. St. art. 6573b; establishment of building lines, V.T.C.A., Local Government Code § 213.001 et seq.; municipal regulation of structures, V.T.C.A., Local Government Code § 214.001 et seq.* *(Back)*

ARTICLE I. - IN GENERAL

Sec. 14-1. - Standard Swimming Pool Code adopted; amendments; appeals; re-inspection fee; penalty.
Sec. 14-2. - Standard Amusement Device Code adopted; amendments; reinspection fee; penalty.
Sec. 14-3. - Administration and enforcement of codes, ordinances and articles.
Sec. 14-4. - Interpretation of codes, ordinances and articles.
Sec. 14-5. - Commercial premium or overtime inspection fees.
Sec. 14-6. - Building official to determine conflicts between codes.
Secs. 14-7—14-25. - Reserved.

Sec. 14-1. - Standard Swimming Pool Code adopted; amendments; appeals; re-inspection fee; penalty.

(a) The International Residential Code (IRC), 2006 Edition, Section 41 and Appendix G, as published by the International Code Council (ICC) is hereby adopted and incorporated by reference as the standard for residential swimming pools, for one or two family dwellings.

(b) The International Building Code (IBC), Section 3109, 2006 edition is adopted as the standard for multifamily, commercial and public swimming pools.

(c) Permit limitations. An application for a permit for any proposed work shall be deemed abandoned if the permit has not been issued (physically received by the applicant) within 30 days of the date of the application's approval, with or without conditions imposed by the city and any reviewing department or agency. An application is considered approved once all reviews are complete and the permit is ready to be issued subject to any condition attached thereto. If abandoned, the work shall not be commenced and no inspections will be made until another application has been made and another permit approved and issued. All permits shall expire a maximum of six months after the date the application is approved or conditionally approved, regardless of whether the permit had been issued (received by the applicant). Extensions of the expiration period may be made by the building official upon presentation by the applicant of good and justifiable cause. Examples of justification could include natural or manmade disasters, scope of extremely large projects that typically require more than six months to complete, or a lack of availability of materials due to regional or nationwide shortages.

(1) Fees. Fees for pools and related systems, equipment, and appurtenances shall be based on the schedules approved for the building, electrical, mechanical, gas, and plumbing codes of the city.

(2) Refunds. With approval of the building official, a refund equal to 50 percent of the permit fee may be made to the applicant if the request is made within the first 90 days after the date of permit application. No refunds shall be made after the 90-day period has lapsed.

(3) Electrical applications to comply with the 2005 National Electrical Code.

(d) A fee of $35.00 must be paid to the city for each re-inspection of work authorized under the code adopted in this section. The re-inspection fee must be paid by the person or agent to whom the permit was issued prior to any re-inspection.

(e) Where there is conflict between the code adopted in this section and any city, state, of federal law, the more restrictive requirements shall govern unless the less restrictive requirements are preemptive under state or federal law.

(f) Any person, firm, corporation, agent, or entity that violates a provision of the code adopted by this section, or fail to comply therewith or with any of the provisions thereof, or violates a detail, statement, plan, or specification for a permit approved there under, shall be guilty of a misdemeanor. Each and every day or portion thereof during which any such violation or failure to comply is committed or continued shall be deemed a separate offense subject to a fine of not more than $2,000.00 for each day and each offense upon conviction in a court of competent jurisdiction.

(Ord. No. 2008-43, § 2, 6-9-08)

Editor's note—

Ord. No. 2008-43, § 2, adopted June 9, 2008, repealed and reenacted § 14-1 in its entirety to read as herein set out. Formerly, § 14-1 pertained to swimming pools, and derived from Ord. No. 05-36, §§ 1, 2, adopted April 25, 2005.

Sec. 14-2. - Standard Amusement Device Code adopted; amendments; reinspection fee; penalty.

(a) The Standard Amusement Device Code, 1985 edition, as published by the Southern Building Code Congress International, Inc., as previously adopted by the city, shall remain in full force and effect subject to and including by reference such revisions, corrections, additions, and deletions as shall appear in this section.

(b) The Standard Amusement Device Code adopted in subsection (a) of this section is hereby amended in the following respects:

Section 108 shall be renamed the "Construction Board of Adjustment and Appeals" and sections 108.1 through 108.5, inclusive, shall be deleted in their entirety and the following added:

Appeals of the requirements in the Standard Amusement Device Code may be made to the construction board of adjustment and appeals in accordance with the requirements set forth in the building code.

(c) A fee of $20.00 must be paid to the city for each reinspection of work authorized under the code adopted by this section. The reinspection fee must be paid by the person or agent to whom the permit was issued prior to any reinspection.

(d) Where there is conflict between the code adopted by this section and any city, state or federal law, the more restrictive requirements shall govern unless the less restrictive requirements are preemptive under state or federal law.

(e) Any person, firm, corporation, agent, or entity that violates a provision of the codes adopted by this section, or fails to comply therewith or with any of the provisions thereof, or violates a detail, statement, plan, or specification for a permit approved thereunder, shall be guilty of a misdemeanor. Each and every day or portion thereof during which any violation or failure to comply is committed or continued shall be deemed a separate offense subject to a fine of not more than $500.00 for each day and each offense upon conviction in a court of competent jurisdiction.

(Code 1961, § 5-2.2)

Sec. 14-3. - Administration and enforcement of codes, ordinances and articles.

The building official of the city shall have the responsibility for the administration and enforcement of these codes ordinances and articles as adopted by this chapter, and such official shall have all of the responsibilities called for in these articles and the specifications, rules and regulations adopted by these codes, ordinance and articles.

(Ord. No. 2008-43, § 4, 6-9-08)

Sec. 14-4. - Interpretation of codes, ordinances and articles.

The building official shall have the authority to render interpretations of these codes, ordinance, and articles; and to adopt policies and procedures in order to clarify the application of its provisions. Such interpretations, policies and procedures shall be in compliance with the intent and purpose of these codes, ordinances and articles. Such policies and procedures shall not have the effect of waiving requirements specifically provided for in these codes, ordinances and articles.

(Ord. No. 2008-43, § 5, 6-9-08)

Sec. 14-5. - Commercial premium or overtime inspection fees.

Premium or overtime inspections are those inspections requested for times other than the normal working hours. Fees for premium inspections done after 4:00 p.m. on weekdays and on weekends shall be at a rate of $45.00 per inspection with a minimum of three inspections required.

(Ord. No. 2008-43, § 6, 6-9-08)

Sec. 14-6. - Building official to determine conflicts between codes.

The code official is the building official except where specifically described as the fire code official. Applying to any construction, alteration, movement, enlargement, replacement, repair, equipment, use and occupancy, occupancy loads, location, maintenance, removal and demolition of every building or structure or any appurtenances connected or attached to such buildings or structures, the building official is hereby authorized and directed to enforce the provisions of these codes and ordinances (All ICC codes adopted by the city and all city and all city ordinances that apply). The building official shall have the authority to render interpretations of all of these codes and ordinances and to adopt policies and procedures in order to clarify the application of its provisions. Such interpretations, policies and procedures shall be in compliance with the intent and purpose of these codes and ordinances. The building official will be the final authority in any disputes of any interpretations of or any conflicts between these codes and ordinances. The building official is also the final authority in determining who will apply and enforce these codes and ordinances.

(Ord. No. 2008-43, § 7, 6-9-08)

Secs. 14-7—14-25. - Reserved.

New Braunfels, Texas, Code of Ordinances >> PART II - CODE OF ORDINANCES >> Chapter 14 - BUILDINGS AND BUILDING REGULATIONS >> ARTICLE II. - BUILDING CODE >>

ARTICLE II. - BUILDING CODE

Sec. 14-26. - Short title.
Sec. 14-27. - International Building Code (IBC) 2006 and International Residential Code (IRC) 2006.
Sec. 14-28. - Building Code fees.
Sec. 14-29. - Contractors.
Sec. 14-30. - Requirements not covered by Code.
Secs. 14-31—14-50. - Reserved.

Sec. 14-26. - Short title.

This article shall be known as the building code of the city and may be cited as such.

(Code 1961, § 5-1)

Sec. 14-27. - International Building Code (IBC) 2006 and International Residential Code (IRC) 2006.

(a) The IBC 2006 and the IRC 2006, and all appendices, are hereby adopted and incorporated by reference as the building codes of the city, except as stated in the following.

(b) Appendix A, IBC, Employee Qualifications is not adopted.

(c) Appendix B, IBC, Board of Appeals is not adopted.

(d) Appendix D, IBC, Fire Districts is not adopted.

(e) Appendix H, IBC, Signs is amended as follows:

Section 101.2, Signs Exempt from Permits is deleted and replaced with Section 106.9 Code of Ordinances, City of New Braunfels, Texas Signs exempt from regulation or permits.

(f) Delete Section 105.2, IBC and IRC and amended as follows:

1. Painting, papering, tiling, carpeting, cabinets, countertops and similar finish work.
2. Swings and other playground equipment accessory to detached one- and two-family dwellings.

(g) Appendix J, IBC, Grading is not adopted.

(h) Appendix K, IBC ICC Electrical Code is not adopted.

(i) Appendix I, IRC, Private Sewage Disposal is not adopted.

(j) Appendix L, IRC, Permit Fees is not adopted.

(k) Appendix O, IRC, Gray Water Recycling Systems is not adopted.

(l) Appendix P, IRC, Sprinkling is not adopted.

(m) Appendix Q, IRC Electrical Provisions is not adopted.

(n) All references to the International Electric Code, including those references found in their entirety in Chapter 27, IBC, and Part VIII, Chapters 33-42, IRC are hereby deleted.

(o) All references to the International Existing Building Code, as found in the International Building Code, the International Residential Code and the International Fire Code, are hereby deleted.

(p) All references to the Department of Building Safety, as found in Section R103, IRC and Section 103, IBC, are hereby deleted and shall be known as the Building Department.

(q) All references to the Board of Appeals, as found in Section 112, IRC and the IBC, are hereby deleted and shall be known as the Construction Board of Appeals Section 14-404 of the City of New Braunfels Code of Ordinances.

(r) Delete Section R311.4.1 IRC and replace as follows:

Exit Door Required. Not less than two doors conforming to this section shall be provided for each dwelling unit. The required doors shall provide for direct access from the habitable portions of the dwelling to the exterior without travel through a garage. Access to habitable levels not having two exits in accordance with this section shall be by a ramp in accordance with Section R311.6 or a stairway in accordance with Section R311.5.

(s) Delete Chapter 11 of the IBC and replace as follows:

1. Chapter 11 - Accessibility: All buildings or portions of buildings must comply with the accessibility standards adopted by the state of Texas. All projects shall be submitted to Texas Department of Licensing & Regulation (TDLR) for review, inspection and approval in accordance with state law.
2. Before a contractor applies for a permit for a building or structure subject to section 5(j) of the state Architectural Barriers Act, the contractor shall provide proof that he has registered the construction documents with the TDLR. Proof of registration consists of the project registration number from the TDLR.
3. The Building Official shall have the authority to require registration with TDLR.
4. The Building Official shall require an asbestos survey as required by the Texas Asbestos Health Protection Act (Art. 4472-3a Vernon's Texas Civil Statutes).

(t) Chapter 10, Section 1004.1.1 of the IBC is amended to read as follows:

1004.1.1 Number by Table 1004.1.1. The number of occupants shall be computed at the rate of one occupant per unit of area as prescribed in Table 1004.1.1

Exception: The Building Official shall have the authority to assign occupancy load that is less than required by Table 1004.1.1.

(u) Delete Chapter 10, Table 1019.2 of the IBC and replace as follows:

TABLE 1019.2
BUILDINGS WITH ONE EXIT

OCCUPANCY	MAXIMUM HEIGHT OF BUILDINGS ABOVE GRADE PLANE	MAXIMUM OCCUPANTS (OR DWELLING UNITS) PER FLOOR AND TRAVEL DISTANCE
A, B[d], E, F, M, U	1 Story	50 occupants and 50 feet travel distance
H-2, H-3	1 Story	3 occupants and 25 feet travel distance
H-4, H-5, I, R	1 Story	10 occupants and 50 feet travel distance
S[a]	1 Story	30 occupants and 50 feet travel distance
B;sup\sup;, F, M, S[a]	2 Stories	30 occupants and 50 feet travel distance
R-2	2 Stories[c]	4 dwelling units and 50 feet travel distance

(v) Chapter 9, Section 903.1 of the IBC shall be amended to read as follows:

903.1 General. Automatic sprinkler systems shall comply with this section.

Exception: Change of occupancy from any other occupancy other than R-3 will require compliance with this section.

(Ord. No. 2008-43, § 8, 6-9-08; Ord. No. 2010-75, § 1, 10-25-10)

Editor's note—

Ord. No. 2008-43, § 8, adopted June 9, 2008, repealed and reenacted § 14-27 in its entirety to read as herein set out. Formerly, § 14-27 pertained to the International Building Code 2003 and International Residential Code 2003, and derived from Ord. No. 04-16, §§ 1(1), 1(2), adopted March 8, 2004.

Sec. 14-28. - Building Code fees.

(a) The following fees shall be paid with the application for a building permit:

Total Valuation	Fee
$1,000.00 and less	$20.00
$1,000.00 to $50,000.00	$20.00 for the first $1,000.00 plus $5.00 for each additional thousand or fraction thereof, to and including $50,000.00.
$50,000.00 to $100,000.00	$265.00 for the first $50,000.00 plus $4.00 for each additional thousand or fraction thereof, to and including $100,000.00.
$100,000.00 to $500,000.00	$465.00 for the first $100,000.00 plus $3.00 for each additional thousand or fraction thereof, to and including $500,000.00.
$500,000.00 and up	$1665.00 for the first $500,000.00 plus $2.00 for each additional thousand or fraction thereof.

(b) A fee of $35.00 must be paid to the city for each reinspection of work authorized under the code adopted in this section. The reinspection fee must be paid by the person or agent to whom the permit was issued prior to any reinspection.

(c) For the moving of any building or structure, the fee shall be $100.00.

(d) For the demolition of any building or structures, the fee shall be:

0 up to 100,000 cu. ft.	$50.00
100,000 cu. ft. and over, per 1,000 cu. ft.	0.50

(e) Penalties. Where work for which a permit is required by this code is started or proceeded prior to obtaining said permit, the fees herein specified shall be doubled, but the payment of such double fee shall not relieve any persons from fully complying with the requirements of this code in the execution of the work nor from any other penalties prescribed herein.

(f) *Plan checking fee.* Plans for which a permit has not been applied for may be submitted for review by the city. A fee equal to one-half of the building permit fee shall be paid. If a building permit application is made for construction of a building shown on plans reviewed under the plan check program within 30 days of the plan check, and the building official determines the plans are essentially the same as those submitted for plan checking, only the additional one-half of the building permit fee shall be paid.

(g) An application fee of $50.00 shall be paid to the city by applicants desiring a certificate of occupancy for change of use on an existing building in the city prior to occupancy of said building.

(h) A temporary certificate of occupancy fee of $250.00 shall be paid to the city, with a $100.00 refund if the permanent certificate of occupancy is issued within 30 days of the temporary certificate of occupancy issuance. For each request of extension for the temporary certificate of occupancy, a fee of $100.00 shall be paid to the city.

(Ord. No. 03-12, § 1, 2-24-03; Ord. No. 2003-33, § 3, 5-12-03; Ord. No. 03-76, § I, 11-24-03; Ord. No. 05-23, § 1, 3-14-05; Ord. No. 2008-43, § 9, 6-9-08)

Editor's note—

Ord. No. 03-12, § 1, adopted February 24, 2003, repealed and reenacted § 14-28 to read as herein set out. Formerly, § 14-28 pertained to the construction board of adjustment and appeals and derived from the Code of 1961, § 5-3.

Sec. 14-29. - Contractors.

(a) *General contractor-local registration shall expire on February 28th of each year.* The term "general contractor" shall mean and include every person who is engaged in the business of working on, or causing to be worked on, or accepting orders or contracts for work on any building, structure, or property, whether compensated or not compensated, under the IRC 2006 R101.2 Scope. The provisions of the IRC for One- and Two-Family Dwellings shall apply to the construction, alteration, movement, enlargement, replacement, repair, equipment, use and occupancy, location, removal and demolition of detached one- and two-family dwellings and multiple single-family dwellings (townhouses) not more than three stories in height with a separate means of egress and their accessory structures except for the following:

(1) The term "general contractor-residential" shall not apply to specific trades such as foundation and flatwork, framing, cabinetry, painting, roofing, and paving as long as such work is performed under subcontract to a licensed general contractor;

(2) The term "general contractor-residential" shall not apply to the trade of electricians who are licensed separately under city ordinances, nor to plumbing and mechanical trades which are regulated by the state; and

(3)

The term "general contractor-residential" shall not apply to any person performing work on any building, structure, or property where a preemptive state or federal law prevents the city from requiring licensing.

(b) *General contractor-commercial shall be defined as IBC 2006 Section 101.2 Scope.* The provisions of this code shall apply to the construction, alteration, movement, enlargement, replacement, repair, equipment, use and occupancy, location, maintenance, removal and demolition of every building or structure or any appurtenances connected or attached to such buildings or structures.

(1) Detached one- and two-family dwellings and multiple single-family dwellings (town houses) not more than three stories above grade plane in height with a separate means of egress and their accessory structures shall comply with the IRC.

(2) General contractor commercial shall be registered with the city. General contractor-commercial local registration shall expire December 31st of each year except for the following:

a. The term "general contractor-commercial" shall not apply to specific trades such as foundation and flatwork, framing, cabinetry, painting, roofing, and paving as long as such work is performed under subcontract to a registered general contractor;

b. The term "general contractor-commercial" shall not apply to the trade of electricians who are registered separately under city ordinances, nor to plumbing and mechanical trades which are regulated by the state; and

c. The term "general contractor-commercial" shall not apply to any person performing work on any building, structure, or property where a preemptive state or federal law prevents the city from requiring registration.

(c) *Contractor-limited defined; scope of work.*

(1) The term "contractor-limited" or "limited contractor" shall mean a person who is not a general contractor and who is engaged in the business of working on, or causing to be worked on, or accepting orders or contracts for work on any building, structure, or property, whether compensated or not compensated, except for the following:

a. The term "limited contractor" shall not apply to specific trades such as foundation and flatwork, framing, cabinetry, painting, roofing, and paving as long as such work is performed under subcontract to a registered general contractor;

b. The term "limited contractor" shall not apply to the trade of electricians who are licensed separately under city ordinances, nor to plumbing and mechanical trades which are regulated by the state; and

c. The term "limited contractor" shall not apply to any person performing work on any building, structure, or property where a preemptive state or federal law prevents the city from requiring licensing or permitting.

(2) A limited contractor is considered applicable to such trades as roofing, framing, paving, fencing, and other specialty crafts.

(d) *Building permit required.* No person, firm, corporation, or any other entity shall erect, construct, enlarge, alter, repair, modify, excavate, fill, or change any fence, sign, land, building, structure, or property in the city, nor cause such work to be done; nor shall any building or structure be moved, removed, converted, or demolished without first obtaining any necessary permit therefor from the building official and complying with all applicable requirements of the city.

In addition to a registered contractor, the designer or design professional that prepared the plans for the building for which a building permit is sought may submit a building permit application. Or, the property owner may apply for the building permit. Such permit shall be issued only to a registered contractor or other person approved by the building official in accordance with this section who will construct the building.

(e) *Owner doing own work; permits required; compliance with applicable laws and requirements.*

(1) An owner of an existing single-family residence who permanently resides in that residence and who claims it as a homestead under the laws of the state may act as a limited or general contractor on his own residence without being registered. However, he must obtain all necessary permits, pay all required permit fees, and comply with all ordinances of the city as well as any other applicable state or federal laws.

(2) A person who intends to build a single-family residence and permanently reside therein and claim it as a homestead under the laws of the state may act as a limited or general contractor on his own residence without being registered if approved by the building official. However, he must obtain all necessary permits, pay all required permit fees, and comply with all ordinances of the city as well as any other applicable state or federal laws.

(3) No single-family resident homeowner will be issued a permit under the provisions of this section involving any structural, electrical, or plumbing work unless the building official is satisfied that the applicant can competently and safely perform the work.

(f) *Reserved.*

(g)

Registration—Application generally. Every person desiring to engage in the business of general or limited contractor in the city shall obtain a city registration authorizing him to engage in such business. Individuals desiring such registration shall make application with the building official on the form, which may be obtained from the office of the building department of the city. For a commercial contractor, the applicant must provide proof of 32 hours of continuing education in the construction industry, along with the other required items listed in section 14-29. For a residential or limited contractor, the applicant must provide proof of 16 hours of continuing education in the construction industry, along with the other required items listed in section 14-29. The building official may, at his discretion, issue one permit for the initial work of any otherwise approved structure pending approval of the appropriate general or limited contractor's registration. Only individuals shall be so registered, and the registration is not transferable.

(h) *Insurance required.* Before any person shall engage in the business of a general or limited contractor or be granted a registration to do so, he shall first provide the city proof of $1,000,000.00 liability insurance for general contractor-commercial and $300,000.00 for limited contractor and general contractor-residential.

(i) *Application for registration—Applicant who has had registration previously denied or revoked.* An applicant for a general or limited contractor's registration who has been denied a registration or had a registration revoked by this city or another entity for any building or related trade must disclose that information to the building official at the time of application. Any conviction for a misdemeanor or felony, other than traffic citations, must also be disclosed. Failure to disclose such information will result in automatic disapproval of the application. If the registration is issued and such failure to disclose is discovered later, the registration will be revoked. Any additional legal remedies may also be pursued by the building official. Upon disclosure at the time of registration application, the building official will make a thorough investigation and weigh carefully all details available prior to approving registration.

(j) *Fee.* Every applicant who shall make application for a general contractor's registration, as provided for in this article, shall pay a fee of $200.00 upon submitting such application.

(k) *Issuance of registration.* A contractor's registration will be issued by the building official only after receipt of the insurance required by subsection (h).

(l) *Term of registration.* All registrations issued under the provisions of this article shall expire on December 31st, except the registrations identified under subsection (a).

(m) *Registration renewal; fee; requirements for renewal.* A registration holder may renew his general contractor's registration any time during the period within December 1 and 30 calendar days after the date of its expiration by paying an annual renewal fee of $100.00. For commercial contractor renewal, the registrant must provide proof of 16 hours of continuing education in the construction industry. For residential or limited contractor renewal, the registrant must provide proof of eight hours of continuing education in the construction industry. Also, provided he has engaged in such business with a properly issued building permit and satisfactorily completed the work for which the permit was issued some time within the preceding 24 months. A registration holder who has exceeded the allowed 60 days past expiration will be considered as a new applicant should he desire to re-establish his general contractor's registration.

(n) *Procedure for denial, revocation, or suspension of registration or right to obtain permits.* If the building official initiates a recommendation for denial, revocation, or suspension of a registration or of a right to obtain permits to work under an adopted code or ordinance of the city, the following procedure will apply:

(1) An applicant for registration or a registrant of the city shall have ten business days to request a review hearing to be held before the construction board of appeals as referenced in section 14-404. During the ten-business day period a current registrant shall not be allowed to obtain permits. If the applicant for registration or a registrant fails to request a hearing within ten business days the recommendation of the building official shall become final. If a registrant requests a hearing, any denial, revocation or suspension of registration or right to obtain permits shall be stayed pending the decision of the board. The board shall by majority vote affirm or reject the building official's recommendation.

(2) If the registrant is registered by the state, such as an electrical contractor, mechanical contractor or plumbing contractor, the process in subsection (1) of this section would apply.

(Ord. No. 03-12, §§ 1, 10, 2-24-03; Ord. No. 05-23, § 1, 3-14-05; Ord. No. 2008-43, §§ 3, 10, 6-9-08; Ord. No. 2010-05, §§ 1, 2, 1-11-10)

Editor's note—

Ord. No. 03-12, § 1, adopted February 24, 2003, repealed § 14-29 in its entirety, which pertained to dwelling units; area and sanitary requirements, and derived from the Code of 1961, §§ 5-6 and 5-7. Section 10 of Ord. No. 03-12 redesignated the former Chapter 18, Art. III as § 14-29

Cross reference— *Buildings and building regulations, ch. 14.*

State law reference— *Air Conditioning and Refrigeration Contractor License Law, Vernon's Ann. Civ. St. art. 8861.*

Sec. 14-30. - Requirements not covered by Code.

Any requirements necessary for the strength, stability or proper operation of an existing or proposed building, structure, electrical, gas, mechanical or plumbing system, or for the public safety, health and general welfare, not specifically covered by this chapter or the other technical codes, shall be determined by the building official. In addition, other

requirements to implement, clarify or set procedures to accomplish the intent of this Code may be set in writing by the building official and may be posted electronically for public access.

(Ord. No. 2008-43, § 11, 6-9-08)

Secs. 14-31—14-50. - Reserved.

New Braunfels, Texas, Code of Ordinances >> PART II - CODE OF ORDINANCES >> Chapter 14 - BUILDINGS AND BUILDING REGULATIONS >> ARTICLE III. - ELECTRICAL CODE >>

ARTICLE III. - ELECTRICAL CODE [2]

Sec. 14-51. - Electrical Code.
Sec. 14-52. - Scope of article.
Sec. 14-53. - Maintenance.
Sec. 14-54. - Administration and enforcement generally.
Sec. 14-55. - Conflicts of interest; restrictions on providing initial electrical service.
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Sec. 14-60. - Firefighting and fire prevention.
Sec. 14-61. - Permits, fees and inspections.
Sec. 14-62. - Violations; record of permits and inspections; penalty.
Sec. 14-63. - Savings clause.
Sec. 14-64. - Electrical fees.
Secs. 14-65—14-90. - Reserved.

Sec. 14-51. - Electrical Code.

The National Electrical Code 2005 is hereby adopted as the electrical code of the city, except:

(a) Section 80-35, effective date, is not adopted.
(b) Section 80.15 Electrical Board of the National Electrical Code is deleted.
(c) That paragraph 80.23(B) (3) of the 2005 National Electrical Code is deleted.

(Ord. No. 03-12, § 2, 2-24-03; Ord. No. 2008-43, § 12, 6-9-08)

Sec. 14-52. - Scope of article.

The provisions of this article shall apply to all electrical wiring and equipment installed, used or maintained in the city, except the electrical work, wiring or equipment used in the generation, distribution and rendition of service to the public which is installed by or for and owned or maintained by a public utility, telephone, telegraph or district messenger company permitted to operate in the city, and the registration fees and liability insurance provided for in this article shall not apply to such companies and their employees in the performance of such work, but the wiring and installations for light, heat and power equipment of such companies which are installed for their own use as office, warehouse or repair facilities shall be done under permit according to the requirements of this article.

(Ord. No. 03-12. § 2, 2-24-03; Ord. No. 2008-43, § 3, 6-9-08)

Sec. 14-53. - Maintenance.

(a) The electrical service and wiring of all buildings and structures, both existing and new, shall be maintained in a safe and operating condition unless electrical service is completely removed from such building or structure.
(b) Electrical wiring for which the owner no longer has use, need or desire for and therefore disconnects from its electrical source shall be completely removed from the building or structure unless electrical service to such structure is completely removed.
(c) The owner, or his designated agent, shall be responsible for the electrical maintenance of buildings or structures.

(Ord. No. 03-12, § 2. 2-24-03)

Sec. 14-54. - Administration and enforcement generally.

The building official is designated as the city officer responsible for enforcing the requirements of this article and is the administrative authority. He and/or members of his department shall serve as electrical inspectors when enforcing the provisions of this article.

(Ord. No. 03-12, § 2, 2-24-03)

Sec. 14-55. - Conflicts of interest; restrictions on providing initial electrical service.

(a) No person employed by the building department of this city shall be financially interested in the furnishing of labor, material or appliances for use in any manner in the electrical installation of a building or structure unless such person is otherwise eligible under the property and homeowner exception as set forth in section 14-62

(b) New Braunfels Utilities shall not provide initial electrical service to any building or structure unless such utility has been furnished a certificate of occupancy as required by the Standard Building Code for such building or structure that corresponds to the intended use of the building. Temporary electrical service may be provided to such building or structure for a period not exceeding 180 days after New Braunfels Utilities has been furnished a certificate of inspection or temporary certificate of occupancy. When temporary service has been provided for the purpose of construction, the period of service may be extended by the building official. Each of the certificates referred to in this section will be issued as appropriate by the building official upon completion of the required inspections.

(Ord. No. 03-12, § 2, 2-24-03)

Sec. 14-56. - Electrical inspector, powers and duties.

(a) *Right of entry.* The building official and/or his department and personnel when serving as electrical inspectors in enforcement of this article may enter any building, structure, portion thereof, or premises during reasonable hours to perform any duty imposed upon him by this article.

(b) *Issuance of permits; supervision of work.* The building official shall cause to be issued for each job requiring any type of electrical work a permit, shall see that the fees (see section 14-66) set out in this article are properly paid, and that all work done under such permits are accomplished in accordance with this article under the direct supervision of persons registered under the provisions of this article.

(c) *Stop work orders.* Upon notice from the building official that electrical work on any building or structure is being done contrary to the provisions of this article or in a dangerous or unsafe manner, such work shall be immediately stopped. Such notice 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, the stop work order shall be given verbally with written notice following within two working days.

(d) *Revocation of permits.* The building official may revoke a permit or approval issued under the provisions of this article if there has been any false statement, misunderstanding or misrepresentation as to a material fact in the application or plans on which the permit or approval was based.

(e) *Electrically unsafe buildings.* All buildings or structures which in the opinion of the electrical inspector are electrically unsafe so as to create a hazard to life or constitute a fire hazard or are otherwise dangerous to life or property are hereby declared illegal and shall have the electrical power removed or disconnected and then shall be abated by repair, rehabilitation or demolition in accordance with condemnation procedures as established by the Standard Building Code as adopted by this city.

(f) *Requirements not covered by this article.* Any requirement necessary for the electrical safety to life and property not specifically covered by this article shall be determined by the building official subject to appeal to the electrical appeals board.

(Ord. No. 03-12, § 2, 2-24-03; Ord. No. 2008-43, § 3, 6-9-08)

Sec. 14-57. - Registration and bond generally.

It shall be unlawful for any corporation, partnership, association, or individual to engage in the business of installing, altering or changing of any electrical wiring and apparatus within any building in the city that does not have a valid, unexpired electrical contractor's registration from the city. The registration must be issued in the name of the individual who met the requirements of this article. Nothing contained in this article shall be construed to prevent a property owner from doing electrical work in a building owned by him to be occupied by him as a dwelling or home of a two-family dwelling or single-family dwelling type; provided, that the property owner must actually perform the work and that no person other than the actual owner shall do any part of the work unless such persons are bonded and possess a electrical contractor's registration in full compliance with all provisions of this article, and further provided, that all work performed and material used meets the requirements of this article and the city electrical inspector's approval.

(1)

An applicant for any electrical registration shall make application to the building department on the form provided by that department. All questions on such form must be completely and truthfully answered upon submission of the application in order to receive favorable consideration for registration issuance.

(2) Electrical contractor's registration. The applicant must show proof of state registration and pay a registration fee of $200.00 (new applicants).

(3) Liability insurance required. Before any person shall be issued a electrical contractor's registration, retain such registration or engage in the business of electrical work in the city, he shall first provide proof of $300,000.00 liability insurance, conditioned that the person engaged in the electrical business will faithfully observe all the laws pertaining to electric installation and maintenance, and further, that the city shall be indemnified and saved harmless from all claims arising from accidents and damage of any character whatsoever caused by the negligence of such person engaged in the electric business, or by any other unfaithful or inadequate work done either by the person or his agents or employees.

(4) Upon acceptance of the proof of insurance required under this subsection (3) of the section by the city, the individual, firm or corporation desiring to do such work shall secure from the building department of the city an electrical contractor's registration, which shall not be transferable. In the event of the dissolution of any company or partnership holding such registration, the member in whose name the registration was issued and who retains such registration shall be required to renew the certificate of insurance provided for in this section before doing any such work provided for in this article. The person obtaining an electrical contractor's registration shall pay to the city the sum of $200.00 for the first year and $75.00 as an annual renewal fee for such registration. Every registered electrical contractor shall have his city registration in his possession when performing or supervising electrical work.

(5) Master electrician's registration. The applicant must show proof of state registration or 12,000 hours experience, pass the Texas Standard Electrical test from the International Code Congress and pay a registration fee of $100.00. No insurance is required of a master electrician, and he may not be issued an electrical permit except that this restriction shall in no way deprive him of property owner's rights available to any citizen as described elsewhere in this article. The person obtaining a master electrician's registration shall pay the sum of $100.00 for the first year and the sum of $50.00 as an annual renewal fee for such registration. Every master electrician shall have his city registration in his possession when performing or supervising electrical work. A properly registered master electrician is considered qualified to provide immediate permitted job-site supervision of electrical installations, provided that he is under the general, which may include permitted job-site supervision by the electrical contractor who holds the permit issued in accordance with this article.

(6) Journeyman electrician's registration. The applicant must show proof of state registration or 8,000 hours experience, pass the Texas Standard Electrical test from the International Code Congress and pay a registration fee of $100.00. No insurance is required of a journeyman electrician, and he may not be issued an electrical permit except that this restriction shall in no way deprive him of property owner's rights available to any citizen as described elsewhere in this article. The person obtaining a journeyman electrician's registration shall pay the sum of $100.00 for the first year and the sum of $50.00 as an annual renewal fee for such registration. Every journeyman electrician shall have his city registration in his possession when performing or supervising electrical work. A properly registered journeyman electrician is considered qualified to provide immediate permitted job-site supervision of electrical installations, provided that he is under the general, which may include permitted job-site supervision by the electrical contractor who holds the permit issued in accordance with this article.

(7) Wireman electrician's registration. The applicant must show proof of state registration or 4,000 hours experience, pass the Texas Standard Electrical test from the International Code Congress and pay a registration fee of $50.00. No insurance is required of a wireman electrician, and he may not be issued an electrical permit except that this restriction shall in no way deprive him of property owner's rights available to any citizen as described elsewhere in this article. The person obtaining a wireman electrician's registration shall pay the sum of $50.00 for the first year and the sum of $25.00 as an annual renewal fee for such registration. Every wireman electrician shall have his city registration in his possession when performing electrical work. A wireman electrician may supervise no more that one apprentice electrician at the permitted job-site location, and is limited to single family and duplex residences only.

(8) Maintenance electrician's registration. The applicant must show proof of state registration or 8,000 hours experience, pass the Texas Standard Electrical test from the International Code Congress and pay a registration fee of $50.00. No insurance is required of a maintenance electrician, and he may not be issued an electrical permit except that this restriction shall in no way deprive him of property owner's rights available to any citizen as described elsewhere in this article. The person obtaining a maintenance electrician's registration shall pay the sum of $50.00 for the first year and the sum of $25.00 as an annual renewal fee for such registration. Every maintenance electrician shall have his city registration in his possession when performing

electrical work. A maintenance electrician shall perform his duties only for the company for which he is employed.

(9) Sign electrician's registration. The applicant must show proof of state registration or 12,000 hours experience, pass the Texas Standard Electrical test from the International Code Congress and pay a registration fee of $50.00. No insurance is required of a sign electrician, and he may not be issued an electrical permit except that this restriction shall in no way deprive him of property owner's rights available to any citizen as described elsewhere in this article. The person obtaining a sign electrician's registration shall pay the sum of $50.00 for the first year and the sum of $25.00 as an annual renewal fee for such registration. Every sign electrician shall have his city registration in his possession when performing electrical work. A sign electrician shall perform his duties under the direct, permitted job-site supervision of a journeyman or electrical contractor who holds a valid city registration.

(10) Apprentice electrician. An electrical contractor may employ a person as an apprentice electrician and such person shall be identified by the issuance of an apprentice electrician's registration by the city. The cost of such registration will be $25.00 annually. Every apprentice shall have his city registration in his possession when performing electrical work. An apprentice electrician shall perform his duties under the direct, permitted job-site supervision of a wireman, journeyman or electrical contractor, who holds a valid city registration.

(11) All registrations issued under the provisions of this article shall expire on June 30th of each year, unless sooner revoked.

(12) Any holder of an expired registration issued under the provisions of this article may renew such registration within 30 days of its expiration by paying the annual renewal fee for such registration. A holder of a registration issued under the provisions of this article, which has expired in excess of 30 days, shall be considered as a new applicant.

(13) Any person who has applied for an electrician's registration and who has been refused such registration by the administrative authority of this article may apply to the construction board of appeals for a full hearing.

(Ord. No. 2008-43, §§ 3, 13, 6-9-08)

Editor's note—

Ord. No. 2008-43, § 13, adopted June 9, 2008, repealed and reenacted § 14-57 in its entirety to read as herein set out. Formerly, § 14-57 pertained to license and bond generally, and derived from the Code of 1961, § 7-13; Ord. No. 03-12, § 2, adopted February 24, 2003, and Ord. No. 04-35, § 1, adopted May 10, 2004.

Sec. 14-58. - Reserved.

Editor's note—

Ord. No. 2008-43, §§ 3, 14, adopted June 9, 2008, repealed § 14-58 in its entirety, which pertained to suspension or revocation of license, and derived from the Code of 1961, § 7-14, and Ord. No. 03-12, § 2, adopted February 24, 2003.

Sec. 14-59. - Work standards.

(a) *New residential construction.* New residential construction shall be electrically wired to conform to the National Electrical Code, currently adopted edition.

(b) *New commercial construction.* Electrical conductors shall be installed in conduit and will meet the requirements of the National Electrical Code, currently adopted edition.

Exception: Any multi-family construction three stories or less shall not apply but shall meet the requirements of the National Electrical Code, currently adopted edition.

(c) *Existing buildings.*

(1) If an existing unsafe condition is discovered by the electrical inspector that, in the opinion of the inspector, requires immediate correction, he will issue verbal and written instructions to the property owner requiring such corrections as needed and/or proceed in accordance with subsection 14-56(c).

(2) If an existing building is condemned for any reason under the provisions of the adopted building code, the electrical wiring within that building and/or premises shall be required to be upgraded to new construction standards before electrical power is restored.

(3) Should the electrical meter loop be judged inadequate or substandard by the utility company providing electrical service and the building official agrees that meter loop shall be required to be updated to the utility connection policy standards. Electrical power once severed will only be reestablished when that meter loop installation meets city standards.

(d) *Reference standards for construction.*

(1) Meter loop installation must comply with city utility connection policy.

(2)

Electrical conductors must be clear of all gas pipes by at least six inches. Conduit/EMT shall not touch any gas or water piping.

(3) Minimum size wire authorized for use is 12 copper and 20-amp circuit minimum.

(4) No residential branch circuit shall have more than ten outlets.

(5) Equipment ground shall be installed in all conduit and cable systems.

(6) In any R or I type occupancy, any room constructed with a door, closet, window and can be utilized as a sleeping area shall be classified as a bedroom.

(Ord. No. 03-12, § 2, 2-24-03; Ord. No. 04-35, §§ 2, 3, 5-10-04; Ord. No. 2008-43, §§ 3, 14, 6-9-08)

Sec. 14-60. - Firefighting and fire prevention.

(a) Where wires or apparatus are found in dangerous or unsafe condition, or are deemed to be an interference with the work of the fire department, the fire marshal or the building official shall notify the person owning, using or operating such wires or apparatus, in writing, to place them in a safe, secure and noninterfering condition. Any corporation, copartnership, association or individual or agent thereof failing, neglecting or refusing to comply within 30 days after the receipt of such notice shall be deemed guilty of violation of this article, and every day which shall elapse after the expiration of such reasonable time until such wires and apparatus are repaired, removed or changed as required by the fire marshal or building official shall be considered a separate offense within the intent and meaning of this article.

(b) The chief of the fire department, fire marshal or competent person delegated by them shall have the power to immediately cause the removal of all electrical or signal wires or electrical power when in their judgment such wires or power interfere with the work of the fire department and during the progress of a fire.

(Ord. No. 03-12, § 2, 2-24-03)

Sec. 14-61. - Permits, fees and inspections.

(a) The holder of a master electrician's registration issued by this city desiring to perform or have his employees perform any electrical installation, repair or alteration or extension of any existing electrical system shall apply to the building department for a permit to perform such work.

(b) The holder of a master electrician's registration may designate in writing to the building official one employee whom he authorizes to sign a permit application in his place. Such authorization shall in no way alter or relieve the master electrician from any responsibility or legal liability of complying with this article nor from the responsibility for safe and satisfactory performance of any such work done under authority of a permit signed by such employee.

(c) The recommended schedule of electrical permit fees is amended as follows:

Square Footage of Building Area	*Fee*
*500 or less (see note #1)	$ 24.00
501 to 1,000	33.00
1,001 to 1,500	45.00
1,501 to 2,000	60.00
2,001 to 2,500	67.00
2,501 to 3,000	86.00
3,001 to 3,500	95.00
3,501 to 4,000	170.00
4,001 to 4,500	215.00
4,501 to 5,000	245.00
5,001 to 8,000	270.00
8,001 to 11,000	305.00
11,001 to 14,000	340.00
14,001 to 17,000	385.00
17,001 to 20,000	430.00
20,001 to 25,000	480.00
25,001 to 30,000	540.00
30,001 to 35,000	600.00
35,001 to 40,000	675.00
40,001 to 45,000	750.00
45,001 to 50,000	835.00
**50,001 and above	(see note #2)

Note: Fees for work in existing structures shall be based on the square footage of the area of work involved (area-square feet of room in which work is being done).

**Note #1:* Also includes minor repairs or alterations and temporary loops.

***Note #2:* The fees for structures over 50,000 square feet in area are determined by dividing the square footage by 50,000 and multiplying the fee ($835.00) times the answer.

(d) Two inspections are required on electrical work. The first is the "rough-in," at which time all conductors are installed/pulled with all junction boxes, switch boxes, panels, etc., in place or conduit/electric metallic tubing is secured. Exposed conductors will be stapled secured. The final inspection will be conducted after the entire installation is complete to include the meter loop being ready to accept the service drop.

(Ord. No. 03-12, § 2, 2-24-03; Ord. No. 2008-43, § 3, 6-9-08)

Sec. 14-62. - Violations; record of permits and inspections; penalty.

(a) No corporation, partnership, association or individual shall cause or allow any electric wiring or apparatus to be installed, altered or changed in any building within the city unless the corporation, partnership, association or individual doing all of such work has been registered under the provisions of this article and has received a permit or authority under the provisions of this article to do that particular electric wiring and apparatus work.

(b) No corporation, copartnership, association or individual or agent thereof shall interfere with the electrical inspector or any persons deputized to assist him as provided in this article when in the performance of duty, and each such interference shall be deemed to constitute a separate offense within the intent and meaning of this article.

(c) The building official shall cause to be kept a record of permits issued, inspections made, or other official work performed as required by this article.

(d) In case of a violation of any of the terms or provisions of this article by any person, corporation or firm, the officers and agents actively in charge of the business of such corporation or firm or the person actually performing the work for such corporation or firm shall be subject to the penalties provided in this Code.

(Ord. No. 03-12, § 2, 2-24-03; Ord. No. 2008-43, § 3, 6-9-08)

Sec. 14-63. - Savings clause.

The terms of this article shall not be construed to operate against or upon any contract or contracts for the installation, alteration or changes in electrical wiring or apparatus which may have been entered into under the existing ordinances, if the performance of the work under such contract or contracts has been undertaken and is unfinished at the time of the taking effect of this article.

(Ord. No. 03-12, § 2, 2-24-03)

Sec. 14-64. - Electrical fees.

(a) The following electrical fees shall be paid with an application for an electrical permit:

Electrical Permit Fee Schedule

Additional circuits	$ 10.00
Additions and/or repairs	25.00
Commercial meter 120 volt, 120/240 single phase meter	60.00
Commercial meter 240 volt, 120/240 three phase meter	80.00
Commercial meter 277 volt, 277/480 single Phase meter	90.00
Commercial meter 480 volt, 277/480 three Phase meter	135.00
Electric motors first HP	8.00
Electric motors additional HP	3.00
Fee for issuing permit	15.00
Fuel pumps or dispensers, each	22.00
Manufactured home service connection	25.00
Manufactured structure service connection (commercial)	50.00
Mercury vapor—parking pole fixtures	10.00
Meter put backs, (remove and replace same)	17.50
Residential 231 amp to 400 amp meter	65.00
Residential 401 amp and larger	100.00
Residential 55 amp to 230 amp meter	45.00
Residential or commercial panel with 1 to 6 circuits	20.00
Residential or commercial panel with 6 to 24 circuits	40.00
Residential or commercial panel with 25 or more circuits	65.00
Residential—100 amp to 231 amp meter	55.00
Residential—231 amp to 400 amp meter	80.00

Residential—401 amp and larger	110.00
Residential—55 amp to 100	45.00
Sign circuit	10.00
Swimming pool circuit	12.50
Underground or in-slab, over 100 ft.	7.50
Underground or in-slab, under 100 ft.	5.00
Welder circuit	25.00
X-ray or MRI circuit	40.00

(b) A fee of $35.00 must be paid for each reinspection of work authorized under this article. The reinspection fee must be paid by the person or agent to whom the permit was issued prior to any reinspections.

(Ord. No. 03-12, § 2, 2-24-03; Ord. No. 2003-33, § 3, 5-12-03; Ord. No. 04-16, § 2(1), 3-8-04; Ord. No. 04-35, § 4, 5-10-04)

Secs. 14-65—14-90. - Reserved.

FOOTNOTE(S):

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Editor's note—*Ord. No. 03-12, § 2, adopted February 24, 2003, has been treated as amending Art. III in its entirety to read as herein set out. Formerly, art. III pertained to similar subject matter and derived from the Code of 1961, §§ 7-1—7-4, 7-6—7-19 and Ord. No. 98-24, § IV, adopted September 14, 1998.* *(Back)*

Cross reference— *Businesses, ch. 18.* *(Back)*

ARTICLE IV. - PLUMBING CODE [3]

Sec. 14-91. - Plumbing Code.
Sec. 14-92. - Registration and insurance; quality of work.
Sec. 14-93. - Reserved.
Sec. 14-94. - Plumbing fees.
Sec. 14-95. - Reserved.
Sec. 14-96. - Violations and penalties.
Secs. 14-97—14-115. - Reserved.

Sec. 14-91. - Plumbing Code.

(a) The International Plumbing Code 2006 is hereby adopted as the Plumbing Code of the City except as stated in the following:

(b) (1) Section 410.1: Drinking Fountains. Delete the last sentence and replace with the following:

Deleted Sentence:

"In other occupancies, where drinking fountains are required, water coolers or bottled water dispensers shall be permitted to be substituted for not more than 50 percent of the required drinking fountains."

Replacement:

"In other occupancies, where drinking fountains are required, bottle water dispensers or water coolers shall be permitted as a substitution; in occupancies with an occupant load of not more than 15 and mercantile occupancies with an occupant load of not more than 30."

(2) Appendix A, Fee Schedule, paragraph 106.6 Fees, Section 109 Means of Appeal, paragraph 108.4 Violation penalties are not adopted.

(Ord. No. 03-12, § 3, 2-24-03; Ord. No. 04-16, § 3(1), 3(2), 3-8-04; Ord. No. 2008-43, § 15, 6-9-08; Ord. No. 2010-76, § 1, 10-25-10)

Editor's note—

Ord. No. 03-12, § 3, adopted February 24, 2003, repealed and reenacted § 14-91 to read as herein set out. Formerly, § 14-91 pertained to the adoption of the Standard Plumbing Code, amendments, permit and reinspection fees, and penalties for violations, and derived from the Code of 1961, § 17-1, and Ord. No. 98-24, § V, adopted September 14, 1998.

Sec. 14-92. - Registration and insurance; quality of work.

(a)

Registration and insurance required. Before any person shall engage in the plumbing business, he shall be registered with the building official and otherwise qualified as set forth in this section and as provided by state law. Where any plumbing work is being done, a registered master or journeyman plumber shall at all times be present on the job and in direct control and in charge of the work being done.

(b) *Revocation of license.* Although licensed by the state board of plumbing examiners, the building official may, after a hearing as provided in this section, revoke the city plumbing registration to the extent that such person is no longer authorized to perform plumbing work or receive plumbing permits in the city. Such registration revocation may be reported to the state board of plumbing examiners along with the grounds for such registration revocation.

(c) *Quality of work.* Any person engaged in the plumbing business whose work does not conform to the rules and regulations set out in this article, or whose workmanship or materials are of inferior quality, shall on notice from the building official make necessary changes or corrections at once so as to conform to this article. If work has not been so changed after ten days' notice from the building official, the building official may then refuse to issue any more permits to such person until such work has fully complied with the rules and regulations of this article. The building official may revoke or suspend city registration because of continuous violations. When the revocation or suspension of any such registration is to be considered at any meeting, the person to whom the registration has been issued shall have at least three days' notice in writing of the time and place of such meeting, together with a statement of the grounds upon which it is proposed to revoke such registration.

(d) *Insurance certificate required.* Before any person shall engage in the business of plumbing, he shall first obtain the proper registration, and deposit with the city good and sufficient proof of a certificate of insurance in the amount of $300,000.00 with the certificate holder being the city.

(e) *Allowing one's name, license or bond to be used to obtain permit fraudulently.* No person engaged in the business of plumbing shall allow his name to be used by any other person, directly or indirectly, to obtain a permit, or for the construction of any work under his name, registration or insurance; nor shall such person make any misrepresentations or omissions in his returns.

(f) *Hearings.* Any person who has applied for a plumber's registration and who has been refused such registration by the building official may apply to the construction board of appeals for a full hearing.

(Code 1961, § 17-3; Ord. No. 03-12, § 3, 2-24-03; Ord. No. 2008-43, §§ 3, 15, 6-9-08; Ord. No. 2010-74, § 1, 10-25-10)

Editor's note—

Ord. No. 2010-74, § 1, adopted October 25, 2010, changed the title of section 14-92 from "Registration and liability insurance of plumbers" to "Registration and insurance; quality of work." The historical notation has been preserved for reference purposes.

Cross reference— *Businesses, ch. 18.*

State law reference— *Plumbing License Law, Vernon's Ann. Civ. St. art. 6243-101.*

Sec. 14-93. - Reserved.

Sec. 14-94. - Plumbing fees.

The following plumbing permit fees shall be paid with the application for a plumbing permit.

Plumbing Permit Fee Schedule

Bathtub	$5.00
Dishwashing machine	5.00
Drinking fountain	5.00
Fee for issuing permit	15.00
Stub out for future fixtures	5.00
General repairs	30.00
Grease trap	5.00
Irrigation outlet	2.00
Hose bib	5.00
Lavatory	5.00
Medical gas	5.00
RPZ valve	5.00
Sampling well	5.00
Service (P traps/drains)	5.00
Sewer lift station	15.00
Sewer line	10.00
Sinks (kitchen/mop/utility/etc.)	5.00
Shower (stall/group)	5.00
Urinal	5.00

Washing machine	5.00
Water closet	5.00
Water heater	5.00
Water line	5.00
Water softener	5.00

(Ord. No. 04-16, §§ 3(1), 3(3), 3-8-04)

Editor's note—

Ord. No. 04-16, §§ 3(1), 3(3), adopted March 8, 2004, repealed and reenacted § 14-94 to read as herein set out. Formerly, § 14-94 pertained to similar subject matter and derived from Ord. No. 03-12, § 3, adopted March 24, 2003, and Ord. No. 2003-33, §§ 1, 3, adopted May 12, 2003.

Sec. 14-95. - Reserved.

Editor's note—

Ord. No. 03-12, § 3, adopted February 24, 2003, and Ord. No. 04-16, § 3(1), adopted March 8, 2004, repealed § 14-95 in its entirety, which pertained to conflicting provisions and derived from the Code of 1961, § 17-5.

Sec. 14-96. - Violations and penalties.

Any person or agent who shall violate a provision of this article or fail to comply therewith or with any of the provisions thereof, or violate a detail, statement or plan submitted and approved thereunder, shall be guilty of a misdemeanor. Each such person shall be deemed guilty of a separate offense for each and every day or portion thereof during which any violation of any of the provisions of this article is committed or continued, and upon conviction in the court of jurisdiction for any such violation, such person shall be punished by a fine of not more than $500.00.

(Code 1961, § 17-6)

Secs. 14-97—14-115. - Reserved.

FOOTNOTE(S):

--- (3) ---

Cross reference— *Businesses, ch. 18; health and sanitation, ch. 62; wastewater from tourist courts, § 62-232; streets, sidewalks and other public places, ch. 114; utilities, ch. 130; water service, § 130-121 et seq.; sewer service, § 130-231 et seq.* (Back)

State Law reference— *Plumbing License Law, Vernon's Ann. Civ. St. art. 6243-101.* (Back)

New Braunfels, Texas, Code of Ordinances >> PART II - CODE OF ORDINANCES >> Chapter 14 - BUILDINGS AND BUILDING REGULATIONS >> ARTICLE V. - MECHANICAL CODE >>

ARTICLE V. - MECHANICAL CODE [4]

Sec. 14-116. - Mechanical code.
Sec. 14-117. - Administration and enforcement generally.
Sec. 14-118. - Registered and liability insured personnel to perform work.
Sec. 14-119. - Reserved.
Sec. 14-120. - Mechanical fees.
Secs. 14-121—14-140. - Reserved.

Sec. 14-116. - Mechanical code.

(a) The International Mechanical Code 2006 and all its appendices are hereby adopted as the Mechanical Code of the City, except as stated in the following:

(b) Appendix B, Recommended Permit Fee Schedule, paragraph 106.5 Fees, paragraph 108.4 Violation penalties, and Section 109 Means of Appeal are not adopted.

(Ord. No. 04-16, §§ 4(1), 4(2), 3-8-04; Ord. No. 2008-43, § 16, 6-9-08)

Editor's note—

Ord. No. 04-16, §§ 4(1), 4(2), adopted March 8, 2004, repealed and reenacted § 14-116 to read as herein set out. Formerly, § 14-116 pertained to similar subject matter and derived from Ord. No. 03-12, § 4, adopted February 24, 2003.

Sec. 14-117. - Administration and enforcement generally.

The building official is designated as the city officer responsible for enforcing the requirements of this code and is the administrative authority. He and/or members of his department shall serve as mechanical inspectors when enforcing the provisions of this code.

(Ord. No. 03-12, § 4, 2-24-03)

Sec. 14-118. - Registered and liability insured personnel to perform work.

(a) Any person doing any work within the scope of this code shall be registered as an air conditioning contractor by the state department of labor and standards, boiler division.

(b) Before any state registered air conditioning contractor may secure a mechanical permit from the city, he shall deposit with the city a good and sufficient liability insurance in the amount of $2,000.00 conditioned that the contractor will faithfully observe all laws pertaining to air conditioning contractors and further that the city shall be indemnified and saved harmless from all claims arising from accidents and damage of any character whatsoever caused by the negligence or other failure of such person engaged in the business of a general contractor.

(c) An annual registration fee of $100.00 shall be paid to the city by mechanical contractors and must show proof of licensing by the state department of licensing and regulations. Every registered mechanical contractor shall have his license in his possession when performing or supervising mechanical work and shall have his company name and license number affixed to each company vehicle.

(Code 1961, § 5-19; Ord. No. 03-12, § 4, 2-24-03; Ord. No. 2008-43, §§ 3, 17, 6-9-08)

Editor's note—

Ord. No. 2008-43, § 3, adopted June 9, 2008, changed the title of § 14-118 from "Licensed and bonded personnel to perform work" to "Registered and liability insured personnel to perform work."

Sec. 14-119. - Reserved.

Sec. 14-120. - Mechanical fees.

(a) The following mechanical permit fees shall be paid with an application for a mechanical permit:

Mechanical Permit Fee Schedule

Fee for issuing permit	$15.00
Fee for HVAC	10.00 for 1st thousand plus $5.00 for each additional thousand

Example:

1.00 to 1,000.00	10.00 + 15.00	=	25.00
1,000.01 to 2,000.00	15.00 + 15.00	=	30.00
2,000.01 to 3,000.00	20.00 + 15.00	=	35.00
3,000.01 to 4,000.00	25.00 + 15.00	=	40.00
4,000.01 to 5,000.00	30.00 + 15.00	=	45.00
5,000.01 to 6,000.00	35.00 + 15.00	=	50.00
6,000.01 to 7,000.00	40.00 + 15.00	=	55.00
7,000.01 to 8,000.00	45.00 + 15.00	=	60.00

8,000.01 to 9,000.00	50.00 + 15.00	=	65.00
9,000.01 to 10,000.00	55.00 + 15.00	=	70.00
10,000.01 to 11,000.00	60.00 + 15.00	=	75.00
11,000.01 to 12,000.00	65.00 + 15.00	=	80.00
12,000.01 to 13,000.00	70.00 + 15.00	=	85.00
13,000.01 to 14,000.00	75.00 + 15.00	=	90.00
14,000.01 to 15,000.00	80.00 + 15.00	=	95.00
15,000.01 to 16,000.00	85.00 + 15.00	=	100.00
16,000.01 to 17,000.00	90.00 + 15.00	=	105.00
17,000.01 to 18,000.00	95.00 + 15.00	=	110.00
18,000.01 to 19,000.00	100.00 + 15.00	=	115.00
19,000.01 to 20,000.00	105.00 + 15.00	=	120.00

(Ord. No. 04-16, §§ 4(1). 4(2), 3-8-04)

Editor's note—

Ord. No. 04-16, §§ 4(1), 4(2), adopted March 8, 2004, repealed and reenacted § 14-120 to read as herein set out. Formerly, § 14-120 pertained to similar subject matter and derived from Ord. No. 03-12, § 4, adopted February 24, 2003, and Ord. No. 2003-33, §§ 2, 3, adopted May 12, 2003.

Secs. 14-121—14-140. - Reserved.

FOOTNOTE(S):

--- *(4)* ---

Editor's note—*Ord. No. 03-12, § 4, adopted February 24, 2003, has been treated as amending art. V in its entirety to read as herein set out. Formerly, art. V pertained to similar subject matter and derived from the Code of 1961, §§ 5-16—5-20.1, Ord. No. 98-24, § VI, adopted September 14, 1998.* *(Back)*

New Braunfels, Texas, Code of Ordinances >> PART II - CODE OF ORDINANCES >> Chapter 14 - BUILDINGS AND BUILDING REGULATIONS >> ARTICLE VI. - LIQUEFIED PETROLEUM GAS CODE >>

ARTICLE VI. - LIQUEFIED PETROLEUM GAS CODE [5]

Sec. 14-141. - Short title.
Sec. 14-142. - Definitions.
Sec. 14-143. - Compliance with article and other applicable regulations; Liquefied Petroleum Gas Docket No. 1 adopted.
Sec. 14-144. - Conflicts between article and Liquefied Petroleum Gas Docket No. 1.
Sec. 14-145. - Permit not to issue for new construction, additions, unless applicable ordinances are complied with.
Sec. 14-146. - Conversion to liquefied petroleum gas.
Sec. 14-147. - Liability insurance and registration required; exception.
Sec. 14-148. - Administration and enforcement of article.
Sec. 14-149. - City's right of entry; authority of inspector to disconnect piping; notice of disconnection; duty of inspector to confer with various departments and agencies.

Sec. 14-150. - Permit required; exception.
Sec. 14-151. - Piping inspection.
Sec. 14-152. - Issuance of certificate of approval.
Sec. 14-153. - Inspection fees.
Sec. 14-154. - Violation declared misdemeanor.
Sec. 14-155. - Nonliability of city.
Secs. 14-156—14-175. - Reserved.

Sec. 14-141. - Short title.

This article shall be known as the "Liquefied Petroleum Gas Code" of the city, and may be cited as such.

(Code 1961, § 10A-1)

Sec. 14-142. - Definitions.

The following definitions, along with those contained in the specifications, rules and regulations adopted by this article, are provided for the purpose of interpretation and administration of this article:

Certain appliances means conversion burners, floor furnaces, central heating plants, vented wall furnaces, water heaters and boilers.

Certificate of approval means a document or tag issued and/or attached by the inspector to the inspected material, piping, or appliance installation, filled out, together with date, address of the premises, and signature of the inspector.

Inspector means the building official of the city.

Liquefied petroleum gas company means any person distributing liquefied petroleum gas within the corporation limits of the city, or authorized and proposing to so engage.

(Code 1961, § 10A-2(a), (c)—(e))
Cross reference— *Definitions generally, § 1-2.*
State law reference— *Definitions, V.T.C.A., Natural Resources Code § 113.002.*

Sec. 14-143. - Compliance with article and other applicable regulations; Liquefied Petroleum Gas Docket No. 1 adopted.

All liquefied petroleum gas bulk storage facilities, wholesale and retail distribution facilities and consumer system piping and appliances installed, replaced, maintained, or repaired within the corporate limits of the city shall conform to the requirements of this article, the specifications, rules and regulations entitled "Liquefied Petroleum Gas Docket No. 1, Railroad Commission of Texas, L.P. Gas Division, September, 2001 Revision," the Standard Fire Prevention Code, chapter 54 of this Code of Ordinances, the zoning ordinance of the city, and all other applicable ordinances. The September 2001 revision of the Liquefied Petroleum Gas Docket No. 1 is hereby adopted by the city, incorporated by reference in this article and made a part of this article as fully as if set out at length herein, and copies of these regulations shall be kept on file in the office of the building official.

(Code 1961, § 10A-3; Ord. No. 03-12, § 8, 2-24-03)

Sec. 14-144. - Conflicts between article and Liquefied Petroleum Gas Docket No. 1.

In the event of any conflict between this article and the Liquefied Petroleum Gas Docket No. 1, as adopted in section 14-143, the most restrictive requirements shall prevail.

(Code 1961, § 10A-4)

Sec. 14-145. - Permit not to issue for new construction, additions, unless applicable ordinances are complied with.

No permit shall be issued for new construction unless such construction will be in compliance with all applicable ordinances. No permit shall be issued for an addition to an existing facility unless such existing facility and the addition thereto are in compliance with all applicable ordinances or unless such addition is required to make the existing facility comply with all applicable ordinances.

(Code 1961, § 10A-5)

Sec. 14-146. - Conversion to liquefied petroleum gas.

Unless stated otherwise in this article, consumer's piping installed prior to April 9, 1973, or piping installed to supply natural gas may be converted to liquefied petroleum gas if the inspector finds, upon inspection and proper tests, that such piping will render reasonably satisfactory gas service to the consumer and will not in any way endanger life or property; otherwise, such piping shall be altered or replaced, in whole or in part, to conform with the requirements of this article.

(Code 1961, § 10A-6)

Sec. 14-147. - Liability insurance and registration required; exception.

(a) No person other than a single-family homeowner working on his own permanent homestead residence shall engage in or work at the installation, extension, or alteration of consumer's gas piping or certain gas appliances without first being registered according to requirements of the city and/or the state. A copy of a valid and current state registration must be provided to the city, as well as a good and sufficient surety liability insurance acceptable to the building official in the amount of $2,000.00, such liability insurance to be valid for one year from the date of issuance, and to be renewed annually thereafter, so as to be in effect at all times the individual is registered. Until proof of registration and liability insurance is accepted by the building official, no permits will be issued by the city and no work shall be done that requires a permit under this article.

(b) Nothing contained in this article shall be construed as prohibiting an individual from installing or repairing his own appliances or installing, extending, replacing, altering, or repairing consumer's piping on his own premises, or as requiring a registration or liability insurance from an individual doing such work on his own premises; provided, however, that all such work must be done in conformity with all other provisions of this article, including those relating to permits, inspection, and fees, as long as the individual performing the work is the single-family homeowner working on his own permanent homestead residence.

(Code 1961, § 10A-7; Ord. No. 2008-43, § 3, 6-9-08)

Editor's note—

Ord. No. 2008-43, § 3, adopted June 9, 2008, changed the title of § 14-147 from "Bond and licenses required; exception" to "Liability insurance and registrations required; exception."

State law reference— *Licensing, V.T.C.A., Natural Resources Code § 113.081 et seq.*

Sec. 14-148. - Administration and enforcement of article.

The building official of the city shall have the responsibility for the administration and enforcement of this article, and such official shall have all of the responsibilities of the office of gas inspector called for in this article and the specifications, rules and regulations adopted by this article.

(Code 1961, § 10A-8)

State law reference— *Administrative provisions, V.T.C.A., Natural Resources Code § 113.011 et seq.*

Sec. 14-149. - City's right of entry; authority of inspector to disconnect piping; notice of disconnection; duty of inspector to confer with various departments and agencies.

(a) The inspector is authorized and directed to enforce all of the provisions of this article, and the inspector, upon presentation of proper credentials, may enter any building or premises at reasonable times for the purpose of making inspections or preventing violations of this article.

(b) The inspector is authorized to disconnect any gas piping or fixture or appliance for which a certificate of approval is required but has not been issued with respect to such piping, fixture or appliance, or which, upon inspection, shall be found defective or in such condition as to endanger life or property. In all cases where such a disconnection is made, a notice shall be attached to the piping, fixture, or appliance disconnected by the inspector, which notice shall state that such piping, fixture or appliance has been disconnected by the inspector, together with the reason therefor, and it shall be unlawful for any person to remove such notice or reconnect such gas piping, fixture or appliance without authorization by the inspector, and such gas piping, fixture or appliance shall not be put in service or used until the inspector has attached his certificate of approval in lieu of his prior disconnection notice.

(c) It shall be the duty of the inspector to confer from time to time with representatives of the local health department, the local fire department, and the liquefied petroleum gas division, state railroad commission, and otherwise obtain from proper sources all helpful information and advice, presenting such information to the appropriate officials from time to time for their consideration.

(Code 1961, § 10A-9)

Sec. 14-150. - Permit required; exception.

(a) No person shall install a gas conversion burner, floor furnace, central heating plant, vented wall furnace, water heater, boiler, consumer's gas piping, or convert existing piping to utilize natural gas without first obtaining a permit to do such work from the permit clerk of the city building official's office.

(b) The liquefied petroleum gas company shall not be required to obtain permits to set meters, or to extend, relocate, remove, or repair its service lines, or other facilities, or for work having to do with its own gas system.

(Code 1961, § 10A-10)

Sec. 14-151. - Piping inspection.

(a) *Rough piping inspection.* A rough piping inspection shall be made after all new piping authorized by the permit has been installed, and before any such piping has been covered or concealed or any fixtures or gas appliances have been attached thereto.

(b) *Final piping inspection.* A final piping inspection shall be made after all piping authorized by the permit has been installed and after all portions thereof which are to be concealed, by plastering or otherwise, have been so concealed, and before any fixtures or gas appliances have been attached thereto. This inspection shall include a pressure test, at which time the piping shall stand an air pressure equal to not less than the pressure of a column of mercury six inches in height, and the piping shall hold this air pressure for a period of at least ten minutes without any perceptible drop. A mercury column gauge shall be used for the test. All tools, apparatus, labor, and assistance necessary for the tests shall be furnished by the installer of such piping.

(Code 1961, § 10A-11)

Sec. 14-152. - Issuance of certificate of approval.

The inspector may issue a certificate of approval at the completion of the work for which a permit for consumer piping has been issued if after inspection it is found that such work complies with the provisions of this article. A duplicate of each certificate issued covering consumer's gas piping may be delivered to the liquefied petroleum gas company and used as its authority to render gas service.

(Code 1961, § 10A-12)

Sec. 14-153. - Inspection fees.

Permit fees under this article shall be the same as for the plumbing and/or gas code.

(Code 1961, § 10A-13)

Sec. 14-154. - Violation declared misdemeanor.

Any person, firm, corporation, agent, or entity that violates a provision of this chapter, or fails to comply therewith or with any of the provisions thereof; or violates a detail, statement, plan, or specification for a permit approved there under, shall be guilty of a misdemeanor. Each and every day or portion thereof during which any violation or failure to comply is committed or continued shall be deemed a separate offense subject to a fine of not more than $2,000.00 for each day and each offense upon conviction in a court of competent jurisdiction.

(Code 1961, § 10A-14; Ord. No. 2008-43, § 18, 6-9-08)

Sec. 14-155. - Nonliability of city.

This article shall not be construed as imposing upon the city or any of its officials or employees any liability or responsibility for damages to any person injured by any defect in any gas piping or appliance mentioned in this article, or by installation thereof, nor shall the city or any official or employee thereof be held as assuming any such liability or responsibility by reason of the inspection authorized under this article or the certificate of approval issued by the inspector.

(Code 1961, § 10A-15)

Secs. 14-156—14-175. - Reserved.

FOOTNOTE(S):

--- (5) ---

Cross reference— *Fire prevention and protection, ch. 54; streets, sidewalks and other public places, ch. 114; utilities, ch. 130.* *(Back)*

State Law reference— *Liquefied petroleum gas, V.T.C.A., Natural Resources Code § 113.001 et seq.* *(Back)*

ARTICLE VII. - NATURAL GAS CODE [6]

Sec. 14-176. - Fuel Gas Code.
Sec. 14-177. - Definitions.
Sec. 14-177.5. - Registration and liability insurance generally.
Sec. 14-177.6. - Fuel gas fees.
Sec. 14-178. - Reserved.
Sec. 14-179. - Reserved.
Sec. 14-180. - Reserved.
Sec. 14-181. - Reserved.
Secs. 14-182—14-200. - Reserved.

Sec. 14-176. - Fuel Gas Code.

(a) The International Fuel Gas Code 2006 and all its appendices are hereby adopted as the fuel gas code of the city, except as stated in the following:

(b) Paragraph 106.5 Fees, paragraph 108.4 Violation penalties, and Section 109 Means of Appeal are not adopted.

(c) Paragraph 108.5 Stop Work Orders is deleted and amended as follows:

108.5 Stop Work Orders. Upon notice from the code official that work is being done contrary to the provisions of this code or in a dangerous or unsafe manner, such work shall immediately cease. Such notice shall be in writing and shall be given to the owner of the property, or to the owner's agent, or to the person doing the work. The notice shall state the conditions under which work is authorized to resume. Where an emergency exists, the code official shall not be required to give a written notice prior to stopping the work. Any person who shall continue any work on the system after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be liable to be cited and subject to a fine as determined by law and this chapter.

(Ord. No. 04-16, §§ 5(1), 5(2), 3-8-04; Ord. No. 2008-43, § 19, 6-9-08)

Editor's note—

Ord. No. 04-16, §§ 5(1), 5(2), adopted March 8, 2004, repealed and reenacted § 14-176 to read as herein set out. Formerly, § 14-176 pertained to similar subject matter and derived from Ord. No. 03-12, § 5, adopted February 24, 2003.

Sec. 14-177. - Definitions.

The following definitions, along with those contained in the specifications, rules and regulations adopted by this article, are provided for the purpose of interpretation and administration of this article:

Certain appliances means conversion burners, floor furnaces, central heating plants, vented wall furnaces, water heaters and boilers.

Certificate of approval means a document or tab issued and/or attached by the inspector to the inspected material, piping or appliance installation, filled out, together with date, address of the premises, and signed by the inspector.

Gas company means any person distributing gas within the corporate limits of the city, or authorized and proposed to so engage.

Inspector means the city building official referred to in this article.

(Code 1961, § 10A-28(a), (c)—(e))

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

State law reference— *Definitions, V.T.C.A., Natural Resources Code § 86.002.*

Sec. 14-177.5. - Registration and liability insurance generally.

No person other than a single-family homeowner working on his own permanent homestead residence shall engage in or work at the installation, extension, or alteration of consumer's gas piping or certain gas appliances without first being registered according to requirements of the city and/or the state. A copy of a valid and current state registration must be provided to the city, as well as a good and sufficient surety liability insurance acceptable to the building official in the amount of $2,000.00, such liability insurance to be valid for one year from the date of issuance, and to be renewed annually thereafter so as to be in effect at all times the individual is registered. Until proof of registration and liability insurance is

accepted by the building official, no permits will be issued by the city and no work shall be done that requires a permit under this article.

(Code 1961, § 10A-23; Ord. No. 03-12, § 5, 2-24-03; Ord. No. 2008-43, § 3, 6-9-08)

Editor's note—

Ord. No. 2008-43, § 3, adopted June 9, 2008, changed the title of § 14-177.5 from "Licenses and bonds generally" to "Registration and liability insurance generally."

Sec. 14-177.6. - Fuel gas fees.

(a) The following fuel gas permit fees shall be paid with an application for a fuel gas permit:

Fuel Gas Permit Fee Schedule:

Gas line 15.00

Gas test 15.00

Fee for issuing permit 15.00

(b) A fee of $35.00 must be paid for each reinspection of work authorized under this article. The reinspection fee must be paid by the person or agent to whom the permit was issued prior to any reinspection.

(Ord. No. 03-12, § 5, 2-24-03; Ord. No. 2003-33, § 3, 5-12-03; Ord. No. 04-16, §§ 5(3), 5(4), 3-8-04)

Editor's note—

Ord. No. 04-16, § 5(3), adopted March 8, 2003, enacted provisions intended to move the provisions of the former § 14-179 to § 14-177. Inasmuch as there are already provisions so designated, and at the discretion of the editor, said provisions have been redesignated as § 14-177.6. The historical notation has been preserved for reference purposes.

Sec. 14-178. - Reserved.

Editor's note—

Ord. No. 04-16, § 5(1), adopted March 8, 2004, repealed § 14-178 in its entirety, which pertained to the administration and enforcement of article and derived from the Code of 1961, § 10A-24, and Ord. No. 03-12, § 5, adopted February 24, 2003.

Sec. 14-179. - Reserved.

Editor's note—

See note at § 14-177.6

Sec. 14-180. - Reserved.

Editor's note—

See note at § 14-178

Sec. 14-181. - Reserved.

Editor's note—

Ord. No. 03-12, § 5, 2-24-03, repealed § 14-181 in its entirety, which pertained to the duty of the inspector to obtain information and advice from health and fire departments and gas company, and derived from the Code of 1961, § 10A-25.

Secs. 14-182—14-200. - Reserved.

FOOTNOTE(S):

--- (6) ---

Cross reference— *Natural gas service, § 130-431 et seq. (Back)*

State Law reference— *Regulation of natural gas, V.T.C.A., Natural Resources Code ch. 86. (Back)*

ARTICLE VIII. - PROPERTY MAINTENANCE CODE [7]

Sec. 14-201. - Property Maintenance Code.
Sec. 14-202. - International Existing Building Code.
Secs. 14-203—14-300. - Reserved.

Sec. 14-201. - Property Maintenance Code.

(a) The International Property Maintenance Code 2006 and all its appendices are hereby adopted as the Property Maintenance Code of the city, except as stated in the following:

(b) Section 110, Demolition, paragraph 110.2, Notices and Orders is amended by adding the following sentence to paragraph 110.2: All demolition procedures, notices and orders shall comply with Chapter 50 of the Code of Ordinances, City of New Braunfels, Texas.

(c) Section 103.5 Fees is not adopted and is replaced with the following:

Section 103.5 Fees. There shall be no fee charged for an inspection. If a violation is noted requiring a re-inspection to determine if the violation is abated, a re-inspection fee of $35.00 shall be paid for each violation re-inspected by the owner or agent for the owner.

(d) Section 111 Means of Appeal is not adopted.

(e) The first phrase in Section 303.14 Insect Screens, which states "During the period from [date] to [date]" is deleted and replaced with the following phrase: "At all times..."

(f) The dates in Section 602.3 Heat supply shall be from November 1 to April 1.

(g) Sections 604.2 Service is amended by replacing the words "ICC Electrical Code" with the words "National Electrical Code adopted by the City".

(Ord. No. 2008-43, § 20, 6-9-08)

Editor's note—

Ord. No. 2008-43, § 20, adopted June 9, 2008, repealed and reenacted § 14-201 in its entirety to read as herein set out. Formerly, § 14-201 pertained to the property maintenance code 2003, and derived from Ord. No. 04-16, § 6(2), adopted March 8, 2004.

Sec. 14-202. - International Existing Building Code.

The International Existing Building Code 2006 and appendix is hereby adopted as the city existing building code.

(Ord. No. 04-16, § 8(1), 8(2), 3-8-04; Ord. No. 2008-43, § 21, 6-9-08)

Secs. 14-203—14-300. - Reserved.

FOOTNOTE(S):

--- *(7)* ---

Editor's note—*Ord. No. 04-16, §§ 6(1), 6(2), adopted March 8, 2004, repealed and reenacted article VIII to read as herein set out. Formerly, article VIII pertained to similar subject matter and derived from Ord. No. 03-12, § 6, adopted February 24, 2003.* (Back)

State Law reference— *Dangerous structures, V.T.C.A., Local Government Code § 214.001 et seq.* (Back)

New Braunfels, Texas, Code of Ordinances >> PART II - CODE OF ORDINANCES >> Chapter 14 - BUILDINGS AND BUILDING REGULATIONS >> ARTICLE IX. - ENERGY CONSERVATION CODE >>

ARTICLE IX. - ENERGY CONSERVATION CODE [8]

Sec. 14-301. - Energy Conservation Code.
Secs. 14-302—14-400. - Reserved.

Sec. 14-301. - Energy Conservation Code.

The International Energy Conservation Code 2006 and its appendix is hereby adopted as the City Energy Conservation Code, except as noted in the following:

Section 105.5. Reinspection fee is added as follows:

Section 105.5 Re-inspection Fees. A fee of $35.00 must be paid to the city for each re-inspection of work authorized under this code. The person or agent to whom the permit was issued prior to any re-inspection must pay the re-inspection fee.

(Ord. No. 04-16, §§ 7(1), 7(2), 3-8-04; Ord. No. 2008-43, § 22, 6-9-08)

Secs. 14-302—14-400. - Reserved.

FOOTNOTE(S):

--- (8) ---

Editor's note—*Ord. No. 04-16, §§ 7(1), 7(2), adopted March 8, 2004, repealed and reenacted article IX to read as herein set out. Formerly, article IX pertained to similar subject matter and derived from Ord. No. 03-12, § 7, 2-24-03.* (Back)

New Braunfels, Texas, Code of Ordinances >> PART II - CODE OF ORDINANCES >> Chapter 14 - BUILDINGS AND BUILDING REGULATIONS >> ARTICLE X. - VIOLATIONS, PENALTIES, FEE REFUND POLICY, BOARD OF APPEALS AND ADMINISTRATIVE >>

ARTICLE X. - VIOLATIONS, PENALTIES, FEE REFUND POLICY, BOARD OF APPEALS AND ADMINISTRATIVE

Sec. 14-401. - General.
Sec. 14-402. - Violation and penalty.
Sec. 14-403. - Fee refunds.
Sec. 14-404. - Construction board of appeals.

Sec. 14-401. - General.

The provisions of this article apply to all the articles of this chapter unless the article expressly states otherwise.

(Ord. No. 03-12, § 9, 2-24-03)

Sec. 14-402. - Violation and penalty.

Any person, firm, corporation, agent, or entity that violates a provision of this chapter, or fails to comply therewith or with any of the provisions thereof; or violates a detail, statement, plan, or specification for a permit approved thereunder, shall be guilty of a misdemeanor. Each and every day or portion thereof during which any violation or failure to comply is committed or continued shall be deemed a separate offense subject to a fine of not more than $2000.00 for each day and each offense upon conviction in a court of competent jurisdiction.

(Ord. No. 03-12, § 9, 2-24-03)

Sec. 14-403. - Fee refunds.

The building official shall authorize the refunding of fees as follows:

(1) The full amount of any fee paid hereunder that was erroneously paid or collected.
(2) Not more than 50 percent of the permit fee paid when no work has been done under a permit issued in accordance with this code.
(3) Not more than 90 percent of the plan fee paid when an application for a permit for which a fee has been paid is withdrawn or canceled before any plan review effort has been expended.
(4) The building official my refund an amount he/she determines if some, but not all plan review effort has been expended and a permit has not yet been issued.

The building official shall not authorize the refunding of any fee paid except upon written application filed by the original permittee not later than 180 days after the date of fee payment.

(Ord. No. 03-12, § 9, 2-24-03)

Sec. 14-404. - Construction board of appeals.

(a) There shall be a single consolidated construction board of appeals. In order to hear and decide appeals of orders, decisions or determinations made by the building official relative to the application and interpretations of this chapter, there shall be and is hereby created a board of appeals.
(b) Application. The application for appeal shall be filed on a form obtained from the building official within ten days after the notice was served. An application fee of $200.00 for residential or $300.00 for commercial shall be paid to the city by applicants desiring an audience before the construction board of appeals.
(c)

The construction board of appeals shall consist of persons appointed by the city council. Each member shall serve for five years or until a successor has been appointed. The building official shall be an ex officio member of said board but shall have no vote on any matter before the board.

(d) Alternate members. The city council shall appoint four alternate members who shall be called by the board chairperson to hear appeals during the absence or disqualification of a member. Alternate members shall possess the qualifications required for board membership and shall be appointed for five years, or until a successor has been appointed.

(e) Qualifications. The construction board of appeals shall consist of seven individuals, one from each of the following professions or disciplines:

(1) A registered design professional with architectural experience or a builder or superintendent of building construction.

(2) A registered design professional with engineering experience.

(3) A registered mechanical contractor.

(4) A registered electrical contractor.

(5) A registered plumbing contractor.

(6) Two registered general contractors.

(7) Or, the city council may appoint one person who is an attorney or a citizen of the city, in lieu of any of the previously listed qualified persons.

(8) Or, the council may appoint an interim board with the persons of qualification determined by the council.

(f) Rules and procedures. The board is authorized to establish policies and procedures necessary to carry out its duties.

(g) Chairperson. The board shall annually select one of its members to serve as chairperson.

(h) Disqualification of member. A member shall not hear an appeal in which that member has a personal, professional or financial interest.

(i) Secretary. The chief administrative officer shall designate a qualified clerk to serve as secretary to the board. The secretary shall file a detailed record of all proceedings in the office of the building official.

(j) Notice of meeting. The board shall meet upon notice from the chairperson, within ten days of the filing of an appeal or at stated periodic meetings.

(k) Open hearing. All hearings before the board shall be open to the public. The appellant, the appellant's representative, the building official and any person who interests are affected shall be given an opportunity to be heard.

(l) Procedure. The board shall adopt and make available to the public through the secretary procedures under which a hearing will be conducted. The procedures shall not required compliance with strict rules of evidence, but shall mandate that only relevant information be received.

(m) Postponed hearing. When seven members are not present to hear an appeal, either the appellant or the appellant's representative shall have the right to request a postponement of the hearing.

(n) Board decision. The board shall modify or reverse the decision of the building official by a concurring vote of two-thirds of its members. The board may deny the appeal, approve the appeal, or approve the appeal with conditions.

(o) Administration. The building official shall take immediate action in accordance with the decision of the board.

(p) Limitations on authority. An application for appeal shall be based on a claim that the true intent of this chapter or the rules legally adopted thereunder have been incorrectly interpreted, the provisions of this chapter do not fully apply, or an equally good or better form of construction is proposed. The board shall have no authority to waive requirements of this chapter.

(Ord. No. 03-12, § 9, 2-24-03; Ord. No. 03-76, § II, 11-24-03; Ord. No. 2008-43, §§ 3, 23, 6-9-08)

New Braunfels, Texas, Code of Ordinances >> PART II - CODE OF ORDINANCES >> Chapters 15—17 - RESERVED >>

Chapters 15—17 - RESERVED

New Braunfels, Texas, Code of Ordinances >> PART II - CODE OF ORDINANCES >> Chapter 18 - BUSINESSES >>

Chapter 18 - BUSINESSES [1]

ARTICLE I. - IN GENERAL
ARTICLE II. - LICENSE
ARTICLE III. - RESERVED
ARTICLE IV. - AMUSEMENTS
ARTICLE V. - ALARM SYSTEMS
ARTICLE VI. - HOTELS;LODGINGHOUSES

Pursuant to the powers conferred upon the city council by the laws of the state, the city council does hereby adopt the redistricting plan, as identified and described in the attached exhibits, to change the boundaries of the municipal precincts:

Exhibit A: Map of adopted municipal district boundaries

Exhibit B: New Braunfels City Plan Model One Demographics

The aforementioned Exhibits A and B are expressly incorporated herein by reference.

(Code 1961, § 2-4; Ord. No. 93-38, 8-23-93; Ord. No. 96-1, § I, 1-8-96; Ord. No. 99-11, § I, 2-22-99; Ord. No. 2002-04, Exh. B, 2-11-02; Ord. No. 2011-84, § 1, 11-14-11)

Editor's note—

The exhibits referred to in this section are not set out at length in this Code, but are on file in the offices of the city.

Sec. 46-3. - Reserved.

Editor's note—

Ord. No. 2011-34, adopted May 9, 2011, repealed the former section 46-3 in its entirety, which pertained to the designation of voting places and derived from the Code of 1961, § 2-5; Ord. No. 93-38, adopted August 23, 1993, and Ord. No. 96-1, § I, adopted January 8, 1996.

FOOTNOTE(S):

--- (1) ---

Charter reference— *Power to enact ordinances not in conflict with Charter, state law or constitution where the Charter is silent, § 2.01; officers and elections, §§ 3.01—3.06, 4.01—8.05.* *(Back)*

Cross reference— *Administration, ch. 2; signs exempted from regulation, § 106-9.* *(Back)*

State Law reference— *"City secretary" defined, V.T.C.A., Election Code § 1.005(1); effect of city Charter as to appointment of election judges, V.T.C.A., Election Code § 32.011; election dates and hours for voting, V.T.C.A., Election Code § 41.001 et seq.; election precincts, V.T.C.A., Election Code § 42.001 et seq.; polling places, V.T.C.A., Election Code § 43.001 et seq.; conduct of voting with voting system, V.T.C.A., Election Code § 125.001 et seq.; age and residence requirements for home rule city office, V.T.C.A., Election Code § 141.003; candidate for city office, V.T.C.A., Election Code § 143.001 et seq.; effect of city Charter as to withdrawal, death or ineligibility of candidate, V.T.C.A., Election Code § 145.097; write-in candidate in city election, V.T.C.A., Election Code § 146.051 et seq.* *(Back)*

New Braunfels, Texas, Code of Ordinances >> PART II - CODE OF ORDINANCES >> Chapters 47—49 - RESERVED >>

Chapters 47—49 - RESERVED

New Braunfels, Texas, Code of Ordinances >> PART II - CODE OF ORDINANCES >> Chapter 50 - ENVIRONMENT >>

Chapter 50 - ENVIRONMENT [1]

ARTICLE I. - BUILDING STANDARDS COMMISSION
ARTICLE II. - NUISANCE ABATEMENT

FOOTNOTE(S):

--- (1) ---

Cross reference— *Animals, ch. 6; fire prevention and protection, ch. 54; floods, ch. 58; health and sanitation, ch. 62; planning, ch. 98; vegetation, ch. 134.* *(Back)*

State Law reference— *Soil and water conservation, V.T.C.A., Agriculture Code § 201.001 et seq.; common and public nuisances, V.T.C.A., Civil Practice and Remedies Code § 125.001 et seq.; air quality, V.T.C.A., Health and Safety Code ch. 382 et seq.; oil and gas hazardous waste, V.T.C.A., Natural Resources Code § 91.601 et seq.; water quality control, V.T.C.A., Water Code § 26.001 et seq.; waste disposal and control of stormwater, V.T.C.A., Water Code § 51.331 et seq.* *(Back)*

New Braunfels, Texas, Code of Ordinances >> PART II - CODE OF ORDINANCES >> Chapter 50 - ENVIRONMENT >> ARTICLE I. - BUILDING STANDARDS COMMISSION >>

ARTICLE I. - BUILDING STANDARDS COMMISSION

Sec. 50-1. - Created and established.
Sec. 50-2. - Membership.
Sec. 50-3. - Alternate members.
Sec. 50-4. - Removal of members.

Sec. 50-5. - Proceedings.
Sec. 50-6. - Functions.
Secs. 50-7—50-25. - Reserved.

Sec. 50-1. - Created and established.

There is hereby created and established a commission to be known as the "Building Standards Commission of the City of New Braunfels."

(Ord. No. 98-22, § I, 8-10-98)

Sec. 50-2. - Membership.

The city council shall appoint five residents of the City of New Braunfels to serve two-year staggered terms as members of the building standards commission; provided that for the first year two members shall serve for one year and three members shall serve for two years. To determine the length of term of the first members appointed under this ordinance, a drawing shall be held at the organizational meeting of the commission. A member appointed to fill a vacancy shall serve for the unexpired term. In making appointments to the commission, the city council shall attempt to appoint one member with experience in each of the following areas: a) real estate profession; b) home building profession; c) development profession; and d) legal profession. One member of the commission and the two alternate members shall be chosen from the public at large.

(Ord. No. 98-22, § I, 8-10-98)

Sec. 50-3. - Alternate members.

The city council shall appoint two alternate members to the building standards commission who shall serve in the absence of one or more regular members when requested to do so by the city manager or his designee. Alternate members shall serve for the same period and are subject to removal in the same manner as regular members; provided that for the first year one member shall serve for one year and one member shall serve for two years. A drawing shall be held at the organizational meeting of the commission to determine the terms of the two alternates. A vacancy of an alternate member is filled in the same manner as a vacancy among the regular members.

(Ord. No. 98-22, § I, 8-10-98)

Sec. 50-4. - Removal of members.

The city council may remove a building standards commission member for cause on a written charge. Before a decision regarding removal is made, the city council must hold a public hearing on the matter if requested by the member subject to the removal action.

(Ord. No. 98-22, § I, 8-10-98)

Sec. 50-5. - Proceedings.

(a) *Rules.* The commission, by majority vote, may adopt rules in accordance with this article. The rules shall establish procedures for use in hearings, providing ample opportunity for the presentation of evidence and testimony by respondents or persons opposing charges brought by the city relating to alleged violations of this article.

(b) *Quorum.* Four members of the commission must be present to hear a case.

(c) *City representative.* The director of planning or his designee shall present all cases on behalf of the city before the commission.

(d) *Meetings.* Meetings of the commission shall be held at the call of the chairman who shall be elected by the commission from among its members. Meetings shall be held at other times as determined by the commission. All meetings of the commission shall be open to the public and comply with the Texas Open Meetings Act. The chairman, or in the chairman's absence the vice-chairman, may administer oaths and compel the attendance of witnesses.

(e) *Minutes.* The commission shall keep minutes of its proceedings showing the vote of each member on each question or the fact that a member is absent or fails to vote.

The commission shall keep records of its examinations and other official actions.

(Ord. No. 98-22, § I, 8-10-98)

Sec. 50-6. - Functions.

The commission may:

(1) Order the repair, within a fixed period, of buildings found to be in violation of this article;
(2) Declare a building substandard in accordance with the powers granted in this article;
(3) Order, in an appropriate case, the immediate removal of persons or property found on private property, enter on private property to secure the removal if it is determined that conditions exist on the property that constitute a violation of this article, and order action to be taken as necessary to remedy, alleviate, or remove any substandard building found to exist;
(4) Determine the amount and duration of any civil penalty assessed against the property owner.

(Ord. No. 98-22, § I, 8-10-98)

Secs. 50-7—50-25. - Reserved.

New Braunfels, Texas, Code of Ordinances >> PART II - CODE OF ORDINANCES >> Chapter 50 - ENVIRONMENT >> ARTICLE II. - NUISANCE ABATEMENT >>

ARTICLE II. - NUISANCE ABATEMENT [2]

DIVISION 1. - SUBSTANDARD STRUCTURES
DIVISION 2. - CONDITION OF PREMISES
DIVISION 3. - ABANDONED PROPERTY

FOOTNOTE(S):

--- (2) ---

Cross reference— *Civil emergencies, ch. 34.* *(Back)*

State Law reference— *Abatement of public health nuisances, V.T.C.A., Health and Safety Code § 341.011 et seq.; control of nuisances generally, V.T.C.A., Local Government Code § 217.041 et seq.* *(Back)*

New Braunfels, Texas, Code of Ordinances >> PART II - CODE OF ORDINANCES >> Chapter 50 - ENVIRONMENT >> ARTICLE II. - NUISANCE ABATEMENT >> DIVISION 1. - SUBSTANDARD STRUCTURES >>

DIVISION 1. - SUBSTANDARD STRUCTURES

Sec. 50-26. - Unsafe buildings.
Sec. 50-27. - Unoccupied buildings.
Sec. 50-28. - Conditions constituting an uninhabitable or dangerous structure or dwelling.
Sec. 50-29. - Notice of violation.
Sec. 50-30. - Hearing.
Sec. 50-31. - Burden of proof at hearing.
Sec. 50-32. - Procedure after hearing.
Sec. 50-33. - Enforcement.
Sec. 50-34. - Securing of substandard buildings.
Sec. 50-35. - Notice of secured building.
Sec. 50-36. - Hearing.
Sec. 50-37. - Procedure after hearing.
Sec. 50-38. - Costs.
Sec. 50-39. - Historic buildings.
Secs. 50-40—50-55. - Reserved.

Sec. 50-26. - Unsafe buildings.

All buildings or structures which are unsafe, unsanitary, unfit for human habitation, not provided with adequate egress, or which constitute a fire hazard, otherwise dangerous to human life or which constitute a hazard to the safety, health or welfare of the public, by reason of inadequate maintenance, dilapidation, obsolescence, or abandonment, are considered unsafe buildings. All such unsafe buildings are hereby declared illegal and shall be abated by repair, rehabilitation or by demolition.

(Ord. No. 98-22, § I, 8-10-98)

Sec. 50-27. - Unoccupied buildings.

Any or all buildings regardless of its structural condition, which are unoccupied by its owners, lessees, or other invitee (s) and are unsecured or inadequately secured from unauthorized entry to the extent that it could be entered or used by vagrants or other uninvited persons as a place of harborage or could be entered or used by children or otherwise constitute a danger to the public are considered unsafe. All such unsafe buildings are hereby declared illegal and shall be abated by repair, rehabilitation or by demolition.

(Ord. No. 98-22, § I, 8-10-98)

Sec. 50-28. - Conditions constituting an uninhabitable or dangerous structure or dwelling.

An uninhabitable or substandard building or structure is defined as any building or structure:

(1) Which has walls or other vertical structural members that list, lean or buckle in excess of one-eighth-inch horizontal measurement for each one foot of vertical measurement;

(2) Which exclusive of the foundation shows 33 percent or more of damage or deterioration of the supporting member or members, or 50 percent of damage or deterioration of the non supporting enclosing or outside walls or covering;

(3) Which has been damaged by fire, explosion, wind, vandalism or elements of a nature so as to have become dangerous to life, safety or the general health and welfare of the occupants thereof or the people of the city;

(4) Which has inadequate facilities for egress in case of fire or panic or which has insufficient stairways, elevators, fire escapes or other means of ingress or egress;

(5) Which has parts thereof which are so attached that they may fall and injure members of the public or property;

(6) Which the stress in any material, member or portion thereof exceeds the stresses allowed in any applicable code for new buildings;

(7) Which, because of its condition is unsafe, or unsanitary, or dangerous to the health, morals, safety, or general welfare of the people of the city; or

(8) Which exists in violation of any material provision of the city's building code, plumbing code, fire prevention code, electrical code or any state statute, or that fails to comply with any material provision of this article.

(Ord. No. 98-22, § I, 8-10-98)

Sec. 50-29. - Notice of violation.

(a) Whenever it is determined that there are reasonable grounds to believe that there has been a violation of any provision of this article or of any rule or regulation adopted pursuant thereto, notice of such alleged violation shall be given to the owner, lienholder, or mortgagee and such alleged violations shall constitute a nuisance.

(b) The notice shall contain:

(1) The date, time, and location of the hearing before the building standards commission; and

(2) A statement that the owner, lienholder, or mortgagee will be required to submit proof, at the hearing, of any work that may be required to comply with the ordinance and the time it will take to reasonably perform the work.

(c) Prior to conducting the hearing before the building standards commission the city will make an effort to locate each lienholder and mortgagee having an interest in the building or in the property on which the building is located and give them a notice of and an opportunity to comment at the hearing.

(d) The city may file notice of the hearing in the official public records of real property in Comal or Guadalupe County.

(Ord. No. 98-22, § I, 8-10-98)

Sec. 50-30. - Hearing.

(a) The building standards commission may require the owner, lienholder, or mortgagee of the building to, within 30 days, secure the building from unauthorized entry or to repair, remove, or demolish the building, whichever is applicable, unless the owner or lienholder establishes at the hearing that the work cannot reasonably be performed within 30 days. The city will furnish a copy of the order to any lienholders or mortgagees in the event the owner fails to timely take the ordered action.

(b) The building standards commission may allow the owner, lienholder, or mortgagee more than 30 days to repair, remove or demolish the building. If the building standards commission allows the owner, lienholder, or mortgagee more than 30 days to repair, remove or demolish the building, the building standards commission shall establish specific time schedules, as determined by the building standards commission in consultation with the director of planning or his designee, for the commencement and performance of the work and shall require the owner, lienholder, or mortgagee to secure the property in a reasonable manner from unauthorized entry while the work is being performed. The city will furnish a copy of the order to any lienholders or mortgagees in the event the owner fails to timely take the ordered action.

(c) The building standards commission may not allow the owner, lienholder, or mortgagee more than 90 days to repair, remove, or demolish the building or to fully perform all work required to comply with the order unless at the hearing the owner, lienholder, or mortgagee submits a detailed plan and time schedule for the work at the hearing and establishes at the hearing that the work cannot reasonably be completed within 90 days because of the scope and complexity of the work.

(d) If the building standards commission allows the owner, lienholder, or mortgagee more than 90 days to complete any part of the work required to repair, remove, or demolish the building, the building standards commission shall require the owner, lienholder, or mortgagee to regularly submit progress reports to the city building official to demonstrate that the owner, lienholder, or mortgagee has complied with the time schedules established for commencement and performance of the work. The city will furnish a copy of the order to any lienholders or mortgagees in the event the owner fails to timely take the ordered action.

(Ord. No. 98-22, § I, 8-10-98)

Sec. 50-31. - Burden of proof at hearing.

In the hearing to determine whether a building complies with the standards set out in the Standard Housing Code, section 14-201 or the Standard Building Code, section 14-27 of the Code of Ordinances of the City of New Braunfels, the owner, lienholder, or mortgagee has the burden of proof to demonstrate the scope of any work that may be required to comply with the Housing Code and the time it will take to reasonably perform the work.

(Ord. No. 98-22, § I, 8-10-98)

Sec. 50-32. - Procedure after hearing.

After the hearing before the building standards commission the city will mail by certified mail, return receipt requested, a copy of the order to the owner of the building and to any lienholder or mortgagee of the building. Within ten days after the date the order from the building standards commission is issued the city will:

(1) File a copy of the order in the office of the city secretary; and

(2) Publish in a local newspaper a notice containing:

a. The street address or legal description of the property;

b. The date of the hearing;

c. A brief statement indicating the results of the hearing or order; and

d. Instructions stating where a complete copy of the order may be obtained.

(Ord. No. 98-22, § I, 8-10-98)

Sec. 50-33. - Enforcement.

(a) After the expiration of the time granted by the building standards commission for the repair, removal, demolition of a building, or the relocation of occupants of a building, whichever is applicable, the city will either:

(1) Refer the property owner to municipal court for criminal prosecution; or

(2) Vacate occupants, secure, remove, or demolish the building, or relocate the occupants, whichever is applicable, and assess the expenses against the property on which the building is located unless it is homestead property protected by the Texas Constitution; or

(3) Repair the building and assess the expenses on the land on which the building stands or to which it is attached; or

(4) Assess a civil penalty against the property owner for failure to repair, remove, or demolish the building.

(b) The building standards commission by order, may assess and recover a civil penalty against the property owner in an amount not to exceed $1,000.00 per day for each violation or, if the owner shows that the property is the owner's lawful homestead, in an amount not to exceed $10.00 per day for each violation, if the city proves:

(1) The property owner was notified of the requirements of this article and the owner's need to comply with the requirements; and

(2) After notification, the property owner committed an act in violation of this article or failed to take an action necessary for compliance with this article.

(Ord. No. 98-22, § I, 8-10-98)

Sec. 50-34. - Securing of substandard buildings.

The City of New Braunfels may secure a building if the city determines the building violates the minimum standards set forth in the Housing Code and is unoccupied or is occupied only by persons who do not have a right of possession to the building.

(Ord. No. 98-22, § I, 8-10-98)

Sec. 50-35. - Notice of secured building.

Before the eleventh day after the date the building is secured pursuant to section 50-34, the city will give notice to the owner of the building by either:

(1) Personally serving the owner with written notice; or
(2) Depositing the notice in the United States mail addressed to the owner at the owner's post office address; or
(3) If personal service cannot be obtained and the owner's post office address is unknown:
    a. Publishing the notice at least twice within a ten-day period in the official newspaper of the city; or
    b. Posting the notice on or near the front door of the building.

The notice will contain:

(1) An identification of the building and the property on which it is located; and
(2) A description of the violation of the Housing Code or Building Code standards that is present at the building; and
(3) A statement that the city will secure or has secured, as the case may be, the building; and
(4) The owner's right to request a hearing about any matter relating to the city's securing of the building.

(Ord. No. 98-22, § I, 8-10-98)

Sec. 50-36. - Hearing.

(a) If, within 30 days after the date the city secures a building, the owner files with the city a written request for a hearing, the building standards commission will conduct a hearing at which the owner may testify or present witnesses or written information about any matter relating to the city's securing of the building.
(b) The building standards commission will conduct the hearing within 20 days after the date the request is filed.

(Ord. No. 98-22, § I, 8-10-98)

Sec. 50-37. - Procedure after hearing.

After the hearing before the building standards commission, or the expiration of the time allowed for the owner to request a hearing and no hearing has been requested, the city will mail by certified mail, return receipt requested, a copy of the order to the owner of the building and to any lienholder or mortgagee of the building. Within ten days after the date the order from the building standards commission is issued, the city will:

(1) File a copy of the order in the office of the city secretary; and
(2) Publish in the city's official newspaper a notice containing:
    a. The street address or legal description of the property;
    b. The date of the hearing;
    c. A brief statement indicating the results of the hearing or order; and
    d. Instructions stating where a complete copy of the order may be obtained.

(Ord. No. 98-22, § I, 8-10-98)

Sec. 50-38. - Costs.

The city may assess the expenses incurred to secure a building pursuant to section 50-34 against the property on which the building is located unless it is homestead property protected by the Texas Constitution.

(Ord. No. 98-22, § I, 8-10-98)

Sec. 50-39. - Historic buildings.

(a) *Intent.* It is the intent of the city council in enacting this article to preserve buildings of historic significance whenever possible.
(b) *Historic landmark commission.* Before a notice is sent or a hearing is conducted by the commission, the New Braunfels Historic Landmark Commission shall be notified in order to allow the commission an opportunity to review a building to determine whether the building qualifies for designation: (1) on the National Register of Historic Places; (2) as a Recorded Texas Historic Landmark; or, (3) as a historic landmark pursuant to section 66-56 of the Code of Ordinances of the City of New Braunfels.
(c)

Written report. If the historic landmark commission reviews a building, it shall submit a written report to the building standards commission indicating the results of the review.

(d) *Rehabilitation not recommended.* If the report submitted by the historic landmark commission determines that the building may not be rehabilitated and designated as historic property, the building standards commission may proceed as authorized.

(e) *Rehabilitation recommended.* If the report submitted by the historic landmark commission determines that the building may be rehabilitated and designated as historic property, the commission may not permit the building to be demolished for at least 90 days after the date the report is submitted. During the 90-day period, the commission shall notify the owner and attempt to identify a feasible alternative use for the building or locate an alternative purchaser to rehabilitate and maintain the building. If the commission is not able to locate the owner or if the owner does not respond within the 90-day period, the commission may seek appointment of a receiver as provided by V.T.C.A., Local Government Code § 214.003.

(f) *Demolition of historic building.* The commission may require the building to be demolished after the expiration of the 90-day period if the commission is not able to:

(1) Identify a feasible alternative use for the building; or

(2) Locate an alternative purchaser to rehabilitate and maintain the building; or

(3) Appoint a receiver for the building.

(h) *No penalties.* A property owner is not liable for penalties related to the building that accrue during the 90-day period provided for disposition of historic property under this section.

(Ord. No. 98-22, § I, 8-10-98)

Secs. 50-40—50-55. - Reserved.

DIVISION 2. - CONDITION OF PREMISES [3]

Sec. 50-56. - Definitions.
Sec. 50-57. - Prohibited accumulations; litter; weeds; graffiti; duty of property owner, occupant.
Sec. 50-58. - Notice to abate, service.
Sec. 50-59. - Unlawful noncompliance; filing of complaint; fines.
Sec. 50-60. - Abatement by city; payment of costs by owner; lien imposed for nonpayment; removal of trees for access; owner's right to appeal.
Sec. 50-61. - Awarding of bid by city.
Sec. 50-62. - Remedies not exclusive.
Secs. 50-63—50-75. - Reserved.

Sec. 50-56. - Definitions.

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

Brush means scrub vegetation; land covered with scrub vegetation; or a dense growth of forest and undergrowth.

Brushwood means the wood of small branches when cut or broken; or a thicket composed of shrubs and small trees.

Brushy means covered, thick with brush or brushwood.

Carrion means the dead and putrefying flesh of any animal, fowl or fish.

Graffiti means any unauthorized form of painting, scratching, writing or inscription, including, without limitations, initials, slogans, or drawings. Regardless of the content or nature of the material that has been applied to any wall, building, fence, sign or other structure or surface and is visible from any public property or right-of-way or is visible from the private property of another person.

Grass means green herbage that affords food for grazing animals and that usually consists predominantly of narrow leafed monocotyledonous plants of the families gramineae, cyperaceae and juncaceae, often intermixed with various dicotyledonous herbs; any of various herbaceous plants with narrow linear foliage.

Impure or unwholesome matter means any putrescible or nonputrescible condition, object or matter, which tends, may or could produce injury, death or disease to human beings.

Junk means old iron, glass, paper, cordage, or other waste that may be treated so as to be used again in some form; secondhand, worn or discarded articles of any kind having little or no commercial value; something without intrinsic value; to abandon or to get rid of as no longer of value or use.

Objectionable, unsightly or insanitary matter means any matter, condition, or object, which is or should be objectionable, unsightly, or insanitary to a person of ordinary sensitivities.

Owner or *occupant* means the record owner of the lot or parcel of land or other person specifically authorized in writing by the record owner to authorize the placement of any painting, scratching, writing or inscription upon the owner's property, or the tenant of a residential or commercial property.

Refuse means trash, debris, rubble, stone, useless fragments of building materials, and other miscellaneous, useless waste or rejected matter.

Rubbish means useless fragments of stone or other material left over in buildings or broken from ruined buildings.

Trash means something worth relatively little or no value; junk; rubbish; something in a crumbled or broken condition en masse; and woody or vegetable matter fallen or strewn on the ground.

Unauthorized means without the consent of the owner or occupant or without authority of law, regulation or ordinance. Unless the owner proves otherwise, the lack of consent will be presumed under circumstances tending to show:

(1) The absence of evidence of specific authorization of the graffiti by the owner;
(2) That the graffiti is inconsistent with the design and use of the subject property; or
(3) That the person causing the graffiti was unknown to the owner.

Waste product means debris resulting from a process (as a manufacturer) that is of no further use of the system producing it.

Weed means an introduced plant growing in the ground that is or has been in cultivation usually to the detriment of the crop or to the disfigurement of the place; an economically useless plant; a plant of unsightly appearance; one of wild or rank growth; a tree or shrub of low economic value that tends to grow freely and by its presence to exclude or retard more valuable plants; wild growth usually in the nature of rank grass or undergrowth.

(Code 1961, § 8-33; Ord. No. 98-22, § II, 8-10-98; Ord. No. 2006-22, § 1, 3-13-06)
Cross reference— *Definitions generally, § 1-2.*

Sec. 50-57. - Prohibited accumulations; litter; weeds; graffiti; duty of property owner, occupant.

(a) It shall be unlawful for any person owning, claiming, occupying or having supervision or control of any real property, occupied or unoccupied, within the corporate limits of the city to permit or allow any filth, carrion, weeds, rubbish, junk, trash, waste products, brush and refuse, graffiti, impure or unwholesome matter of any kind, objectionable, unsightly or insanitary matter of whatever nature to accumulate or remain thereon. Such accumulations and conditions are hereby declared a public nuisance, the prompt abatement of which is a public necessity.

(b) It shall be unlawful for any person to throw, deposit, or sweep any of the matter prohibited in subsection (a) into, upon or along any drain, gutter, alley, sidewalk, street, parkway, right-of-way, or vacant lot, or upon any public or private premises within the corporate limits of the city.

(c) It shall be unlawful for any person owning, claiming, occupying or having supervision or control of any real property, occupied or unoccupied, within the corporate limits of the city to permit weeds, brush or any objectional or unsightly vegetation to grow to a greater height than 12 inches upon such real property within 150 feet of any property line which abuts street rights-of-way, alleys, utility easements, subdivided additions, developed property or any buildings or other structures. It shall be the duty of such person to keep the area from the line of his property to the back of curbline next adjacent to it, if there is a curbline, and if not, then to the centerline of the adjacent unpaved street, or to the edge of the pavement of a paved but uncurbed street, free and clear of the matter referred to above. All vegetation not regularly cultivated and which exceeds 12 inches in height shall be presumed to be objectionable and unsightly, except that regularly cultivated crops shall not be allowed to grow within the right-of-way of any public street or easement nor shall they be allowed to obstruct the necessary view to and from adjacent rights-of-way, but shall be kept mowed the same as provided in this section.

(d) It shall be the duty of any person owning, claiming, occupying, or having supervision or control of any real property referred to in this section to remove, drain, and/or fill all prohibited matter or conditions and to cut and remove all weeds, brush, and other objectionable or unsightly vegetation as often as may be necessary to comply with this section, and to use every precaution to prevent the same from occurring or growing on such premises.

(e) It shall be unlawful for any person owning, claiming, occupying or having supervision or control of any real property, occupied or unoccupied, within the corporate limits of the city to permit graffiti. Whenever, the existence of graffiti on

any lot or parcel of real estate situated in the city shall come to the attention of the health official or his designee, such official may cause a written notice identifying the graffiti and directing its removal to be delivered to the owner of the property, provided that the time allowed in the notice for abatement of the nuisance shall not be less than 15 days.

(Code 1961, § 8-34; Ord. No. 98-22, § II, 8-10-98; Ord. No. 2006-22, § 1, 3-13-06)

Editor's note—

Ord. No. 2006-22, § 1, adopted March 13, 2006, changed the title of § 50-57 from "Prohibited accumulations; litter; weeds; duty of property owner, occupant" to "Prohibited accumulations; litter; weeds; graffiti; duty of property owner, occupant."

State law reference— *Municipal power concerning filth, carrion, weeds, etc., V.T.C.A., Health and Safety Code §§ 342.003, 342.004.*

Sec. 50-58. - Notice to abate, service.

(a) *Generally.* Whenever the fire marshal or any code compliance officer or any fire inspector assigned such responsibility receives information of the existence of any property not meeting the standards set out in section 50-57, the fire marshal or any code compliance officer or any fire inspector assigned such responsibility, shall serve the owner of the property with a written notice informing the owner of such condition and directing that action be taken to bring the property into compliance within 15 days.

(b) *Service of notice on individuals.* The notice authorized by this section may be served by personal delivery or by letter addressed to the owner at the owner's address as recorded in the appraisal district records of the appraisal district in which the property is located. In cases of community property, service upon either the husband or the wife shall be deemed sufficient notice under this section.

(c) *Service of notice on corporation.* If the owner is a corporation, service of the notice provided for in this section may be made by delivery of such notice by letter to its registered agent for service, as listed in the records of the secretary of state, or to any office or place of business of such corporation or any officer of the corporation located within the city.

(d) *If personal service cannot be obtained.* If personal service cannot be obtained, then service of the notice may be obtained either by publication, at least twice within ten consecutive days, in the New Braunfels Herald-Zeitung or other local newspapers having at least weekly issues; by posting the notice on or near the front door of each building on the property to which the violation relates; or by posting the notice on a placard attached to a stake driven into the ground on the property to which the violation relates.

(e) *Contents of notice.* Whether posted, delivered personally or by mail, the notice provided for in this section shall be addressed substantially as follows: "To the owner of (legal description of the property involved)." The notice shall give the legal description of the property, state the condition which constitutes a violation of this section, and shall state that upon failure of the owner to rectify the situation within 15 days from the date the notice is posted, mailed or published, a complaint may be filed in the municipal court of the city for violation of this article, stating the penalties for violation. In addition, the notice shall advise that the city may cause the correction and abatement work to be done on its own and charge the owner for the expense involved, and upon failure of the owner to pay the city for such expense, fix a lien on the property for the expense involved as provided in section 50-60

(f) *Maintenance of lots.* The city may also inform the owner that if the owner commits another violation of the same kind or nature that poses a danger to the public health and safety on or before the anniversary date of the notice, the city without further notice may correct the violation at the owner's expense and assess the expense against the lot or parcel. Notice of this subsection's provision may be included in any notice of violation provided for under this article. Notice of this subsection's provision shall be satisfied if it is given in accordance with the requirements established herein.

(g) *Refusal does not affect notice.* If notice is made by letter to the property owner as provided for in this article, and the United States Postal Service returns the notice as "refused" or "unclaimed," the validity of the notice is not affected, and the notice is considered to have been delivered.

(Code 1961, §§ 8-35, 11-23, 11-24; Ord. No. 98-22, § II, 8-10-98; Ord. No. 2002-46, § 1, 12-9-02; Ord. No. 2005-17, § I, 2-28-05; Ord. No. 2006-03, § I, 1-9-06)

State law reference— *Notice of violation, V.T.C.A., Health and Safety Code § 342.006.*

Sec. 50-59. - Unlawful noncompliance; filing of complaint; fines.

It shall be it shall be unlawful for the owner or tenant of any land within the city to fail to have any weeds, grass, brush, rubbish graffiti, mowed, cut, removed, or otherwise fail to bring their property into compliance with the standards set forth in section 50-57 within 15 days after notice is mailed or published, directing that such standards be met; the fire marshal or any code compliance officer or any fire inspector assigned such duties may, whenever a violation is found, file a complaint with the municipal court and/or issue citations; and the prosecutor of the municipal court assigned such duties shall prosecute the case, and upon conviction for violation of this division the owner shall be fined in accordance with the following:

(1) First offenses shall have a minimum fine of $100.00 and a maximum fine of $2,000.00.

(2) Second offenses shall have a minimum fine of $200.00 and a maximum fine of $2,000.00.

(3) Third and subsequent offenses shall have a minimum fine of $500.00 and a maximum fine of $2,000.00.

Each day's violation of this division shall constitute a separate offense.

(Code 1961, § 8-36; Ord. No. 98-22, § II, 8-10-98; Ord. No. 2002-46, § 2, 12-9-02; Ord. No. 2006-03, § I, 1-9-06; Ord. No. 2006-22, § 1, 3-13-06)

State law reference— *Violation of ordinance, V.T.C.A., Health and Safety Code § 342.005.*

Sec. 50-60. - Abatement by city; payment of costs by owner; lien imposed for nonpayment; removal of trees for access; owner's right to appeal.

(a) In addition to the remedy provided for in section 50-59, the city may also cause the work necessary to bring any property into compliance with this division to be done if the owner fails either to do such work or cause the work to be done within 15 days from the date of notice or publication, and to charge the owner for the costs incurred by the city. A statement of the costs incurred by the city to abate such condition shall be mailed to the owner of such property, if the owner and mailing address is known, and if not known, may be published in the New Braunfels Herald-Zeitung or other local newspaper having at least weekly issues. The statement shall demand payment within 30 days from the date of receipt or publication.

(b) If the statement of costs served or published pursuant to this section is not paid within such period, the mayor, local health authority or a city official designated by the mayor may file with the county clerk a statement of the expenses incurred to abate and correct such condition on the premises, to be filed in the deed records, and such statement shall be and the city shall have a privilege lien upon the lot, parcel, or tract of land upon which such expenses were incurred, second only to tax liens and liens for streets improvements, together with ten percent interest per annum on the delinquent amount from the date such payment was due. For any such expenditures and interest, as aforesaid, suit may be instituted and foreclosure had in the name of the city; and the statement so made, as aforesaid, or a certified copy thereof, shall be prima facie proof of the amount expended in any such work.

(c) Although large trees are not covered by the provisions of this division, and are not considered to be a nuisance or a hazard, it may be necessary at times to remove trees or parts thereof in order for the city crews or city contractors to effect the entry of mowing or clearing equipment to property or portions of property not meeting standards established in this division. In such case, the removal of such trees or parts thereof as is found necessary shall be done and is hereby authorized, and the cost of the work shall be included in the cost charged to the owner.

(d) Prior to the filing of a complaint in the city's municipal court for violation of the standards set out in this division, any affected landowner, tenant or occupant shall have the right to appeal to the building board of appeals to protest any of the following:

(1) The determination that the property is in violation of standards set out in this division;

(2) The cost to rectify the situation;

(3) The adequacy of the notice; or

(4) Whether a lien should be placed on the property.

(Code 1961, §§ 8-37, 11-25; Ord. No. 98-22, § II, 8-10-98; Ord. No. 2006-03, § I, 1-9-06)

State law reference— *Work or improvements by municipality, V.T.C.A., Health and Safety Code § 342.006; assessment of expenses, lien, V.T.C.A., Health and Safety Code § 342.007.*

Sec. 50-61. - Awarding of bid by city.

The city may award any quantity of work under sections 50-57 and 50-58 to any person whose bid shall be accepted by the city council as being the best for doing such work during a stipulated time, not exceeding one year.

(Code 1961, § 8-38; Ord. No. 98-22, § II, 8-10-98)

Sec. 50-62. - Remedies not exclusive.

The enumeration of remedies for the suppression of nuisances as provided in this division are not to be deemed as exclusive, but as cumulative. In particular, prosecution for the offense described in section 50-57 shall not affect the right of the city to abate the nuisance in the manner provided by this division, nor shall abatement by the city be a bar to prosecution for the offense described by section 50-57.

(Code 1961, § 8-39; Ord. No. 98-22, § II, 8-10-98)

Secs. 50-63—50-75. - Reserved.

FOOTNOTE(S):

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Cross reference— *Buildings and building regulations, ch. 14; offensive conditions, § 62-281 et seq.; solid waste, ch. 110; zoning, app. A.* (Back)

State Law reference— *Protection of public health, V.T.C.A., Health and Safety Code § 122.006; minimum standards of sanitation and health protection measures, V.T.C.A., Health and Safety Code § 341.001 et seq.; local regulation of sanitation, V.T.C.A., Health and Safety Code § 342.001 et seq.; Texas Litter Abatement Act, V.T.C.A.. Health and Safety Code § 365.001 et seq.; pesticide regulation, V.T.C.A., Agriculture Code § 76.001 et seq.; noxious weed control districts, V.T.C.A., Agriculture Code § 78.001 et seq.* (Back)

New Braunfels, Texas, Code of Ordinances >> PART II - CODE OF ORDINANCES >> Chapter 50 - ENVIRONMENT >> ARTICLE II. - NUISANCE ABATEMENT >> DIVISION 3. - ABANDONED PROPERTY >>

DIVISION 3. - ABANDONED PROPERTY [4]

Sec. 50-76. - Certain property declared a nuisance; impoundment authorized.
Sec. 50-77. - Lien on impounded property.
Sec. 50-78. - Procedure for redemption of impounded property.
Sec. 50-79. - Sale of unredeemed property authorized.
Sec. 50-80. - Publication of notice of proposed sale of personal property.
Sec. 50-81. - Determination of ownership of abandoned motor vehicles; notice of sale.
Sec. 50-82. - Sale of property.
Sec. 50-83. - Disposal of proceeds of sale.
Sec. 50-84. - Disposal of junk property.
Sec. 50-85. - Records to be maintained; fees.
Sec. 50-86. - Definitions.
Sec. 50-87. - Bandit signs.

Sec. 50-76. - Certain property declared a nuisance; impoundment authorized.

Any vehicle or other property or obstruction placed, left standing, parked, erected or lying in violation of any ordinance of the city, or left unattended for more than 48 continuous hours in or on any public street, alley, sidewalk, park, or other public place of the city is declared to be a nuisance, and any such property when so found shall be removed summarily by any police officer of the city and taken to the police pound and shall be kept there until redeemed or sold as provided in this division.

(Code 1961, § 11-31; Ord. No. 98-22, § III, 8-10-98)

Sec. 50-77. - Lien on impounded property.

The city shall have a lien on personal property impounded under this division for all costs incurred in impounding, storing, and advertising such property, and such lien shall be prior and superior to all other liens of every kind, save and except liens for ad valorem taxes, and the city may retain possession thereof until all costs are paid and may sell such property as provided in this division.

(Code 1961, § 11-32; Ord. No. 98-22, § III, 8-10-98)

Sec. 50-78. - Procedure for redemption of impounded property.

The owner or any person legally entitled to possession of personal property impounded under this division may redeem such property as follows:

(1) *Before sale.* Before the sale of such property, by paying to the chief of police the impounding fee and any other actual expenses incurred by the city in impounding and keeping the impounded property, as determined by the chief of police.

(2) *After sale.* After the sale of such property, by paying to the buyer at the auction sale double the amount paid by him for such personal property and any reasonable expenses incurred by him for keeping such property; provided, that such property must be redeemed from the auction buyer within 30 days after the date of the auction sale, excluding the date of sale; otherwise, title to such property shall become absolute in the auction buyer.

(Code 1961, § 11-33; Ord. No. 98-22, § III, 8-10-98)

Sec. 50-79. - Sale of unredeemed property authorized.

When any personal property, other than motor vehicles, is not redeemed within 60 days after being impounded, and when any motor vehicle is not redeemed after compliance by the chief of police with the provisions of section 50-81; the chief of police shall sell such property at public auction to satisfy the lien of the city.

(Code 1961, § 11-34; Ord. No. 98-22, § III, 8-10-98)

Sec. 50-80. - Publication of notice of proposed sale of personal property.

Before selling personal property impounded under this division, other than motor vehicles, the chief of police shall post two notices thereof, one at the courthouse door of Comal County, Texas, and one at the city hall in New Braunfels, Texas, and shall cause a copy thereof to be published in a newspaper published in the city once a week for two consecutive weeks, the date of the first publication to be at least 14 days prior to the day of the auction sale. The notice of sale shall describe the impounded property, state that the property is unredeemed, state that the property will be sold at public auction, designate the place of the sale, and state a time and date of sale which shall not be less than 14 days from the date of posting such notices as required in this section.

(Code 1961, § 11-35; Ord. No. 98-22, § III, 8-10-98)

Sec. 50-81. - Determination of ownership of abandoned motor vehicles; notice of sale.

(a) When any motor vehicle has not been redeemed within 30 days from the date of its impounding, it shall be the duty of the chief of police to submit to the state department of transportation, or similar agency of the proper state when the vehicle is from another state, all information in his possession concerning such vehicle and to request that such department supply to him all information in the records of the department contained on such vehicle. Immediately on receipt of such information from such department, the chief of police shall notify the owner and lienholders as shown by the records of such department by registered or certified mail, with return receipt requested, that such vehicle has been impounded and of the provisions of this division in regard to redemption and sale of impounded property.

(b) If a motor vehicle impounded under this division has not been redeemed within 15 days from receipt of the return receipt or notice of nondelivery of such registered mail as provided in this section, the chief of police shall prepare a notice of sale of such vehicle, in the manner described in section 50-80, shall send a copy of such notice to the owner and lienholders, as shown by the records of the highway department, by registered or certified mail, and shall post and advertise such notices in the manner required in section 50-80. Notice by registered mail to the address shown on the records of the highway department shall constitute notice of the pending sale to such owner and lienholders.

(c) When the chief of police is unable to ascertain the names of the owner and lienholders, and the motor vehicle has not been redeemed within 45 days from its impounding, no notice of the sale other than posting and advertising as prescribed in this section shall be required.

(Code 1961, § 11-36; Ord. No. 98-22, § III, 8-10-98)

Sec. 50-82. - Sale of property.

When any impounded property, including motor vehicles, is not redeemed by the date and time designated in the notice of sale, the chief of police shall sell such property at public auction, and, as city auctioneer, shall execute a bill of sale of such property to the purchaser thereof; provided, the chief of police shall not execute or deliver any but a conditional bill of sale unless and until the title of such buyer has become absolute by an expiration of 30 days in time, exclusive of the day of sale, without being redeemed by the owner of the impounded property.

(Code 1961, § 11-37; Ord. No. 98-22, § III, 8-10-98)

Sec. 50-83. - Disposal of proceeds of sale.

After deducting the impounding fee and all other actual expenses incurred by the city in impounding, storing and selling of such property, as determined by the chief of police, not to exceed a reasonable amount for each impounded article, he shall pay the balance of the proceeds of such sale, if any, to the owner of the property. If the owner fails to call for such proceeds they shall be paid into the city treasury. Within six months after such auction sale the owner may apply in writing to the chief of police and, upon satisfactory proof of ownership, shall be entitled to receive the amount of the proceeds delivered to the city treasury.

(Code 1961, § 11-38; Ord. No. 98-22, § III, 8-10-98)

Sec. 50-84. - Disposal of junk property.

Impounded property which is offered for sale at public auction in accordance with the procedure prescribed in this division and upon which no person bids shall thereafter be sold or otherwise disposed of as junk. Money received for junk property shall be disposed of in the same manner as proceeds from an auction sale under this division.

(Code 1961, § 11-39; Ord. No. 98-22, § III, 8-10-98)

Sec. 50-85. - Records to be maintained; fees.

(a) The chief of police shall keep a record book which shall contain:
  (1) A description of all property impounded;
  (2) The date and time of such impounding;
  (3) The date notices of sale were posted and advertised and mailed to owners and lienholders;
  (4) The return of receipts of registered notices;
  (5) The date of the sale at auction;
  (6) The amount realized for each article at such sale;
  (7) The name and address of the owner and lienholder, if known;
  (8) The name and address of the auction buyer; and
  (9) Any such other information as he may deem necessary.

(b) The following fees shall be charged under this division and shall be paid into the city treasury:
  (1) For taking and impounding any personal property, $3.00.
  (2) For preparing advertisement of sale of each article, $0.50.
  (3) For posting notices of sale relating to any one article, $0.50.

(Code 1961, § 11-40; Ord. No. 98-22, § III, 8-10-98)

Sec. 50-86. - Definitions.

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

Bandit sign shall mean any sign posted on a utility pole, street sign, street furniture or sign posted in violation of this section in the public right of way, of any size, including signs with wood or wire framing, post or stakes. No sign owned or placed by the city, the state, or a public utility shall be considered a bandit sign.

(Ord. No. 2005-61, § 1, 8-22-05)

Sec. 50-87. - Bandit signs.

(a) Bandit signs are hereby declared to be abandoned trash at the time of posting and may be removed and discarded without notice notwithstanding any conflicting regulation or requirement within this section.

(b) Any citizen removing a bandit sign or other sign in the right of way shall do so at his or her own risk, and neither the city, nor any public utility exercising control of the right of way, pole or fixture shall be liable for damage, loss or injury due to such independent acts.

(c) Unless specifically stated, nothing within this section shall be interpreted or applied so as to prohibit a property owner or that owner's agent from removing or authorizing the removal of signage on that owner's property.

(Ord. No. 2005-61, § 1, 8-22-05)

FOOTNOTE(S):

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Cross reference— *Abandoned, wrecked and junked vehicles, § 82-6.* *(Back)*

New Braunfels, Texas, Code of Ordinances >> PART II - CODE OF ORDINANCES >> Chapters 51—53 - RESERVED >>

Chapters 51—53 - RESERVED

New Braunfels, Texas, Code of Ordinances >> PART II - CODE OF ORDINANCES >> Chapter 54 - FIRE PREVENTION AND PROTECTION; EMERGENCY MEDICAL SERVICES >>

Chapter 54 - FIRE PREVENTION AND PROTECTION; EMERGENCY MEDICAL SERVICES [1]

ARTICLE I. - IN GENERAL
ARTICLE II. - FIRE DEPARTMENT
ARTICLE III. - FIRE PREVENTION
ARTICLE IV. - HAZARDOUS MATERIALS SPILLS
ARTICLE V. - RESERVED
ARTICLE VI. - RESERVED

(a) Whenever the building official, city engineer, code enforcement officer or their respective designees receives information and proof of the existence of any obstruction or unsafe or hazardous tree or tree part prohibited by the provisions of this article or whenever he has been directed by the city council to cause any obstruction or unsafe or hazardous tree or tree part to be removed from the public parkway or other public way area as described in this chapter, he shall issue a written notice to any person responsible for the violation or obstruction or unsafe or hazardous tree or tree part ordering the abatement or removal of the same. Such notice shall specify the nature of the violation or obstruction or unsafe or hazardous condition and shall designate a reasonable time, not to exceed 15 days, within which such abatement or removal shall be accomplished. In such cases where the violation constitutes an immediate threat to the health and safety of any person and thereby an emergency, in the opinion of the building official, city engineer, code enforcement officer or their respective designee, it shall be reasonable to order the immediate abatement of the violation. If such notice is not complied with within the specified time, the building official, the city engineer, code enforcement officer or their respective designee is hereby authorized to immediately institute proceedings for the abatement or removal thereof.

(b) Such proceedings may include the filing of charges in municipal court against the owner or other responsible party. The city may cause the work necessary to abate the violation to be done and subsequently charge the owner of the property or other responsible party for the costs incurred by the city. A statement of the costs incurred by the city to abate such condition shall be mailed to the owner of such premises, if the owner and mailing address is known, and if not known, may be published in the New Braunfels Herald-Zeitung or other local newspaper having at least weekly issues. The statement shall demand payment within 30 days from the date of receipt or publication.

(c) If the statement of costs served or published pursuant to this section is not paid within such period, the building official, city engineer, code enforcement officer or their respective designee may file with the county clerk a statement of the expenses incurred to abate and correct such condition and the city shall have a privilege lien upon the lot, parcel, or tract of land upon which such expenses were incurred, second only to tax liens and liens for streets improvements, and other liens which have priority under applicable law, together with ten percent interest per annum on the delinquent amount from the date such payment was due. For any such expenditures and interest, as aforesaid, suit may be instituted and foreclosure had in the name of the city; and the statement so made, as aforesaid, or a certified copy thereof, shall be prima facie proof of the amount expended in any such work.

(d) During the pendency of any of the actions authorized by this section, any affected landowner, tenant or occupant shall have the right to appeal to the construction board of adjustment to protest any of the following:

(1) The determination that the property is in violation of standards set out in this section;

(2) The cost to rectify the situation;

(3) The adequacy of the notice;

(4) Whether a lien should be placed on the property.

(Ord. No. 2005-75, § 1(Exh. A), 10-24-05)

Sec. 114-7. - Licensing of encroachments on public property and public easements, and public right-of-way.

(a) This section shall be applied to improvements such as utility, communication, and other lines placed for some length under, over, or on public property. This section does not apply to improvements by municipal utilities or franchised utility or franchised communication improvements, and no license will be required.

(b) The city, solely to the extent of its right, title, and interest, without any warranty, expressed or implied, may grant to a licensee, its successors and assigns, a license and permission to occupy by encroachment public property and/or public easements.

(c) The license and permission granted by the city under this section shall be evidenced by a license agreement executed by the city and the licensee.

(d) All applicants under this section, not otherwise exempted from licensing, shall make application with the city engineer and pay an application fee of $250.00 per license agreement. This fee shall be nonrefundable, regardless of ultimate action by the city council, and shall be in addition to other charges described in this section.

(e) Because of the encroachment on public property resulting from license agreements under this section, the licensee shall pay an annual fee of ten percent of the value of the area to be licensed for surface licensing; five percent of the value of the area to be licensed for underground licenses; and seven and one-half percent of the value of the area to be licensed for aerial licenses. The minimum annual fee for such licenses shall be $100.00. The value shall be established by the public works department. No annual fee shall be charged for historical structures or institutions of higher learning, nor shall an annual fee be assessed original dedicators in those cases where the public property or easement was dedicated without charge to the city and the property has not changed hands. The first annual fee payment shall be tendered in the form of a cashier's check prior to placing the request for license agreement on the city council agenda for their consideration. Such check shall be refunded upon failure of the resolution to pass.

(f)

Notwithstanding the license fee formula set forth in subsection (e), the annual fee for the licensing of underground communication lines beneath the city streets shall be based upon the following formula:

$100.00 from 0 to 100 feet, plus

$75.00 from 100 to 200 feet, plus

$50.00 from 200 to 300 feet, plus

$25.00 from 300 to 400 feet, plus

$15.00 above 400 feet.

(g) The annual fees charged under this section shall remain the same for a period of at least two years from the date the license was granted and are subject to change after each subsequent one-year period the license remains in effect.

(h) The cost and expense of burying a utility or communications line, and restoring the street or other public property or easement to its previous condition, and all other work required under this section shall be paid by the licensee. Further, all work shall be performed to specifications established by the city, to be reflected in a license agreement. All construction work shall be to city specifications and inspected by the city engineer. Further, in cases of burial of lines beneath city streets or other public property, the licensee shall be responsible during the term of the license agreement to continue to maintain the streets or other areas where such lines are buried and shall be required at any time when requested by a city official to perform additional maintenance work required by the city, at licensee's expense, to maintain the property in such manner as is required by the city.

(i) The fees required by this section shall not cover such items as awnings, marquees, signs and similar items that are normally permitted by this article without the issuance of a specific license agreement. Neither are such fees intended to cover temporary construction barricades, banners over streets, temporary street closings and other similar activities which are temporary or are covered by existing regulations.

(j) The license agreement provided for in this section shall contain a provision which would establish a lien on the property covered by the agreement as a covenant running with the adjoining land for failure to pay all the applicable licensing fees.

(k) Unusual cases may arise which will call for exceptional handling by the city council within the general framework of this section, such as encroachments which may be deemed by the city to be an added benefit to the city properties rather than a burden.

(Ord. No. 2005-75, § 1(Exh. A), 10-24-05)

Sec. 114-8. - Penalty.

Upon conviction for violations of sections 114-1, 114-2, 114-3, 114-4, 114-5, 114-6 and 114-7, the owner of the property or other responsible party shall be fined in accordance with the following:

(1) First offenses shall have a minimum fine of $100.00 and a maximum fine of $2,000.00;

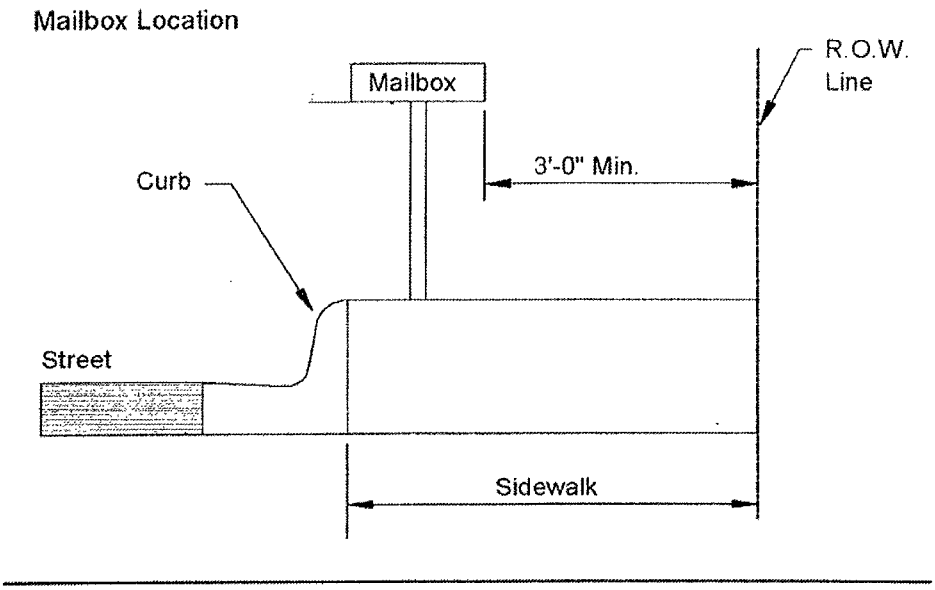
(2) Second offenses shall have a minimum fine of $200.00 and a maximum fine of $2,000.00;

(3) Third and subsequent offenses shall have a minimum fine of $500.00 and a maximum fine of $2,000.00.

(Ord. No. 2005-75, § 1(Exh. A), 10-24-05)

Sec. 114-9. - Mailbox location.

(a) Any mailbox placed in a public street right-of-way shall conform to U.S. Postal Service installation guidelines. In no instance shall the pedestrian clearance be less than three feet, as shown in the following:



Mailbox Location

(b) The violation of any provision of this section shall be a class C misdemeanor punishable by a fine of not less than $1.00 nor more than $500.00. Each day there is a violation shall constitute a separate offense. The culpable mental state required by V.T.C.A., Penal Code § 6.02 is hereby specifically negated. The offenses under this article shall be strict liability offenses.

(Ord. No. 2005-75, § 1(Exh. A), 10-24-05)

Secs. 114-10—114-30. - Reserved.

New Braunfels, Texas, Code of Ordinances >> PART II - CODE OF ORDINANCES >> Chapter 114 - STREETS, SIDEWALKS AND OTHER PUBLIC PLACES >> ARTICLE II. - CONSTRUCTION, RECONSTRUCTION, REPAIR >>

ARTICLE II. - CONSTRUCTION, RECONSTRUCTION, REPAIR

Sec. 114-31. - Grade and line.
Sec. 114-32. - Sidewalk width; thickness; joints.
Sec. 114-33. - Crossings; plans on file.
Sec. 114-34. - Embankments; tamping; widths.
Sec. 114-35. - Concrete requirements.
Sec. 114-36. - Other materials authorized.
Sec. 114-37. - Contractors—Responsibility; guarantee.
Sec. 114-38. - Same—Protecting public; guardrails and flares.
Secs. 114-39—114-60. - Reserved.

Sec. 114-31. - Grade and line.

The surface of sidewalks and curb lines shall conform in grade and line to the grades established by the city engineer.

(Ord. No. 2005-75, § 1(Exh. A), 10-24-05)

Sec. 114-32. - Sidewalk width; thickness; joints.

(a) *Residential districts.* All concrete sidewalks in any district zoned for residential use shall be not less than four feet wide, and four inches thick, with cut joints every four feet and expansion joints every 24 feet, such expansion joints to be composed of six-ply tarpaper or such other material as shall be approved by the city engineer.

(b)

Nonresidential of multifamily districts. Unless a waiver is granted by the planning commission on a plat, all concrete sidewalks in the nonresidential or multifamily zoned districts shall be six feet wide and four inches thick, cut into convenient sections at least two inches deep throughout, with expansion joints every 24 feet and adjoining brick or stone walls, such joints to be composed of four-ply tarpaper or such other material as shall be approved by the city engineer. Where a business, multifamily or other nonresidential building is setback from the street by ten feet or less, the sidewalk must extend from the building to the street.

(Ord. No. 2005-75, § 1(Exh. A), 10-24-05)

Sec. 114-33. - Crossings; plans on file.

All street crossings shall be constructed as per plans on file in the city engineer's office.

(Ord. No. 2005-75, § 1(Exh. A), 10-24-05)

Sec. 114-34. - Embankments; tamping; widths.

All embankments built to subgrade shall be thoroughly tamped to a solid and compact body and shall extend at least six inches beyond all walks on either side. In excavations where the subgrade material is coarse, it shall be tamped as in embankments.

(Ord. No. 2005-75, § 1(Exh. A), 10-24-05)

Sec. 114-35. - Concrete requirements.

Concrete to be used on work specified in this article and as detailed in the standard construction drawings for sidewalks approved by the planning commission on file with the city secretary shall be as follows:

(1) *Concrete.* Concrete shall be composed of portland cement, natural aggregates (fine and coarse) and water proportioned and mixed to achieve a minimum 28-day compressive strength of 3,000-psi.

(2) *Base material.* The concrete base shall be a minimum two-inch thick bed of flex base material spread, wetted thoroughly, tamped and level.

(3) *Reinforcement.* Reinforcement shall consist of either one layer of 6" × 6" W2.9 × W2.9 welded wire flat sheet or No. 3 reinforcing steel, placed not more than 18-inches on centers in both directions. Reinforcement shall be placed equidistant from the top and bottom of the concrete.

(4) *Placement.* The concrete shall be placed in forms and spaded, tamped and thoroughly compacted until mortar covers the entire surface and has a monolithic finish.

(5) *Surface.* The top surface shall be floated and toweled to a uniform smooth surface, then finished with a camel hair brush or wood float to a gritty texture. The outer edges and joints shall be rounded and finished.

(6) *Curing.* All concrete work specified in this article, after being finished, shall be kept damped for three days after the completion of work.

(Ord. No. 2005-75, § 1(Exh. A), 10-24-05)

Sec. 114-36. - Other materials authorized.

Types of materials other than those provided in this article and appendix A, zoning, may be used to construct streets and sidewalks provided the plans and materials have been approved by the city engineer or in accordance with chapter 118.

(Ord. No. 2005-75, § 1(Exh. A), 10-24-05)

Sec. 114-37. - Contractors—Responsibility; guarantee.

In the construction and repair of sidewalks, the contractor shall be responsible for all work constructed by such contractor until accepted by the city. All work shall be guaranteed by the contractor for a period of one year from the date of acceptance.

(Ord. No. 2005-75, § 1(Exh. A), 10-24-05)

Sec. 114-38. - Same—Protecting public; guardrails and flares.

All contractors governed by this article shall protect all unfinished work with guardrails and flares at night for public safety, using all lights necessary for public safeguard.

(Ord. No. 2005-75, § 1(Exh. A), 10-24-05)

Secs. 114-39—114-60. - Reserved.

ARTICLE III. - ADDRESS NUMBERING

Sec. 114-61. - Authority to assign and affix.
Sec. 114-62. - Plans and rules incorporated by reference.
Sec. 114-63. - Compliance.
Sec. 114-64. - Designation of numbers—Legal notice.
Sec. 114-65. - Person responsible; place of display.
Sec. 114-66. - Change of numbers.
Sec. 114-67. - New construction; application for numbers; affixing to structure.
Sec. 114-68. - Defacing and destroying numbers.
Secs. 114-69—114-90. - Reserved.

Sec. 114-61. - Authority to assign and affix.

The building official, acting under the authority of the city council, shall have the power to cause numbers of regular series to be affixed to all dwelling houses and other buildings erected or fronting on any public or private street in the city.

(Ord. No. 2005-75, § 1(Exh. A), 10-24-05)

Sec. 114-62. - Plans and rules incorporated by reference.

The plans and rules which are on file in the control county engineer's office, which are hereby incorporated by reference and made a part of this article as if fully set out herein, shall govern the numbering of buildings and houses as contemplated by this article.

(Ord. No. 2005-75, § 1(Exh. A), 10-24-05)

Sec. 114-63. - Compliance.

Whenever by ordinance or resolution the city council shall direct that any street or block shall be numbered or renumbered, such numbering shall be in accordance with the provisions of this article and the plans and rules incorporated by reference in section 114-62.

(Ord. No. 2005-75, § 1(Exh. A), 10-24-05)

Sec. 114-64. - Designation of numbers—Legal notice.

The city council or the city engineer, or the Comal County engineer, acting under the council's authority, shall deliver to each owner, agent or person having control of any house or building a certificate showing the number to be placed on such house or building, and the delivery of such certificate shall constitute legal notice to such owner, agent or person having control of such house or building to affix to his house or building the number so given.

(Ord. No. 2005-75, § 1(Exh. A), 10-24-05)

Sec. 114-65. - Person responsible; place of display.

(a) *Purpose.* The city council finds that it is in the best interest of the citizens of the city to have house and building numbers prominently displayed so that persons providing emergency services will be able to identify the house or building where the inhabitants are in need of emergency service.

(b) *Requirements.* The owner, agent or person having control of any house, building, or part thereof shall affix the number designated as authorized in section 114-64 to such building or part thereof in so conspicuous a manner that the number may easily be discernible at all times from the opposite side of the street that runs in front of the building.

(1) If any structure shall be located too far back from the street for a number on its front to be easily seen and read from the opposite side of the street or the front of the structure is hidden or the view obstructed by trees, plants, shrubbery or other objects, then the number of such structure and premises shall be placed in a conspicuous part of the premises whereon the structure is located, as determined by the building official.

(2) Each street number shall be of any durable material which contrasts in color with the background to which it is affixed.

(3) Each street number shall be at least two inches high.

(Ord. No. 2005-75, § 1(Exh. A), 10-24-05)

Sec. 114-66. - Change of numbers.

Whenever any property owner, or agent having control thereof, has been notified to change the numbers of his building, the old numbers may be temporarily retained, in addition to the new numbers, for a period not to exceed 30 days after the official notice to change such numbers.

(Ord. No. 2005-75, § 1(Exh. A), 10-24-05)

Sec. 114-67. - New construction; application for numbers; affixing to structure.

Whenever an owner or agent having control of property builds any house or other building in the city, it shall be his duty to apply to the Comal County engineer for the correct number of such house or building. Upon receiving the correct number, the owner shall thereupon affix to the house or building the number as required in section 114-65.

(Ord. No. 2005-75, § 1(Exh. A), 10-24-05)

Sec. 114-68. - Defacing and destroying numbers.

No person shall destroy, obliterate or destroy the legibility by painting over or otherwise covering, a house number so that it may not be visible from across the street.

(Ord. No. 2005-75, § 1(Exh. A), 10-24-05)

Secs. 114-69—114-90. - Reserved.

New Braunfels, Texas, Code of Ordinances >> PART II - CODE OF ORDINANCES >> Chapter 114 - STREETS, SIDEWALKS AND OTHER PUBLIC PLACES >> ARTICLE IV. - RIGHT-OF-WAY ACCESS AND MANAGEMENT >>

ARTICLE IV. - RIGHT-OF-WAY ACCESS AND MANAGEMENT

Sec. 114-91. - Purpose and intent.
Sec. 114-92. - Administration and enforcement.
Sec. 114-93. - Definitions.
Sec. 114-94. - Permit required; application.
Sec. 114-95. - Indemnification of city.
Sec. 114-96. - Construction specifications.
Sec. 114-97. - Methods of construction; rejection of materials.
Sec. 114-98. - General specifications for all roadways.
Sec. 114-99. - Approval methods for granting access to roadways.
Sec. 114-100. - Variances and appeals.
Sec. 114-101. - Penalty for violation of article.
Secs. 114-102—114-120. - Reserved.

Sec. 114-91. - Purpose and intent.

The purpose and intent of this article is to provide minimum standards, provisions and requirements for safe and convenient access to abutting private property along city streets; and to provide for suitable geometric layout, materials and methods of construction for driveway approaches and appurtenances on public property that are placed, eliminated or changed in use. The intent of this article is to assure that access is provided to abutting private property with a minimum of interference with the free and safe movement of vehicular entry to or exit from abutting private property.

(Ord. No. 2005-75, § 1(Exh. A), 10-24-05)

Sec. 114-92. - Administration and enforcement.

(a) The provisions of this article shall be administered and enforced by the city engineer. The city engineer may authorize or require changes in the number, location and design of accesses and approaches addressed in this article, where such changes are necessary for protection and/or movement of vehicular or pedestrian traffic.

(b) Access to TxDOT roads shall be approved by TxDOT according to TxDOT procedures and standards.

(Ord. No. 2005-75, § 1(Exh. A), 10-24-05)

Sec. 114-93. - Definitions.

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

Acceleration lane means a speed-change lane, including tapered areas, for the purpose of enabling a vehicle entering a roadway to increase its speed to a rate at which it can more safely merge with through traffic.

ADT means average daily traffic volume. It represents the total two-way traffic on a roadway for some period less than a year, divided by the total number of days it represents, and includes both weekday and weekend traffic. Usually, ADT is adjusted for day of the week, seasonal variations, and/or vehicle classification.

Auxiliary lane means a lane striped for use as an acceleration lane, or deceleration lane, right-turn lane, or left-turn lane, but not for through traffic use.

Connection spacing means the distance between connections, which is measured along the edge of the traveled way from the closest edge of pavement of the first access connection to the closest edge of pavement of the second access connection.

Capacity means the number of vehicles that can traverse a point or section of a lane or roadway during a set time period under prevailing roadway, traffic, and control conditions.

City engineer means the duly authorized person in charge of engineering for the city, or his designated representative.

Commercial means any use that is not residential or industrial.

Corner clearance means the distance along the edge of the traveled way from the closest edge of pavement of the intersecting roadway to the closest edge of pavement of the nearest access connection.

Corner lot means a lot located at the intersection of two roadways that has frontage on each roadway.

Deceleration lane means a speed-change lane, including tapered areas, for the purpose of enabling a vehicle that is exiting a roadway to leave the travel lanes and slow to a safe exit.

Directional median opening means an opening in a non-traversable median that accommodates specific movements, such as U-turn movements and/or left-turn movements from the highway, and physically restricts other movements.

Divided highway means a highway with a median designed to separate traffic moving in opposite directions.

Drive opening means the measurement of the driveway at its common boundary with the public roadway.

Driveway approach/ramp/apron means an accessway constructed between the public roadway and the property line.

Driveway throat width means the narrowest width of the driveway measured parallel with the edge of the public roadway.

Field drive means a limited use driveway for the occasional/infrequent use by farm or ranch equipment used for the purpose of cultivating, planting, and harvesting or maintenance of agricultural land, or by equipment used for ancillary mineral production.

Frontage means any portion of the lot abutting a public roadway, to include corner lots and double frontage lots.

Frontage road means a street or road along an arterial highway allowing control of access and service to adjacent areas and property. A frontage road may also be referred to as a service road.

Full median opening means in a non-traversable median, an opening that allows all turning movements from the highway and the adjacent connection, as well as crossing movements.

Functional area (intersection) means the area of an intersection necessary to provide all required storage lengths for separate turn lanes and for through traffic plus any maneuvering distance for separate turn lanes. The functional boundary of an intersection includes more than just the physical area of the intersection.

Intersection means any at-grade connection with a roadway, including two roads or a driveway and a road.

Industrial means any use permitted in the light or heavy industrial zoning districts except commercial and residential uses.

Level of service (LOS) means a measure of traffic flow and congestion. As defined in the Texas Department of Transportation's Highway Capacity Manual, it is a qualitative measure describing operational conditions within a traffic stream, generally described in terms of such factors as speed and travel time, freedom to maneuver, traffic interruptions, comfort and convenience, and safety.

Median means the portion of a divided highway separating the opposing traffic flows. A median may be traversable or non-traversable.

Median, non-traversable means a physical barrier in a roadway or driveway that separates vehicular traffic traveling in opposite directions. Non-traversable medians include physical barriers (such as a concrete barrier, a raised concrete curb and/or island, and a grass or a swale median) that prohibit movement of traffic across the median.

Median opening spacing means the allowable spacing between openings in a non-traversable median to allow for crossing the opposing traffic lanes in order to access property or for crossing the median to travel in the opposite direction (U -turn). The distance is measured from centerline to centerline of the openings along the traveled way.

Median, traversable: means a median that by its design does not physically discourage vehicles from entering or crossing over it. This may include painted medians.

Multifamily means any building containing three or more dwelling units.

Public roadway means that portion of the street right-of-way utilized for public travel, to include the pavement located between curbs, the pavement in cases where curbs do not exist and the driving surface in cases where curbs and/or pavement do not exist.

Residential means a single-family residence or duplex, to include any mobile home, townhouse, or zero lot line home.

Right-of-way means a general term denoting land, property, or interest therein, usually in a strip, acquired for or devoted to transportation purposes.

Shared access means a single connection serving two or more adjoining lots or parcels.

Sight distance means the distance visible to the driver of a passenger vehicle measured along the normal travel path of a roadway from a designated location and to a specified height above the roadway when the view is unobstructed by traffic.

Signal means a traffic control signal.

Stopping sight distance (SSD) means the distance required by a driver of a vehicle, traveling at a given speed, to bring the vehicle to a stop after an object on the roadway becomes visible. It includes the distance traveled during driver perception -reaction time and the vehicle braking distance.

Storage lane length means the portion of an auxiliary lane required to store the number of vehicles expected to accumulate in the lane during an average peak period.

Temporary access means the time-limited provision of direct access to a roadway. Such access must be closed when permit conditions for access removal are satisfied. Typically, such conditions relate to such time when adjacent properties develop in accordance with a joint access agreement or frontage road plan.

TxDOT means the Texas Department of Transportation.

TxDOT Roads means streets, roads, highways and freeways under the jurisdiction of the Texas Department of Transportation.

(Ord. No. 2005-75, § 1(Exh. A), 10-24-05)

Sec. 114-94. - Permit required; application.

(a) Any owner, authorized agent, or contractor who desires to construct, add, alter, enlarge, repair, move or demolish access across public property to abutting private property shall make application to the building official and obtain a building permit and pay all required fees.

(b) Permit procedure for approval of access to all roadways.

(1) Any building permit applications submitted which include or involve driveways shall be referred to the city engineer for approval before a building permit is issued.

(2) A written separate driveway permit for a new development shall not be required. Approval of driveway location and design for new properties and other developments on a final plat, building plan or site plan shall be considered the permit for driveway installation.

(3) Any property owner desiring a new driveway or an improvement to an existing driveway at an existing residential or other property shall make application for a building permit, designate the contractor who will do the work, and provide a sketch or drawing showing clearly the driveway, parking area, or doorway to be connected and the location of the nearest existing driveways on the same and opposite sides of the roadway. The city engineer will prescribe the construction procedure to be followed.

(4) All permits granted for the use of public property under the terms of this section shall be revocable at the will of the city council.

(5) The contractor installing the access connection shall have a copy of the permit at the site.

(c) If access is to a TxDOT road, the application shall include a document showing TxDOT's approval of the access.

(Ord. No. 2005-75, § 1(Exh. A), 10-24-05)

Sec. 114-95. - Indemnification of city.

The applicant for a permit under this article shall hold harmless the city, its officials, duly appointed agents and employees against any action for personal injury or property damage sustained by reason of the exercise of a permit issued hereunder.

(Ord. No. 2005-75, § 1(Exh. A), 10-24-05)

Sec. 114-96. - Construction specifications.

(a) Sight distance criteria, curb return radii, driveway approaches, and curb or combination curb and gutters shall comply with the geometry specifications and standards as set forth in this article and in accordance with the standard construction drawings on file with the city. The city engineer shall file such standards with the planning commission for approval and, thereafter file these standards in his office. The city engineer may amend the standards from time to time, upon approval of the planning commission.

(b) In cases where a predominant number of driveway approaches in the general area, as determined by the city engineer, are constructed of base, gravel or asphalt rather than concrete and no curbs and/or gutters exist, new driveway approaches may be constructed of asphalt, provided the size, dimensions and configuration equal those as required for concrete driveway approaches.

(Ord. No. 2005-75, § 1(Exh. A), 10-24-05)

Sec. 114-97. - Methods of construction; rejection of materials.

(a) *Foundations.* Foundations or subgrades for all work shall be set at the grades approved by the city engineer. Inspection of such foundation or subgrade shall be made and approved by the city engineer before curbs and driveway approaches are placed thereon. Generally, grades shall be set to allow stormwater runoff to follow the existing drainage pattern, with any increased runoff being subject to control as directed by the city engineer.

(b) *Rejection of materials.* All materials or combinations of materials may be rejected, either before or after incorporation into the work, for failure to meet the required specifications as provided in the plans approved by the city engineer.

(c) *Plans.* All construction permitted under this article shall be according to the plans as approved by the city engineer.

(Ord. No. 2005-75, § 1(Exh. A), 10-24-05)

Sec. 114-98. - General specifications for all roadways.

(a) *Generally.*

(1) It shall be unlawful for any person to cut, break, or remove any curb along a roadway except as herein authorized.

(2) It shall be unlawful for any person to construct, alter, or extend, or permit or cause to be constructed, altered, or extend any driveway approach which can be used as a parking space or access area to a parking space that is between the curb and private property, except as herein authorized.

(3) No driveways, other than those required for one and two family residential structures, shall be constructed in such a way as to require backing maneuvers into the public right-of-way.

(4) This section shall be deemed to be supplemental to other sections regulating the use of public property, and in case of conflict, this section shall govern.

(5)

Adequate sight distance shall be provided for a passenger motor vehicle making a left or right turn exiting from a driveway. The adequate sight distance criteria shall be made by the city engineer.

(6) A driveway on a one- or two-family lot or parcel of property shall be a minimum of 20 feet apart, and 20 feet from a corner measured at the curb or shoulder line, and from the end of the corner radius and driveway radius or flare.

On one- and two-family lots or parcels, there shall be no more than three driveways to a collector street and no more than two driveways to a minor or major arterial.

(7) Driveway approach grades shall not exceed ten percent in order to provide for proper vehicular clearance unless otherwise approved by the city engineer.

(8) Driveway approaches shall not be located within 20 feet of any designated pedestrian crossing.

(9) Where side ditches exist, pipe of sufficient size and material shall be installed underneath the driveway approach. The grade and size for the pipe shall be determined by a registered engineer and approved by the city engineer. The city will not be responsible for furnishing the pipe.

(10) Where a driveway approach is built and sidewalks exist, sufficient sidewalk shall be removed to blend with the new approach.

(11) Whenever the use of any driveway approach is abandoned and not used for ingress and egress to the abutting property, it shall be the responsibility of the abutting property owner to remove such abandoned approach and restore the curb, sidewalk, and/or right-of-way to a status equal to that in the general area. For the purposes of this section, "abandoned" shall be defined as stated in the city zoning chapter.

(12) Joint driveway approaches with adjoining property holders may be permitted provided joint application is made by all interested parties.

(13) As determined by the city engineer, engineering judgment may override the dimensions set forth in this article if deviations are warranted. (See § 144-99.)

(b) *Location of driveway access.*

(1) Driveway access to arterial roads shall not be permitted for parking or loading areas that require backing maneuvers in a public street right-of-way. Driveway access to streets for commercial or multifamily developments shall not be permitted for parking or loading areas that require backing maneuvers in a public street right-of-way.

(2) No curb cuts through a left turn lane of a median shall be permitted in order to provide for left turn movements to driveway approaches.

(3) Driveways in right turn lane transition areas shall not be permitted.

(c) *Spacing of driveway access.*

(1) Application of the driveway access location and design policy requires identification of the functional classification of the street on which access is requested. Street sections are classified as follows:

a. Local street;

b. Sub-collector;

c. Collector;

d. Minor arterial;

e. Major arterial;

(2) Driveway access spacing shall be measured from the closest edge of pavement of the first access connection to the closest edge of pavement of the second access connection. (Figure 1)

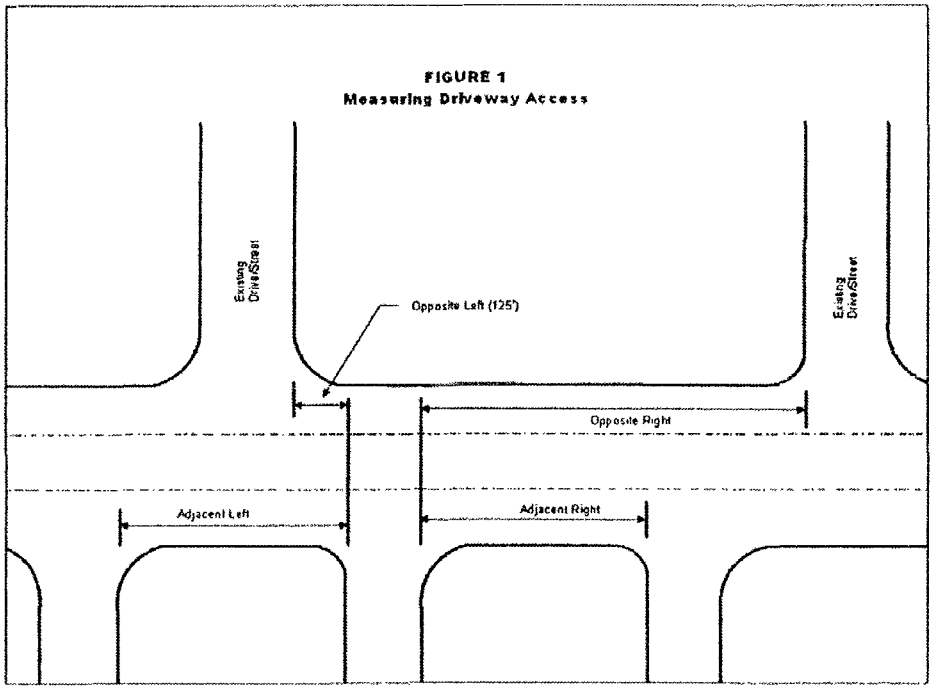


Figure 1—Measuring Driveway Access

(3) Opposite right driveways, for other than one or two family development, shall be located per the following requirements:

Street Classification	Spacing
Local	Must match or greater than 15 feet
Sub-collector	Must match or greater than 15 feet
Collector	Must match or greater than 100 feet
Minor arterial	Must match or greater than 225 feet
Major arterial	Must match or greater than 300 feet
Major arterial median	To be determined by city engineer

(4) Additional opposite right spacing exceeding that set forth in the above section may be required if it is determined by the city engineer that there is insufficient left turn queue storage or weave maneuver area between the opposite right and proposed driveway. This determination shall be made under peak traffic conditions.

(5) Opposite left driveways, for other than one and two family development, shall be located per the following requirements:

Street Classification	*Spacing*
Local	Must match or greater than 15 feet
Sub-collector	Must match or greater than 15 feet
Collector	Must match or greater than 125 feet
Minor arterial	Must match or greater than 125 feet
Major arterial	Must match or greater than 125 feet
Major arterial median	To be determined by city engineer

(6) Where possible, opposite driveways for other than one or two family development shall align. These drives shall be considered as an intersection.

(7) Adjacent driveways, for other than one or two family development, shall be located per the following requirements:

Street Classification	*Spacing*
Local street	Greater than 25 feet
Sub-collector	Greater than 75 feet
Collector	Greater than 100 feet
Minor arterial	Greater than 150 feet
Major arterial	Greater than 250 feet

(8) Exceptions. Where driveway spacing according to the standards in this section may not be possible or practical, the city engineer may require one or a combination of the following:

a. Where adequate access connection spacing cannot be achieved, the city engineer may allow for a lesser spacing when shared access is established with an abutting property.

b. Where no other alternatives exist, construction of an access connection may be allowed along the property line farthest from the intersection. To provide reasonable access under these conditions but also provide the safest operation, consideration shall be given to designing the driveway connection to allow only the right-in turning movement or only the right-in/right out turning movements, if feasible.

(d) *Corner clearance.*

(1) Corner clearance, the distance between a street intersection and a driveway, for driveway access other than to one or two family development, shall meet or exceed the minimum driveway spacing requirements for that roadway, as shown above.

(2) Downstream corner clearance. When minimum spacing requirements cannot be met due to lack of frontage and all means to acquire shared access drives or cross access easements have been exhausted, the following shall apply: at intersections with channelized right-turn lanes with yield control, a corner clearance as shown in the following may be approved by the city engineer:

a. Local streets. No closer than 30 feet.

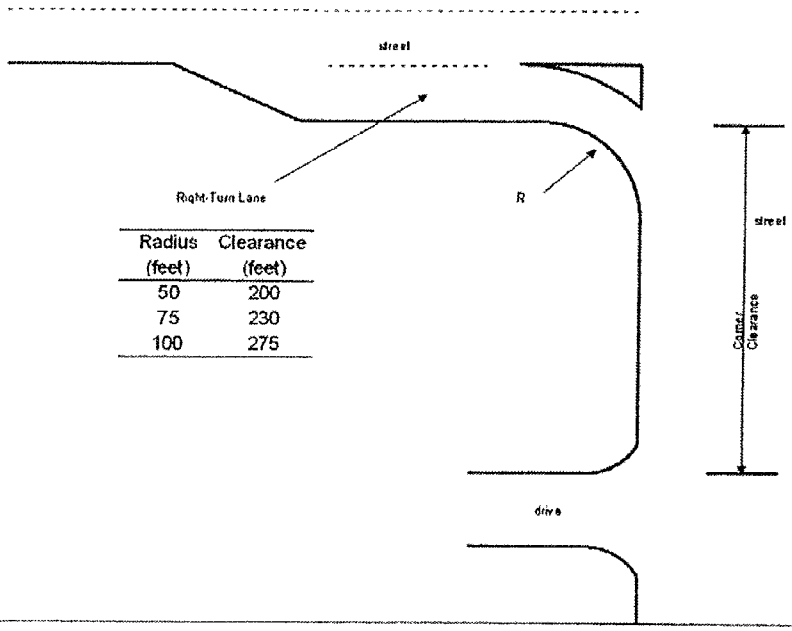
b. Sub-collectors. No closer than 75 feet.

c. Collectors. No closer than 75 feet.

d. Minor arterials. No closer than 100 feet.

e. Major arterials. No closer than 120 feet.

FIGURE 2
Downstream Corner Clearance



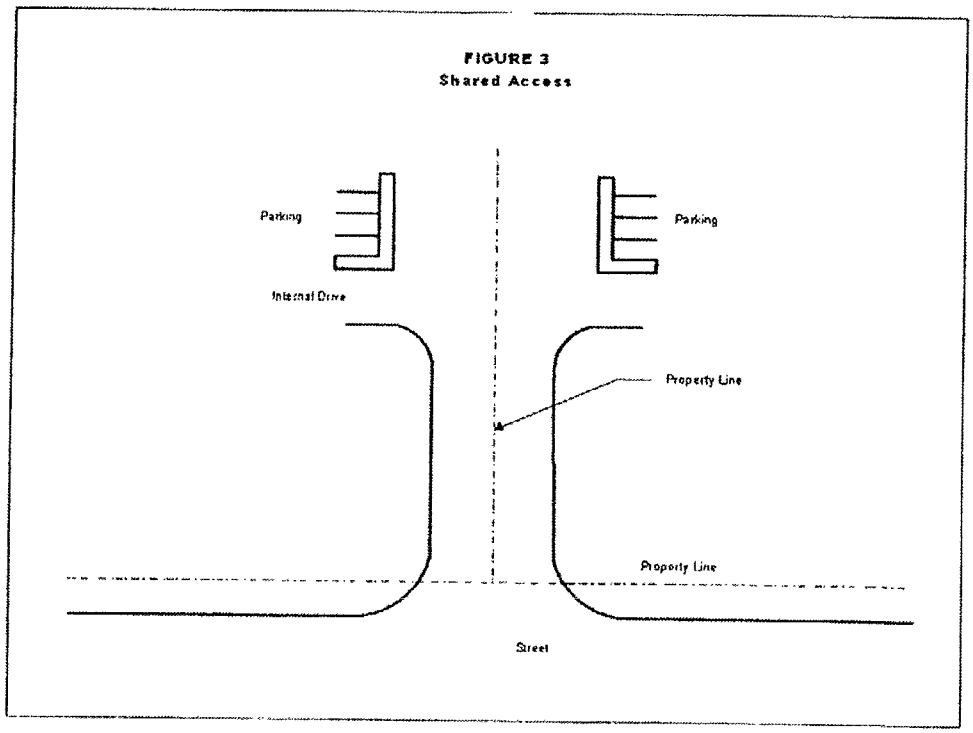
Radius (feet)	Clearance (feet)
50	200
75	230
100	275

Figure 2—Downstream Corner Clearance

(e) *Shared access.*

(1) A shared access easement may be required between adjacent lots fronting on major arterials, minor arterials, or collector streets in order to minimize the total number of access points along those streets and to facilitate traffic flow between lots. The city engineer shall determine the location and dimensions of said easement.

(2) Private cross access easements may be required across any lot fronting on major arterials, minor arterials, or collector streets in order to minimize the number of access points and facilitate access between and across individual lots. The city engineer shall determine the location of said easement.



Shared Access

(f) *Geometric design of driveway access.*

(1) All driveways shall meet the city's standard specifications for street construction and construction standards.

(2) Curb cuts for driveways shall not be permitted in the curb return of an intersection.

(3) The curb return radii or flares for driveways intersecting at right angles with the roadway and without a deceleration lane shall be as follows:

a. Curb return radii or flares for one or two family driveways shall be five feet or have a three feet flare.

b. Curb return radii or flares for industrial, commercial and multi-family driveways shall be a minimum of 15 feet to a maximum of 30 feet.

c. Curb return radii or flares for driveway types not included in this section shall be determined by the city engineer.

d. The city engineer may allow a larger radii or flare in special circumstances, for instance where there will be significant large truck, bus, or shuttle traffic on a daily basis.

(4) The tangent point of the driveway curb return at the public roadway line or flare shall be a minimum distance of one foot off the property projected perpendicular to the street centerline, except single family zero lot line lots. On single family zero lot line lots where the drive is on the zero lot line, the tangent point or flare shall be no greater than three feet beyond the adjoining property line projected perpendicular to the street centerline.

(5) The maximum width of a one or two family driveway approach measured at the property line shall not exceed 24 feet in width, while the minimum width shall not be less than 12 feet in width unless the driveway is shared, in which case the driveway shall not exceed 40 feet in width.

(6) The maximum width of a commercial, industrial and multi-family driveway approach for two-way operation shall not exceed 40 feet except that the city engineer may issue permits for driveway approaches greater than 40 feet in width on major streets to handle special traffic conditions. The minimum width of a commercial and multifamily driveway approach for two-way operation shall not be less than 20 feet.

(7) The width of a driveway approach that is a combination of two driveways for one or two family circular drives shall not exceed 28 feet.

(8) Throat length. A minimum driveway throat length of 25 feet for sub-collectors and collector streets, 40 feet for minor arterials, and 55 feet for major arterials, as shown in figure 4, may be required as determined by the city engineer to allow for traffic entering the site to be stored on site in order to avoid a queue of traffic from the development from being out on the roadway causing delays to the through traffic stream. The driveway throat length shall be defined as the distance from the street to the first point of conflict in the driveway.

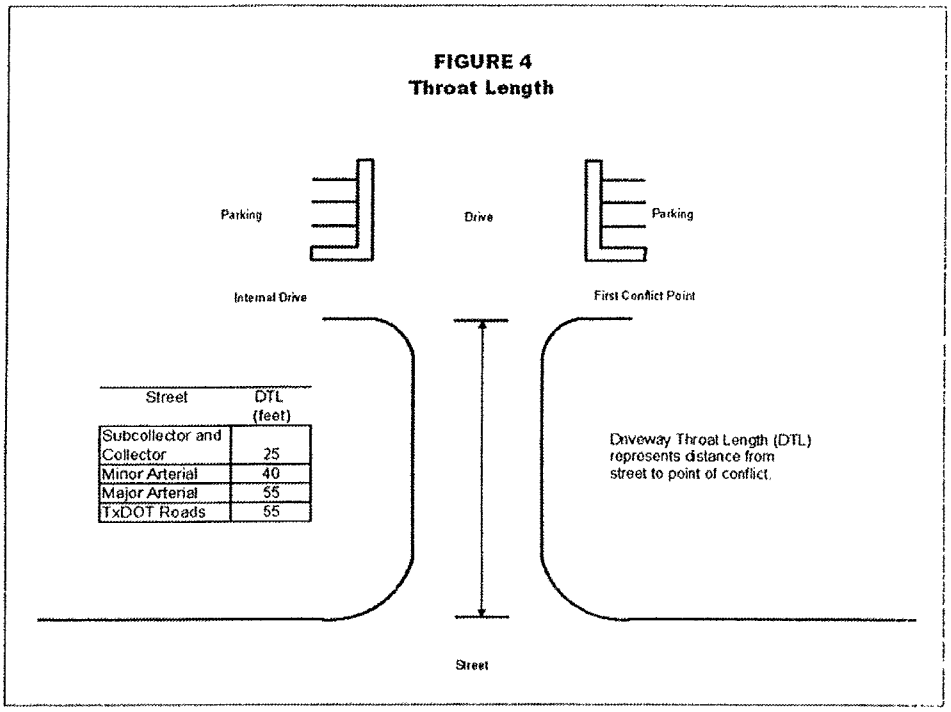


Figure 4—Throat Length

(9) Driveway median. On collector, minor arterials, and major arterials, access points may be required to be designed to prohibit certain types of turning movements (for example, left turns). Driveways not meeting the spacing guidelines in subsection 114-98(c) may be designed for limited access by the addition of a median to the driveway.

(10) Right turn deceleration lane. On collector, minor arterials, and major arterials, tapered or channelized deceleration lanes for vehicles turning right into high volume or intersection type driveways may be required if warranted. Design of right-turn deceleration lanes shall be in accordance with the AASHTO Green Book on auxiliary lanes.

(11) The spacing requirements for driveways not meeting the specifications in subsection 114-98(c) may be lessened or waived by the city engineer if tapered or channelized deceleration lanes are used.

(12) Signalization. Access points on collector, minor arterials, and major arterials may be required to be signalized in order to provide safe and efficient traffic flow. A development may be responsible for all or part of any right-of-way, design, hardware, and construction costs of a traffic signal if it is determined that the signal is necessitated by the traffic generated from the development. The procedures for signal installation and the percent of financial participation required of the development in the installation of the signal shall be in accordance with criteria set forth by the city engineer.

(g) *Street structures.* No driveway shall interfere with nor be closer than five feet from any municipal facilities such as street light or traffic signal poles, signs, fire hydrants, cross walks, bus loading zones, utility poles, fire alarm supports, drainage structures, or other necessary street structures. The city engineer is authorized to order and effect the removal or reconstruction of any driveway that is constructed in conflict with street structures. The cost of reconstructing or relocating such driveways shall be at the expense of the abutting property owner.

(h) *The Americans with Disabilities Act (ADA) and the Texas Accessibility Standards.* All construction related to the access of all roadways must comply with the Americans with Disabilities Act and the Texas Accessibility Standards.

(i) *Compliance with all applicable state and federal laws, rules, and regulations.* Access to all roadways shall comply with applicable state and federal laws, rules and regulations.

(j) *Median openings.* Median openings may be provided at intersections or at intervals for major developed areas. Spacing between median openings must be adequate to allow for the introduction of left-turn lanes and signal

detection loops to operate without false calls. If medians are provided, the following standards for lengths of median turn lanes shall determine the location of median opening:

Main Design Speed	Taper Length	Deceleration Length
30 mph	50 feet	160 feet
35 mph	50 feet	215 feet
40 mph	50 feet	275 feet
45 mph	100 feet	345 feet
50 mph	100 feet	425 feet
55 mph	100 feet	510 feet
60 mph	150 feet	615 feet
65 mph	150 feet	715 feet

Design Turning ADT	Minimum Storage Length
150	50 feet
300	100 feet
500	175 feet
750	250 feet

The city engineer may require another minimum storage length based upon results for a computer model or computational formula. The required storage may be obtained using an acceptable traffic model such as the latest version of the HCM software (HCS), SYNCHRO, or VISSIM or other acceptable simulation models. Where such model results have not been applied, the following may be used:

L = (V/N)(2)(S)

where:

L = storage length in feet (or meters)

V = left-turn volume per hour, vph

N = number of cycles

2 = a factor that provides for storage of all left-turning vehicles on most cycles; a value of 1.8 may be acceptable on collector streets

S = queue storage length, in feet (or meters), per vehicle

% of trucks	S (ft)	S (m)
<5	25	7.6
5-9	30	9.1
10-14	35	10.7
15-19	40	12.2

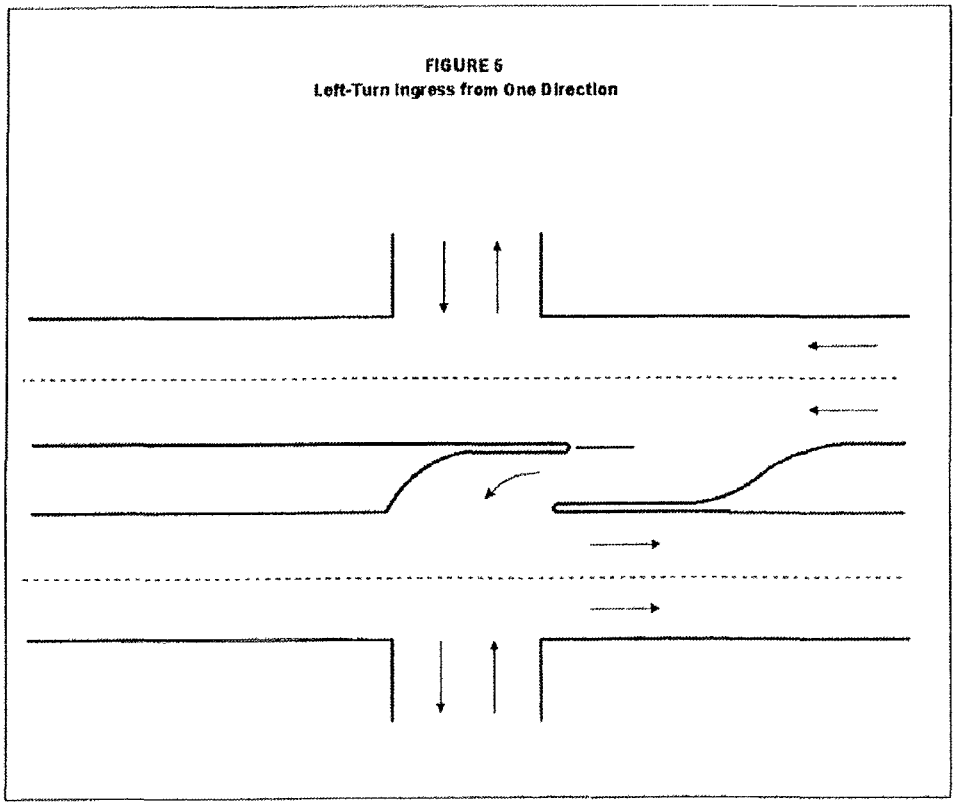


Figure 5—Left-Turn Ingress from One Direction

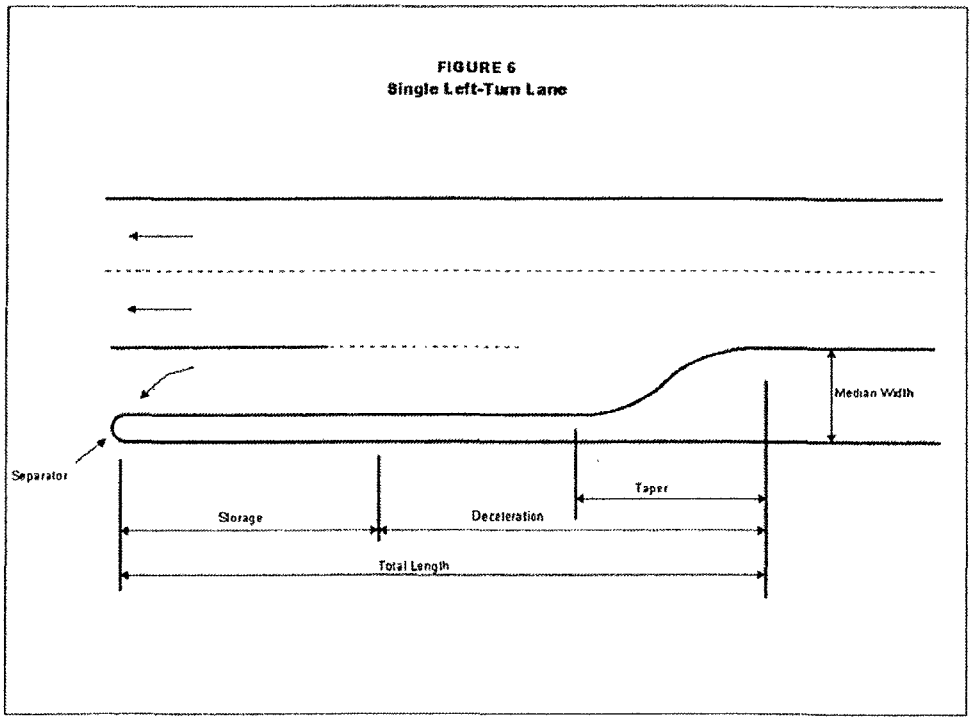


Figure 6—Single Left-Turn Lane

(Ord. No. 2005-75, § 1(Exh. A), 10-24-05)

Sec. 114-99. - Approval methods for granting access to roadways.

Granting approval to all roadways. The city engineer will require one of the following before granting an applicant access to any roadways:

(1) The applicant must meet the requirements listed within this article for all roadways.

(2) The city engineer may require an engineering study or traffic impact analysis (TIA) to be completed and approved by the city engineer and improvements made according to the approved TIA for a development, including a subdivision master plan and the issuance of a building permit, that would generate more than 100 peak hour trips (PHT) on any street or where the standards of this article cannot be met to ensure safety at access points. A building permit shall not be issued for a development that is required to have an approved TIA until such TIA has been approved and any improvements called for in the TIA have been approved as part of the building permit plans. A certificate of occupancy shall not be issued until any improvements required in the approved TIA have been completed, inspected and approved by the director of public works or his designee or as otherwise approved by the city engineer in accordance with subsection e.

a. *Requirements.* No master plan, plat, building permit or driveway access shall be approved unless a traffic impact analysis (TIA) form or TIA, as provided for in this section, is completed by the developer and approved by the city engineer. A TIA may also be required by the planning director, the planning commission or the city council as part of a zoning change application. A TIA or TIA threshold worksheet shall be completed by the property owner or its agent according to the format established in this section. The type of submittal required shall be based upon the number of PHT generated by the proposed development, as set forth in the following table:

TIA Table Submittal Type

Peak Hour Trips	Submittal Type
100 or less	TIA Threshold Worksheet (no TIA required)
101—500	Level 1 TIA
501—1,000	Level 2 TIA
1,001 or more	Level 3 TIA

When a change occurs that varies from the activity on which a previous TIA was submitted and accepted, and the new activity places the project into a different level from that of the previous TIA or generates an increase of at least 100 PHT (or ten percent for a level 3 TIA) relative to the previous TIA, the property owner or its agent shall perform and submit to the city an amended TIA under the format described in this section.

b. *Impact area.* The impact area is the area within which any traffic impact analysis is conducted in order to determine compliance with the level of service standards. This area shall be based on the size of the development and the PHTs projected to be generated by the proposed development. The impact areas shall be established as shown in the following table:

TIA Impact Area Table

Submittal Type	Impact Area
Level 1 or level 2 TIA	The site and area within one-quarter mile from the boundary of the site
Level 2 TIA	The city engineer may require the area of study to be extended up to a maximum of one mile from the boundary of the site
Level 3 TIA	The site and area within one mile from the boundary of the site

c. *Level 1 TIA.* A level 1 TIA shall be signed and sealed by a professional engineer registered to practice in the state. The level 1 TIA shall consist of the following minimum information:

1. *Impact area.*
   - A. Land use, site and study area boundaries, as defined.
   - B. Existing and proposed site uses.
   - C. Existing land uses on both sides of boundary streets for all parcels within the study area (provide map).
   - D. All major driveways and intersecting streets adjacent to the property shall be illustrated in detail sufficient to serve the purposes of illustrating traffic function; this may include

showing lane widths, traffic islands, medians, sidewalks, curbs, traffic control devices (traffic signs, signals, and pavements markings), and a general description of the existing pavement condition.

E. Photographs of adjacent streets of the development.

2. *Peak hour trip generation.*

A. The estimates of peak hour trips generated by the development during a street peak hour (provide table).

B. Estimates for the percentage distribution of such trips from each site exit and to each site entrance (provide map).

C. Narrative describing mitigation measures, conclusions and recommendations consistent with this section.

d. *Level 2 and 3 TIA format.* A level 2 and 3 TIA shall be signed and sealed by a professional engineer registered to practice in the state. The level 2 and 3 TIA shall consist of the following minimum information:

1. *Impact area.*

A. Land use, site and study area boundaries (provide map).

B. Existing and proposed site uses.

C. Existing and proposed land uses on both sides of boundary streets for all parcels within the study area (provide map).

D. Existing and proposed roadways and intersections of boundary streets within the study area of the subject property, including traffic conditions (provide map).

E. All major driveways and intersecting streets adjacent to the property will be illustrated in detail sufficient to serve the purposes of illustrating traffic function; this may include showing lane widths, traffic islands, medians, sidewalks, curbs, traffic control devices (traffic signs, signals, and pavement markings), and a general description of the existing pavement condition.

F. Photographs of adjacent streets of the development and an arterial photograph showing the study area.

2. *Trip generation and design hour volumes (provide table).*

A. A trip generation summary table listing each type of land use, the building size assumed, the average trip generation rates used (total daily traffic and a.m./p.m. street peaks), and the resultant total trips generated shall be provided.

B. Generated vehicular trip estimates may be discounted in recognition of other reasonable and applicable modes, e.g., transit, pedestrian, bicycles. Furthermore, trip generation estimates may also be discounted through the recognition of pass by trips and internal site trip satisfaction.

3. *Trip distribution.* Provide the estimates of percentage distribution of trips by turning movements to and from the proposed development by site access location (provide table and figure).

4. *Trip assignment.* Provide the direction of approach and departure of site traffic via the area's street system (provide figure by site entrance and boundary street).

5. *Projected traffic volumes (provide figure for each item).* Projected traffic volumes are the numbers of vehicles, excluding the site-generated traffic, on the streets of interest during the time periods listed below, in the build-out year.

A. A.M. street peak hour site traffic (including turning movements).

B. P.M. street peak hour site traffic (including turning movements).

C. A.M. street peak hour total traffic including site-generated traffic and projected traffic (including turning movements).

D. P.M. street peak hour total traffic including site-generated traffic and projected traffic (including turning movements).

E. For special situations where peak traffic typically occurs at non-traditional times, e.g., major sporting venues, large specialty Christmas stores, etc., any other peak hour necessary for complete analysis (including turning movements).

F. Total daily existing traffic for street system in study area.

G. Total daily existing traffic for street system in study area and new site traffic.

H. Total daily existing traffic for street system in study area plus new site traffic and projected traffic from build-out of study area land uses.

6. *Capacity analysis (the applicant shall provide analysis sheets in appendices).*

A. A capacity analysis shall be conducted for all public street intersections and junctions of major driveways with public streets which are significantly impacted within the study area boundary as defined in his section as agreed to by the developer's engineer and the city engineer. A capacity analysis is required as shown below.

TIA Required Analysis Table

Volumes without and with site traffic	Boundary Street	Non-Boundary Street within Study Area
Existing conditions	Required	Required
First phase	Required	Not required
Intermediate phase	Required	Not required
Final phase	Required	Required

B. Capacity analysis will follow the principles established in the latest edition of the Transportation Research Board's Highway Capacity Manual (HCM), unless otherwise directed by the city engineer. Capacity will be reported in quantitative terms as expressed in the HCM and in terms of traffic level of service based on control delay by movement or lane group.

C. Capacity analysis will include traffic queuing estimates for all critical applications where the length of queues is a design parameter, e.g., auxiliary turn lanes, and at traffic gates.

7. *Conclusions and requirements.* Provide a narrative describing mitigation measures, conclusions and recommendations consistent with this section.

e. *Mitigation.* If the TIA's determination for roadways and intersections indicates that the proposed development would cause a reduction in the level of service for any roadway or intersection within the impact area below the level of service C, the proposed development will be denied unless the developer agrees to one of the following conditions:

1. The deferral of building permits or certificates of occupancy until the improvements necessary to upgrade the substandard facilities are constructed;
2. A reduction in the density or intensity (trip generation) of development;
3. The dedication or construction of facilities needed to achieve the level of service required herein; or
4. Escrow with the city an amount equivalent to the cost of the improvements necessary to mitigate the adverse traffic impact.
5. Execute a development agreement with the city.
6. Any combination of techniques identified herein that would ensure that development will not occur unless the levels of service for all roadways and intersections within the traffic impact analysis study are adequate to accommodate the impacts of such development.

f. *Implementation.* For phased construction projects, implementation of these traffic improvements must be accomplished no later than the completion of the project phase for which the capacity analyses show they are required. Plats or building permits for project phases subsequent to a phase for which a traffic improvement is required may be approved only if the traffic improvements are completed or secured as approved by the city engineer.

g. *Traffic mitigation concepts.*

1. Voluntary efforts, beyond those herein required, to mitigate traffic impacts are encouraged as a means of providing enhanced traffic handling capabilities to users of the land development site, as well as others.
2. Traffic mitigation concepts include, but are not limited to, pavement widening, turn lanes, median islands, access controls, curbs, sidewalks, traffic signalization, traffic signing, pavement markings, etc.

(Ord. No. 2005-75, § 1(Exh. A), 10-24-05; Ord. No. 2007-09, § I, 2-12-07)

Sec. 114-100. - Variances and appeals.

(a) *Variance.* It is recognized that in certain cases a variance from the regulations of this article may need to be granted. In cases where the possibility of undue hardship would result from compliance with this article, or where the purpose of this article may be served to a greater extent by an alternative proposal a request may be made for review by the access management board of adjustment. The access management board of adjustment may approve a variance

from any portion of the regulations of this article so that substantial justice may be done and the public interest secured, provided the variance shall not have the effect of nullifying the intent and purpose of this article, and further provided that the access management board of adjustment shall not approve a variance or alternative proposal unless it shall make findings based upon the evidence presented to it in each specific case that:

(1) Granting the variance or alternative proposal will not be detrimental to the public safety, health or welfare, and will not be injurious to other property or to the owners of the property;

(2) Because of the particular physical surroundings, shape, and/or topographical conditions of the specific property involved, a particular hardship to the property owner would result, as distinguished from a mere inconvenience, if the strict letter of the regulations of this article is carried out; or an alternate proposal will achieve the same result or intent as the standards and regulations prescribed in this article;

(3) The variance or alternative proposal will not in any manner vary the provisions of the zoning ordinance or other ordinance(s) of the city.

(b) *Conditions for variance.* In approving a variance from the provisions of this article, the access management board of adjustment may require such conditions as will, in its judgment, secure substantially the purposes described in this article.

(c) *Procedures for variance.*

(1) A petition for a variance shall be submitted in writing to the planning department by the property owner on forms provided by the planning department. The petition shall explain the purpose of the variance, state fully the grounds for the variance and all of the facts relied upon by the applicant.

(2) The fee for variances shall be $200.00, plus $50.00 for each standard for which a variance is sought.

(3) All variances shall be approved, disapproved, or conditionally approved by the access management board of adjustment.

(4) The findings of the access board of adjustment, together with the specific facts upon which such findings are based, shall be incorporated into the official minutes of the access management board of adjustment meeting at which a variance is considered, approved, approved with condition or disapproved.

(d) *Procedure for appeals.* Appeals to the access management board of adjustment may be taken by any aggrieved person or by any officer, department, board or bureau of the city affected by any decision of the city engineer or other administrative officer concerning the interpretation or implementation of this article.

(1) *Stays of proceedings.* An appeal stays all proceedings in furtherance of the action appealed, unless the officer from whom the appeal is taken certifies to the board, after the notice of appeal shall have been filed with him, that by reason of facts stated in the certificate a stay would, in his opinion, cause imminent peril to life or property. In such case, proceedings shall not be stayed otherwise than by a restraining order which may be granted by the board or by a court of record on application on notice to the officer from whom the appeal is taken and due cause shown.

(2) *Notice of appeal.* The appellant must file with the planning department a written notice of appeal specifying the grounds for the appeal and pay a fee of $250.00. The notice of appeal shall be filed within 45 days after the decision has been rendered. Upon receiving the notice, the official from whom the appeal is taken shall immediately transmit to the board all papers constituting the record of action that is appealed. The chair or any two members of the access management board of adjustment may call a special meeting to consider appeals.

(3) *Action by the board on appeal.* The board may reverse or affirm, in whole or in part, or modify the administrative official's order, requirement, decision or determination from which an appeal is taken, and may make the correct order, requirement, decision or determination. Each appeal shall be decided within 30 days following the date the notice of appeal is filed.

(Ord. No. 2005-75, § 1(Exh. A). 10-24-05)

Sec. 114-101. - Penalty for violation of article.

Any person who shall violate any of the provisions of this article, or fail to comply with any of the provisions thereof, shall be guilty of a misdemeanor, and upon conviction shall be fined in a sum not exceeding $500.00, and each and every day's violation shall constitute a separate and distinct offense.

(Ord. No. 2005-75, § 1(Exh. A), 10-24-05)

Secs. 114-102—114-120. - Reserved.

ARTICLE V. - EXCAVATING IN THE PUBLIC WAY

DIVISION 1. - IN GENERAL
DIVISION 2. - PERMITS FOR EXCAVATION
DIVISION 3. - PERFORMANCE OF EXCAVATIONS

DIVISION 1. - IN GENERAL

Sec. 114-121. - Definitions.
Sec. 114-122. - Prohibited activities.
Sec. 114-123. - Provisions cumulative.
Sec. 114-124. - Penalty.
Sec. 114-125. - No private rights in public way.
Sec. 114-126. - Public entities not exempt.
Sec. 114-127. - Rules and regulations.
Secs. 114-128—114-140. - Reserved.

Sec. 114-121. - Definitions.

As used in this article, the following terms shall have the meanings ascribed in this section, unless the context of their usage clearly indicates another meaning:

Applicant means any person who seeks a permit for an excavation.

Backfill means excavation fill material meeting city specified quality requirements of the placement thereof.

Construction standards means the city's standard specifications for street design and paving as they may be amended from time to time by the city engineer.

Emergency means an unforeseeable event or occurrence that endangers health, life or property, or a situation in which public need for uninterrupted utility service requires immediate corrective action to restore services.

Excavation means an activity that cuts, penetrates, or bores under any portion of the public way that has been improved with a paved surface for street, sidewalk, surface drainage, or related public transportation infrastructure purposes. The term includes but is not limited to cutting, tunneling, jacking and boring, backfilling, restoring and repairing the public way. The term does not include a transportation improvement or excavations that are undertaken for the improvement or maintenance of municipal utility systems, such as electric, water and wastewater lines and facilities. This term does not include utility maintenance or other activities that are performed within already existing structures, vaults, conduits, or cable ways that are located underneath street improvements, provided that any access required for the work is obtained through manholes, or other previously constructed entrances that may be utilized without cutting or penetrating any pavement or other street improvement.

Facility means any structure, device, or other thing whatsoever that may be installed or maintained in, on, within, under, over, or above a public way by an excavation.

Inspection means the inspection of an excavation by any person approved by the city engineer to determine compliance with this article.

Owner means a person, including the city, who holds title to or will hold title to any facility that is installed or is proposed to be installed or maintained in the public way.

Permit means a current and valid authorization issued under division 2 of this article.

Permittee means a person who holds a permit; the singular term includes the plural if two or more persons jointly hold the permit, where applicable.

Public way means any public street right-of-way located in the city, including the entire area between the boundary lines of every way (including but not limited to roads, streets, alleys, boulevards, bridges, or similar thoroughfares), whether acquired by purchase, grant, or dedication and acceptance by the city or by the public that has been opened to the use of the public for purposes of vehicular travel.

Public way construction entity means the city, municipal utilities and any other public entity performing or causing to be performed transportation improvement construction or construction related activities in public ways.

Traffic control device means a traffic sign, signal, or marking that is placed and maintained in accordance with state law and this Code.

Transportation improvement means work undertaken by or pursuant to contract for the state or a political subdivision of the state for the purpose of improving or maintaining public way transportation and related storm drainage and street lighting infrastructure.

(Ord. No. 2005-75, § 1(Exh. A), 10-24-05)

Sec. 114-122. - Prohibited activities.

(a) It shall be unlawful for any person (unless expressly exempted hereunder) to excavate or cause an excavation within the city without a permit except as follows:
   (1) Excavation was begun in response to an emergency and that a permit was timely applied for in compliance with section 114-142 of this article.
   (2) Excavation that is being performed by a public way construction entity or its contractor in connection with a transportation improvement and that the owner, with the consent of the public works construction entity, has retained the public works construction entity or its contractor to install the facility concurrently with the making of the transportation improvement.

(b) It shall be unlawful for a permittee to excavate or cause an excavation within the city in violation of any term of a permit issued pursuant to this article.

(c) It shall be unlawful for any permittee to fail to exhibit a permit upon request. In any prosecution under this article, it shall be presumed that there is no permit if the permit is not properly exhibited upon request.

(Ord. No. 2005-75, § 1(Exh. A), 10-24-05)

Sec. 114-123. - Provisions cumulative.

(a) The provisions of this article are cumulative of all other requirements of this article and other laws, including, without limitation, building and fire codes, utility franchises, as well as all applicable state and federal laws and regulations. Compliance with this article does not excuse compliance with any other law, and permittees are additionally required to obtain any other permits, licenses, and authorizations required by law including but not limited to utility franchises, permits, licenses and authorizations that are required to be obtained from the city, state department of licensing and regulation, the state public utility commission, municipal utilities and the state underground facility notification corporation or any other appropriate governmental agency. However, to the extent that any provision set forth in this article may not be imposed upon any person because its imposition would be inconsistent with a controlling state or federal law, this article shall be construed and applied in a manner that conforms with the applicable state or federal law.

(b) To the extent that any other city permit or authorization is required for work that is also governed by this article, the city engineer shall, to the extent practicable, devise consolidated application forms and issue the required permits or authorizations on a combined basis.

(Ord. No. 2005-75, § 1(Exh. A), 10-24-05)

Sec. 114-124. - Penalty.

Violation of this article is unlawful. Any person who violates any provision of this article shall be guilty of an offense and upon conviction thereof, shall be punished by a fine not exceeding $500.00. Each and every day that any violation continues shall constitute a separate offense and shall be punishable as such.

(Ord. No. 2005-75, § 1(Exh. A), 10-24-05)

Sec. 114-125. - No private rights in public way.

Nothing in this article shall be construed to give any person or permittee any property right in or to the use of the public way. All permits issued and held under this article shall be subject to the superior right of the public to control the use of the public way and ensure the safe and orderly movement of traffic.

(Ord. No. 2005-75, § 1(Exh. A), 10-24-05)

Sec. 114-126. - Public entities not exempt.

In addition to their application to other persons, the provisions of this article are applicable to excavations made by the city and its contractors, as well as to excavations made by or on behalf of other governmental entities and subdivisions, to the extent of the city's police power jurisdiction. In connection with excavations made by the city or municipal utility, the city engineer may waive compliance with insurance and other requirements that have no practical application as applied to the city or municipal utility.

(Ord. No. 2005-75, § 1(Exh. A), 10-24-05)

Sec. 114-127. - Rules and regulations.

The city engineer shall promulgate rules and regulations regarding any aspect of the operation of this article, including without limitation construction standards, methods by which excavations will be performed, debarment procedures and inspection procedures. The rules and regulations shall be consistent with applicable federal and state laws, city ordinances, and sound engineering practices. The city engineer shall file such standards with the planning commission for approval and, thereafter file such standards with the city secretary at least ten days before they become effective. The city engineer may amend the standards from time to time, upon approval of the planning commission, and such amendment shall be filed with the city secretary before it becomes effective.

(Ord. No. 2005-75, § 1(Exh. A), 10-24-05)

Secs. 114-128—114-140. - Reserved.

New Braunfels, Texas, Code of Ordinances >> PART II - CODE OF ORDINANCES >> Chapter 114 - STREETS, SIDEWALKS AND OTHER PUBLIC PLACES >> ARTICLE V. - EXCAVATING IN THE PUBLIC WAY >> DIVISION 2. - PERMITS FOR EXCAVATION >>

DIVISION 2. - PERMITS FOR EXCAVATION

Sec. 114-141. - Application.
Sec. 114-142. - Combined permitting.
Sec. 114-143. - Approval of application; issuance or denial of permit; appeals hearing.
Sec. 114-144. - Applicability of article to emergencies.
Sec. 114-145. - Work warranty.
Sec. 114-146. - Permit not transferable; void if excavation not timely commenced.
Sec. 114-147. - Removal or relocation of facilities.
Sec. 114-148. - Coordination of excavations.
Sec. 114-149. - Newly constructed or reconstructed streets.
Sec. 114-150. - Defaults; unauthorized excavations.
Sec. 114-151. - Insurance.
Sec. 114-152. - Amendments; extensions.
Secs. 114-153—114-160. - Reserved.

Sec. 114-141. - Application.

(a) A permit for an excavation shall be obtained by the owner of the facility. If the owner of a facility will not be making the excavation with its own personnel, then the contractor retained to perform the work shall join with the owner as an applicant in obtaining the permit. Where two or more related excavations are being performed as part of the same project, the application and permit may cover the related work.

(b) Applications for permits shall be submitted to the city engineer and shall include the following:

(1) The name, assumed name or business names, business type (corporation, partnership, individual/sole proprietor or other) of each applicant.

(2) Each applicant's mailing address (and street address if different), telephone number, facsimile number, and email address.

(3) The location, depth, length, and width of each excavation to be made in each block and/or intersection.

(4) The purpose of the excavation, including a description of the facilities to be installed, maintained and/or repaired.

(5) The methods of excavation.

(6) The proposed excavation start date and duration.

(7) The estimated cost of the excavation.

(8) A statement that each person executing the application is fully authorized to act on behalf of and bind his principal in executing and filing the application.

(9) A statement that each applicant accepts and obligates itself to the release and indemnification provisions detailed on the application.

(10) The name of the owner of the facility.

(11) The 24-hour telephone number at which each applicant's representative who will respond to emergencies may be contacted.

(12) The name, mailing address, telephone number, facsimile number, and email address of a person who is authorized to receive all notices authorized to be given by the city under this article to each applicant.

(13) Confirmation that all materials necessary for construction will be on hand and ready for use so as not to delay the excavation.

(14) A transmittal number issued by the state underground facility notification corporation showing that the applicant has complied with the Texas Underground Facility Damage Prevention and Safety Act or an assurance that the transmittal number will be provided to the city engineer before excavation commences.

(15) A transmittal number issued by the NBU water utility division showing that the applicant has notified the city utilities of the proposed excavation.

(16) Evidence of insurance as required in section 114-151

(17) The work warranty as required by section 114-145

(c) Each application for a permit for an excavation shall be accompanied by a non-refundable permit fee based on the total valuation of the cost of the excavation to defray the expense of carrying out the provisions of this article. The following schedule shall be utilized to determine the permit fee:

Total Valuation	Fee
$1,000.00 and less	$20.00
$1,000.01 to $50,000.00	$20.00 for the first $1,000.00 plus $5.00 for each additional thousand or fraction thereof, to and including $50,000.00
$50,000.01 to $100,000.00	$265.00 for the first $50,000.00 plus $4.00 for each additional thousand or fraction thereof, to and including $100,000.00
$100,000.01 to $500,000.00	$465.00 for the first $100,000.00 plus $3.00 for each additional thousand or fraction thereof, to and including $500,000.00
$500,000.01 and up	$1,665.00 for the first $500,000.00 plus $2.00 for each additional thousand or fraction thereof.

(d) An application for a permit for an excavation performed pursuant to section 114-143 shall, in addition to the items required above, also include a written statement containing the following:

(1) Explaining the basis for the emergency actions.

(2) Describing the excavation being performed.

(3) Describing any work remaining to be performed in the public way.

(4) Stating the time and date when the emergency occurred.

(e) A municipal utility is exempt from the permitting requirements of division 2 of this article, however the municipal utility is required to provide to the city engineer notification of any excavation within the paved portion of the public way according to the notification procedures set out and agreed to between the city engineer and the municipal utility.

(Ord. No. 2005-75, § 1(Exh. A), 10-24-05)

Sec. 114-142. - Combined permitting.

(a) Excavation permits and construction plans associated with plats may be submitted and reviewed simultaneously.

(b) Excavation permits and building permits may be submitted and reviewed simultaneously.

(Ord. No. 2005-75, § 1(Exh. A), 10-24-05)

Sec. 114-143. - Approval of application; issuance or denial of permit; appeals hearing.

(a) The city engineer shall initially review each application to determine whether it is complete. The city engineer shall return an incomplete application with an explanation of the deficiencies. Consistent with the terms of this article, the city engineer shall approve, approve with conditions, or deny each complete application.

(b)

If an application is denied, the city engineer shall notify the applicant of the grounds for denial and of the applicant's right to a hearing.

(c) Upon approval of an application, the city engineer shall issue a permit. The permit shall include the following:

(1) Identity of the excavation that is authorized.

(2) Name, mailing address, telephone number and email address of permittee and owner.

(3) Date of issuance.

(4) Any special conditions applicable to the permit.

(5) The number of days from the date of entry on the public way to final completion to be allowed for the excavation, taking into consideration the nature and extent of the excavation and the vehicular and pedestrian use of the public way. Where a permit covers two or more excavations, the number of days for final completion may, consistent with the nature of the work, be separately established for each portion of the work.

(6) Any additional information deemed necessary for compliance with this article.

(7) A statement that the permit is issued subject to the terms of this article, the construction standards and all other applicable requirements.

(d) Appeals hearing. Any person whose permit is denied or who is otherwise aggrieved by a notice, action or decision of the city engineer pursuant to this article shall, upon written request, be entitled to a hearing to be conducted by a hearing officer designated by the city manager, who shall promulgate rules for hearings. Such hearing shall be held within ten working days of the written request. The decision of the hearing officer may be appealed in accordance with subsection 114-100(d).

(Ord. No. 2005-75, § 1(Exh. A), 10-24-05)

Sec. 114-144. - Applicability of article to emergencies.

Nothing contained in this article shall be construed to prevent any person from making an excavation that is necessitated by an emergency; provided that the owner of the facility shall apply for a permit for the excavation within 24 hours after the initiation of the excavation or, if the city offices are then closed, within 24 hours after the offices of the city are first opened subsequent to the initiation of the excavation.

(Ord. No. 2005-75, § 1(Exh. A), 10-24-05)

Sec. 114-145. - Work warranty.

Each applicant shall execute and provide a work warranty in a form approved by the city attorney, which shall be incorporated into the application form. The purpose of the work warranty is to undertake and ensure that the permittee will:

(1) Timely perform the excavation in accordance with the permit, all applicable laws, rules, and regulations and the construction standards adopted in or pursuant to this article, subject to remediation as provided in section 114-164 of this article.

(2) Warrant the excavation following its completion for two years, subject to remediation as provided in section 114-165 of this article.

(Ord. No. 2005-75, § 1(Exh. A), 10-24-05)

Sec. 114-146. - Permit not transferable; void if excavation not timely commenced.

(a) A permit issued under this article is personal to the permittee and may not be transferred to another person or used by any other person to perform the excavation authorized in the permit.

(b) A permit is valid only for the location(s) described on the application, depicted on the drawings and specifications, and authorized in the permit, and no excavation shall be authorized at any other location without another permit.

(c) Unless extended by the city engineer upon written request and for reasonable cause, a permit shall be void if the excavation has not commenced within 60 days of its issuance.

(Ord. No. 2005-75, § 1(Exh. A), 10-24-05)

Sec. 114-147. - Removal or relocation of facilities.

All permittees who place facilities thereby obligate and bind themselves to move or change the location of facilities wherever required or instructions to do so by the city in order to accommodate the construction, repair, or relocation of city infrastructure facilities, and failure to do so shall be unlawful.

(Ord. No. 2005-75, § 1(Exh. A), 10-24-05)

Sec. 114-148. - Coordination of excavations.

Prior to the issuance of a permit, the city engineer may require the owners to coordinate their excavations, coordinate excavations with transportation improvements that are ongoing or are scheduled by public way construction entities, and complete excavations before transportation improvements commence. The city engineer may grant a waiver of coordination requirements for good cause. The city engineer shall consider the following before granting a waiver:

(1) Effect of each proposed excavation(s) on the surrounding vicinity and on traffic mobility.
(2) The applicant's need for the facility.
(3) Public health, safety, welfare and convenience.

(Ord. No. 2005-75, § 1(Exh. A), 10-24-05)

Sec. 114-149. - Newly constructed or reconstructed streets.

(a) Except as provided in subsection (b), no permit shall be issued for an excavation in any public way that has been constructed, reconstructed, repaved, or resurfaced in the preceding period of five years, as measured from the date of acceptance by the city. Owners shall determine alternative methods of making necessary repairs and facility installations to avoid excavations that are subject to this section.

(b) The city engineer, for good cause, may allow an applicant for repair of existing utilities, to respond to emergencies, or to afford an owner the means to provide service to buildings that the owner has no other reasonable means of serving in the determination of the city engineer. The city engineer may require special conditions appropriate to the circumstances, such as special coordination with other excavations, special paving requirements, additional soil compaction test reports, or any other requirements needed to restore the integrity of the public way to "as new" condition. In addition to the information provided on the application, applicant shall provide the following with respect to that part of the public way subject to this provision:
(1) Reason why the excavation was not performed before or when public way was paved.
(2) Reason why the excavation cannot be performed at another location or the owner's need cannot be accomplished by a method that does not require excavation.

(Ord. No. 2005-75, § 1(Fxh. A), 10-24-05)

Sec. 114-150. - Defaults; unauthorized excavations.

(a) The city engineer shall not issue a permit to any person who is in default or breach of any obligation to the city under this article on a prior permit or on warranty obligation under section 114-164 or 114-165

(b) The city engineer is authorized to debar from obtaining a permit any person who has performed an unpermitted excavation or any owner who has knowingly allowed that practice. Any such debarment shall be for a reasonable permit of time that is consistent with the nature and circumstances of the alleged actions.

(c) Before invoking the provisions of this section, the city engineer shall provide a written notice to the affected persons and afford them a right to a hearing under section 114-107.

(Ord. No. 2005-75, § 1(Exh. A), 10-24-05)

Sec. 114-151. - Insurance.

(a) As a condition of the issuance of a permit, the applicant shall file with the city engineer evidence that the applicant holds a current policy of comprehensive general liability insurance covering the excavation, with an endorsement for any liability assumed under this article and policy limits of not less than $150,000.00 for property damage, per occurrence, and of not less than $150,000.00 per person, and $500,000.00 per occurrence, for bodily injury or death. Each insurance policy name the city as an additional insured. Each policy shall include a provision obligating the insurer to furnish to the city engineer at least 15 days prior written notice of any cancellation.

(b) The failure of the permittee to continuously maintain any required coverage shall cause any permit covered thereby to become invalid. No work may be performed on any excavation any time when any required proof of insurance coverage is not on file in the city engineer's office. Following notice and an opportunity for a hearing under section 114-143 of this article, the city engineer shall revoke any permit for which any required proof of insurance is not being maintained.

(c) For joint applications and permits, the coverage required in this section may be provided by a policy jointly covering all of the applicants or by separate proofs of coverage for each applicant or permittee.

(Ord. No. 2005-75, § 1(Exh. A), 10-24-05)

Sec. 114-152. - Amendments; extensions.

(a) A permit shall no longer be valid if there are material changes to the excavation, including but not limited to a change in the scope of work or the method of performing the work of such consequence that the description of work in the permit application no longer accurately depicts the work. An amendment shall be required in order to continue the

excavation. To obtain an amendment, the permittee shall submit an application therefore, including amended drawings and specifications, indicating any changes. A permit shall not be amended to include an excavation that is not related to the original permit or to extend the excavation into any geographical area not included in the original permit.

(b) For good cause not relating to any fault of the permittee in diligently prosecuting the excavation, the city engineer may extend the number of days allowed in the permit pursuant to subsection 114-142(c)(5) for completion of the excavation. Extensions of time under this subsection shall not be regarded as amendments, but shall be noted on the records regarding the permit.

(Ord. No. 2005-75, § 1(Exh. A), 10-24-05)

Secs. 114-153—114-160. - Reserved.

New Braunfels, Texas, Code of Ordinances >> PART II - CODE OF ORDINANCES >> Chapter 114 - STREETS, SIDEWALKS AND OTHER PUBLIC PLACES >> ARTICLE V. - EXCAVATING IN THE PUBLIC WAY >> DIVISION 3. - PERFORMANCE OF EXCAVATIONS >>

DIVISION 3. - PERFORMANCE OF EXCAVATIONS

Sec. 114-161. - Access to fire hydrants.
Sec. 114-162. - Crossings; traffic control devices.
Sec. 114-163. - Street restoration.
Sec. 114-164. - Warranty of completion of excavation.
Sec. 114-165. - Warranty of excavation; correction of defects.
Sec. 114-166. - Inspections of excavations.
Sec. 114-167. - Damage to facility.

Sec. 114-161. - Access to fire hydrants.

Each excavation shall be performed so it does not obstruct emergency access to any fire hydrant or public water supply valve.

(Ord. No. 2005-75, § 1(Exh. A), 10-24-05)

Sec. 114-162. - Crossings; traffic control devices.

It shall be the duty of each permittee to make provisions for the safe crossing of pedestrians and the orderly movement of vehicular traffic. Provisions therefore shall be included in the permit application for the excavation. Any required traffic control devices shall conform to applicable laws, including but not limited to the Texas Manual on Uniform Traffic Control Devices.

(Ord. No. 2005-75, § 1(Exh. A), 10-24-05)

Sec. 114-163. - Street restoration.

All restoration shall be performed in compliance with construction standards promulgated by the city engineer pursuant to section 114-127.

(Ord. No. 2005-75, § 1(Exh. A), 10-24-05)

Sec. 114-164. - Warranty of completion of excavation.

A permittee shall notify the city engineer before commencing and obtain permission to commence the excavation before it enters the public way. In connection with the notification and permission, the authorized date of entry on the public way, for purposes of subsection 114-143(c) shall be established. In connection with the notification, the permittee shall also furnish the transmittal number required under subsection 114-141(b)(14), if it has not previously been provided. The permittee shall diligently prosecute the excavation to its final completion within the time authorized under the permit. If a permittee commences an excavation and then fails, refuses, or neglects to diligently prosecute or to timely complete the excavation in accordance with the permit and all applicable rules and regulations and the construction standards adopted in or pursuant to this article, the city engineer may, following written notice to the permittee, perform the excavation or cause a city contractor to perform the excavation. The city engineer shall afford the permittee five days written notice and opportunity to cure before taking over the excavation, unless the city engineer determines that hazards to public safety and convenience that are posed by the condition of the excavation require a shorter notice period. The city engineer may charge the cost of

having the excavation performed, including related administrative expenses, to the permittee. The city engineer shall notify the permittee, and the permittee shall be obliged to pay the cost within 30 days following receipt of notifications. Disputes over costs assessed shall be subject to the hearing process established under subsection 114-143(d).

(Ord. No. 2005-75, § 1(Exh. A), 10-24-05)

Sec. 114-165. - Warranty of excavation; correction of defects.

Each permittee shall warrant its excavations against all defects in workmanship and materials for a permit of two years after its final completion. Whenever within the two-year period any portion of the pavement or surface of any public way excavated under such a warranty is, in the city engineer's determination, in need of repair, by reason of any defect in workmanship or materials, the city engineer shall serve upon the permittee a written notice stating the repairs necessary, and requiring the repairs to be made within five days after service of notice. If the repairs are not timely made, the city engineer shall at once make or cause to the repairs to be made at the expense of the permittee. The expenses, including any related administrative expenses, shall be charged to the permittee, and the permittee shall be obliged to pay the cost within 30 days following receipt of notification. Disputes over costs assessed shall be subject to the hearing process established under subsection 114-143(d).

(Ord. No. 2005-75, § 1(Exh. A), 10-24-05)

Sec. 114-166. - Inspections of excavations.

(a) All excavations shall be inspected by the city engineer or his designee to ensure compliance with construction standards and all applicable provisions relating to the permit. Based upon the complexity and nature of the excavation and as specified in the permit, inspections may be required during the performance of the excavation, immediately upon completion of the excavation or both.

(b) Consistent with applicable laws, sound engineering practices, and the nature of the excavation, the city engineer may, in addition to or in lieu of the city inspections called for under subsection (a), require that a permittee, at the permittee's expense, retain a professional engineer licensed in the state, to observe the excavation and, based upon the observations, to provide written certification upon completion of the excavation stating that the public way has been restored in accordance with all other applicable technical requirements.

(Ord. No. 2005-75, § 1(Exh. A), 10-24-05)

Sec. 114-167. - Damage to facility.

A permittee who, in connection with an excavation, damages another owner's facility shall immediately notify the city engineer and to the extent that the owner's identity is reasonably determinable, the owner of the damaged facility.

(Ord. No. 2005-75, § 1(Exh. A), 10-24-05)

New Braunfels, Texas, Code of Ordinances >> PART II - CODE OF ORDINANCES >> Chapters 115—117 - RESERVED >>

Chapters 115—117 - RESERVED

New Braunfels, Texas, Code of Ordinances >> PART II - CODE OF ORDINANCES >> Chapter 118 - PLATTING >>

Chapter 118 - PLATTING [1]

ARTICLE I. - IN GENERAL
ARTICLE II. - ADMINISTRATION
ARTICLE III. - GENERAL PLATTING PROCEDURES
ARTICLE IV. - DESIGN STANDARDS
ARTICLE V. - PARK LAND
ARTICLE VI. - PENALTY AND ENFORCEMENT

FOOTNOTE(S):

--- (1) ---

Editor's note—*Ord. No. 2006-84, § 1(Exh. A), adopted September 11, 2006, repealed and reenacted chapter 118 in its entirety to read as herein set out. Formerly, chapter 118 pertained to subdivisions, and derived from the Code of 1961, §§ 20-1—20-7, 20-9—20-17, 20-19—20-46; Ord. No. 96-6, § I, adopted February 12, 1996; Ord. No. 99-49, § I, adopted July 12, 1999; Ord. No. 99-50, § I, adopted July 12, 1999; Ord. No. 2000-52, § I, adopted December 11, 2000; Ord. No. 01-14, § I, adopted March 12, 2001; Ord. No. 01-29, § I, adopted May 14, 2001; Ord. No. 2002-05,*

having the excavation performed, including related administrative expenses, to the permittee. The city engineer shall notify the permittee, and the permittee shall be obliged to pay the cost within 30 days following receipt of notifications. Disputes over costs assessed shall be subject to the hearing process established under subsection 114-143(d).

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(Ord. No. 2005-75, § 1(Exh. A), 10-24-05)

Sec. 114-166. - Inspections of excavations.

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(b) Consistent with applicable laws, sound engineering practices, and the nature of the excavation, the city engineer may, in addition to or in lieu of the city inspections called for under subsection (a), require that a permittee, at the permittee's expense, retain a professional engineer licensed in the state, to observe the excavation and, based upon the observations, to provide written certification upon completion of the excavation stating that the public way has been restored in accordance with all other applicable technical requirements.

(Ord. No. 2005-75, § 1(Exh. A), 10-24-05)

Sec. 114-167. - Damage to facility.

A permittee who, in connection with an excavation, damages another owner's facility shall immediately notify the city engineer and to the extent that the owner's identity is reasonably determinable, the owner of the damaged facility.

(Ord. No. 2005-75, § 1(Exh. A), 10-24-05)

New Braunfels, Texas, Code of Ordinances >> PART II - CODE OF ORDINANCES >> Chapters 115—117 - RESERVED >>

Chapters 115—117 - RESERVED

New Braunfels, Texas, Code of Ordinances >> PART II - CODE OF ORDINANCES >> Chapter 118 - PLATTING >>

Chapter 118 - PLATTING [1]

ARTICLE I. - IN GENERAL
ARTICLE II. - ADMINISTRATION
ARTICLE III. - GENERAL PLATTING PROCEDURES
ARTICLE IV. - DESIGN STANDARDS
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ARTICLE VI. - PENALTY AND ENFORCEMENT

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§ 1, adopted February 11, 2002; Ord. No. 2002-38, §§ 1—10, adopted October 28, 2002; Ord. No. 2003-33, § 4, adopted May 12, 2003, and Ord No. 2006-20, § I, adopted February 27, 2006. (Back)

Charter reference— *Planning and development, § 10.01 et seq. (Back)*

Cross reference— *Miscellaneous actions and ordinances not affected by Code, § 1-9, businesses, ch. 18; community development, ch. 38; water distribution system for fire protection, § 54-146 et seq.; floods, ch. 58, planning, ch. 98; streets, sidewalks and other public places, ch. 114; utilities, ch. 130; water and wastewater capital recovery fees, § 130-336 et seq.; vegetation, ch. 134; zoning, ch. 144; mobile home communities, app. B. (Back)*

State Law reference— *Interlocal Cooperation Act, V.T.C.A., Government Code § 791.001 et seq.; extraterritorial jurisdiction of municipalities, V.T.C.A., Local Government Code § 42.001 et seq.; municipal annexation, V.T.C.A., Local Government Code § 43.001 et seq.; municipal regulation of subdivisions, V.T.C.A., Local Government Code § 212.001 et seq., extension of subdivision rules to extraterritorial jurisdiction, V.T.C.A., Local Government Code § 212.003; extraterritorial jurisdiction of municipalities in counties that regulate subdivisions, V.T.C.A., Local Government Code § 242.001; public records generally, V.T.C.A., Property Code § 11.001 et seq.; instruments concerning property, V.T.C.A., Property Code § 12.001, recording of plats, V.T.C.A., Property Code § 12.002. (Back)*

ARTICLE I. - IN GENERAL

Sec. 118-1. - Short title.
Sec. 118-2. - Definitions.
Sec. 118-3. - Authority of the city; extension to extraterritorial jurisdiction; purpose.
Sec. 118-4. - Development agreements.
Sec. 118-5. - Consistency with comprehensive plan and zoning ordinance.
Sec. 118-6. - Special provisions.
Sec. 118-7. - Edwards recharge zone.
Sec. 118-8. - Conflicting regulations.
Sec. 118-9. - Application of chapter.
Sec. 118-10. - Platting not required.
Sec. 118-11. - Waiver.
Sec. 118-12. - Appeals of administrative decisions.
Sec. 118-13. - Appeal for relief from apportionment of municipal infrastructure costs.
Sec. 118-14. - Payment of all indebtedness attributable to a specific property.
Sec. 118-15. - Right to deny.
Sec. 118-16. - Misrepresentation of facts.

Sec. 118-1. - Short title.

This chapter shall be known, cited and referred to as "The City of New Braunfels Platting Ordinance."

(Ord. No. 2006-84, § 1(Exh. A), 9-11-06)

Sec. 118-2. - 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. Those terms not expressly defined in this section are to be defined in accordance with chapter 144, the zoning ordinance or other applicable ordinances of the city, or in the absence of such ordinances, then in accordance with customary usage in municipal planning and engineering practices.

Acreage, gross means the total acreage of a subdivision.

Acreage, net means the total acreage of a subdivision less recreation areas and those areas dedicated to public use such as street and alley rights-of-way. Easements, however, shall be included in net acreage calculations.

Administrative officers means any officer of the city referred to in this chapter by title, including but not limited to the city engineer, planning director, city secretary, fire chief, police chief, director of public works and chief building official so retained in that position by the city, or his or her duly authorized representative. This definition shall also include civil engineering, planning, legal, financial, traffic engineering and other consultants retained by the city to supplement or support existing city staff, as deemed appropriate by the city.

Alley means a minor public right-of-way not intended to provide the primary means of access to abutting lots, which is used primarily for vehicular service access to the back or sides of properties otherwise abutting on a street.

Amended or amending plat means a revised plat correcting errors or making minor changes to a recorded plat.

Amended master plan means a master plan previously approved by the planning commission with major revisions that has been approved by the planning commission.

Amended master plan (minor revisions) means a master plan, previously approved by the planning commission that has minor revisions approved by the planning director or the planning commission.

Amenity means an improvement to be dedicated to the public or to the common ownership of the lot owners of the subdivision and providing an aesthetic, recreational or other benefit, other than those prescribed by this chapter.

Applicant means a person or entity who submits an application for an approval required by this chapter. Also sometimes referred to as "developer", "subdivider", or other similar term.

Application means a written request, on forms provided by the city, for an approval required by this chapter.

Base flood means the flood having a one percent chance of being equaled or exceeded in any given year.

Bond means any form of a surety bond in an amount and form satisfactory to the city.

Block length or *street length.* For a residential subdivision, that distance measured along the centerline of the street from the intersecting center point of one through street to the intersecting center point of another street, or to the midpoint of a cul-de-sac. The through street referred to above shall not be a cul-de-sac, a dead-end street, or a looped street, but shall be a street which clearly has points of ingress from two different directions.

Building setback line means a line defining an area on the building lot between the street right-of-way line or property line and the building line within which no building shall be constructed, encroach or project except as specifically authorized in an adopted ordinance of the city.

Business day means any day except Saturday, Sunday or a legal holiday.

Capital improvements program (CIP) means the official proposed schedule, if any, of all future public projects listed together with cost estimates and the anticipated means of financing each project, as adopted by city council.

City means the City of New Braunfels, Texas.

City attorney shall apply only to such attorney, or firm of attorneys, that has been specifically employed by the city to assist in legal matters. This term shall also apply if the city retains a person to perform the functions of city attorney as an official city employee.

City council means the duly elected governing body of the City of New Braunfels, Texas.

City engineer means the duly authorized person in charge of engineering for the city, or his designated representative.

City standards means the city's standards and specifications, together with all tables, drawings and other attachments as may be approved by the council or the commission, and those standards so approved shall become a part of this chapter.

Commission means the planning commission of the City of New Braunfels, Comal County, Texas.

Comprehensive plan means the comprehensive plan of the city and includes any unit or a part of such unit separately adopted and any amendment to such plan or parts thereof.

Condominium means a form of real property with portions of the real property designated for separate ownership or occupancy, and the remainder of the real property designated for common ownership or occupancy solely by the owners of the portions. Real property is a condominium only if one or more of the common elements are directly owned in undivided interests by the unit owners. Real property is not a condominium if all of the common elements are owned by a legal entity separate from the unit owners, such as a corporation, even if the separate legal entity is owned by the unit owners.

Construction plans means the drawings and technical specifications, including bid documents and contract conditions, where applicable, providing a graphic and written description of the character and scope of the work to be performed in construction of a subdivision.

Contiguous. Lots are contiguous when at least one boundary line or point of one lot touches a boundary line, or lines, or point of another lot.

Cul-de-sac means a short, minor street having but one outlet to another street and terminating on the opposite end by a vehicular turnaround.

Dead-end street means a street, other than a cul-de-sac, with only one outlet.

Dedication means a conveyance or donation of property by the owner to the city or Comal or Guadalupe County.

Developer means an individual, partnership, corporation, or governmental entity undertaking the subdivision or improvement of land and other activities covered by this chapter, including the preparation of a subdivision or development plat showing the layout of the land and the public improvements involved therein. The term "developer" is intended to include the term "subdivider" even though personnel in successive stages of a project may vary.

Development means the construction of one or more new buildings or structures on one or more building lots, the moving of an existing building to another lot, or the use of open land for a new use. "To develop" shall mean to create development.

Development agreement means a contract entered into by the applicant and the city, by which the applicant promises to complete the required public improvements or perform other required obligations within the subdivision or addition within a specified time period following final plat approval. A development agreement may be used to deal with current and future platting issues for a proposed project.

Development application means the same as an application.

Easement means an area for restricted use on private property upon which the city or a public utility shall have the right to remove and keep removed all or part of any buildings, fences, trees, shrubs and other improvements or growths which in any way endanger or interfere with the construction, maintenance or efficiency of its respective systems within said easements. The city and public utilities shall, at all times, have the right of ingress and egress to and from and upon easements for the purpose of constructing, reconstructing, inspecting, patrolling, maintaining and adding to or removing all or part of their respective systems without the necessity at any time of procuring the permission of anyone.

Engineer means a person duly authorized under the provisions of the Texas Engineering Registration Act, as amended, to practice the profession of engineering.

Escrow means a deposit of cash with the city in accordance with this chapter.

Extraterritorial jurisdiction (ETJ) means the unincorporated area, not a part of any other city, which is contiguous to the corporate limits of the city, the outer limits of which are measured from the extremities of the corporate limits of the city outward for such distances as may be stipulated in the Texas Municipal Annexation Act in accordance with the total population of the incorporated city, and in which area, within the terms of the act, the city may enjoin the violation of its subdivision ordinance.

Final plat means the one official and authentic map of any given subdivision of land prepared from actual field measurement and staking of all identifiable points by a surveyor or engineer, with the subdivision location referenced to a survey corner, and with all boundaries, corners and curves of the land division sufficiently described so that they can be reproduced without additional references. An amended plat is also a final plat.

Floodplain means any and all land area adjoining the channel of a river, stream, lake, watercourse, marshy area, or other drainage element, which has been or may be inundated by stormwater runoff. The extent of the floodplain shall be determined by the crest of a flood having a one percent chance of occurrence in one year.

Floodway means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.

Front building setback line means a line parallel to the street right-of-way which the building faces, and takes its primary access from and that is the required minimum distance establishing the area within which the principle must be exited or placed.

Gross density means the number of dwelling units per gross acre within the subdivision.

Lot means an undivided tract or parcel of land having frontage on a street or an approved open space having direct street access, and which is, or in the future may be, offered for sale, conveyance, transfer or improvement, which is designated as a distinct and separate tract, and which is identified by a tract, or lot number, or symbol in a duly approved subdivision plat which has been properly filed of record.

Lot depth means the length of a line connecting the midpoints of the front and rear lot lines.

Lot, double frontage means any lot, not a corner lot, with frontage on two streets that are parallel to each other or within 45 degrees of being parallel to each other.

Lot frontage means the length of street frontage between side property lines.

Lot, irregular means any lot not having equal front and rear lot lines, or equal side lot lines; a lot, the opposite lot lines of which vary in dimension and the corners of which have an angle of either more or less than 90 degrees.

Lot width means the average distance between the side lot lines, which is normally that distance measured along a straight line connecting the midpoint of the two side lot lines.

Master plan, subdivision means the first or introductory plan of a proposed subdivision, in such case where the developer intends to develop and record only an individual portion to such subdivision, and which exhibits the proposed development of the balance of the subdivision.

Minor plat means a subdivision resulting in four or fewer lots, which does not create any new street or necessitate the extension of any municipal facilities to serve any lot within the subdivision. Any property to be subdivided using a minor plat shall already be adequately served by all required city utilities and services, and all lots will have frontage on a public roadway.

Municipal infrastructure means water, wastewater, drainage, road, pedestrian and bicycle, utility, and communication easements, rights-of-way and facilities.

NBU means New Braunfels Utilities.

On-site facilities or improvements are the existing or proposed facilities or improvements constructed within the property boundaries of the plat. Facilities and improvements include, but are not limited to, streets, alleys, water lines, sewer lines, storm drainage facilities, sidewalks, screening devices, and curbs and gutters.

Off-site facilities or improvements means those facilities or improvements that are required to serve the site but that are not located within the boundaries of the plat.

Open space means private property designated for recreational area, private park (for use of property owners within the subdivision), play lot area, plaza area, building setbacks (other than those required by city ordinance), and ornamental areas open to the general view within the subdivision. "Open space" does not include streets, alleys, utility easements, public parks or required setbacks.

Owner (also known as "applicant" or "subdivider" or "developer") means any person or firm, association, syndicate, general or limited partnership, corporation, trust or other legal entity, or any agent thereof, that has sufficient proprietary interest in the land sought to be subdivided or developed, to commence and maintain proceedings to subdivide or develop the same under this chapter. In any event, the term "property owner" shall be restricted to include only the owner(s) or authorized agent(s) of such owner(s), such as a developer, of land sought to be subdivided.

Park means land dedicated to, or purchased by, the city for the purpose of providing public recreational and/or open areas.

Pavement width means the portion of street available for vehicular traffic; where curbs are laid, it is the portion between the face of curbs.

Pedestrian way means an area which provides pedestrian circulation.

Perimeter street means any existing or planned street which is adjacent to the subdivision or addition to be platted.

Person means any individual, association, firm, corporation, governmental agency or political subdivision.

Planned development means a subdivision that may consist of a variety of land use types, incorporating a single or variety of types of residential dwelling units, and/or compatible commercial and industrial land uses, and may include public land uses and common open space and recreational areas, adequate to service the needs of the tract when fully developed and populated, and which is to be developed as a single entity under unified control.

Planning commission means the planning commission of the city.

Planning director means the duly authorized employee or representative of the city in charge of the planning function for the city and charged with implementation and enforcement of the platting, zoning and other growth related ordinances.

Plat means a map, drawing, chart or plan showing the exact layout and proposed construction of a proposed subdivision into lots, blocks, streets, and may include parks, school sites, drainageways, easements, alleys, and/or any other elements as required by this chapter and which an applicant shall submit for approval in accordance with this chapter.

Plat, preliminary means a plat that is submitted to the commission for its review of the concept and performance of the subdivision as related to the provisions of this chapter. The preliminary plat and the review thereof are intended to produce a subdivision design in which all planning factors are recognized and reconciled, prior to submission of the final plat.

Plat revision, replat, resubdivide, means a plat vacating an existing subdivision in lieu of a new pattern of development, the subdivision of an existing or duly recorded lot or lots, the combining of two or more lots to create one lot, or the subdividing of an existing platted but undeveloped subdivision into a new pattern of lots and blocks.

Preliminary approval means approval expressed by the commission as to the arrangement and approximate size of streets, alleys, parks, reserves, easements, blocks and lots indicated on a preliminary plat.

Private street means a private vehicular access way, including an alley, that is shared by and that serves two or more lots, which is not dedicated to the public, and which is not publicly maintained.

Project means an endeavor over which the city exerts its jurisdiction and for which one or more plans or plats may be required to initiate, continue, or complete a development.

Public improvements (also referred to as "subdivision improvements") mean facilities, infrastructure and other appurtenances, typically owned and maintained by the city (but not necessarily located upon city-owned property or right-of-way—public improvements can be located upon private property), which serve a public purpose in providing a needed service or commodity, such as wastewater collection and treatment and water storage and distribution, and which protect the general health, safety, welfare and convenience of the city's citizens, including efficiency in traffic circulation and access for emergency services. Required public improvements may include, but shall not be limited to, street and alley paving, including any necessary median openings and left turn lanes on major thoroughfares; water lines and pumping stations; sanitary sewer lines and lift stations; storm drainage structures and storm water management devices; water quality and erosion controls; screening and retaining walls; fire lane paving and fire hydrants; landscaping, where such is used for required screening or other required landscaped area, and associated irrigation system; and any required public sidewalks, street lights and street name signs. The term "public improvements" shall not include facilities or infrastructure of private providers of utility services other than water and wastewater, but shall be deemed to include facilities and infrastructure that the city would normally require of a development but which will be owned and maintained by an entity such as a homeowners association, as in the case of private streets.

Regulatory agency means the governing body of, or a bureau, department, division, board, commission, or other agency of, a political subdivision acting in its capacity of processing, approving, or issuing a permit.

Replatting or *replat* means the re-subdivision of any part or all of a block or blocks of a previously platted subdivision, addition, lot or tract.

Reserve strip means a privately owned strip of land, 20 feet wide or less, adjacent to a public right-of-way or easement preventing the extension of such right-of-way or easement without the expressed consent of the adjacent land owner.

Review means to read, analyze, assess and act upon.

Right-of-way means a parcel of land occupied, or intended to be occupied, by a public road, street or alley. Where appropriate, right-of-way may include other facilities and utilities such as sidewalks; electrical, communication, oil and natural gas lines and facilities; and water and sanitary and storm sewer facilities. The use of right-of-way shall also include parkways and medians outside of the paved portion of the street. The usage of the term right-of-way for land platting purposes shall mean that every right-of-way hereafter established and shown on a final plat is to be separate and distinct from the lots or parcels adjoining such right-of-way, and shall not be included within the dimensions or areas of such lots or parcels.

Septic tank means a watertight receptacle that receives the discharge of sewage from a building, sewer or part thereof, and is designed and constructed so as to permit settling of solids from this liquid, digestion of the organic matter, and discharge of the treated liquid portion into a disposal area.

Sewerage disposal system, individual private means any system designed to provide on-site treatment and disposal of sewage flows from individual residences, duplexes, businesses, or any other buildings. The system may be anaerobic, e.g., a septic transpiration bed, or other. The system must not require a permit from the state.

Sewerage system, public means a system designed for the wastewater collection, treatment and disposal that is wholly owned and operated by the city or any other legally incorporated town or city or public systems approved by the state.

Shall/may. The word "shall" is always mandatory, while the word "may" is merely permissive.

Sidewalk means a paved pedestrian way generally located within the public or private street right-of-way, but outside of the roadway.

Standard street means a street or road that meets or exceeds the minimum specifications in the city's standard street specifications, and which is constructed to the ultimate configuration for the type of roadway it is designated for on the city's thoroughfare plan.

Steep slope means areas that contain slopes over 15 percent grade and are characterized by increased runoff, erosion and sediment hazards.

Street means a public or private right-of-way that provides primary vehicular access to adjacent land, whether designated as a street, highway, thoroughfare, parkway, throughway, avenue, lane, boulevard, road, place, drive, or however otherwise designated.

Street, arterial means a thoroughfare designated as a freeway, expressway, major arterial, or minor arterial in the most recently adopted city thoroughfare plan. The primary function of an arterial is to carry traffic through the city, and is designed for as high a speed as possible, to carry as much traffic as possible. Also known as a "major thoroughfare."

Street, collector or sub-collector means a street that primarily carries traffic from local or residential streets to major thoroughfares and highways, including the principal entrance streets for circulation to schools, parks, and other community facilities within such a development, and also including all streets which carry traffic through or adjacent to commercial or industrial areas.

Street, local or residential means a street that is used primarily for access to abutting residential property and circulation of traffic within residential neighborhoods. It is of a width and design to discourage through traffic, thereby protecting the residential area. A local street serves the same purpose in a commercial or industrial district.

Street, marginal access means a street that is parallel and adjacent to an arterial street and which primarily provides vehicular access to abutting properties and protection from through traffic.

Street improvements means any street or thoroughfare, together with all appurtenances required by city regulations to be provided with such street or thoroughfare, and including but not limited to curbs and gutters, walkways (sidewalks), drainage facilities to be situated in the right-of-way for such street or thoroughfare, traffic control devices, street lights and street signs, for which facilities the city will ultimately assume the responsibility for maintenance and operation.

Structure means that which is built or constructed, an edifice or building of any kind, or any piece of work built up or composed of parts joined together in some definite manner.

Subdivider means any person or any agent thereof dividing or proposing to divide land so as to constitute a subdivision as that term is defined in this section. In any event, the term "subdivider" shall be restricted to include only the owner, equity owner, or authorized agent of such owner or equity owner, of land to be subdivided.

Subdivision means a division or re-division of any tract of land situated within the city's corporate limits or its extraterritorial jurisdiction into two or more parts, lots or sites, for the purpose, whether immediate or future, of sale, division of ownership, or building development. Subdivision includes re-subdivisions of land or lots which are part of a previously recorded subdivision.

Substandard street means an existing street or road that does not meet the minimum specifications in the city's standard street specifications, and which is not constructed to the ultimate configuration for the type of roadway it is designated for on the city's thoroughfare plan.

Surveyor means a licensed state land surveyor or a registered professional land surveyor as authorized by the state statutes to practice the profession of surveying.

Temporary improvements mean improvements built and maintained by the property owner that are needed to remedy a circumstance that is temporary in nature, such as a temporary drainage easement or erosion control device, that will be removed upon completion of the subdivision or development or shortly thereafter.

Thoroughfare plan means the street plan, which is part of the comprehensive plan of the city.

Townhouse or *rowhouse* means one of a group of not less than four nor more than eight adjoining single-family dwelling units sharing a common wall with one or more of such adjoining dwelling units, each dwelling unit located on a separate lot.

Vacation means to cancel, rescind or render an act that has the effect of voiding a subdivision plat as recorded in the county clerk's office.

Wastewater service means the collection of waste-bearing water that requires treatment prior to its return to nature and the system of pipes and equipment used to collect and transmit this water to treatment facilities; also called sanitary sewer service.

Yard means a required open space, other than a court, unoccupied and unobstructed by any structure or portion of a structure from the general ground level of the graded lot upward; provided however, that fences, walls, poles, posts and other customary yard accessories, ornaments and furniture are not deemed to be obstructions if height limitations and requirements limiting obstruction of visibility are observed.

Zero lot line means that no setback is required on one side of a lot.

(Ord. No. 2006-84, § 1(Exh. A), 9-11-06)

Sec. 118-3. - Authority of the city; extension to extraterritorial jurisdiction; purpose.

(a) This chapter is adopted under the authority of the Constitution and laws of the state, including V.T.C.A., Local Government Code ch. 212, and the City Charter.

(b) Purpose. In order to achieve orderly, efficient and environmentally sound development of land, the city must be provided with appropriate guidelines and development management mechanisms. This chapter, in conjunction with any other land use control tool as may be adopted by the city, provides those guidelines and mechanisms.

(c) The following rules and regulations are hereby adopted as the platting ordinance of the city, also referred to herein as "this ordinance" or "this chapter". This chapter shall be applicable to the filing of plats and to the subdivision of land, as that term is defined herein and in V.T.C.A., Local Government Code ch. 212, within the corporate limits of the city and its extraterritorial jurisdiction as they may be from time to time adjusted by annexation or disannexation. The city shall have all remedies and rights provided by said chapter 212 with regard to the control and approval of subdivisions and plats both within the city and within its extraterritorial jurisdiction.

(d) However, unless otherwise authorized by law, in its extraterritorial jurisdiction the city shall not regulate:

(1) The use of any building or property for business, industrial, or other purpose;

(2) The bulk, height, or number of buildings constructed on a particular tract of land;

(3) The size of a building that can be constructed on a particular tract of land, including without limitation on the ratio of building floor space to the land square footage; or

(4) The number of residential units that can be built per acre of land.

(Ord. No. 2006-84, § 1(Exh. A), 9-11-06)

Sec. 118-4. - Development agreements.

Development agreements affecting land in the city limits and the extraterritorial jurisdiction of the city may be used in accordance with V.T.C.A., Local Government Code ch. 212 to do the following:

(1) Contract for no annexation for up to an initial term of 15 years and up to two additional extensions for a maximum total term of 45 years.

(2) Extend city planning authority over the land, including enforcement of not only the same land use, development and environmental regulations applicable in the city, but specific additional regulations for the land.

(3) Provide for infrastructure for the land including streets, roads, drainage, water, wastewater and other utility systems.

(4) Specify the uses and development of the land.

(5) Other lawful terms and considerations as agreed to by the parties.

(Ord. No. 2006-84, § 1(Exh. A), 9-11-06)

Sec. 118-5. - Consistency with comprehensive plan and zoning ordinance.

It is the intent of the city that this chapter shall be consistent with the adopted comprehensive plan of the city, the zoning ordinance and any supplemental land use and community development policies that may be adopted by the city council. No plat or subdivision of land within the city or its extraterritorial jurisdiction, as determined by the Local Government Code, shall be approved unless it conforms to such plans, policies and ordinances.

The city's comprehensive plan was adopted as a guide, not as a mandate, for growth and development of the entire city and its extraterritorial jurisdiction. The future land use plan shall not be, nor be considered, a zoning map, nor constitute zoning regulations or establish zoning boundaries and is not site or parcel specific and shall be used to illustrate generalized locations. Also, the thoroughfare plan depicts generalized locations of new alignments which are subject to modification to fit local conditions and are subject to refinement as development occurs.

(Ord. No. 2006-84, § 1(Exh. A), 9-11-06)

Sec. 118-6. - Special provisions.

(a) No permit shall be issued by the city for the installation of septic tanks upon any lot in a subdivision for which a final plat has not been approved and filed for record, or upon any lot in a subdivision in which the standards contained in this chapter have not been complied with in full.

(b) No building, repair, plumbing or electrical permit shall be issued by the city for any structure on a lot in a subdivision for which a final plat has not been approved and filed for record, nor for any structure on a lot within a subdivision in which the standards contained in this chapter have not been complied with in full.

(c) The city shall not repair, maintain, install or provide any streets or allow the provision of public utility services in any subdivision for which a final plat has not been approved and filed for record, nor in which the standards contained in this chapter or referred to in this chapter have not been complied with in full.

(d) The city shall not permit the sale, supply or approval of any utility service within a subdivision for which a final plat has not been approved and filed for record, nor in which the standards contained in this chapter or referred to in this chapter have not been complied with in full.

(e) If any subdivision exists for which a final plat has not been approved or in which the standards contained in this chapter or referred to in this chapter have not been complied with in full, the city council shall pass a resolution reciting the fact of such noncompliance or failure to secure final plat approval, and reciting the fact that the provisions of subsections (a), (b), (c) and (d) will apply to the subdivision and the lots therein. The city secretary shall, when directed by the city council, cause a certified copy of such resolution under the corporate seal of the city to be filed in the deed records of the county or counties in which such subdivision or part thereof lies. If full compliance and final plat approval are secured after the filing of such resolution, the city secretary shall forthwith file an instrument in the deed records of such county or counties stating that subsections (a), (b), (c) and (d) no longer apply.

(f) Notwithstanding any contrary provisions in this chapter, if an applicant meets all other applicable requirements of this chapter, and chooses to file security prior to recordation of the final plat, and meets all requirements for posting security in this chapter, then the special provisions of this section shall not apply and permits may be issued, and improvements may be installed and maintained.

(g) The orders, regulations, ordinances, rules, expiration dates, or other properly adopted requirements or standards in effect at the time the original application is filed shall be the sole basis for consideration of all subsequent plans and plats required for the completion of the project. Subdivision master plans and related plats, and all other development plats for land covered by the subdivision master plans and plats are considered collectively to be one series for a project.

(Ord. No. 2006-84, § 1(Exh. A), 9-11-06)

Sec. 118-7. - Edwards recharge zone.

Any plat that is located over the recharge zone of the Edwards aquifer shall have approval from the Texas Commission on Environmental Quality (TCEQ) prior to the final plat being filed for record.

(Ord. No. 2006-84, § 1(Exh. A), 9-11-06)

Sec. 118-8. - Conflicting regulations.

Whenever the requirements of this chapter are at variance with the requirements of any other lawfully adopted rules, regulations, or ordinances, the most restrictive or that imposing the higher standards shall govern.

(Ord. No. 2006-84, § 1(Exh. A), 9-11-06)

Sec. 118-9. - Application of chapter.

The provisions of this chapter shall apply to the following forms of land subdivision and development activity within the city's limits and its extraterritorial jurisdiction; subject to the applicable provisions and exemptions of V.T.C.A., Local Government Code ch. 212 and exceptions to this chapter:

(1) The division of land into two or more tracts, lots, sites or parcels; or

(2) All subdivisions of land whether by metes and bounds division or by plat, which were outside the jurisdiction of the city's subdivision regulations, and which subsequently came within the jurisdiction of the city's subdivision regulations through:

a. Annexation (it is understood that a subdivision started in another jurisdiction prior to annexation shall be allowed to continue provided it is in conformance with, and within the provisions of, V.T.C.A., Local Government Code § 43.002); or

b. Extension of the city's extraterritorial jurisdiction; or

c. Through adoption of interlocal agreements; or

(3) The combining of two or more contiguous tracts, lots, sites or parcels for the purpose of creating one or more legal lots in order to achieve a more developable site, except as otherwise provided herein; or

(4) When a building permit is required for the following uses on unplatted property.

a. *Residential single-family.*

1. Construction of a new single-family dwelling unit; or

2. Moving of a primary structure or a main building onto a piece of property; or

b. *Nonresidential and multi-family.*

1. Construction of a new nonresidential or multi-family structure; or

2. Moving a primary structure onto a piece of property; or

(5) For tracts where any public improvements are proposed; or

(6) Whenever a property owner proposes to divide land lying within the city or its extraterritorial jurisdiction into two or more tracts, and claims exemption from subchapter A of Chapter 212 of the Texas Local Government Code for purposes of development, that results in parcels or lots all greater than five acres in size in the city limits or ten acres in the ETJ; or in the event that development of any such tract is intended, and where no public improvement is proposed to be dedicated, he shall first obtain approval of a development plat that meets the requirements of V.T.C.A., Local Government Code ch. 212, subchapter B, Regulation of Property Development, §§ 212.041—212.050, as may be amended. See section 118-37 for requirements for development plats.

(Ord. No. 2006-84, § 1(Exh. A), 9-11-06)

Sec. 118-10. - Platting not required.

The provisions of this chapter shall not apply to:

(1) Development of legally platted land (i.e., land having final plat approval and having a recorded or recordable final plat) and approved prior to the effective date of this chapter, except as otherwise provided for herein (construction of facilities and structures shall conform to design and construction standards in effect at the time of construction) and for which no re-subdivision is sought;

(2) Development of land constituting a single tract, lot, site or parcel for which a legal deed of record describing the boundary of said tract, lot, site or parcel was filed of record in the deed records of the applicable county in the state on or before January 23, 1984;

(3) Sale, inheritance, or gift of land by metes and bounds of tracts upon which no improvements, development, subdivision or alteration is occurring;

(4) Existing cemeteries complying with all state and local laws and regulations;

(5) A division of land created by order of a court of competent jurisdiction;

(6) When a building permit is requested for unplatted or already platted parcels for one or more of the following activities:

a. Replacement or reconstruction of an existing primary single-family or duplex structure, but not to exceed the square footage, nor deviate from the original location, of the original structure;

b. Building additions;

c. Accessory buildings (as defined in the zoning ordinance);

d. Remodeling or repair which involves no expansion of square footage; or

e. Moving a structure off a lot or parcel, or for demolition permits.

(7) A division of land in the ETJ for which all lots or tracts in the subdivision or development are at least ten acres in size and have at least 60 feet of frontage on a public street. However a development plat may be required (see section 118-37 for requirements for development plats); or

(8) A division of land within the corporate limits of the city into parts greater than five acres, where each part has at least 60 feet of frontage on a public street and no public improvement is being dedicated; provided, however, dedication of a public improvement pursuant to a development plat will not be deemed to require that the owner/developer obtain a subdivision plat. However a development plat may be required (see section 118-37 for requirements for development plats); or

(9) The platting of land for which an application has been filed prior to the effective date of this chapter.

(Ord. No. 2006-84, § 1(Exh. A), 9-11-06)

Sec. 118-11. - Waiver.

(a)

General. Where the planning commission finds that undue hardships will result from strict compliance with a certain provision(s) of this chapter, or where the purposes of these regulations may be served to a greater extent by an alternative proposal, it may approve a waiver from any portion of these regulations so that substantial justice may be done and the public interest is secured, provided that the waiver shall not have the effect of nullifying the intent and purpose of these regulations, and further provided that the planning commission shall not approve a waiver unless it shall make findings based upon the evidence presented to it in each specific case that:

(1) Granting the waiver will not be detrimental to the public safety, health or welfare, and will not be injurious to other property or to the owners of other property, and the waiver will not prevent the orderly subdivision of other property in the vicinity;

(2) Because of the particular physical surroundings, shape and/or topographical conditions of the specific property involved, a particular hardship to the property owner would result, as distinguished from a mere inconvenience, if the strict letter of these regulations is carried out; or an alternate design will generally achieve the same result or intent as the standards and regulations prescribed herein;

(3) The waiver will not in any manner vary the provisions of the zoning ordinance or other ordinance(s) of the city.

(b) *Zoning variance.* If a zoning variance is requested on a particular parcel of property, then it may be decided concurrently with the submittal and consideration of any request for a waiver from any provision of this chapter.

(c) *Zoning district change.* The commission may consider a master plan or any type of plat simultaneously with a zoning district change application and may condition approval of a master plan or any type of plat upon final city council approval of the zoning district change that would cause the master plan or plat to be consistent with the zoning.

(d) *Conditions.* In approving a waiver from any provision of this chapter, the planning commission may require such conditions as will secure substantially the purposes described in this chapter.

(e) *Procedures.*

(1) A petition for a waiver shall be submitted in writing to the planning department by the property owner or agent before the plat is submitted for the consideration of the planning commission. The petition for a waiver can be submitted with the application at any time before the "plat corrections due date" provided for on the approved commission meeting calendar. The petition shall explain the purpose of the waiver, state fully the grounds for the waiver, and all of the facts relied upon by the petitioner.

(2) Waivers may be approved, disapproved or approved with conditions by the planning commission.

(3) The findings of the planning commission, together with the specific facts upon which such findings are based, shall be incorporated into the official minutes of the planning commission meeting at which a waiver is considered, approved or disapproved.

(Ord. No. 2006-84, § 1(Exh. A), 9-11-06)

Sec. 118-12. - Appeals of administrative decisions.

(a) The decision of any city administrative official pursuant to an interpretation of this chapter may be appealed to the planning commission. Each appeal shall be submitted to the city in writing, and shall include a clear description of the reasons for the appeal. If the appeal involves technical design and/or construction standards, then the appeal shall be supported and accompanied by appropriate studies and data that supports the appeal, which shall be prepared by an appropriate professional expert who is knowledgeable in the subject matter of the appeal. The commission, at its discretion, shall have the right to have the supporting studies and data reviewed and evaluated by either appropriate city staff officials or by retained outside consulting experts, as the commission deems appropriate. Each appeal shall be decided within 60 days following receipt of the complete appeal request (including any necessary supporting studies and data) from the applicant.

(b) If an appeal of an administrative decision is submitted with a subdivision master plan or plat, no application for appeal shall be considered unless the applicant waives in writing the requirement that a decision on the plan or plat be made within 30 days of application.

(Ord. No. 2006-84, § 1(Exh. A), 9-11-06)

Sec. 118-13. - Appeal for relief from apportionment of municipal infrastructure costs.

(a) *Purpose and applicability.*

(1) *Purpose.* The purpose of an appeal for relief from a dedication, reservation, construction, payment of fees, or payment of construction cost requirement is to assure that the application of uniform apportionment of municipal infrastructure costs to a proposed master plan or plat is roughly proportionate to the proposed development, taking into consideration the nature and extent of the demands created by the proposed development on municipal infrastructure.

(2) *Applicability.* An appeal for relief under this section may be filed only to contest the roughly proportionate nature of any apportionment that is imposed under this chapter to a master plan or plat application or to any other development application authorized under this chapter, whether the requirement is pursuant to uniform

standards, or attached as a condition to approval of the application. An appeal under this section shall not be used to seek variation from a standard on grounds applicable to a petition for a waiver under section 118-11. Relief under this provision may not be sought for a recorded plat.

(3) *Effect.* If the relief requested under the petition is granted in whole or in part by the city council, the requirement initially imposed shall be modified accordingly, and the standards applied or the conditions attached to initial approval of the application shall be thereafter applied in accordance with the relief granted and the property owner will not be required to resubmit the application in order to get the benefit of the relief granted.

(b) *Appeal procedures.*

(1) *Roughly proportionate analysis; who may appeal.* If an applicant for master plan or plat approval disagrees with the roughly proportionate nature of the apportionment at any time in the master plan's or plat's review process, he should so advise the city engineer in writing no later than two weeks before such master plan or plat would be considered by the planning commission. The city engineer or other professional engineer who holds license issued under Chapter 1001, Occupation Code, retained by the city shall prepare a roughly proportionate analysis prior to consideration of the master plan or plat by the commission. If the city or retained engineer's analysis shows the apportionment of the municipal infrastructure costs to the applicant's development do not exceed the amount that is roughly proportionate to the development's impact and the applicant disagrees with such analysis, the applicant may appeal in accordance with this section.

(2) *Planning commission.* The planning commission may not approve a master plan or plat for which an appeal in accordance with this section has been applied until the city council has made its decision on the appeal.

(3) *Form of appeal.* The appeal for relief from an apportionment requirement shall be in the form of a petition to city council and allege that application of the standard or the imposition of conditions relating to the apportionment is not roughly proportional to the nature and extent of the impacts created by the proposed development on municipal infrastructure.

(4) *Evidence.* The petitioner shall demonstrate that the apportionment requirement that was applied is not roughly proportional to the proposed development's impact on municipal infrastructure. Written evidence presented on behalf of an appellant at any appeal hearing may include evidence that addresses any of the following information that may be pertinent to the circumstances and any other information the appellant deems necessary to the appeal:

a. Total capacity of the particular municipal infrastructure system to be utilized by the proposed development, employing standard measures of capacity and equivalency tables relating the type of development proposed to the quantity of system capacity to be consumed by the development. If the proposed development is to be developed in phases, such information also shall be provided for the entire development proposed, including any phases already developed.

b. Total capacity to be supplied to the particular municipal infrastructure system by the proposed apportionment. If the development application is part of a phased development, the information may include any capacity supplied by prior apportionments.

c. Comparison of the capacity of the municipal facilities system(s) to be consumed by the proposed development with the capacity to be supplied to such system(s) by the proposed apportionment. In making this comparison, the impacts on the municipal infrastructure system(s) from the entire development shall be considered.

d. The effect of any credits against any impact fees due the petitioner as a result of the apportionment in accordance with the city's requirements.

e. The effect of any city participation in the costs of oversizing the capital improvement to be constructed.

(5) *Time for filing petition and study.* The petition shall be filed with the engineering department within 90 days of the initial decision on the application. Where the apportionment requirement is applicable to more than one requirement, the petition may be filed following a decision on any application in which the requirement is applied. The study and any evidence in support of the petition shall be filed within 90 days of the date the petition was filed, unless the petitioner seeks an extension in writing. The city engineer may extend the time for submitting the study or other evidence for a period not to exceed an additional 60 days for good cause shown. If the petition for relief impacts New Braunfels Utilities, the city engineer must provide the chief executive officer of New Braunfels Utilities a copy of the petition for relief and any supporting study or other evidence upon the city engineer's receipt thereof.

(6) *Land in extraterritorial jurisdiction.* Where the subject municipal infrastructure are located in the extraterritorial jurisdiction of the city and are to be dedicated to the applicable county pursuant to an inter-local agreement under V.T.C.A., Local Government Code ch. 242, a petition and evidence in support of the petition shall not be accepted as complete for filing by the city engineer unless the petition or study or other evidence is accompanied by verification that a copy has been delivered to the applicable county in which the facilities are to be located.

(c) *Processing of petitions and decision.*

(1) *Administrative official.* The city engineer is the administrative official responsible for processing an apportionment. Where the petition is for the appeal from an apportionment in the city's extraterritorial jurisdiction that is to be dedicated to a county pursuant to an inter-local agreement under V.T.C.A., Local Government Code ch. 242, the city engineer shall coordinate a recommendation with the appropriate county official responsible for reviewing plats in the applicable county. If the petition for relief impacts New Braunfels Utilities, the city engineer shall coordinate with the appropriate New Braunfels Utilities official. The city engineer shall evaluate the petition and supporting study and other evidence, and shall make a recommendation to the city council based upon the information contained in the study, any comments received from the county, New Braunfels Utilities and the city planning department. In evaluating the petition and other evidence, the city engineer shall take into account the maximum amount of any impact fees to be charged against the development for the type of municipal infrastructure improvement that is the subject of the petition, and any credits due the petitioner against impact fees, as well as any traffic impact, drainage or other adequate facilities studies evaluating the impacts of the development or similar developments on municipal infrastructure. The city engineer must utilize generally accepted methodology in evaluating the petitioner's study, including but not limited to impact fee methodologies.

(2) *Decision-maker.* The city council shall decide the appeal for relief based on the criteria set forth in subsection (d).

(3) *Appeal hearing and decision time frames.*

a. The city council shall consider the request after an appeal hearing on the subject is held.

b. The city council shall hold the appeal hearing and consider the petition within 30 days of the submission of the study and any other evidence submitted on behalf of the appellant in support of the appeal.

c. The city council shall make a final decision within 30 days following the final submission of any testimony or evidence by the developer at the appeal hearing.

(4) *Decision.* The city council shall consider the petition for relief, the analysis prepared by the city in accordance with subsection (b)(1), and the evidence presented, and based upon the criteria set forth in subsection (d), and shall take one of the following actions:

a. Deny the appeal for relief, and impose the standard or condition in accordance with the initial decision;

b. Deny the appeal for relief, upon finding that the proposed requirements are inadequate to offset the impacts of the development on the municipal infrastructure, and either deny the application or require that additional apportionments for municipal infrastructure be made as a condition of approval of the application;

c. Grant the appeal in part and add such conditions of approval to the application as it deems appropriate;

d. Grant the appeal for relief, and waive in whole or in part any apportionment requirement necessary to meet the criteria for approval; or

e. Grant the appeal for relief, in whole or in part, and direct that the city participate in the costs of the particular municipal infrastructure pursuant to standard participation policies.

(6) *Notification of decision on appeal.* The petitioner shall be notified in writing of the decision on the appeal for relief by the city engineer within ten days following the decision.

(d) *Criteria for approval.* In deciding the appeal for relief from an apportionment, the city council shall determine whether the petitioner has demonstrated that the city apportionment is not roughly proportional to the proposed development's impact on municipal infrastructure. In making such determination, the city council shall consider the evidence submitted by the petitioner, the staff's report and recommendation and, where the property is located within the city's extraterritorial jurisdiction, any recommendations from the applicable county.

(e) *Implementation of appellate decision.*

(1) *When appeal for relief is granted.* When the city council grants the appeal for relief, the date of the final decision will be deemed the date of approval of the application, and the city must process the application consistent with the relief granted.

(2) *When appeal for relief is denied.* When the city council denies the appeal for relief, the date of the final decision will be deemed the date of denial of the application, and the petitioner must either withdraw the application or be prepared to make the required apportionment pursuant to the decision, as appropriate.

(3) *Where approval of the appeal was conditioned.* The city engineer or New Braunfels Utilities may require the applicant to submit modified master plans, plats, construction plans, or supporting materials consistent with the relief granted and condition(s) imposed by the city council on the petition.

(4) *Period of relief.* The relief granted on a petition shall remain in effect for the period that the master plan or plat approval is in effect, and shall expire upon expiration of the master plan or plat approval. Extension of the master plan or plat approval also shall result in extension of the relief granted on the petition.

(Ord. No. 2006-84, § 1(Exh. A), 9-11-06)

Sec. 118-14. - Payment of all indebtedness attributable to a specific property.

No person who owes delinquent taxes, delinquent assessments, delinquent fees, or any other delinquent debts or obligations to the city, and which are directly attributable to a piece of property, shall be allowed to file any plat or replat until the taxes, assessments, debts or obligations directly attributable to said property and owed by the property owner or a previous owner thereof shall have been first fully discharged by payment, or until an arrangement satisfactory to the city has been made for the payment of such debts or obligations. It shall be the applicant's responsibility to provide evidence or proof that all taxes, assessments, debts or obligations have been paid before any plat is filed.

(Ord. No. 2006-84, § 1(Exh. A), 9-11-06)

Sec. 118-15. - Right to deny.

The commission may deny a plat and any approval pursuant to this chapter if the applicant does not submit an administratively complete application in accordance with this chapter within the required time frames of the commission approved meeting schedule, or pay a full fee.

(Ord. No. 2006-84, § 1(Exh. A), 9-11-06)

Sec. 118-16. - Misrepresentation of facts.

It shall be a violation of this chapter for any person to knowingly or willfully misrepresent, or fail to include, any information required by this chapter in any plat application or during any public hearing or meeting of the commission or city council. Such a violation shall constitute grounds for denial of the plat.

(Ord. No. 2006-84, § 1(Exh. A), 9-11-06)

New Braunfels, Texas, Code of Ordinances >> PART II - CODE OF ORDINANCES >> Chapter 118 - PLATTING >> ARTICLE II. - ADMINISTRATION >>

ARTICLE II. - ADMINISTRATION

Sec. 118-17. - Authority of city engineer.
Sec. 118-18. - Authority of New Braunfels Utilities (NBU).
Sec. 118-19. - Schedule of fees, charges and expenses.

Sec. 118-17. - Authority of city engineer.

The city engineer is hereby authorized and directed to promulgate city standards for the design, construction, installation, location and arrangement of streets, curbs, street signs, alleys, sidewalks, septic tanks, monuments, criteria for drainage easement requirements, drainage facilities, pedestrian ways and for the compaction of utility ditches within the right-of-way. The city engineer shall submit such standards to the planning commission for recommendation to city council and, thereafter, file such standards with the city secretary at least ten days before they become effective. The city engineer may amend the standards from time to time, upon the recommendation of the planning commission to city council, and such amendment shall be filed with the city secretary at least ten days before it becomes effective. No such rules, regulations, standards and specifications shall conflict with this chapter or any other ordinance of the city. All such improvements shall be constructed, installed, designed, located and arranged by the applicant in accordance with such rules, regulations, standards and specifications.

(Ord. No. 2006-84, § 1(Exh. A), 9-11-06; Ord. No. 2011-38, § 1, 5-23-11)

Sec. 118-18. - Authority of New Braunfels Utilities (NBU).

Pursuant to authority contained in V.T.C.A., Government Code § 1502.070 and the City Charter, the complete management and control of the city's waterworks, sanitary sewer and electric system is vested in the board of trustees of New Braunfels Utilities (NBU). The New Braunfels Utilities' board of trustees is hereby authorized and directed to promulgate city standards for the design, construction, installation, location of street lights, utility layouts, utility easements, gates for utility easements, water supply and water distribution systems, fire hydrants, sewage disposal systems and electric service systems where NBU provides service. All such improvements shall be constructed, installed, designed, located and arranged by the applicant in accordance with such rules, regulations, standards and specifications.

(Ord. No. 2006-84, § 1(Exh. A), 9-11-06)

Sec. 118-19. - Schedule of fees, charges and expenses.

(a) Until all applicable fees, related charges and expenses, if any, have been paid in full, no action shall be taken on any application or appeal under this chapter.

(b) The fee schedule for the purpose of recovering the administrative cost of processing platting and subdivision requests and the public hearings called for by this chapter are identified in this section. Such fee shall be paid by the applicant and shall not be designed to restrict an applicant's ability to seek a hearing and/or to generate revenue for other than the recovery of actual administrative cost incurred by the city. Immediately upon receipt of such application and fee, the planning director shall note thereon the date of filing, and make a permanent record thereof.

(c) Each plat shall be processed according to the procedures set forth in this chapter, provided however that no plat shall be processed which attempts to amend or remove any covenant(s) or restriction(s) of the preceding plat until such preceding plat or portion of such preceding plat has been vacated or amended by replat in compliance with the provisions set forth in this chapter.

(1) Upon receipt and completion of all appropriate application form(s) and fee(s) by the planning department, a determination shall be made as to whether the plat is a type I, type II, or type III submission as defined below:

a. *Type I plat submission.* A plat depicting a subdivision of land that has not been previously platted.

b. *Type II plat submission.* A plat depicting a replat or resubdivision of land, which at any time during the preceding five years was limited by an interim or permanent zoning classification or deed restriction to residential use of not more than two residential units per lot. A type II plat submission shall require public notice as provided for in this chapter.

c. *Type III plat submission.* A replat designed to amend the preceding plat for which property owner notice is not required, minor plats, and development plats.

(2) Application fee(s). Application fee(s) shall be based upon the following schedule. The fee(s) must be paid before a plat and application is accepted for review and processing.

	Type I*	Type II*	Type III	Master Plan**
Less than 1 acre	$75.00	$115.00	$45.00	$100.00
1 to 4.99 acres	150.00	230.00	45.00	100.00
5 to 10 acres	225.00	345.00	45.00	100.00
More than 10 acres	300.00	460.00	45.00	100.00

* In addition to the application fee, Type I and Type II plat submissions will be assessed a fee of $2.00 per lot or $4.00 per acre, whichever is greater.

** In addition to the application fee, master plans will be assessed a fee of $1.00 per lot or $2.00 per acre, whichever is greater.

There shall be only one fee paid to process simultaneous submissions of a preliminary and a final plat.

(3) Construction plan review fee. Prior to the review of construction plans required by this chapter or chapter 114, a construction plan review fee of $500.00 plus $15.00 per lot within the development whose construction plans are to be reviewed shall be paid to the city.

(Ord. No. 2006-84, § 1(Exh. A), 9-11-06)

New Braunfels, Texas, Code of Ordinances >> PART II - CODE OF ORDINANCES >> Chapter 118 - PLATTING >> ARTICLE III. - GENERAL PLATTING PROCEDURES >>

ARTICLE III. - GENERAL PLATTING PROCEDURES

Sec. 118-20. - Preliminary conference.
Sec. 118-21. - General procedures.
Sec. 118-22. - Subdivision master plan.
Sec. 118-23. - Preliminary plat.
Sec. 118-24. - Form and contents.
Sec. 118-25. - Preliminary street and utility drawings; schematic layout.
Sec. 118-26. - Processing of preliminary plat, approval.
Sec. 118-27. - Final plat.
Sec. 118-28. - Filing and fees.
Sec. 118-29. - Form and contents.
Sec. 118-30. - Certificates and statements.
Sec. 118-31. - Construction plans.

Sec. 118-32. - Processing of final plat.
Sec. 118-33. - Vacating plat.
Sec. 118-34. - Replatting.
Sec. 118-35. - Amending plats.
Sec. 118-36. - Minor plats.
Sec. 118-37. - Development plats.
Sec. 118-38. - Guarantee of performance; inspection and acceptance of public improvements, licensing.
Sec. 118-39. - Deferral of required improvements.
Sec. 118-40. - Recordation.
Sec. 118-41. - Issuance of building permits and certificates of occupancy.
Sec. 118-42. - Planned developments (PD).

Sec. 118-20. - Preliminary conference.

Prior to the submission of a master plan or plat, the subdivider, his planner, engineer or representative should consult with and present a proposed plan of the subdivision to the planning director for comments and advice on the procedures, specifications and standards required by the city for the subdivider of land.

(Ord. No. 2006-84, § 1(Exh. A), 9-11-06)

Sec. 118-21. - General procedures.

(a) *Standards for approval.* All subdivisions, plats, plans, and replats are to be approved by the planning commission in accordance with the requirements of V.T.C.A., Local Government Code ch. 212 as amended.

(b) *Zoning requirements.* A property within the city's corporate limits that is being proposed for platting or development may be the subject of a rezoning application either before or at the same time as the submission of an application for approval of a master plan or plat.

The commission may consider a master plan or any type of plat simultaneously with a zoning district change application or an application for a variance to the standards in the zoning ordinance and may condition approval of a master plan or any type of plat upon final council approval of the zoning district change or a zoning ordinance variance which would cause the master plan or plat to be consistent with the zoning.

Noncompliance with the requirements of the zoning district in which the subject property is located, or lack of the proper zoning, may constitute grounds for denial of the master plan or plat.

(c) *Administrative procedures.* In addition to the requirements outlined herein for each type of application, the city may maintain separate policies and procedures for the submission and processing of applications consistent with the provisions of this chapter including, but not limited to, application forms, fee schedules, checklists, language blocks for plats, and other similar items. These policies and procedures may be amended from time to time, and it is the applicant's responsibility to be familiar with, and to comply with, these policies and procedures.

(d) *Processing.*

(1) The applicant shall file the plan or plat with the planning director on or before the "application deadline date" in accordance with the approved commission meeting calendar described in subsection (6). In addition, such plan or plat shall be accompanied by an application and an application fee in accordance with this chapter. Such fee is nonrefundable.

(2) The planning director shall process the plan or plat and ensure that it is checked for conformance to this chapter and other city ordinances.

(3) The planning director shall forward the plan or plat to the planning commission with any comments or recommendations of the city staff, New Braunfels Utilities, or other utility provider.

(4) The planning commission shall meet in accordance with the approved commission meeting calendar described in subsection (6).

(5) If a plat is not disapproved within 30 days from the filing date, unless waived, or within the planning commission meeting schedule outlined in subsection (6), the plat shall be deemed to have been approved by the planning commission. A certificate showing the filing date and the failure to take action thereon within the periods prescribed in this section shall, on demand by the applicant, be issued by the planning commission. Such certificate shall be sufficient in lieu of the written endorsement or other evidence of approval required in this section for recordation.

(6) Meeting calendar. The commission shall approve a meeting calendar for every calendar year. Such calendar shall prescribe at a minimum the "application deadline date" for submission of plans and plats, the "staff plat review meeting date", and the "commission's meeting date" on which plans and plats will be considered.

(7) If any application is incomplete or the full fee has not been paid, the planning director shall notify the applicant in writing within ten business days of the date of the application that the application is incomplete. If the full fee

is not paid or the application is not completed within 45 days of the date of the application, the application shall expire.

(8) If a plat (preliminary or final) is considered by the planning commission and the plat is not approved or approved with conditions, upon request from the applicant, the city shall provide the reasons for such denial, or if approved with conditions, the conditions for final approval. The letter from the city shall be issued within seven days of the planning commission action on the plat.

(e) *Proof of land ownership.* The city requires proof of land ownership prior to approval of any application involving real property. Along with the application submission, the applicant shall provide written verification, such as a notarized statement or a power of attorney or other evidence satisfactory to the planning director, that the applicant is the owner of record of the subject land parcel or parcels, or is the property owner's duly authorized agent. The planning director shall have the authority to determine what document(s) the city will require to prove ownership, such as one of the following:

(1) Deed;

(2) Title policy;

(3) Tax receipt;

(4) Notarized signature(s) on the application form; or

(5) Some other documentation that is acceptable to the planning director.

If ownership cannot be conclusively established prior to the meeting date on which the application will be heard, the city shall have the authority to deny the application on the basis of protecting the public interest. The applicant may resubmit a new application for the property at any time following such denial.

(Ord. No. 2006-84, § 1(Exh. A), 9-11-06)

Sec. 118-22. - Subdivision master plan.

a. *[Master plan submittal.]* Where the proposed subdivision constitutes a unit of a larger tract that is to be subsequently subdivided, the applicant is required to submit a subdivision master plan of the entire area. The subdivision master plan shall be submitted in sufficient copies as determined by the planning director and drawn at a scale of not less than one inch to 500 feet on a topographic map. The master plan shall include:

(1) Names and addresses of the developers/subdividers, record owner, engineer and/or surveyor;

(2) Proposed name of the subdivision;

(3) Location in relation to the rest of the city and boundaries of proposed subdivision;

(4) A schematic layout of the entire tract and its relationship to adjacent property and existing adjoining development, including tentative proposed layouts of streets, blocks, drainage and utilities, if determined to be necessary by the planning director;

(5) The phases of development of the tract;

(6) Proposed major categories of land use and proposed zonings;

(7) Number of dwelling units per acre;

(8) Arterial, collector and local street layout;

(9) Location of sites for parks, schools and public uses as shown in the master plan where applicable;

(10) Significant natural features, including floodplains and wooded areas; and

(11) Significant manmade features, such as railroads, buildings and utilities.

(b) *Processing.* The master plan shall be processed in accordance with the planning commission approved meeting schedule.

(c) *Filing and fees.*

(1) Formal application for master plan approval shall be made to the planning director by the applicant on forms prescribed by the planning director.

(2) The master plan shall be submitted to the planning director in sufficient copies as determined by the planning director in accordance with the planning commission's approved meeting calendar.

(3) The master plan shall be accompanied by an application fee, which is nonrefundable.

(d) *Layout.* The overall layout if approved by the planning commission shall be filed in the permanent files of the planning director. Thereafter plats of subsequent units of such subdivision shall conform to the approved overall layout unless changed by the planning director or the planning commission as provided for in this chapter. Approval of a subdivision master plan shall not constitute automatic approval of the preliminary or final plat.

(e) *Expiration.* The approval of a master plan or an amended master plan expires five years from the date such master plan or amended master plan is approved by the planning commission if progress toward completion is not being made. Progress towards completion of the development for which the master plan was approved includes the following:

(1) An application for a final plat is submitted;

(2) A good faith effort is made to file with a regulatory agency an application for a permit necessary to begin or continue towards completion of the project;

(3) Costs have been incurred for developing the project including, without limitation, costs associated with roadway, utility, and other infrastructure facilities designed to serve in whole or in part, the project (but exclusive of land acquisition) in the aggregate amount of five percent of the most recent appraised market value of the real property on which the project is located;

(4) Security is posted with the city to ensure performance of an obligation required by the city; or

(5) Utility connection fees or impact fees for the project have been paid to the city or New Braunfels Utilities.

Prior to the expiration date, the planning commission may extend the master plan or amended master plan upon application by the developer for one or more year periods.

(f) *Standards for master plan approval.* The planning commission shall consider the following when considering approval of a master plan:

(1) *Factors.* The following criteria shall be used to determine whether the application for a subdivision master plan shall be approved, approved with conditions, or denied:

a. The subdivision master plan is consistent with all zoning requirements (if applicable) for the property and any approved development agreement(s) that are applicable to the property;

b. The proposed provision and configuration of roads, water, wastewater, and drainage is adequate to serve each phase of the subdivision, and meet the standards set forth in this chapter;

c. The schedule of development is feasible and prudent;

d. The location and size of development proposed assures orderly and efficient development of the land subject to the approved master plan; and

e. Where the proposed development is located in whole or in part within the extraterritorial jurisdiction of the city and is subject to an interlocal agreement under the V.T.C.A., Local Government Code ch. 242, the proposed subdivision master plan meets any county standards to be applied pursuant to the agreement.

(2) *Conditions.* In addition to any other conditions required to conform the master plan to the standards of this chapter, the planning commission may condition its approval of the master plan upon exclusion of land from the master plan, or upon adjustments in the proposed phases of the development, or any other conditions it may deem appropriate to protect the public health, safety or welfare.

(g) *Minor revisions to approved master plan.*

(1) The planning director is hereby authorized to review and approve minor revisions to the approved master plan without having the revised master plan reviewed or re-approved by the planning commission. Minor revisions shall be considered to be those changes that do not materially affect or change factors such as project density by more than ten percent, land area or size by more than ten percent; intensity of land uses; parking or traffic generation by more than ten percent; minor street and drainage items approved by the city engineer, development phase changes in accordance with subparagraph i., and minor water and wastewater items approved by NBU or other utility provider. Specific conditions applied to the approval of the master plan by the planning commissions shall not be considered as minor revisions. Any minor revision that the planning director declines to approve shall be submitted as an "amended master plan (minor revisions)" to the planning commission for review and consideration in the same manner as a master plan.

(2) Any minor revisions to a master plan that are approved by the planning director or the planning commission shall be reflected and shown on a new master plan drawing labeled as "amended master plan (minor revisions)", and the required number of copies of the revised plan shall be submitted to the planning director. Minor revisions to an approved master plan shall not extend the original approval date of the master plan unless an extension for the original master plan is granted by the planning commission.

(3) Any minor revision to a master plan does not constitute the first in a new series of permits as defined in V.T.C.A., Local Government Code ch. 245 for that portion of the approved master plan, if it is approved.

(h) *Major revisions to approved master plan.*

(1) A major revision to a master plan shall be considered to be any revision other than a minor revision as provided for in this section. Any major revision shall be submitted as an "amended master plan" to the planning commission for review and consideration in the same manner as a master plan.

(2) An amended master plan presented to the commission for consideration constitutes the first in a new series of permits as defined in V.T.C.A., Local Government Code ch. 245 for that portion of the approved master plan so amended.

(3) Any major revisions to a master plan that are approved by the planning commission shall be reflected and shown on a new master plan drawing, labeled as "amended master plan", and the required number of copies of the revised plan shall be submitted to the planning director.

(i) *Phased development.* A tract subject to any approved master plan need not be developed in any particular order, as long as the final plat for any particular phase provides for adequate facilities, such as roads, drainage improvements, and utilities in accordance with the standards of this chapter. The number of lots and/or area of land in any phase may be different from that shown on the approved master plan as long as the density of the overall project does not increase beyond the standards for minor revisions to master plans. The planning director shall approve such changes to an approved master plan as noted in this section as a minor revision so long as the revised master plan is in accordance with this chapter.

(Ord. No. 2006-84, § 1(Exh. A), 9-11-06)

Sec. 118-23. - Preliminary plat.

(a) The applicant may cause to be prepared a preliminary plat by a surveyor in accordance with this chapter. The preliminary plat and final plat and all accompanying data may be submitted together, or the applicant may submit a final plat and all accompanying data required by this chapter without submitting a preliminary plat.

(b) Filing and fees.

(1) Formal application for preliminary plat approval shall be made to the planning director by the applicant on forms prescribed by the planning director.

(2) The preliminary plat shall be submitted to the planning director in sufficient copies as determined by the planning director along with the required preliminary street, utility and drainage layouts in accordance with the planning commission's meeting calendar as approved by the commission.

(3) The preliminary plat shall be accompanied by an application fee, which is nonrefundable.

(Ord. No. 2006-84, § 1(Exh. A), 9-11-06)

Sec. 118-24. - Form and contents.

The preliminary plat shall be drawn on sheets 18 inches wide and 24 inches long with a border of not less than ½ inch on all sides. The plat shall be drawn to a scale of no smaller than 100 feet to one inch. When more than one sheet is necessary to accommodate the entire area, an index sheet showing the entire subdivision at an appropriate scale shall be attached to the plat. The plat shall show the following:

(1) A location map of the subdivision indicating its relation to adjacent arterials or collectors with sufficient information to locate the subdivision in relation to the rest of the city.

(2) Names and addresses of the applicant, record title owner, engineer and/or surveyor.

(3) The proposed name of the subdivision shall not have the same spelling or be pronounced similar to the name of any other subdivision located within the city or the city's extraterritorial jurisdiction, unless the subdivision is contiguous to a recorded subdivision and the plat represents an additional installment or increment of the original subdivision.

(4) Names of contiguous subdivisions and the owners of contiguous parcels of un-subdivided land, and an indication of whether or not contiguous properties are platted.

(5) The locations of contiguous lots, blocks, streets, easements, rights-of-way, parks and public facilities.

(6) Subdivision boundary lines indicated by heavy lines and the computed acreage of the subdivision.

(7) Existing site information as follows:

a. The exact location, dimensions, name and description of all existing or recorded streets, alleys, drainage structures, reservations, easements or public rights-of-way within the subdivision, intersecting or contiguous with its boundaries or forming such boundaries;

b. The exact location, dimensions, description and name of all existing or recorded residential lots, parks, public areas and significant sites within or contiguous with the subdivision.

(8) The location, dimensions, description and name of all proposed streets, alleys, parks, public areas, reservations, easements or rights-of-way, blocks, and lots.

(9) Date of preparation, scale of plat, and north arrow.

(10) Topographical information shall include contours on the basis of five vertical feet in terrain with a slope of two percent or more, and on a basis of two vertical feet in terrain of less than two percent. Contour lines shall be based upon city datum, if available.

(11) Location of city limits line, the outer border of the city's extraterritorial jurisdiction, and zoning district boundaries if they traverse the subdivision, form part of the boundary of the subdivision, or are contiguous to such boundary. This shall be shown on all copies submitted to the city and will not be required on the final plat.

(12) The preliminary plat shall indicate by lot the proposed land use and proposed density on all copies submitted. This information will not be required on the final plat.

(13) A number or letter to identify each lot or site and each block.

(14) Any setback lines that are proposed to vary with the zoning ordinance.

(15) Additional information as may be required by state law, the planning director, city engineer, or the commission.

(16) Land subject to any special flood hazard zone according to the city's adopted flood maps.

(Ord. No. 2006-84, § 1(Exh. A), 9-11-06)

Sec. 118-25. - Preliminary street and utility drawings; schematic layout.

In addition to that provided in section 118-24, the following shall be provided on the preliminary plat or on separate paper:

(1) A preliminary street plan with right-of-way and paving widths of all streets, alleys and the location of all sidewalks.

(2) A preliminary plan of the water system showing the approximate location and size of existing and proposed water lines, fire hydrants, and the location and size of existing mains to which the system will be connected.

(3) A preliminary plan for wastewater disposal systems including the location of wastewater lines pipe size, and points of discharge or any disposal sites, including lands subject to flooding.

(4) A preliminary plan of the drainage system with location of channels, storms sewer and detention or retention basins.

If a preliminary plat is not submitted, the information in this section and section 118-24 will be required to be submitted with a final plat.

(Ord. No. 2006-84, § 1(Exh. A), 9-11-06)

Sec. 118-26. - Processing of preliminary plat; approval.

(a) The planning director shall check the preliminary plat as to its conformity with the master plan, major street plan, land use plan, zoning districts, and the standards and specifications set forth in this chapter or referred to in this chapter.

(b) The planning director shall submit copies of the preliminary plat to the city engineer and New Braunfels Utilities or other utility providers, and they shall check the same for conformity with the standards and specifications contained or referred to in this chapter.

(c) The planning director shall make sure that all interested parties including other governmental entities, regulatory agencies, and public utilities, shall review the plat and utility layout within ten days of their submission for the purpose of determining their conformity with this chapter and applicable city standards, giving consideration to sound engineering practices and design criteria.

(d) The planning director shall submit the preliminary plat data to the planning commission with any recommendations as to modifications, additions or alterations of the plat data, or of the preliminary street and utility drawings.

(e) The planning commission shall approve or disapprove such plat, or conditionally approve it with modifications in accordance with the Planning commission approved meeting schedule.

(f) Approval or conditional approval of a preliminary plat by the planning commission shall be deemed an expression of approval of the layout submitted on the preliminary plat as a guide to the installation of streets, water, sewer and other required improvements and utilities and to the preparation of the final or record plat. Approval or conditional approval of a preliminary plat shall not constitute automatic approval of the final plat.

(g) Approval or conditional approval of a preliminary plat shall be effective for five years, if progress toward completion is being made. Progress towards completion of the development for which the preliminary plat was approved includes the following:

(1) An application for a final plat is submitted;

(2) A good faith effort is made to file with a regulatory agency an application for a permit necessary to begin or continue towards completion of the project;

(3) Costs have been incurred for developing the project including, without limitation, costs associated with roadway, utility, and other infrastructure facilities designed to serve in whole or in part, the project (but exclusive of land acquisition) in the aggregate amount of five percent of the most recent appraised market value of the real property on which the project is located;

(4) Security is posted with the city to ensure performance of an obligation required by the city; or

(5) Utility connection fees or impact fees for the project have been paid to the city or New Braunfels Utilities.

(h) The planning director may upon application extend approval for an additional 12 months. At the end of this 12-month extension, the preliminary plat approval shall be revoked in writing by the city to the applicant unless extended by the planning commission.

(i) If a final plat for all or part of the preliminary plat is approved before the preliminary plat expires the preliminary plat shall not expire.

(Ord. No 2006-84, § 1(Exh. A), 9-11-06)

Sec. 118-27. - Final plat.

Within the applicable period of the planning commission approval of the subdivision master plan or preliminary plat, the applicant shall cause to be prepared a final plat for all or part of that land shown on the subdivision master plan and/or preliminary plat, and incorporating any and all changes, modifications, alterations, corrections and conditions imposed by the planning commission in approving the subdivision master plan and/or preliminary plat. construction plans and site improvement data if required by this chapter may be submitted with the final plat, but they are not required to be submitted with the final plat. The preliminary plat and final plat and all accompanying data and plans may be submitted together, or the applicant may submit a final plat and all accompanying data and plans required by this chapter without submitting a preliminary plat.

(Ord. No. 2006-84, § 1(Exh. A), 9-11-06)

Sec. 118-28. - Filing and fees.

(a) Formal application for final plat approval shall be made to the planning director by the applicant on forms prescribed by the planning director.

(b) Copies of the final plat in sufficient quantities as determined by the planning director shall be tendered to the planning director in accordance with the commission's meeting calendar as approved by the planning commission.

(c) The final plat shall be accompanied by an application fee, which is nonrefundable.

(d) If the applicant proposes street names whose names have not been previously approved by the applicable street name approval authorities, the application shall include a street name approval letter from the applicable street name approval authorities.

(Ord. No. 2006-84, § 1(Exh A), 9-11-06)

Sec. 118-29. - Form and contents.

(a) The final plat shall be drawn with drawing ink on dimensionally stable matter film sheets which are 18 inches wide and 24 inches long with a ½-inch border on all sides. This plat shall be drawn at a scale not smaller than 100 feet to one inch. Where more than one sheet is necessary to accommodate the entire area, an index sheet showing the entire subdivision at an appropriate scale shall be attached to the plat.

(b) The final plat shall also include the following:

(1) An accurate boundary survey of the property with bearings and distances referenced to a known monument showing pertinent data concerning property immediately adjacent in dashed lines.

(2) The exact location, dimensions, name and description of all existing or recorded streets, alleys, reservations, easements or public rights-of-way within the subdivision, intersecting or contiguous with its boundary or forming such boundary, with accurate dimensions bearing or deflecting angles and radii, area and central angle, degree of curvature, tangent distance and length of all curves where appropriate.

(3) The exact location, dimensions, description and name of all proposed streets, alleys, centerlines of streets and alleys, drainage easements, parks, public areas, reservations, easements or rights-of-way, perimeter street right-of-way, blocks, lots and significant sites within the subdivision, with accurate dimensions bearing or deflecting angles and radii, area and central angles, degree of curvature, tangent distance and length of all curves where appropriate.

(4) The location of all front, rear, and side building setback lines if different from what the city zoning ordinance requires.

(5) Location and description of monuments which shall be placed at each corner of the boundary survey of the subdivision.

(6) Lot numbers, block numbers, and the square footage of all lots other than rectangular shaped lots or a statement that all lots meet the required minimum square footages.

(c) If a preliminary plat was submitted and not approved, all information required for a preliminary plat by sections 118-24 and 118-25 shall be submitted with a final plat.

(Ord. No. 2006-84, § 1(Exh. A), 9-11-06)

Sec. 118-30. - Certificates and statements.

(a) A surveyor's certificate in the following form shall be placed on the subdivision plat:

KNOW ALL MEN BY THESE PRESENTS:

I, the undersigned _____, a Registered Professional Land Surveyor in the State of Texas, hereby certify that this plat is true and correctly made under my supervision and in compliance with City and State survey regulations and laws and made on the ground and that the corner monuments were properly placed under my supervision.

(Seal) _____

Registered Professional Land Surveyor No. _____

(b) An engineer's certificate in the following form shall be placed on the subdivision construction plans:

KNOW ALL MEN BY THESE PRESENTS:

I, the undersigned, _____, a Professional Engineer Registered in the State of Texas, hereby certify that proper engineering consideration has been given to these plans and all engineering aspects are in compliance with City and State engineering regulations and laws.

(Engineer Seal) _____

Registered Professional Engineer

P.E. Registration No. _____

(c) An owner's acknowledgement and certificate of dedication in the following form shall be placed on the subdivision plat:

Owner's acknowledgement:

State of Texas

County of _____

I (We) the undersigned owner(s) of the land shown on this plat, and designated herein as the _____ subdivision to the City of New Braunfels, County of _____, Texas, and whose name is subscribed hereto, do hereby subdivide such property and dedicate to the use of the Public all streets, alleys, parks, drains, easements, and public places thereon shown for the purposes and consideration therein expressed.

	_____ (Owner)

State of Texas

County of _____

This instrument was acknowledged before me on this _____ day of _____, 20_____, by _____.

	_____ Notary Public
	State of _____
	My Commission Expires: _____

This owner's acknowledgement may be omitted if there is also filed with the plat a dedication deed adopting such plat as a part thereof, executed by such owner in recordable form and incorporating therein all of the pertinent provisions of such owner's acknowledgement.

(d) A certificate of approval and acceptance by the planning commission shall be placed on the subdivision plat, as follows:

Approved this the _____ day of _____, 20_____, by the Planning Commission of the City of New Braunfels, Texas.

	_____ Chairman

Approved for Acceptance

_____/_____/_____ Date	_____ Planning Director
_____/_____/_____ Date	_____ City Engineer
_____/_____/_____ Date	

	_____ New Braunfels Utilities

(e) A certificate of recordation in the following form shall be placed on the subdivision plat:

For Comal County

I, _____, do hereby certify that the foregoing instrument was filed for record in the Map and Plat Records, Doc #_____ of Comal County on the _____day of _____, 20_____, at _____ m.

Witness my hand official seal, this the _____ day of _____, 20_____.

	County Clerk, Comal County, Texas
	_____ Deputy

For Guadalupe and Hayes County

State of Texas

County of _____

I, _____ County Clerk of said County, do hereby certify that the foregoing instrument of writing with its certificate of authentication was filed for record in my office, on the _____ day of _____, A.D. 20_____ at _____m. and duly recorded the _____ day of _____ A.D. 20_____ at _____m. in the map and plat records of _____ County, Texas in Volume _____, Page _____, in testimony whereof, witness my hand and official seal of office this _____ day of _____, A.D. 20_____.

County Clerk, _____ County, Texas

_____

(f) Any certifications, acknowledgements, approvals or statements required by and in a format approved by the county or counties within which the subdivision lies shall be attached to the subdivision plat.

(g) A statement or statements for any subdivision in which a lot or lots are not connected to water or wastewater system owned or franchised by the city shall be attached to the subdivision plat.

(h) A statement shall be added on the subdivision plat declaring whether sidewalks are required, upon which streets sidewalks are required, and who is responsible for installation.

(i) A statement shall be added on the subdivision plat stating whether all or a portion of the subdivision falls within the one percent chance floodplain, and if so, the engineer's or surveyor's statement of the minimum permissible floor elevation for each lot together with a statement that all buildings must be constructed above that minimum floor elevation.

(j) If no portion of any lot on a plat is within an indicated special flood hazard zone, then the plat shall state this:

No portion of any lot on this plat is within an indicated special flood hazard zone according to the adopted flood maps of the City of New Braunfels.

(Ord. No. 2006-84, § 1(Exh. A), 9-11-06)

Sec. 118-31. - Construction plans.

(a) The applicant shall submit construction plans to the city engineer, NBU, and any other utility providers. The city engineer, New Braunfels Utilities, and any other public utility providers (if the land is served by other than NBU) shall review the construction plans for the purpose of determining their conformity with this chapter and applicable city standards, giving consideration to sound engineering practices and design criteria. When submitted all plans and engineering calculations shall bear an engineer's certificate in accordance with this chapter. If security for public improvement is provided, copies of detailed cost estimates shall also be provided. Upon approval of the construction plans by the city, NBU, and any other utility provider, the submitting engineer shall be notified in writing that the construction plans have been approved.

(b) Plans and specifications shall be prepared in accordance with good engineering practice under the supervision of an engineer registered to practice engineering in the state.

(c) Construction plans shall include the following and shall conform to standards as indicated:

(1) *Streets, alleys, sidewalks and crosswalk ways.* Plans for streets, alleys, sidewalks and crosswalk ways shall be prepared in accordance with city standards. In general, the plans shall consist of a plan view of the subdivision

drawn on a scale of one inch equals 50 feet or larger. The plans shall show the front lot line dimensions, lot and block numbers and other pertinent data that may be required to fully illustrate the proposed improvements. The right-of-way width and paved width of all streets with top of curbline grade and distances shall be indicated along with the elevations at all centerline intersections and grade breaks.

(2) *Wastewater system.*

a. When the proposed development is to be supplied with wastewater service from New Braunfels Utilities, the plans and specifications shall be prepared in accordance with NBU requirements. When wastewater service is to be supplied from other wastewater collection and treatment systems, the plans and specifications shall be prepared in accordance with the requirements of that system. Plans and specifications for privately owned wastewater systems shall be submitted to and approved by the state department of health.

b. Plans shall be prepared with plan and profile views.

1. In general the plans shall consist of a plan view of the subdivision to be served, and be drawn on a scale of one inch equals 100 feet or larger. The plans shall show the front lot line dimensions, street widths, lot and block numbers, street names and other pertinent data that may be required to fully illustrate the proposed improvements. The wastewater system improvements shall show the size and location of the proposed mains, connections to existing mains, location of proposed manholes and cleanouts by station numbers, service connections to proposed lots and such descriptive comments as may be required to fully describe the proposed construction. Existing wastewater mains adjacent to the subdivision shall be shown.

2. In general, the profile view shall show station numbers, the existing ground line, flow line elevations at manholes and grade breaks, flow line and grade of the proposed pipe, manholes and cleanouts and other pertinent data as may be required to survey the route and construct the proposed improvements.

(3) *Water system.*

a. When the proposed development is to be supplied with water from New Braunfels Utilities, the plans and specifications shall be prepared in accordance with NBU requirements. When water is to be supplied from other water systems, the plans and specifications shall be prepared in accordance with the requirements of that system. Plans and specifications for privately owned water systems shall be submitted to and approved by the state department of health prior to recording a final plat.

b. In general, the plans shall consist of a plan view of the subdivision to be served, and be drawn on a scale of one inch equals 100 feet or larger. The plans shall show the front lot line dimensions, street widths, lot and block numbers, street names and other pertinent data that may be required to fully illustrate the proposed improvements. The water system improvements shall show the size and location of proposed mains, connections to existing mains, locations of valves, fire hydrants, fittings, services to lots and such descriptive comments as may be required to fully describe the proposed construction. Existing water mains and fire hydrants adjacent to the subdivision shall be shown.

(4) *Storm drainage.*

a. Plans for storm drainage shall be prepared in accordance with city standards and shall indicate two-foot contours based on city datum. All street widths and grades shall be indicated on the plans, and runoff figures shall be indicated on the outlet and inlet side of all drainage ditches and storm sewers and at all points in the street at changes of grade or where the water enters another street or storm sewer or drainage ditch. Drainage easements shall be indicated.

b. A general location map of the subdivision showing the entire watershed (a USGS quadrangle) is required.

c. Calculations showing the anticipated stormwater flow, including watershed area, percent runoff, and time of concentration are to be shown. When a drainage ditch or storm sewer is proposed, calculations shall be submitted showing basis for design.

d. When a drainage channel or storm sewer is proposed, complete plans, profiles, cross sections, grades and specifications shall be submitted showing complete construction details.

e. Construction plans for any improvements covered by this section are subject to approval by the city engineer including those for utilities other than NBU.

(Ord. No. 2006-84, § 1(Exh. A), 9-11-06)

Sec. 118-32. - Processing of final plat.

(a) The planning director shall check the final plat as to its conformity with the master plan, major street plan, land use plan, zoning districts, and the standards and specifications set forth in this chapter or referred to in this chapter.

(b)

The planning director shall submit the final plat to the city engineer, New Braunfels Utilities, and any other utility providers, and they shall check the same for conformity with the standards and specifications contained or referred to in this chapter.

(c) The planning director shall make sure that all interested parties, including other governmental entities, regulatory agencies, and public utilities, shall review the plat and utility layout within ten days of their submission for the purpose of determining their conformity with this chapter and applicable city standards giving consideration to sound engineering practices and design criteria.

(d) Within the applicable period of planning commission approval of the subdivision master plan or preliminary plat, the subdivider shall cause to be prepared a final plat for all or part of that land shown on the subdivision master plan and/or preliminary plat, and incorporating any and all changes, modifications, alterations, corrections, and conditions imposed by the planning commission in approving the subdivision master plan and/or preliminary plat.

(e) Construction plans and site improvement data, if required by this chapter, may be submitted with the final plat, but they are not required to be submitted with the final plat. The preliminary plat, final plat, and all accompanying data and plans may be submitted together, or the applicant may submit a final plat and all accompanying data and plans required by this chapter without submitting a preliminary plat.

(f) The planning director shall submit the final plat data to the planning commission with any recommendations as to modifications, additions or alterations of the plat data.

(g) The planning commission shall approve or disapprove such plat, or conditionally approve it with modifications in accordance with the planning commission approved meeting schedule.

(h) If a plat is not disapproved within 30 days from the filing date, unless waived, or within the planning commission meeting schedule outlined below, it shall be deemed to have been approved by the planning commission. A certificate showing the filing date and the failure to take action thereon within the periods prescribed in this section shall, on demand by the applicant, be issued by the planning commission. Such certificate shall be sufficient in lieu of the written endorsement or other evidence of approval required in this section for recordation.

(i) Meeting calendar. The commission shall approve a meeting calendar for every calendar year. Such calendar shall prescribe at minimum the "application deadline date" for submission of plans and plats, the "staff review meeting date", and the "commission's meeting date" on which plans and plats will be considered.

(j) Approval or conditional approval of a final plat shall be effective for five years.

(k) The plat shall expire and be void within five years of approval by the commission if progress toward completion is not being made. Progress towards completion of the development for which the final plat was approved includes the following:

(1) A good faith effort is made to file with a regulatory agency an application for a permit necessary to begin or continue towards completion of the project;

(2) Costs have been incurred for developing the project including, without limitation, costs associated with roadway, utility, and other infrastructure facilities designed to serve in whole or in part, the project (but exclusive of land acquisition) in the aggregate amount of five percent of the most recent appraised market value of the real property on which the project is located;

(3) Subdivision development has begun.

(4) Security is posted with the city to ensure performance of an obligation required by the city; or

(5) Utility connection fees or impact fees for the project have been paid to the city or New Braunfels Utilities.

(l) The planning director may upon application extend approval of a final plat for an additional 12 months. At the end of this 12-month extension the final plat approval shall be revoked in writing by the city to the applicant unless:

(1) Extended by the planning commission upon application by the applicant in accordance with the planning commission approved meeting schedule;

(2) Subdivision development has begun; or

(3) Surety has been provided for in accordance with this chapter.

(m) Revisions to approved final plat prior to filing at the county. Occasionally minor revisions are needed before the final plat can be filed at the applicable county(s). Such minor revisions as correction of bearings or distances, correction of minor labeling errors, addition of erroneously omitted informational items and labels, etc. may occur on the record plat prior to filing it without the planning commission having to re-approve the final plat. Determination of whether or not revisions are "minor" in nature is subject to the judgment of the city's planning director and the city engineer. Revisions such as obvious corrections, reconfiguration of lot lines or easements, relocation of roads or driveways or access easements, any modification to the perimeter or boundary of the property, and relocation or addition or deletion of any public improvement (including corresponding easement), may necessitate re-submission and re-approval of the plat as a "revised final plat" unless otherwise approved by the planning director and the city engineer as applicable. If the planning director or city engineer consider revisions to be other than minor revisions the plat shall be re-submitted to the planning commission as a "revised final plat".

(Ord. No. 2006-84, § 1(Exh. A), 9-11-06)

Sec. 118-33. - Vacating plat.

(a) *Prior to the sale of any lot.* In cases where lots have not been sold, any plan, plat or replat may be vacated by the proprietors of the land covered thereby at any time before the sale of any lot therein by a written instrument declaring the same to be vacated, duly executed, acknowledged and recorded in the same office as the plat to be vacated, provided the approval of the planning commission shall have been obtained. On the execution and recording of the vacating instrument, the vacated plat shall have no effect.

(b) *After the sale of any lot.* In cases where lots have been sold, the plan, plat or replat, or any part thereof, may be vacated upon the application of all the owners of lots in such plat and with the approval of the planning commission. On the execution and recording of the vacating instrument, the vacated plat has no effect.

(Ord. No. 2006-84, § 1(Exh. A), 9-11-06)

Sec. 118-34. - Replatting.

(a) Replat required. Unless otherwise expressly provided for herein, a property owner who proposes to replat any portion of an already approved and filed final plat, other than to amend or vacate the plat, must first obtain approval for the replat under the standards and procedures prescribed for the replatting of land by this chapter. All improvements shall be constructed in accordance with the same requirements as for a final plat as provided herein. The planning director may waive or modify requirements for a preliminary replat under certain circumstances where the proposed replat does not involve a large land parcel or an existing structure or business on the subject property, and where the proposed plat revisions are relatively simple in nature.

(b) Replatting without vacating preceding plat. A replat of a final plat or portion of a final plat may be recorded and is controlling over the preceding plat without vacation of that plat if the replat:

(1) Is signed and acknowledged by only the owners of the property being replatted;

(2) Is approved after a public hearing on the matter at which parties in interest and citizens have an opportunity to be heard by the planning commission; and

(3) Does not attempt to amend or remove any covenants or restrictions previously incorporated in the final plat.

(c) Residential replat. In addition to compliance with subsection (b), a replat without vacation of the preceding plat must conform to the requirements of this section if:

(1) During the preceding five years any of the area to be replatted was limited by an interim or permanent zoning classification to residential use for not more than two residential units per lot; or

(2) Any lot in the preceding plat was limited by deed restrictions to residential use for not more than two residential units per lot.

Notice of the public hearing required under subsection (b) shall be given before the 15th calendar day before the date of the hearing by publication in an official newspaper or a newspaper of general circulation in the applicable county and the city web site. Notice of the public hearing shall also be given by written notice before the 15th calendar day before the date of the hearing, with a copy or description of any requested waivers and a copy of V.T.C.A., Local Government Code § 212.015 (c), sent to the property owners, as documented on the most recently approved ad valorem tax roll of the city of lots that are in the original subdivision and that are within 200 feet of the lot(s) to be replatted. In the case of a subdivision in the extraterritorial jurisdiction, the most recently approved county tax roll shall be used. The written notice may be delivered by depositing the notice, properly addressed with appropriate postage paid, in a post office or postal depository within the boundaries of the city.

(d) If the property owner(s) of 20 percent or more of the total land area of lots to whom notice is required to be given under subsection (b) file with the city a written protest of the replatting before or at the public hearing, and the replat requires a waiver as defined in this chapter, then approval of the replat will require the affirmative vote of at least three -fourths (¾) of the commission members present. For a legal protest, written instruments signed by the owners of at least 20 percent of the total land area of the lots or land immediately adjoining the area covered by the proposed replat and extending 200 fee from that area, but within the original subdivision, must be filed with the city prior to the close of the public hearing. In computing the percentage of land area subject to the "20 percent rule" described above, the area of streets and alleys shall be included.

(e) Compliance with subsection (c) is not required for approval of a replat for any part of a preceding plat if the area to be replatted was designated or reserved for other than single- or two-family (i.e., duplex) residential use by notation on the last legally recorded plat or in the legally recorded restrictions applicable to the plat. For example, for a replat involving nonresidential property, a public hearing must be held, pursuant to subsection (b)(2), but notice of the hearing does not have to appear in the newspaper and written notices do not have to be mailed to individual property owners within 200 feet of the subject property.

(f) Any replat that adds or deletes lots must include the original subdivision and lot boundaries. If a replat is submitted for only a portion of a previously platted subdivision, the replat must reference the previous subdivision name and

recording information, and must state on the replat the specific lots which have changed along with a detailed "purpose for replat" statement.

(g) If the previous plat is vacated as prescribed in V.T.C.A., Local Government Code § 212.013, as amended, and as provided in this chapter, a public hearing is not required for a replat of the area vacated. It would, instead, be submitted as a "preliminary or final plat" and reviewed accordingly.

(h) The replat of the subdivision shall meet all the requirements for a final plat for a new subdivision that may be pertinent, as provided for herein.

(i) The title shall identify the document as a "Final Plat" of the "_____ Addition, Block _____, Lot(s) _____, being a Replat of Block _____, Lot(s) _____ of the _____ Addition, an addition to the City of New Braunfels, Texas, as recorded in Volume _____, Page _____ of the Plat Records of _____ County, Texas".

(j) An application submittal for a replat shall be the same as for a final plat, and shall be accompanied by all items required for final plats including the required number of copies of the plat, a completed application form, and the required application fee.

(k) The replat shall also bear a detailed "purpose for replat" statement which describes exactly what has been changed on the plat since the original (or previous) plat was approved by the city and filed at the county.

(l) The replat shall be filed at the applicable county in the same manner as prescribed for a final plat, and approval of a replat shall expire if all filing materials are not submitted to the planning director, and if the replat is not filed at the applicable county within the time periods specified for a final plat.

(Ord. No. 2006-84, § 1(Exh. A), 9-11-06)

Sec. 118-35. - Amending plats.

(a) An amended plat shall meet all of the informational and procedural requirements set forth for a final plat, including the required number of copies of the plat, a completed application form, and the required application fee.

(b) Upon receipt of a favorable recommendation for approval from the city engineer, the planning director may approve an amending plat which may be recorded and is controlling over the preceding or final plat without vacation of that plat if the amending plat is signed by the applicants only and if the amending plat is for one or more of the purposes set forth in this section. The procedures for amending plats shall apply only if the sole purpose of the amending plat is to:

(1) Correct an error in a course or distance shown on the preceding plat;

(2) Add a course or distance that was omitted on the preceding plat;

(3) Correct an error in a real property description shown on the preceding plat;

(4) Indicate monuments set after the death, disability, or retirement from practice of the engineer or surveyor responsible for setting monuments;

(5) 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) 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) 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 or modify recorded covenants or restrictions or easements; and

d. The amendment does not have a material adverse effect on the property rights of the owners in the plat;

(8) Relocate a lot line to eliminate an inadvertent encroachment of a building or other improvement on a lot line or easement;

(9) 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 or modify recorded covenants or restrictions or easements; and

c. The amendment does not increase the number of lots; or

(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 city;

b. The amendment does not attempt to remove or modify recorded covenants or restrictions or easements; and

c.

The area covered by the changes is located in an area that the city council has approved, after a public hearing, as a residential improvement area.

(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.

(12) To remove one lot line between two adjacent lots if: (The plat does not have to be prepared by a registered surveyor. Application may be made by the owner of the lots.)

a. The applicant is the owner of both lots;

b. Proof is provided from the utility providers that any easements are not needed currently or in the future; and

c. The amendment does not attempt to remove or modify recorded covenants or restrictions.

(c) The planning director may approve amending plats. The planning director may, for any reason, elect to present the amending plat to the planning commission for consideration and approval. Any decision made on the amending plat by the planning director shall be approval of the plat. Should the planning director refuse to approve the amending plat, then the plat shall be referred to the commission for review and approval within the time period required by state law.

(d) Notice, a public hearing, and the approval of other lot owners is not required for the approval and issuance of an amending plat.

(e) The amended plat shall be entitled and clearly state that it is an "amended plat", and it shall include a detailed "purpose for amended plat" statement which describes exactly what has been changed on the plat since the original (or previous) plat was approved by the city and filed at the applicable county. It shall also state the specific lots affected or changed as a result of the amended plat, and shall include the original subdivision plat boundary. All references to "final plat" or "replat" shall be removed.

(f) The amending plat shall be filed at the applicable county in the same manner as prescribed for a final plat, and approval of an amending plat shall expire if all filing materials are not submitted to the city, and if the plat is not filed at the applicable county within the time periods specified for a final plat.

(Ord. No. 2006-84, § 1(Exh. A), 9-11-06; Ord. No. 2008-40, § 1, 6-9-08)

Sec. 118-36. - Minor plats.

(a) A minor plat is a subdivision or development plat resulting in four or fewer lots and provided that the plat does not create any new street nor necessitate the extension of any municipal facilities, except sidewalks, as determined by the city engineer to serve any lot within the subdivision. Any property to be subdivided using a minor plat shall already be adequately served by all required city utilities, and all lots will have frontage on a public roadway.

(b) A minor plat shall meet all of the informational and procedural requirements set forth for a final plat, and shall be accompanied by all items required by the planning director, including the required number of copies of the plat, a completed application form, and the required application fee.

(c) Upon receipt of a favorable recommendation for approval by the city engineer, the planning director may approve, or approve with conditions a minor plat, or may for any reason elect to present the minor plat to the planning commission for consideration. The planning director may not deny a minor plat. should the planning director refuse to approve the minor plat, then the plat shall be referred to the planning commission for review and approval within the time period required by state law.

(d) Notice, a public hearing, and the approval of other lot owners are not required for the approval a minor plat.

(e) The minor plat shall be entitled and clearly state that it is a "minor plat."

(f) The minor plat shall be filed at the applicable county in the same manner as prescribed for a final plat, and approval of a minor plat shall expire if all filing materials are not submitted to the city and if the plat is not filed at the applicable county within the time periods specified for a final plat.

(Ord. No. 2006-84, § 1(Exh. A), 9-11-06)

Sec. 118-37. - Development plats.

(a) *Authority.* This section is adopted pursuant to the V.T.C.A., Local Government Code ch. 212, subchapter B, §§ 212.041—212.050, as amended.

(b) *Purpose.* Development plats may be required only to ensure that adequate easements and rights of way will be provided with respect to land not subject to platting requirements. Site plan approval is not required.

(c) *Applicability.* For purposes of this section the term "development" means the new construction of any building or structure of any nature (residential or nonresidential). "Development" does not include construction of any building or

improvement used for agricultural purposes. This section shall apply to any land lying within the city or within its extraterritorial jurisdiction, as follows:

(1) The development of any tract of land which has not been platted or replatted prior to the effective date of this section, unless expressly exempted herein;

(2) The development of any tract of land for which the property owner claims an exemption from the city's subdivision ordinance, including requirements to replat, which exemption is not expressly provided for in such regulations;

(3) The development of any tract of land for which the only access is a private easement or street; and/or

(4) The division of any tract of land resulting in parcels or lots each of which is greater than five acres in size, and where no public improvement is proposed to be dedicated or constructed.

(d) *Exceptions.* No development plat shall be required where:

(1) The tract to be developed has received final plat or replat approval or was created prior to the effective date of this chapter, or

(2) A subdivision plat is also required under the ordinances of the city.

The planning commission may from time to time exempt other development or land divisions from the requirements of this section.

(e) *Prohibition on development.* No development shall commence, nor shall any building permit, utility connection permit, electrical connection permit or similar permit be issued for any development or land division subject to this section, until a development plat has been reviewed and approved by the planning commission, or the planning director if a minor plat, and filed of record at the applicable county.

(f) *Standards of approval.* The development plat shall not be approved until the following standards have been satisfied:

(1) The proposed development conforms to the comprehensive plan, plans, rules and ordinances of the city concerning its current and future streets, sidewalks, alleys, and public utilities facilities;

(2) Public dedications to serve the development have been tendered; and

(3) The proposed development conforms to the general plan, rules and ordinance of the city that are related to development of a land parcel not otherwise subject to the city's platting requirements.

(g) *Conditions.* The planning director, in the case of a minor plat, or otherwise the planning commission, may impose such conditions on the approval of the development plat as are necessary to insure compliance with the standards in subsection (f).

(h) *Approval procedure.* The application for a development plat shall be submitted to the city in the same manner as a final plat and shall be approved, conditionally approved, or denied by the planning commission or the planning director, if a minor plat, in a similar manner as a final plat. Upon approval, the development plat shall be filed at the applicable county in the same manner as prescribed for a final plat. Approval of a development plat shall expire if all filing materials are not submitted to the planning department, and if the plat is not filed at the county within the time periods specified for a final plat.

i. *[Submittal].* All application materials for a development plat shall be submitted to the planning department for review in the same form and manner as for a final plat, or the application shall be deemed incomplete.

(Ord. No. 2006-84, § 1(Exh. A), 9-11-06)

Sec. 118-38. - Guarantee of performance; inspection and acceptance of public improvements, licensing.

(a) If the applicant chooses to construct the required improvements prior to recordation of the final plat, all such construction shall be inspected while in progress by the appropriate city department and must be approved upon completion by the city engineer, New Braunfels Utilities, and any other public utility if that utility provides service to the development. Written notification by such officials stating that the construction conforms to the specifications and standards contained in or referred to in this chapter must be presented to the planning director prior to recordation of the final plat.

(b) It the applicant chooses to file security in lieu of completing construction prior to the recording the plat the applicant may provide a:

(1) Performance bond or surety bond;

(2) Letter of credit; or

(3) Escrow funds equal to the total installation cost of the required improvements.

(c) Security shall be in an amount equal to 100 percent of the estimated cost of completion of the required public improvements. The issuer of any surety bond and letter of credit shall be subject to the approval of the city engineer and the city attorney.

(d) Performance bond. The performance bond shall comply with the following requirements:

(1) All performance bonds must be in the forms acceptable to the city engineer and the city attorney.

(2) All performance bonds must be executed by such sureties as are named in the current list of "Companies Holding Certificates of Authority as Acceptable Sureties on Federal Bonds and as Acceptable Reinsuring Companies", as published in Circular 570, as may be amended, by the Financial Management Service, Surety Bond Branch, U.S. Department of the Treasury.

(3) All performance bonds must be signed by an agent, and must be accompanied by a certified copy of the authority for him or her to act.

(4) All performance bonds shall be obtained from surety or insurance companies that are duly licensed or authorized in the state to issue performance bonds for the limits and coverage required.

(e) Letter of credit. The letter of credit shall:

(1) Be irrevocable;

(2) Be for a term sufficient to cover the completion of the required public improvements; and

(3) Require only that the city present the issuer with a sight draft and a certificate signed by credit.

(f) As portions of the public improvements are completed in accordance with the approved engineering plans, the applicant may make written application to the city engineer to reduce the amount of the original security. If the city engineer is satisfied that such portion of the improvements has been completed in accordance with city standards, the city may, but is not required to, cause the amount of the security to be reduced by such amount that it deems appropriate, so that the remaining amount of the security adequately insures the completion of the remaining public improvements.

(g) Guarantee of materials and workmanship.

(1) The applicant or developer shall require of the construction contractors with whom he contracts and shall himself be responsible for guaranteeing that all materials required under this chapter and workmanship in connection with such improvements are free of defects for a period of two years after acceptance of the improvements by the city engineer and New Braunfels Utilities or other utility.

(2) Maintenance bond. Prior to acceptance of public improvements or approval of private improvements for each phase a maintenance bond or other surety instrument shall be accepted by the city in compliance with the following:

a. Shall be in an amount equal to ten percent of the cost of improvements for the first two calendar years following acceptance of said improvements.

b. Shall cover all street and utilities improvements. The construction value or final pay estimate shall be provided to the city engineer to support said warranty and maintenance bond amounts.

c. Shall be satisfactory to the city attorney as to form, sufficiency, and manner of execution.

d. In an instance where a maintenance bond or other surety instrument has been posted and a defect or failure of any required improvement occurs within the period of coverage, the city may declare said bond or surety instrument to be in default and require that the improvements be repaired or replaced.

e. Whenever a defect or failure of any required improvement occurs within the period of coverage, the city shall require that a new maintenance bond or surety instrument be posted for a period of one full calendar year sufficient to cover the corrected defect or failure.

(h) The city shall inspect all required improvements to ensure that construction is being accomplished in accordance with the plans and specifications approved by the city. The city shall have the right to inspect any construction work being performed to ensure that it is proceeding in accordance with the intent of the provisions of this chapter. Any change in design that is required during construction should be made by the licensed professional engineer whose seal and signature are shown on the plans. Another engineer may make revisions to the original engineering plans if so authorized by the owner of the plans, and if those revisions are noted on the plans or documents. All revisions shall be approved by the city engineer. If the city's engineer finds, upon inspection, that any of the required public improvements have not been constructed in accordance with the plans and specifications approved by the city then the developer shall be responsible for completing and correcting the deficiencies at the developer's expense.

(i) The developer/applicant shall pay for testing services that verify conformance with the approved plans and specifications. All expenses for tests that fail to meet these specifications shall also be paid for by the developer.

(j) Upon completion, inspection, and acceptance of the required utility improvements, NBU or the other utility provider shall submit a letter to the city engineer and the developer/applicant stating that all required utility improvements have been satisfactorily completed and accepted by the utility provider.

(k) Subject to the provisions of subsection 118-6(f), the city may withhold all city services and improvements of whatsoever nature, including the maintenance of streets and the furnishing of all other city services from any subdivision or property until all of the street, utility, storm drainage and other public improvements are properly constructed according to the approved construction plans, and until such public improvements are dedicated to and accepted by the city.

(l)

If the surety on any performance bond furnished by the applicant is declared bankrupt, or becomes insolvent, or its right to do business is terminated in the state, or the surety ceases to meet the requirements listed in Circular 570, the developer shall, within 20 business days thereafter, substitute another performance bond and surety, both of which must be acceptable to the city.

(m) When all of the improvements are found to be constructed and completed in accordance with the approved plans and specifications and with the city's standards, and upon receipt of one set of "record drawing" plans, and a digital copy of all plans (in a format as determined by the city engineer) the city engineer shall accept such improvements for the city, subject to the guaranty of material and workmanship provisions in this section.

(n) Temporary improvements. The applicant shall build and pay for all costs of temporary improvements required by the city, and shall maintain those temporary improvements for the period specified by the city.

Any temporary public improvement (e.g., a temporary cul-de-sac, alley turnout, drainage swale, erosion control device, etc.) shall be placed within an easement established specifically for that purpose. The recording information of the instrument establishing the temporary easement shall be by instrument and approved by the city engineer. A temporary easement for a required public improvement shall not be abandoned without the city engineer's approval and without written consent by the city.

(o) Government units. Governmental units to which these contract and security provisions apply may file, in lieu of the contract and security, a certified resolution or ordinance from officers or agents authorized to act in their behalf, agreeing to comply with the provisions of this chapter.

(p) Acceptance of dedication offers. Acceptance of formal offers for the dedication of streets, public areas, easements or parks shall be by authorization of the city engineer. The approval by the planning commission of a preliminary or final plat shall not, in and of itself, be deemed to constitute or imply the acceptance by the city of any public improvements required by the plat. The city may require the plat to be endorsed with appropriate notes to this effect.

(q) No applicant or contractor shall begin construction of public improvements, including grading, within a subdivision until the construction plans are approved by the city engineer. The developer/applicant shall notify the city engineer prior to commencement of construction. This notice shall give the location and date of the start of construction.

(r) Acceptance of the development shall mean that the developer has transferred all rights to all the public improvements to the city for use and maintenance. The city engineer may, at his option, accept dedication of a portion of the required public improvements if the remaining public improvements are not immediately required for health and safety reasons, and if the property owner has posted a performance bond, letter of credit or cash bond in the amount of 100 percent of the estimated cost of those remaining improvements for a length of time to be determined by the city engineer.

(s) Upon acceptance of the required public improvements, the city engineer (or designee) shall submit a letter to the developer/applicant stating that all required public improvements have been satisfactorily completed and accepted by the city.

(t) Contractor licensing. Any contractor wishing to construct a public improvement must be licensed in accordance with chapter 14. In addition to the license requirements of chapter 14, contractors working on public improvements shall be approved by the city engineer. The city engineer may deny or approve a public improvement contractor, approve with conditions, require reasonable bonding of the contractor's work, suspend or revoke a public improvement contractor's license. The city engineer may withhold approval of said license for reasonable cause to include failure to construct public improvements to code or city specifications, for violations of this Code, for failure to provide accurate or complete data as required by the city engineer, or for failure to correct subdivision public improvements which fail within a year of their acceptance in accordance with this chapter. The contractor may appeal the city engineer's licensing decisions to the construction board of appeals in accordance with chapter 14

(Ord. No. 2006-84, § 1(Exh. A), 9-11-06; Ord. No. 2011-28, § 1, 4-11-11)

Sec. 118-39. - Deferral of required improvements.

(a) The planning commission may upon petition of the property owner and favorable recommendation of the city engineer defer at the time of plat approval, subject to appropriate conditions, the provision of any or all public improvements as in its judgment, are not required in the immediate interests of the public health, safety and general welfare.

(b) Whenever a petition to defer the construction of any public improvements required under this chapter is granted by the planning commission, the property owner shall deposit in escrow with the city their share of the costs of the future public improvements as approved by the city engineer prior to filing of the plat, or the property owner may execute a separate improvement agreement secured by a cash escrow or, where authorized, a letter of credit guaranteeing completion of the deferred public improvements upon demand of the city.

(Ord. No. 2006-84, § 1(Exh. A), 9-11-06)

Sec. 118-40. - Recordation.

(a)

After approval of any final plat by the planning commission and construction plans by the city engineer and New Braunfels Utilities or other utility, the planning commission shall cause the planning director to record such final plat with the appropriate county clerk upon the applicant's performance of one of the following:

(1) Completion of the construction of required improvements prior to recordation in compliance with this chapter.

(2) Filing of security in lieu of completing construction prior to recordation in a form approved by the city attorney, and in compliance with this chapter.

(b) In addition to the performance required under subsection (a), the applicant shall provide as appropriate the following:

(1) A check or checks payable to the county clerk in the amount of the recordation fee for filing the final plat.

(2) A tax certificate from the city, county and school district showing that no taxes are currently due or delinquent against the property.

(3) The applicant shall provide dedication of all streets, alleys, parks, easements and other land intended for public use, signed by the owner or owners and by all other persons owning an interest in the property subdivided and platted, which shall be acknowledged in the manner prescribed by the laws of the state for conveyance of real property, and which shall be submitted and attached to or placed in the final plat in accordance with the provisions in this chapter.

(4) The planning director shall cause such plat to be filed with the county clerk upon compliance with this chapter. After filing of the plat, the applicant shall provide the city with a Mylar copy, sufficient paper copies as determined by the planning director, and a digital copy of the final plat in a format acceptable to the planning director.

(Ord. No. 2006-84, § 1(Exh. A), 9-11-06; Ord. No. 2009-58, § 1, 9-14-09)

Sec. 118-41. - Issuance of building permits and certificates of occupancy.

(a) No building permit shall be issued or utility connection allowed for a lot, building site, building or use unless the lot or building site has been officially recorded by a final plat approved by the city and filed for record at the applicable county.

(b) Upon application for a "foundation only" building permit, a building "foundation only" permit shall be issued provided that a final plat has been recorded. However the building permit shall not be issued and building construction shall not be allowed to surpass the construction of fire protection improvements until all required fire lanes have been completed and until all water lines serving fire hydrants have been completed, inspected and tested, within 500 feet of the lot where the building permit is sought.

(c) Unless exempted by this chapter, no lot may be sold nor title conveyed until the final plat has been approved and recorded at the applicable county.

(d) No certificate of occupancy shall be issued for a building or the use of property unless all subdivision improvements have been completed and a final plat has been approved by the city and recorded at the applicable county. Notwithstanding the above, the building official may authorize the conditional occupancy of a structure provided that an agreement providing cash escrow, a letter of credit, or other sufficient surety is approved by the city engineer for the completion of all remaining public improvements, and provided that the structure is safely habitable in accordance with the city's building codes.

(Ord. No. 2006-84, § 1(Exh. A), 9-11-06)

Sec. 118-42. - Planned developments (PD).

(a) *Regulations for PD subdivision.* The regulations set forth in this section or as set forth elsewhere in this chapter when referred to in this section are regulations in the planned development (PD) subdivision. They may be created only within the city limits.

(b) *Purposes of planned development.* In certain instances the purposes of this chapter may be achieved by the development of planned developments which do not conform in all respects with the land use pattern designated on the zoning map, the district regulations prescribed by the zoning ordinance, or the requirements of this chapter. A planned development (PD) may include a combination of different dwelling types and/or a variety of land uses which creatively complement each other and harmonize with existing and proposed land uses in the vicinity. In order to encourage creative development of the land, provide locations for well-planned comprehensive developments, and provide for variety in the development pattern of the city which conform with the purposes of the comprehensive plan, the planning commission is empowered to approve planned development subdivisions.

(c) *Planned development subdivision requirements.*

(1) It is the intent of this section that subdivision review under the subdivision regulations be carried out simultaneously with the review of a planned development plan under the zoning ordinance.

(2) The detail plans required in the zoning ordinance must be submitted in a form which will satisfy the requirements of this chapter for final plats.

(3)

The final plat must be in conformance with the approved detail plans before they may be approved by the planning commission. Approval and recording of the final plat and construction of an approved subdivision shall be in accordance with the applicable provisions of this chapter.

(4) The planning commission may vary the specific requirements of this chapter if, on the basis of the PD concept and detail plan and the evidence submitted, the planning commission makes the following findings:

a. That the proposed modifications to the requirements of this chapter for the planned development are in accord with the purposes of this chapter and meet the objectives of the comprehensive plan;

b. That the proposed modification provides for better project design;

c. That the standards of population density, site area and dimensions, site coverage, yard spaces, heights of structures, distances between structures, usable open space and off-street parking and off-street loading facilities will be such that the development will not generate more traffic than the streets in the vicinity can carry without congestion and will not overload the utilities;

d. That the development is planned with adequate provisions for light, air, vehicular and pedestrian circulation and recreational facilities equal to or better than the requirements of this chapter;

e. That the combination of different dwelling types and/or the variety of land uses in the development will complement each other and will harmonize with existing and proposed land uses in the vicinity;

f. Financial reasons shall not be the sole reason for modification of standards.

(Ord. No. 2006-84, § 1(Exh. A), 9-11-06)

New Braunfels, Texas, Code of Ordinances >> PART II - CODE OF ORDINANCES >> Chapter 118 - PLATTING >> ARTICLE IV. - DESIGN STANDARDS >>

ARTICLE IV. - DESIGN STANDARDS

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Sec. 118-54. - Monuments and lot markers.
Sec. 118-55. - Landscaping and maintenance.
Sec. 118-56. - Closure, abandonment, and sale of public right-of-way.

Sec. 118-43. - Generally.

(a) *Conformity to design requirements.* No plat shall be approved by the planning commission, and no completed improvements shall be accepted by the city engineer, unless they conform to the following design requirements and applicable standards, or unless waived by the planning commission in accordance with section 118-11. Although the intention of this section is to establish uniform design standards, it neither replaces the need for engineering judgment nor precludes the use of information not presented. Other accepted engineering procedures may be used if approved by the city engineer.

(b) *Adequate public facilities policy.* The land to be divided or developed must be served adequately by essential public facilities and services. No subdivision shall be approved unless and until adequate public facilities exist or provision has been made for water, wastewater, drainage, electric and road facilities which are necessary to serve the development proposed, whether or not such facilities are to be located within the property being platted or off-site. This policy may be defined further and supplemented by other ordinances adopted by the city. Wherever, the subject property adjoins undeveloped land, or wherever required by the city to serve the public good, utilities and drainage systems shall be extended to adjacent property lines to allow connection of these utilities and drainage systems by adjacent property owners when such adjacent property is platted and/or developed.

(Ord. No. 2006-84, § 1(Exh. A), 9-11-06)

Sec. 118-44. - Blocks.

Block lengths shall not exceed 1,200 feet except along arterial streets. Maximum block lengths along an arterial shall be 1,600 feet, except under special conditions as determined by the planning commission.

(Ord. No. 2006-84, § 1(Exh. A), 9-11-06)

Sec. 118-45. - Lots.

(a) Lots shall conform to the minimum requirements of the established zoning district, if located within the city's corporate limits.

(b) Each lot on a subdivision plat shall front onto a dedicated, improved public street unless platted as an approved private street subdivision in accordance with this chapter. Lot width and access shall conform with the provisions of the city's zoning ordinance, chapter 114, the comprehensive plan, and any other applicable city code or ordinance. In all cases, single-family and two-family residential lots, except townhouse lots, which shall have 26 feet of frontage, shall have a minimum of 36 feet of frontage and non-residential lots shall have a minimum of 60 feet of frontage along a dedicated, improved street.

(c) Irregular-shaped lots shall have sufficient width at the building line to meet lot width and frontage requirements of the appropriate zoning district (if within the city's limits) and shall provide a reasonable building pad without encroachment into front, side or rear yard setbacks or into any type of easement. Also, the rear width shall be sufficient to provide access for all necessary utilities, including access for driveways and solid waste collection when rear alleys are present (minimum 20-foot alley frontage). In general, triangular, severely elongated or tapered, "flag" or "panhandle" lots should be avoided. The planning commission reserves the right to disapprove any lot which, in its sole opinion, will not be suitable or desirable for the purpose intended, which is an obvious attempt to circumvent the purpose and intent of lot configuration or lot width minimums, or which is so oddly shaped as to create a hindrance to the logical lot layout of surrounding properties.

(d) On-site sewage facilities (OSSF)—Septic tanks. Where public wastewater lines are not available, as determined in chapter 130, OSSF such as septic tanks may be used. Minimum lot sizes shall be as follows:

(1) *One-family and two-family lots.*

a. Lots served by public water supply: 15,000 square feet.

b. Lots not served by public water supply: One acre.

c. Any lot over the Edwards Aquifer Recharge Zone: One acre.

(2) *Multifamily and non-residential lots.* As determined by the city sanitarian based on a study provided by the subdivider/developer.

(e) Extra depth and width in certain cases. Where a lot in a one, two or multifamily residential area backs up to a railroad right-of-way, a high-pressure gasoline easement, oil or gas line easement, electric transmission lines (69 kv or higher) easement, an arterial street, an industrial area or other land use which may have a depreciating effect on the residential use of the property, and where no marginal access street or other street is provided at the rear of such lot, additional depth may be required by the planning commission. In no case shall a depth in excess of 140 feet be required. Where a lot sides to any of the above-described cases, additional width may be required by the planning commission, but in no event shall a width in excess of 75 feet be required.

(f) Lots adjacent to or in floodplains. Subdivision of property in a designated floodplain must meet the requirements of the adopted ordinances of the city regulating land use and development in the floodplain.

(g) Common areas.

(1) Areas held in common by a homeowners' or property owners' association shall be shown on the plat as a separate lot.

(2) If the common areas or easements shown on a plat are not properly maintained as determined by the planning director and the city engineer, the city may make notice to the association to at least begin maintenance. Such notice shall be given at least 14 days prior to any action on the part of the city to enforce proper maintenance provisions of this or any other chapter of this Code. If the common area is not properly maintained, the city may take any appropriate action allowed by law in a court of competent jurisdiction to enforce the provisions of this section.

(3) In addition, the city may, after at least 14 days notice to the association, complete such improvements or maintenance as determined by the city engineer and place a lien on all the property in the subdivision in which common improvement or easement is located for each lot's pro-rata share of the work completed by the city at the city's expense. A note to this effect shall be placed on the final plat of any subdivision which has common areas or easements maintained by a homeowners' or property owners' association.

(Ord. No. 2006-84, § 1(Exh. A), 9-11-06)

Sec. 118-46. - Streets.

(a)

Street layout. Adequate streets shall be provided by the subdivider and the arrangement, character, extent, width, grade and location of each shall be considered in their relation to existing and planned streets, topographical conditions, public safety and convenience, and in their appropriate relationship to the proposed uses of land to be served by such streets. Local residential streets should be laid out so as to discourage their use by through traffic. A waiver may be considered for local residential streets and residential sub-collector streets as defined in subsection (s). that may curve, meander, and otherwise deviate from the radius and tangent requirements set forth in subsection (s) when:

(1) The developer's engineer designs streets that meet recognized standards, and

(2) The planning commission determines that such design is not contrary to the best interest of the city and the users of its street system.

(b) *Streets on city comprehensive plan or thoroughfare plan.*

(1) With regard to the comprehensive plan, the city council has adopted the city comprehensive plan as a guide for growth and development of the entire city and its extraterritorial jurisdiction. In particular the future land use plan, shall not be nor be considered a zoning map, nor constitute zoning regulations or establish zoning boundaries and shall not be site nor parcel specific and shall be used to illustrate generalized locations. The thoroughfare plan shall depict generalized locations of new alignments which are subject to modification to fit local conditions and are subject to refinement as development occurs.

(2) Whenever a tract to be platted borders on or embraces any part of any street shown on the thoroughfare plan, such part of such proposed street shall be shown on the master plan or the plat. All arterial and collector street locations, alignments, right-of-way widths, pavement widths, and cross sections shall be determined by the planning commission in accordance with its adopted thoroughfare plan.

(c) *Relation to adjoining street system.* Where necessary to the neighborhood pattern, existing streets in adjoining areas shall be continued and shall be at least as wide as such existing streets and in alignment therewith.

(d) *Projection of streets.* Where adjoining areas are not subdivided, the arrangement of streets in the subdivision shall make provision for the proper projection of streets into such unsubdivided area.

(e) *Street names.* Names of new streets shall not duplicate or cause confusion with the names of existing streets, unless the new streets are a continuation of or in alignment with existing streets, in which case names of existing streets shall be used.

(f) *Street jogs.* Street jogs with centerline offsets of less than 150 feet shall be prohibited. A street intersecting with or extending to meet an existing street shall be tied to the existing street on centerline with distances and angles to show relationships.

(g) *Half streets or half alleys.* All subdivisions shall have access to an adequate perimeter street or approach street as defined in this section.

(h) *Street intersections.* Street intersections shall be as nearly at right angles as practicable, giving due regard to terrain and topography, site distances and safety. Curb radii shall conform to city standards.

(i) *Dead-end streets.* Permanent dead-end streets shall be prohibited except as short stubs to permit future expansion and shall not exceed the depth of one lot or 250 feet, whichever is less, unless a temporary turnaround is installed in accordance with subsection (j).

(j) *Temporary turnarounds.* Temporary turnarounds shall be required if the stub street is longer than the depth of one lot or 250 feet, whichever is less.

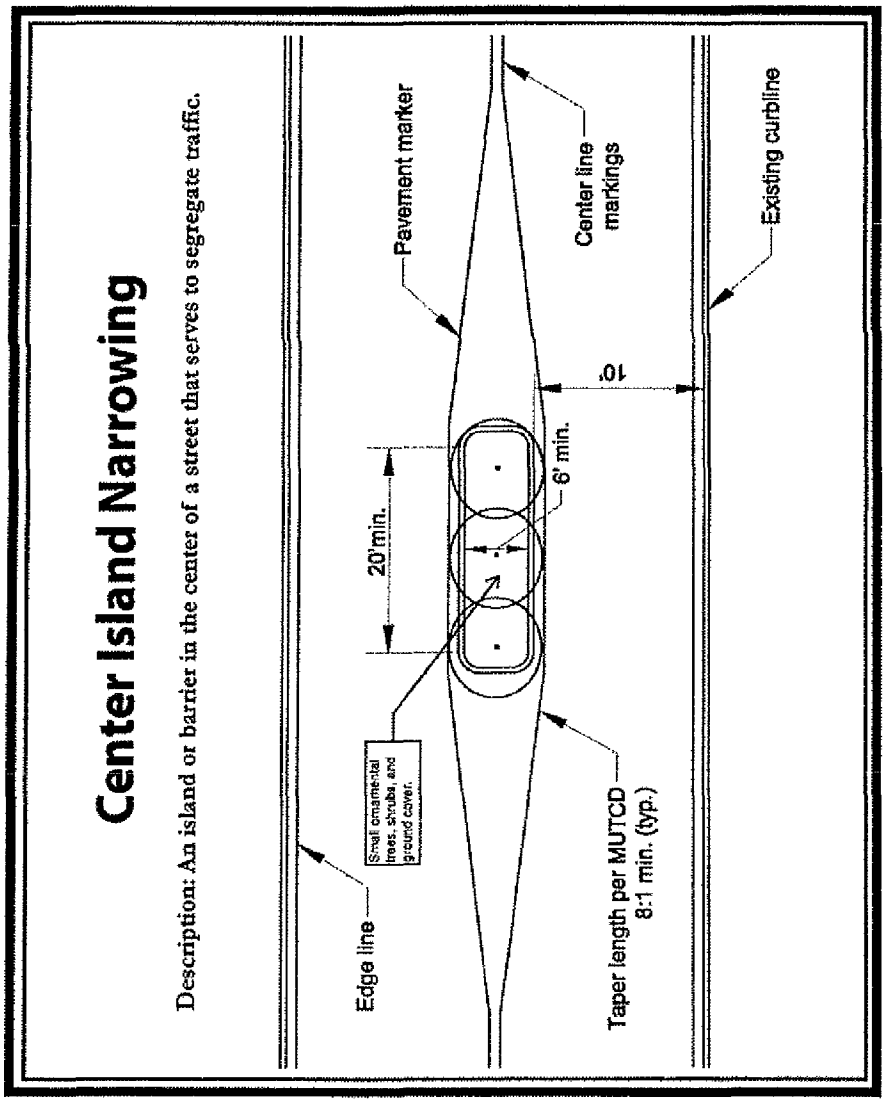
(k) *Culs-de-sac.* A cul-de-sac shall not be more than 1,000 feet in length unless:

(1) A "turn around bubble" is provided in accordance with this chapter, or

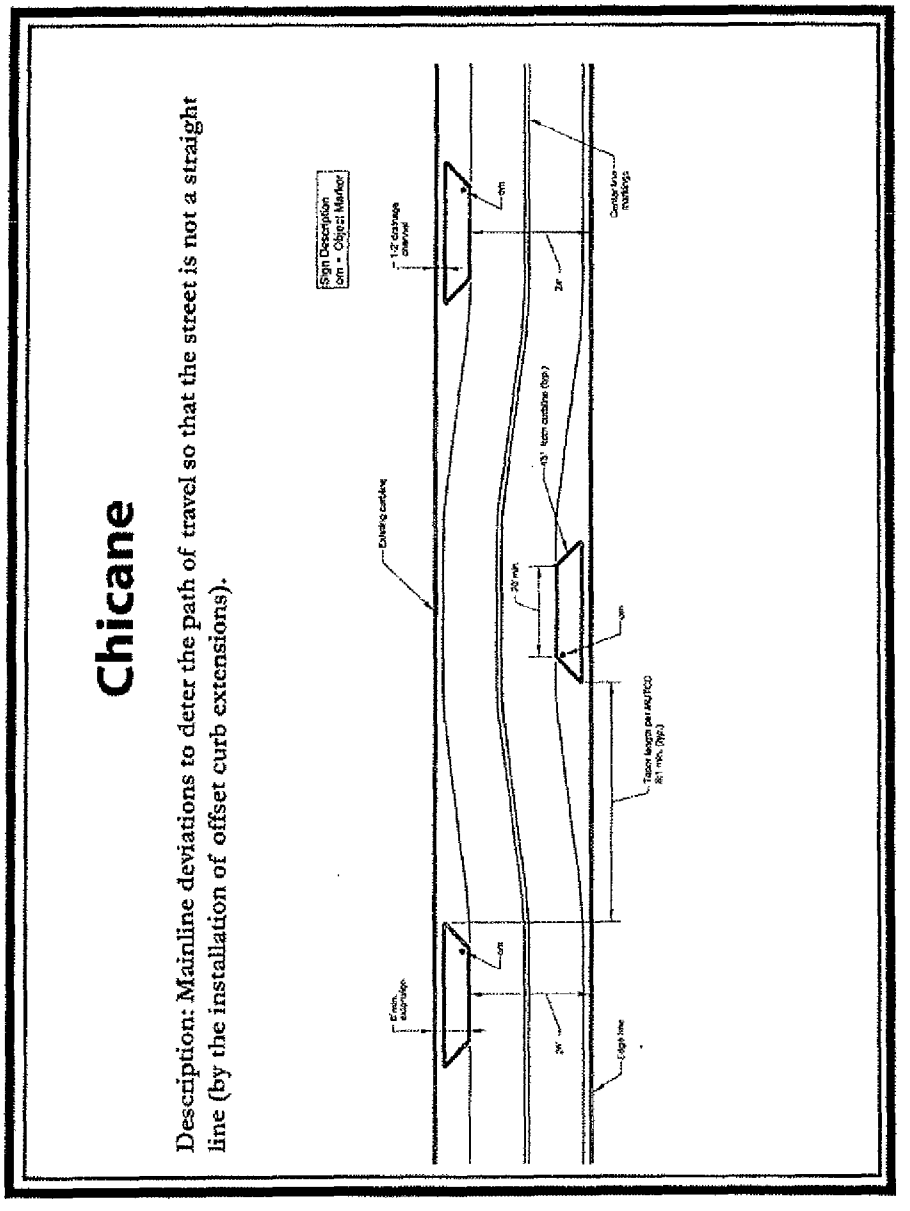
(2) It is recommended by the city engineer and approved by the planning commission for specific reasons of topography or engineering design.

In residential areas, the turnaround shall have a minimum right-of-way radius of 65 feet and a minimum driving surface radius of 55 feet. In commercial or industrial areas, the turnaround shall have a minimum right-of-way radius of 100 feet and a minimum driving surface radius of 90 feet. All culs-de-sac longer than 1,000 feet shall have a "turn around bubble" with the same radius and driving surface noted above located at least every 1,000 feet. "T" or "hammerhead" turnarounds may be approved by the commission if recommended by the city engineer.

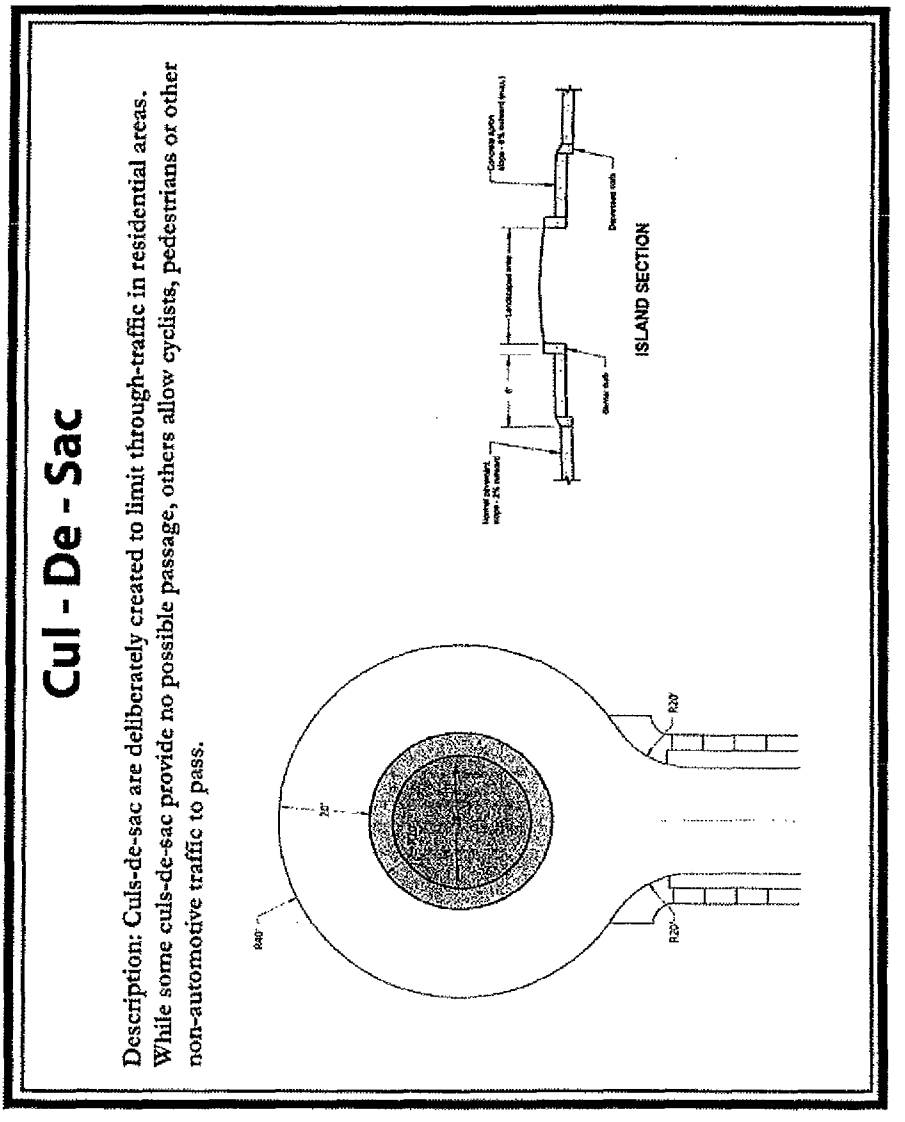
(l) *Landscaped islands and traffic calming.* Landscaped islands and traffic calming may be placed in streets adjacent to one and two family developments and lots as provided for herein:



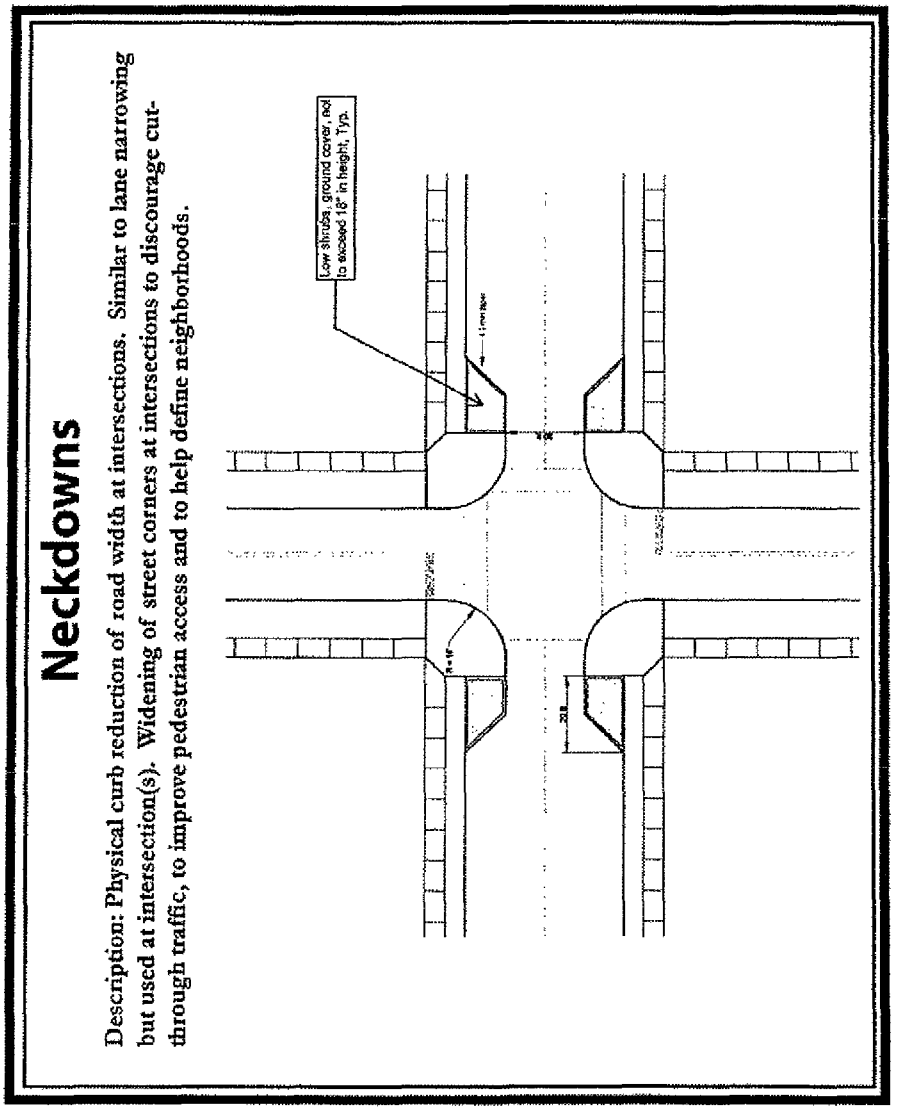
Center Island Narrowing


Chicane
Description: Mainline deviations to deter the path of travel so that the street is not a straight line (by the installation of offset curb extensions).
Sign Description
Om = Object Marker
1/2 drainage channel
Om
2r
Centerline markings
Existing curbline
15' turn curbline (typ.)
30' min
Om
Om
24'
Edge line

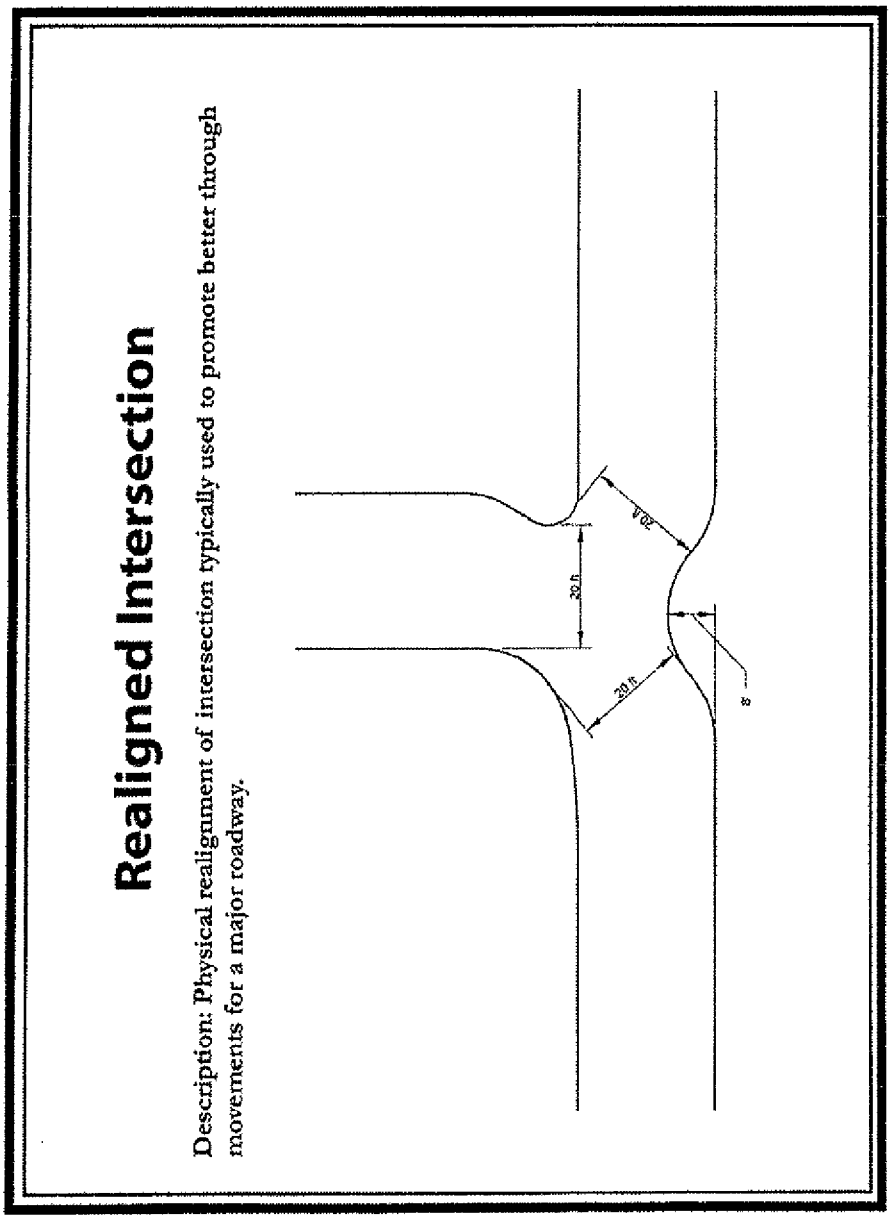
Chicane


Cul - De - Sac
Description: Culs-de-sac are deliberately created to limit through-traffic in residential areas. While some culs-de-sac provide no possible passage, others allow cyclists, pedestrians or other non-automotive traffic to pass.
ISLAND SECTION
R40'
R20'
R20'

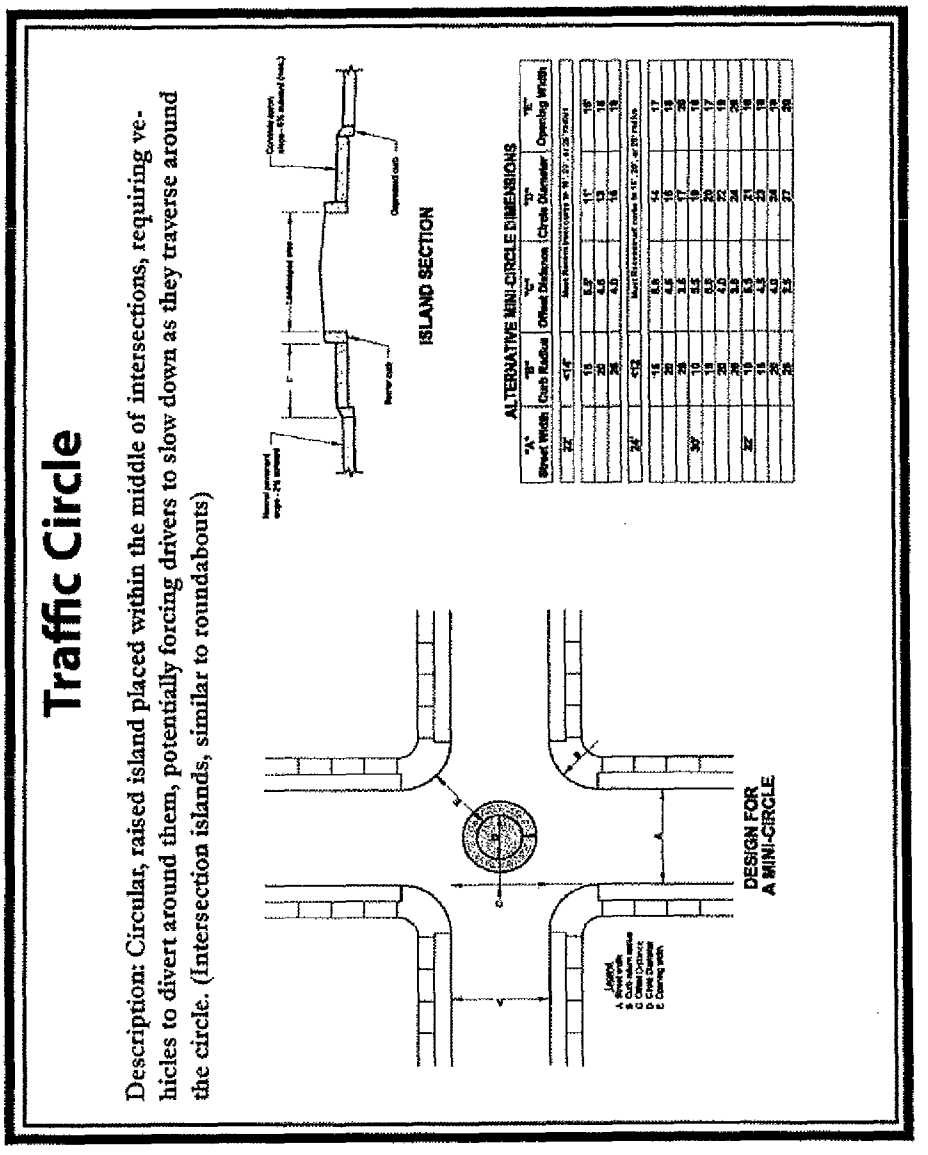
Cul-De-Sac


Neckdowns
Description: Physical curb reduction of road width at intersections. Similar to lane narrowing but used at intersection(s). Widening of street corners at intersections to discourage cut-through traffic, to improve pedestrian access and to help define neighborhoods.
Low shrubs, ground cover, not to exceed 18" in height, Typ.

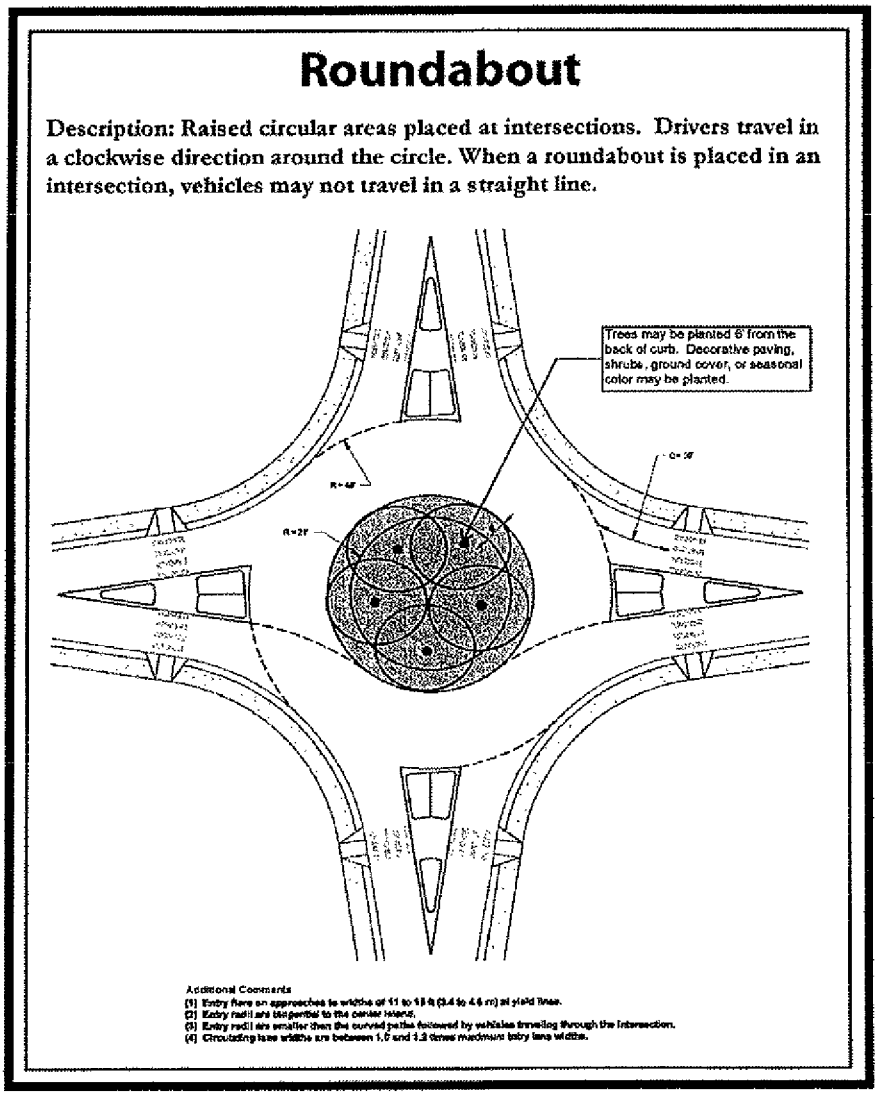
Neckdowns



Realigned Intersection



Traffic Circle



Roundabout

(m) *Marginal access streets.* Where a one-family or two-family residential lot or development has frontage on or borders an arterial street, highway or freeway, the planning commission may require marginal access streets to be provided on the residential development side of these streets, unless the adjacent lots back up to, side up to, or front with extra depth (see subsection 118-45(e)), or access off an alley, and provide some other means of restricting individual access directly to an arterial street, highway or freeways, or unless the planning commission determines such marginal access streets are not desirable under the facts of a particular case for adequate protection of the lots and separation of through and local traffic.

(n) *Local residential streets.* Local streets serving residential property shall be laid out so as to discourage their use by through traffic.

(o) *Pavement widths and rights-of-way of streets forming part of the subdivision boundary.* Where the proposed subdivision abuts upon an existing street or half-street that does not conform to this section, the subdivider shall dedicate or reserve the needed right-of-way width, if such dedication or reservation does not result in a disproportionate burden on the property owner or his property.

(p) *Reserve strips prohibited.* There shall be no reserve strips controlling access to land dedicated or intended to be dedicated to public use.

(q) *Non-access easement.* Where deemed necessary by the planning commission, a vehicular non-access easement may be required on a lot or lots for the purpose of controlling ingress and egress to vehicular traffic.

(r) *Additional right-of-way.* Where deemed necessary by the planning commission, a subdivider may be required to dedicate or reserve additional right-of-way on any street or thoroughfare within the city or its extraterritorial jurisdiction, if such dedication or reservation does not result in a disproportionate burden on the property owner or his property.

(s) *Pavement and rights-of-way widths, street grades and horizontal curves for public streets.* Pavement widths shall be measured from the face of one curb to the face of the other curb. Pavement and rights-of-way widths, street grades, horizontal curves and sidewalks shall be in accordance with the thoroughfare plan and as follows, unless an exception is granted by the planning commission after review and recommendation by the city engineer:

(1) *150-foot highway.*
- a. Minimum right-of-way: 150 feet.
- b. Minimum pavement width: N/A.
- c. Minimum centerline radius of curve: 1,200 feet.
- d. Minimum tangent between reverse curves: 375 feet.
- e. Maximum sustained grade (shall not be over 300 feet): Five percent.

(2) *120-foot highway.*
- a. Minimum right-of-way: 120 feet.
- b. Minimum pavement width: N/A.
- c. Minimum centerline radius of curve: 1,200 feet.
- d. Minimum tangent between reverse curves: 375 feet.
- e. Maximum sustained grade (shall not be over 300 feet): Five percent.

(3) *Major arterial, five lanes.*
- a. Minimum right-of-way width: 80 feet.
- b. Minimum pavement width: 60 feet.
- c. Minimum centerline radius of curve: 1,000 feet.
- d. Minimum tangent between reverse curves: 250 feet.
- e. Maximum sustained grade (shall not be over 300 feet): Six percent.

(4) *Major arterial, four lanes with median.*
- a. Minimum right-of-way width: 80 feet.
- b. Minimum pavement width: 48 feet.
- c. Minimum centerline radius of curve: 1,000 feet.
- d. Minimum tangent between reverse curves: 250 feet.
- e. Maximum sustained grade (shall not be over 300 feet): Six percent.

(5) *Minor arterial.*
- a. Minimum right-of-way width: 70 feet.
- b. Minimum pavement width: 48 feet.
- c. Minimum centerline radius of curves: 600 feet.
- d. Minimum tangent between reverse curves: 200 feet.
- e. Maximum sustained grade (shall not be over 300 feet): Eight percent.

(6) *Local streets serving multifamily, commercial or industrial property.*
- a. Minimum right-of-way width: 60 feet.
- b. Minimum pavement width: 40 feet.
- c. Minimum centerline radius of curves: 200 feet.
- d. Minimum tangent between reverse curves: 50 feet.
- e. Maximum sustained grade (shall not be over 300 feet): Ten percent.

(7) *Collector streets serving one and two family residential development, parking on both sides of street.*
- a. Minimum right-of-way width: 60 feet.
- b. Minimum pavement width: 36 feet.
- c. Minimum centerline radius of curves: 300 feet.
- d. Minimum tangent between reverse curves: 100 feet.
- e. Maximum sustained grade (shall not be over 300 feet): Ten percent.

(8) *One- and two-family residential collector, no parking on street.*
- a. Minimum right-of-way width: 50 feet.
- b. Minimum pavement width: 26 feet.
- c. Minimum centerline radius of curves: 300 feet.
- d. Minimum tangent between reverse curves: 100 feet.
- e. Maximum sustained grade (shall not be over 300 feet): Ten percent.

(9) *One- and two-family residential sub-collector.*
- a. Minimum right-of-way width: 50 feet.

b. Minimum pavement width: 32 feet.
c. Minimum centerline radius of curves: 175 feet.
d. Minimum tangent between reverse curves: 100 feet.
e. Maximum sustained grade (shall not be over 300 feet): Ten percent.

(10) *Local streets serving one- and two-family residential property.*
a. Minimum right-of-way width: 50 feet.
b. Minimum pavement width: 30 feet.
c. Minimum centerline radius of curves: 125 feet.
d. Minimum tangent between reverse curves: 50 feet.
e. Maximum sustained grade (shall not be over 300 feet): 12 percent.

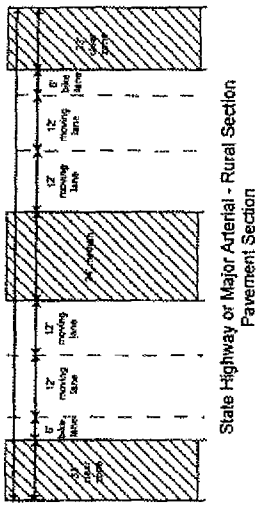
(11) *One-family residential, large lot.* Minimum lot frontage of all lots fronting the street is 100 feet.
a. Minimum right-of-way width: 60 feet.
b. Minimum pavement width: 24 feet.
c. Minimum centerline radius of curves: 125 feet.
d. Minimum tangent between reverse curves: 50 feet.
e. Maximum sustained grade (shall not be over 300 feet): 12 percent.

See the following figures:

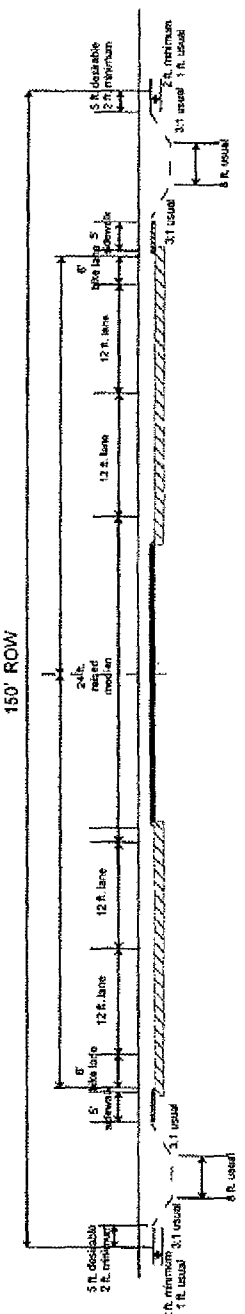
State Highway or Major Arterial
Rural Section
Four Lanes
Median

Right-of-Way - 150 feet
Pavement Width - 48 feet
Minimum Centerline Radius of Curves - 1,200 feet
Minimum Tangent Between Reverse Curves - 375 feet
Maximum Sustained Grade (shall not be over 300 feet) - 5%
Design Speed (m.p.h.) - 45

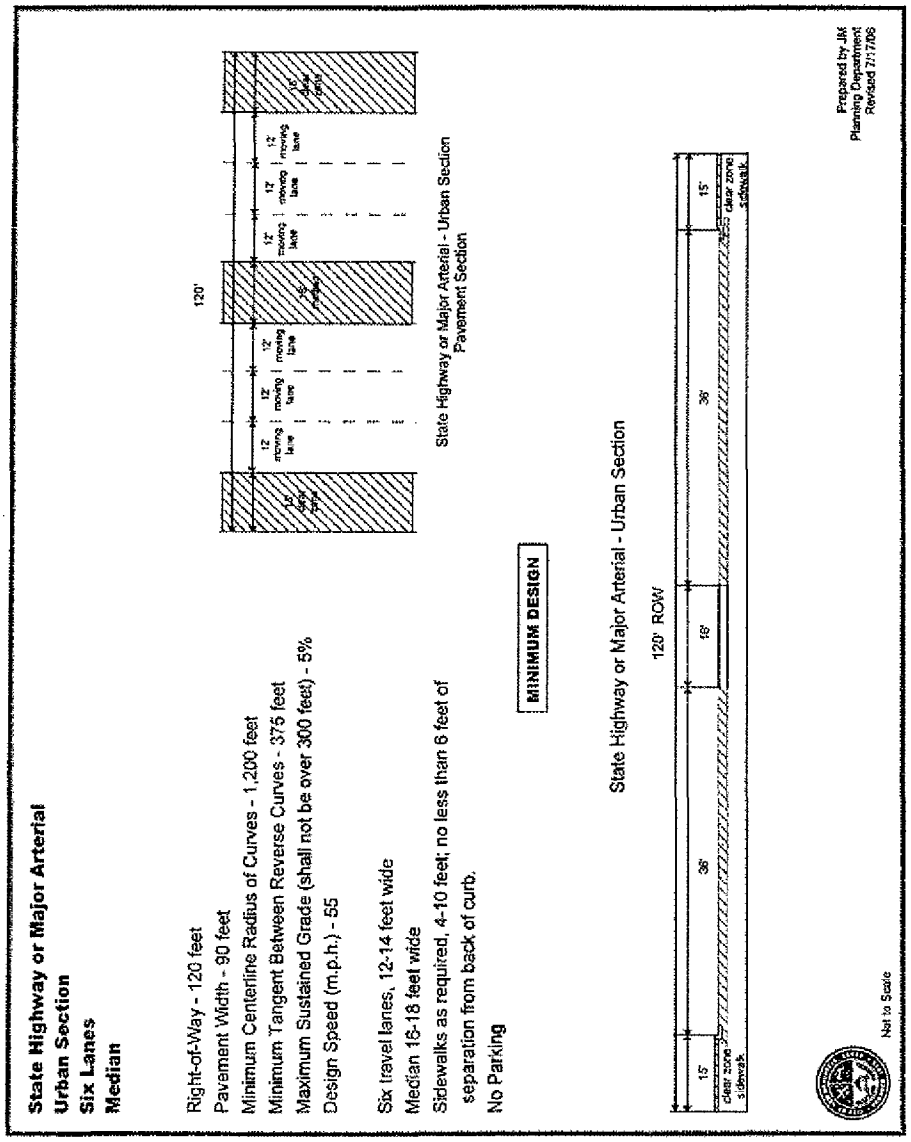
Four travel lanes, 12 feet wide
Median 24 feet wide
Sidewalks as required, 4-10 feet; no less than 6 feet of separation from back of curb.
No Parking



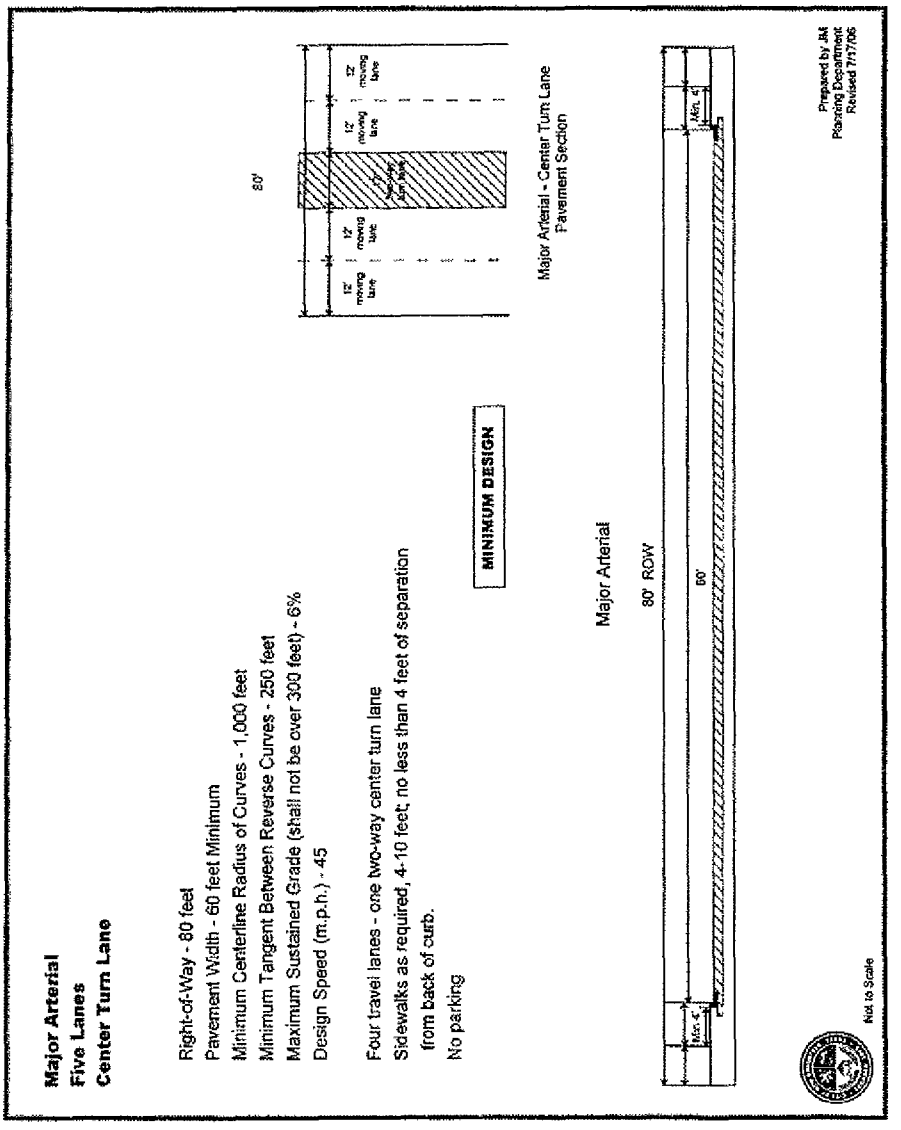
TYPICAL DESIGN



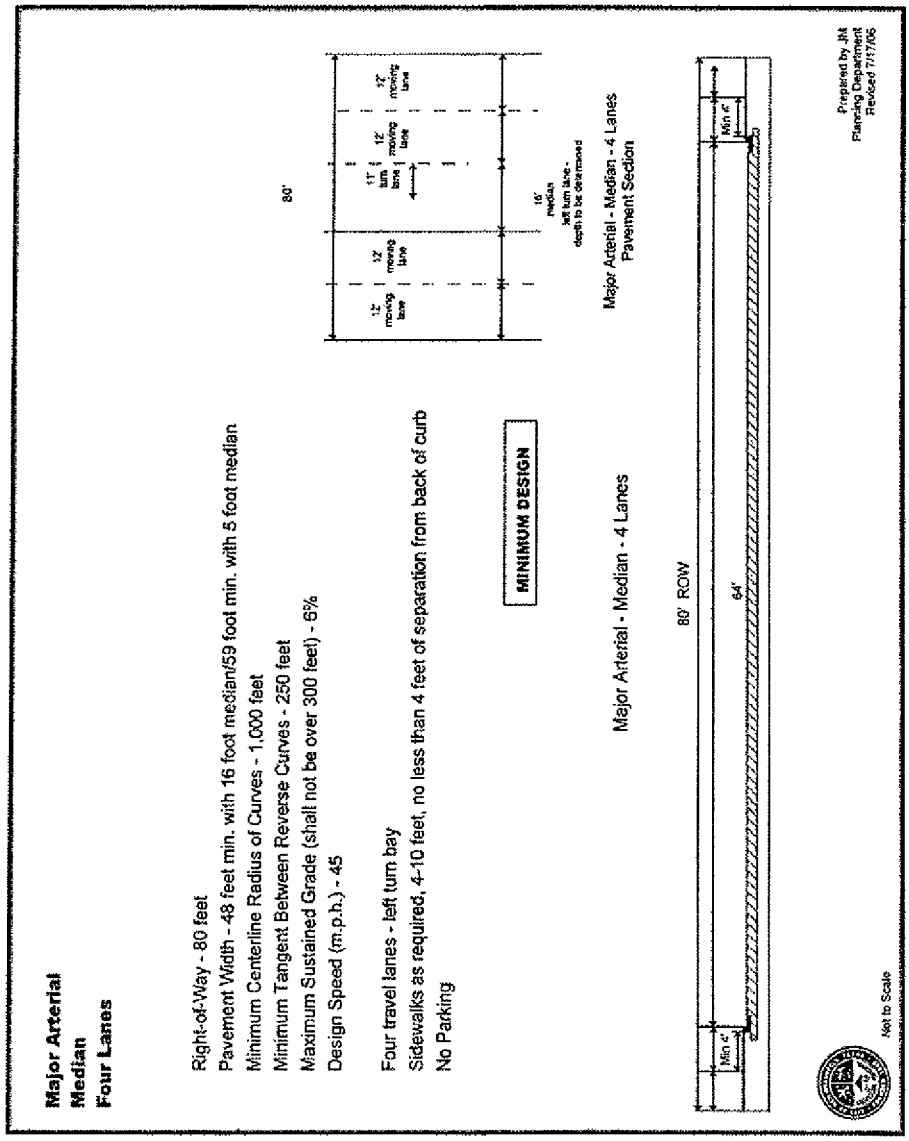
State highway or major arterial, rural section, 4 lanes, median



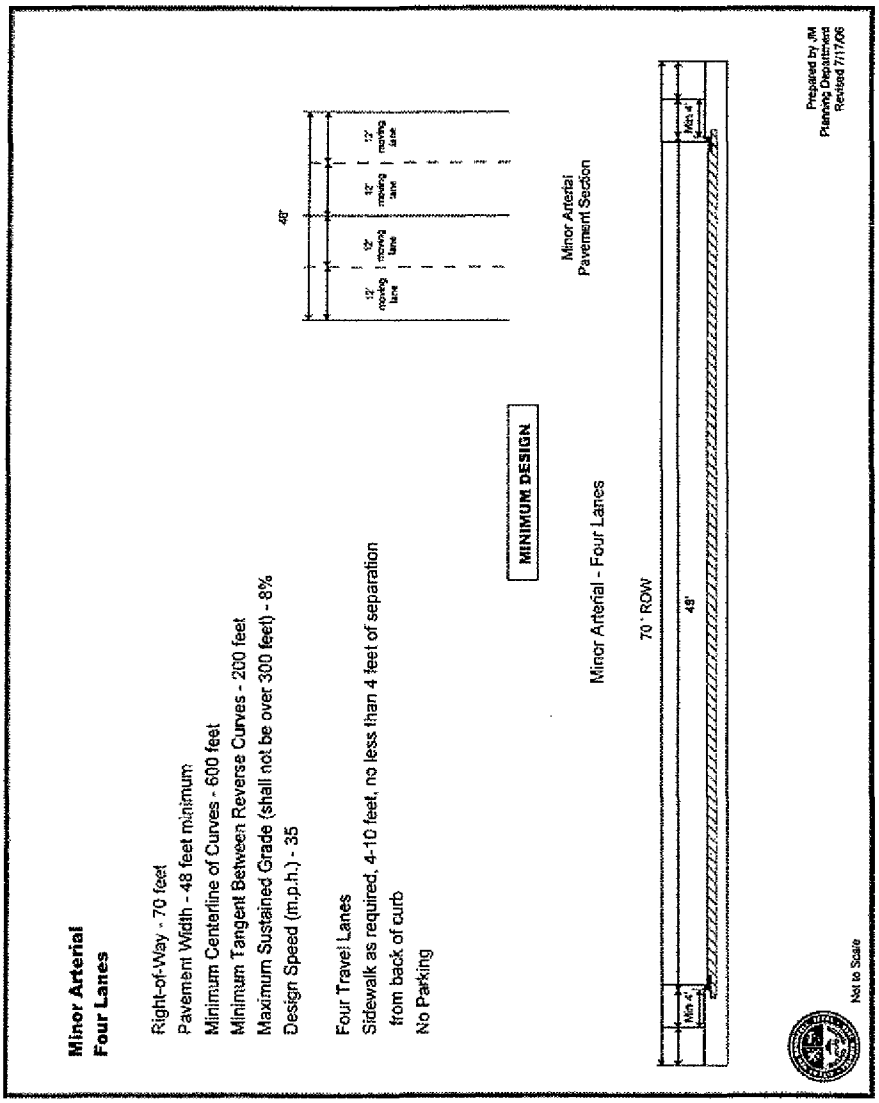
State highway or major arterial, urban section, 6 lanes, median



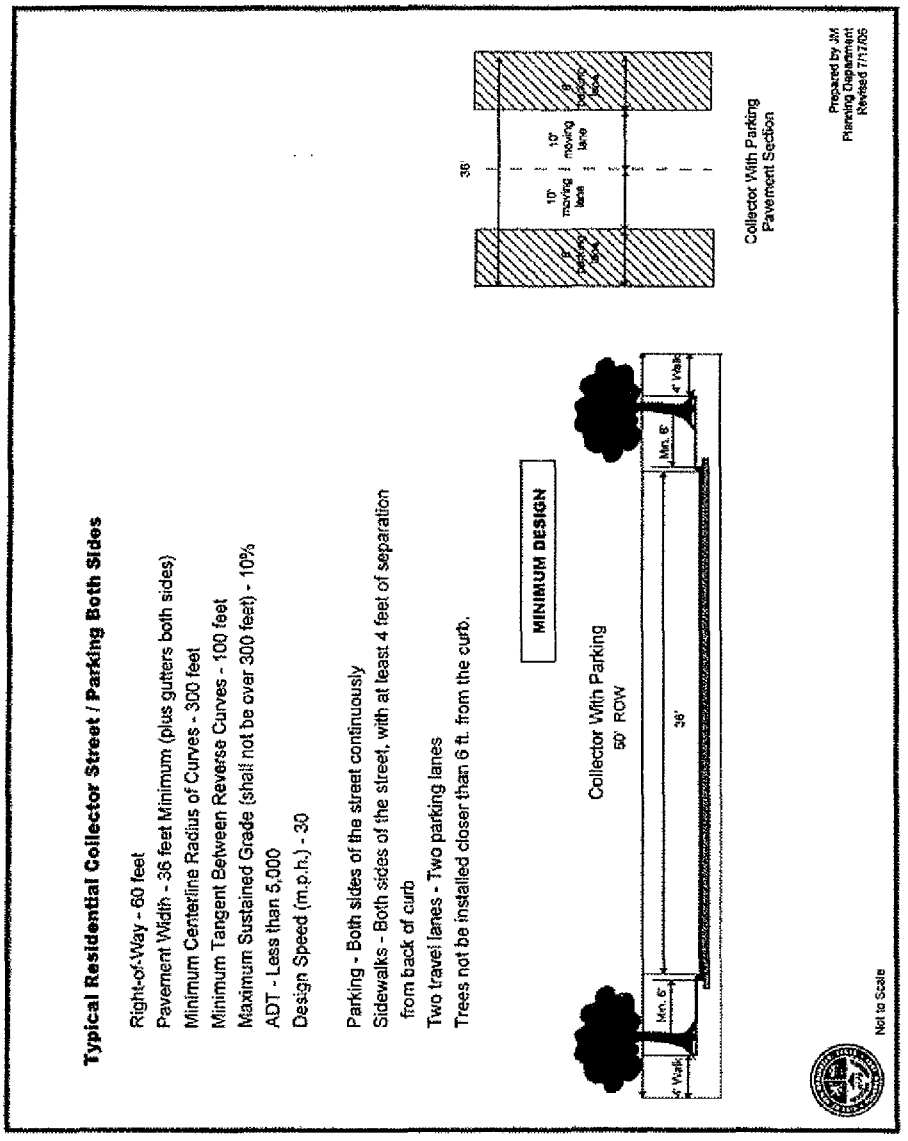
Major arterial, 5 lanes, center turn lane



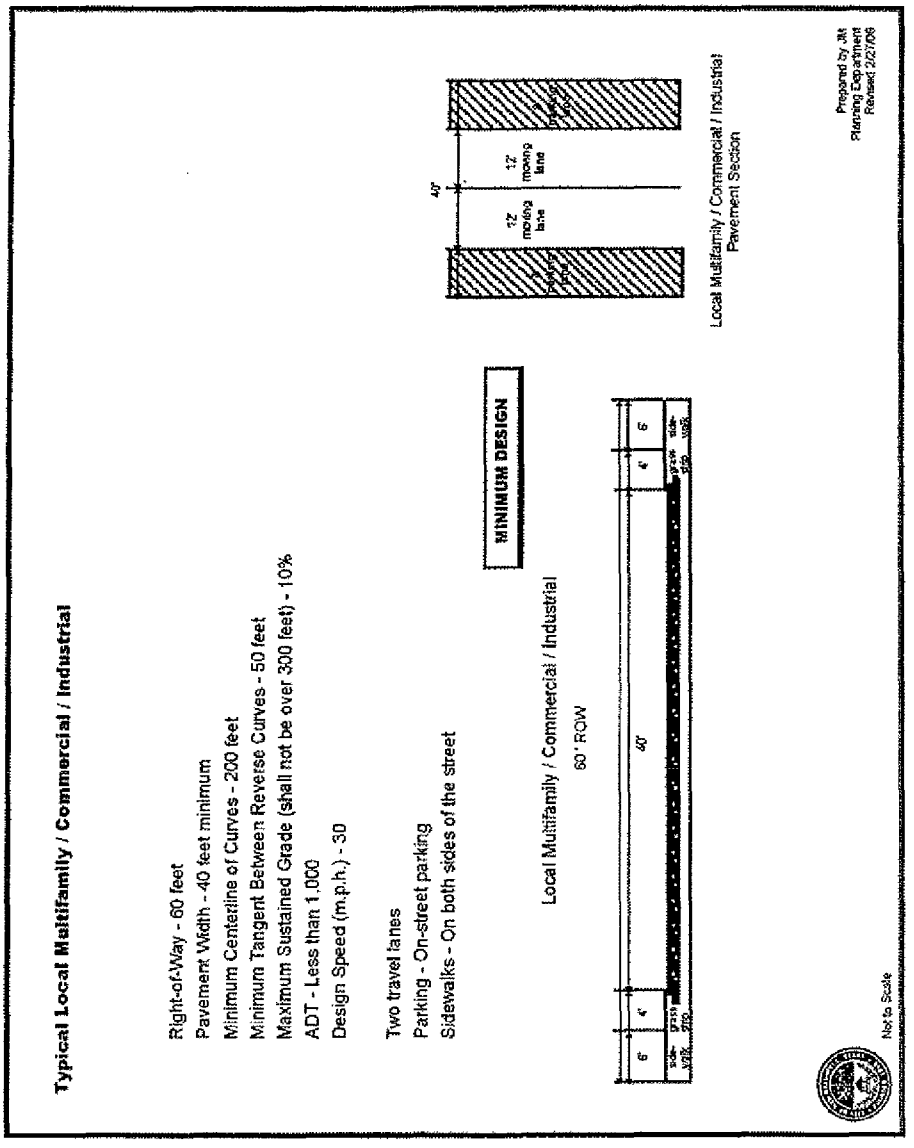
Median arterial, median, four lanes



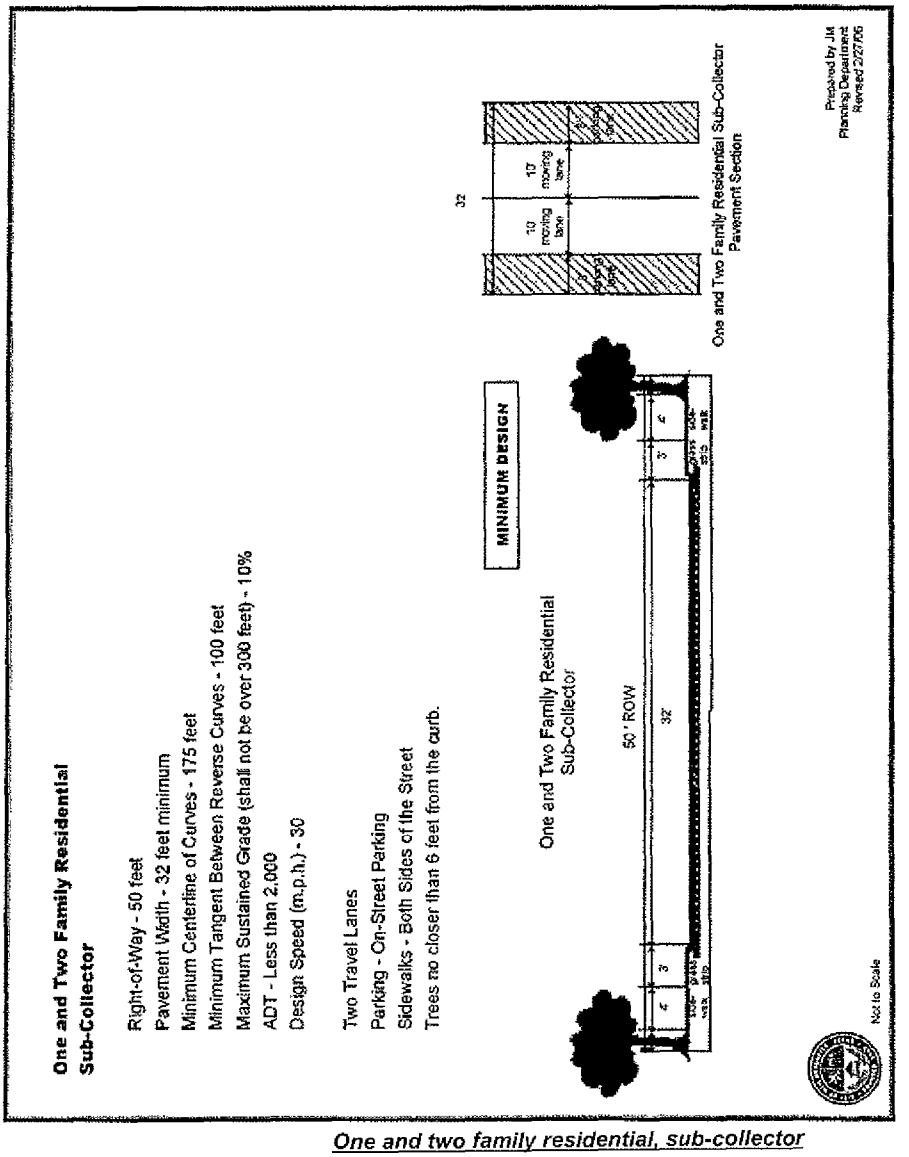
Minor arterial, four lanes



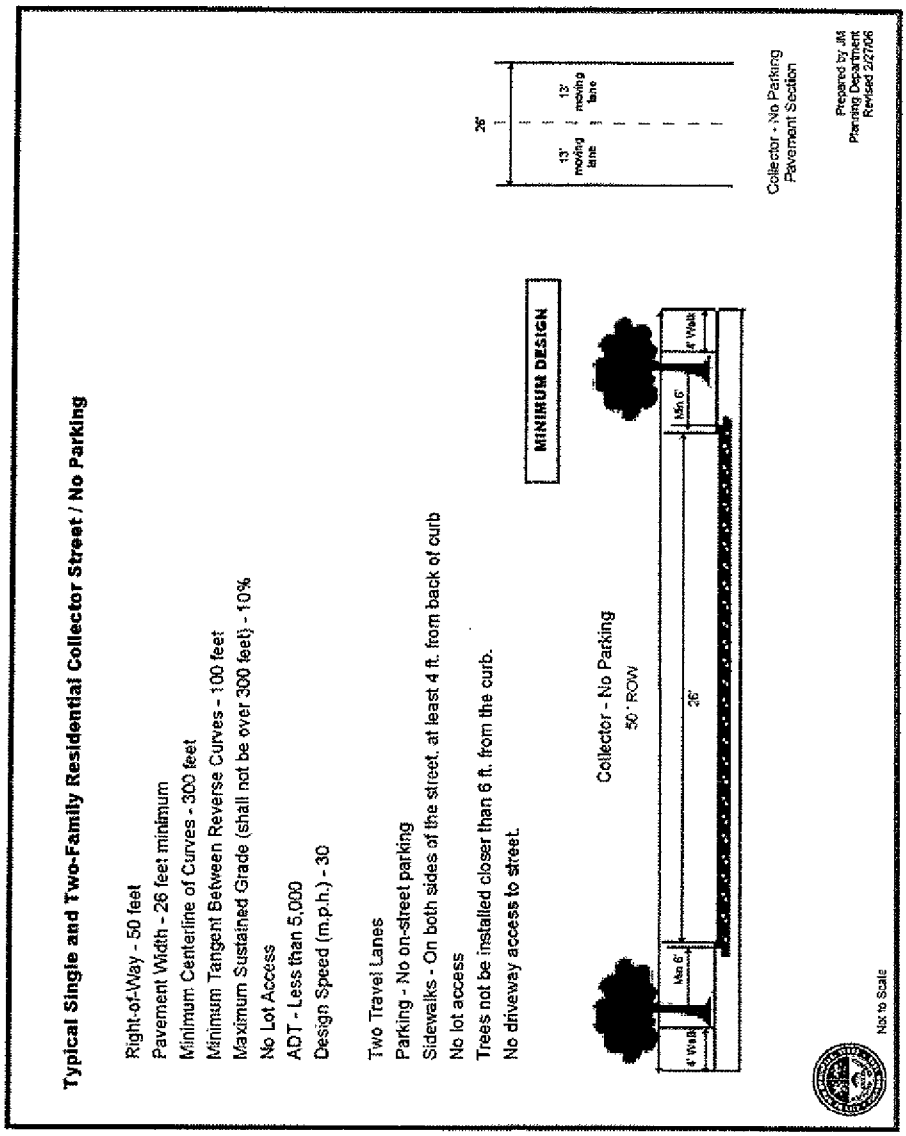
Typical residential collector street/parking both sides



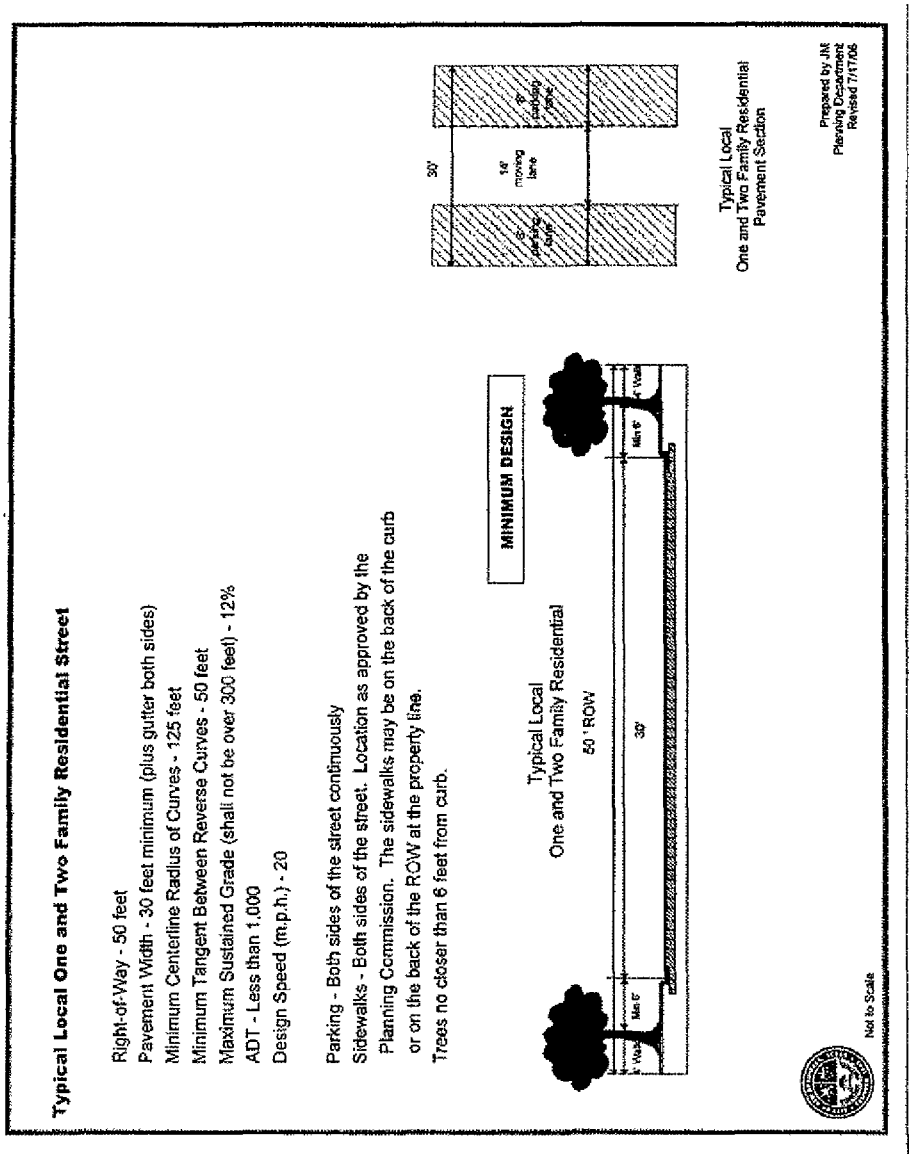
Typical local multifamily/commercial/industrial



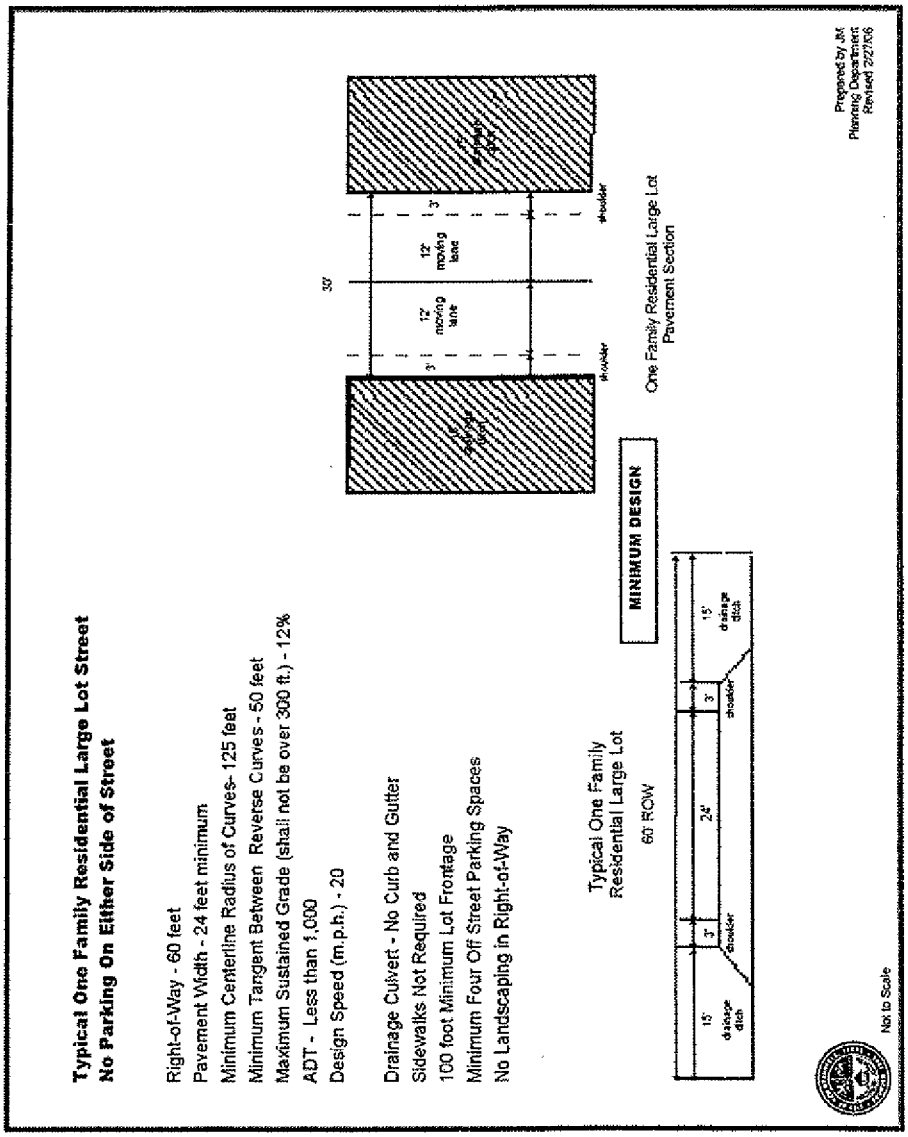
One and two family residential, sub-collector



Typical single family and two family residential collector street/no parking



Typical local one and two family residential street



No parking either side of street

(t) *Responsibility for right-of-way dedication and public street construction.*

1. *Internal streets.*

a. The developer shall be responsible for the dedication and construction of all local, sub-collector, and collector streets within his subdivision at his own expense. The developer may also be required to construct at least 2 lanes of an arterial street, if such is supported by a traffic impact analysis (TIA), and if such construction does not impose a disproportionate burden on the property owner or his property.

b. The developer may be required to dedicate additional ROW and construct additional lanes of an arterial street or TxDOT road based on the planning commission's review of a traffic impact analysis (TIA), and if such construction does not impose a disproportionate burden on the property owner or his property.

c. The planning commission may allow in lieu of construction an escrow be deposited for a period no longer than ten years equal to the developer's roughly proportionate share of the cost of constructing streets, the value of which shall be approved by the city engineer.

d. Streets shall be constructed in accordance with this chapter.

(2) *Perimeter streets.*

a. The developer shall, at his own cost, dedicate or reserve such right-of-way for approach and perimeter streets, if such dedication or reservation does not impose a disproportionate burden on the property owner or his property.

b.

The city may at the city's sole option pay for street right-of-way acquisition or street construction that is in excess of the demand caused by the subdivision or development.

c. Adequate access.

1. All subdivisions shall have access to an adequate perimeter or approach street. An adequate perimeter or approach street is a dedicated public street that has an average pavement width of at least 24 feet adjacent to the area being platted, even though such pavement is not to city standards at the time of platting. If the approach or perimeter street is adequate, the developer shall not be required to build additional approach or perimeter streets, but shall be required to dedicate or reserve right-of-way according to this section. If a subdivision does not have access to an adequate perimeter or approach street, as defined above, the planning commission may deny the plat, the developer may construct an adequate street as determined by the commission, or the developer may offer to enter into a development agreement with the city for sharing in the cost of constructing an adequate street. Such development agreement may be approved by the city council.
2. If there is more than one perimeter or approach street adjacent to the area being platted, at least one of those streets must be adequate, or be constructed to be adequate, and improvement of the other(s) perimeter or approach street(s) is (are) not required to be adequate. However, right-of-way shall be dedicated or reserved according to this section for all perimeter or approach roads.
3. If the area being platted has adequate access but is adjacent to other inadequate perimeter or approach street(s), the developer may either improve the inadequate street(s) to city specifications in the area adjacent to the area being platted or not take access to the inadequate street(s). The planning commission may require a "stub out" of an internal street to the inadequate perimeter or approach street and the developer may be required to provide a temporary turn around for a dead end street in accordance with this chapter.
4. The construction of an adequate access shall be according to the standards of this chapter and chapter 114

d. Based on a traffic impact analysis, the commission may require a developer to dedicate or reserve right-of-way and/or construct street improvements to mitigate adverse traffic impacts shown by the analysis which the commission deems appropriate and roughly proportionate to the development's impact.

(u) *TxDOT access.* All plats that require access from a TxDOT-maintained roadway shall be submitted by the applicant to the TxDOT district office for review prior to submission of a plat application to the city. No final plat shall be recorded unless TxDOT has notified the city in writing that the proposed access to and proposed right-of-way dedication or reservation to the TxDOT roadway is acceptable.

(v) *Slope easements.* The dedication of easements, in addition to dedicated rights-of-way, may be required whenever, due to topography, additional width is necessary to provide adequate earth slopes.

(w) *Intersection improvements and traffic control devices.* Intersection improvements and traffic control devices shall be installed as warranted in accordance with the traffic impact analysis required by this section, or as may be required by the planning commission for traffic safety and efficiency. Construction and design standards shall be in accordance with this chapter.

(x) *Private streets.* The layout for new subdivisions with private streets may be approved at the time of master plan or plat approval. All private streets must be designated as a lot or lots on the subdivision plat and must be conveyed by the developer or owner to a homeowners' association or property owners' association. The subdivision plat shall provide a note that the street is a private street and shall be maintained by the homeowners' or property owners' association and that the city shall have no maintenance or repair responsibilities. The city may periodically inspect private streets and may require any repairs necessary to ensure efficient emergency access and to protect the public health, safety, convenience and welfare. The following are the requirements for subdivisions with private streets:

(1) *Private streets—Construction and maintenance cost.* The dimensional, but not structural, standards for private streets shall be designed by a licensed professional engineer, and do not have to meet the standards for public streets contained in this chapter, if a waiver of such standards is approved by the commission in accordance with this chapter. The city shall not pay for any portion of the cost of constructing or maintaining a private street. A HOA or property owners' association is required to maintain private streets.

(2) *Private streets—Restricted access.* The entrances to all private streets shall be clearly marked with a sign, placed in a prominent and visible location, stating that the streets within the subdivision are private and that they are not maintained nor regularly patrolled by the city. All restricted access entrances shall provide a reliable means of ensuring access into the subdivision by the city, by emergency service providers, and by other utility or public service providers, such as postal carriers and utility companies. The method to be used to ensure city and emergency access into the subdivision shall be approved by the city's fire department and by any other applicable emergency service providers. If the association fails to maintain reliable access as required herein, the city may enter the private street subdivision and remove any gate or device that is a barrier to access at the sole expense of the HOA or property owners' association.

(3) *Private streets—Waiver of services.* Certain city services may not be provided for private street subdivisions. Among the services that may not be provided are: routine law enforcement patrols, enforcement of traffic and parking regulations, and preparation of accident reports. Depending upon the characteristics of the development and upon access limitations posed by the design of entrances into the subdivision, other services (such as sanitation) may not be provided as well.

(4) *Private streets—Petition to convert to public streets.* The HOA or property owners' association may petition the city council to accept private streets and any associated property as public streets and right-of-way upon written notice to all association members and upon the favorable vote of a majority of the membership. Such petition shall be submitted to the planning commission in accordance with the commission's calendar for master plans and plats, who shall make a recommendation to the city council. However, in no event shall the city be obligated to accept said private streets as public streets. Should the city elect to accept the private streets as public streets, the city has the right to inspect the private streets and to assess the lot owners for: (i) the expense of improving the private streets to meet city standards for public streets and (ii) the expense of needed repairs, if any, prior to the city's acceptance of the streets. The city shall be the sole judge of whether improvements and/or repairs are needed. The city may also require, at the association's or the lot owners' expense, the removal of any guard houses, access control devices, landscaping or other aesthetic amenities, appurtenances or objects, located within the street lot or within any other common area.

(y) *Traffic impact analysis.*

(1) *Requirements.* No master plan, plat, project or driveway access shall be approved unless a traffic impact analysis (TIA) form, as provided for in this section, is completed by the developer and approved by the city engineer. A TIA may also be required by the planning director, the commission or the city council as part of a zoning change application. The city engineer or planning director may waive the requirement for a TIA on projects where the expected peak hour trips are less than 50. A TIA or peak hour trips (PHT) generation form shall be performed by the property owner or its agent according to the format established in this section. The type of submittal required shall be based upon the number of PHT generated by the proposed development, as set forth in the following table:

TIA Table Submittal Type

Peak Hour Trips	Submittal Type
100 or less	PHT Generation Form (no TIA required)
101—500	Level 1 TIA
501—1,000	Level 2 TIA
1,001 or more	Level 3 TIA

When an activity on, or change occurs that varies from the activity on which a previous TIA was submitted and accepted, and the new activity places the project into a level different from that of the previous TIA or generates an increase of at least 100 PHT (or ten percent for a level 3 TIA) relative to the previous TIA, the property owner or its agent shall perform and submit to the city an amended TIA under the format described in this section.

(2) *Impact area.* The impact area is the area within which any traffic impact analysis is conducted in order to determine compliance with the level of service standards. This area shall be based on the size of the development and the PHTs projected to be generated by the proposed development. The impact areas shall be established as shown in the following table:

TIA Impact Area Table

Submittal Type	Impact Area
Level 1 or Level 2 TIA	The site and area within one-quarter mile from the boundary of the site.
Level 2 TIA	The city engineer may require the area of study to be extended up to a maximum of one mile from the boundary of the site.
Level 3 TIA	The site and area within one mile from the boundary of the site.

(3) *Level 1 TIA.* A level 1 TIA shall be signed and sealed by a professional engineer, registered to practice in the state. The level 1 TIA shall consist of the following minimum information:

a. Impact area.

1. Land use, site and study area boundaries, as defined (provide map).
2. Existing and proposed site uses.

3. Existing land uses on both sides of boundary streets for all parcels within the study area (provide map).
4. All major driveways and intersecting streets adjacent to the property shall be illustrated in detail sufficient to serve the purposes of illustrating traffic function; this may include showing lane widths, traffic islands, medians, sidewalks, curbs, traffic control devices (traffic signs, signals, and pavements markings), and a general description of the existing pavement condition.
5. Photographs of adjacent streets of the development.

b. Peak hour trip generation.
1. The estimates of peak hour trips generated by the development during a street peak hour (provide table).
2. Estimates for the percentage distribution of such trips from each site exit and to each site entrance (provide map).

c. Narrative describing mitigation measures, conclusions and recommendations consistent with this section.

(4) *Level 2 and 3 TIA format.* A level 2 and 3 TIA shall be signed and sealed by a professional engineer, registered to practice in the state. The level 2 and 3 TIA shall consist of the following minimum information:

a. *Impact area.*
1. Land use, site and study area boundaries (provide map).
2. Existing and proposed site uses.
3. Existing and proposed land uses on both sides of boundary streets for all parcels within the study area (provide map).
4. Existing and proposed roadways and intersections of boundary streets within the study area of the subject property, including traffic conditions (provide map).
5. All major driveways and intersecting streets adjacent to the property will be illustrated in detail sufficient to serve the purposes of illustrating traffic function; this may include showing lane widths, traffic islands, medians, sidewalks, curbs, traffic control devices (traffic signs, signals, and pavement markings), and a general description of the existing pavement condition.
6. Photographs of adjacent streets of the development and an arterial photograph showing the study area.

b. *Trip generation and design hour volumes (provide table).*
1. A trip generation summary table listing each type of land use, the building size assumed, the average trip generation rates used (total daily traffic and a.m./p.m. street peaks), and the resultant total trips generated shall be provided.
2. Generated vehicular trip estimates may be discounted in recognition of other reasonable and applicable modes, e.g., transit, pedestrian, bicycles. Furthermore, trip generation estimates may also be discounted through the recognition of pass by trips and internal site trip satisfaction.

c. *Trip distribution.* Provide the estimates of percentage distribution of trips by turning movements to and from the proposed development by site access location (provide table and figure).

d. *Trip assignment.* Provide the direction of approach and departure of site traffic via the area's street system (provide figure by site entrance and boundary street).

e. *Projected traffic volumes (provide figure for each item).* Projected traffic volumes are the numbers of vehicles, excluding the site-generated traffic, on the streets of interest during the time periods listed below, in the build-out year.
1. A.M. street peak hour site traffic (including turning movements).
2. P.M. street peak hour site traffic (including turning movements).
3. A.M. street peak hour total traffic including site-generated traffic and projected traffic (including turning movements).
4. P.M. street peak hour total traffic including site-generated traffic and projected traffic (including turning movements).
5. For special situations where peak traffic typically occurs at non-traditional times, e.g., major sporting venues, large specialty Christmas stores, etc., any other peak hour necessary for complete analysis (including turning movements).
6. Total daily existing traffic for street system in study area.
7. Total daily existing traffic for street system in study area and new site traffic.
8. Total daily existing traffic for street system in study area plus new site traffic and projected traffic from build-out of study area land uses.

f. *Capacity analysis (the applicant shall provide analysis sheets in appendices).*

1. A capacity analysis shall be conducted for all public street intersections and junctions of major driveways with public streets which are significantly impacted within the study area boundary as defined in his section as agreed to by the developer's engineer and the city engineer. A capacity analysis is required as shown below.

TIA Required Analysis Table

Volumes without and with site traffic	Boundary Street	Non-Boundary Street within Study Area
Existing conditions	Required	Required
First phase	Required	Not required
Intermediate phase	Required	Not required
Final phase	Required	Required

2. Capacity analysis will follow the principles established in the latest edition of the Transportation Research Board's Highway Capacity Manual (HCM), unless otherwise directed by the city engineer. Capacity will be reported in quantitative terms as expressed in the HCM and in terms of traffic level of service based on control delay by movement or lane group.
3. Capacity analysis will include traffic queuing estimates for all critical applications where the length of queues is a design parameter, e.g., auxiliary turn lanes, and at traffic gates.

g. *Conclusions and requirements.* Provide a narrative describing mitigation measures, conclusions and recommendations consistent with this section.

(5) *Mitigation.* If the TIA's determination for roadways and intersections indicates that the proposed development would cause a reduction in the level of service for any roadway or intersection within the impact area that would cause the roadway to fall below the level of service C, the proposed development will be denied unless the developer agrees to one of the following conditions:

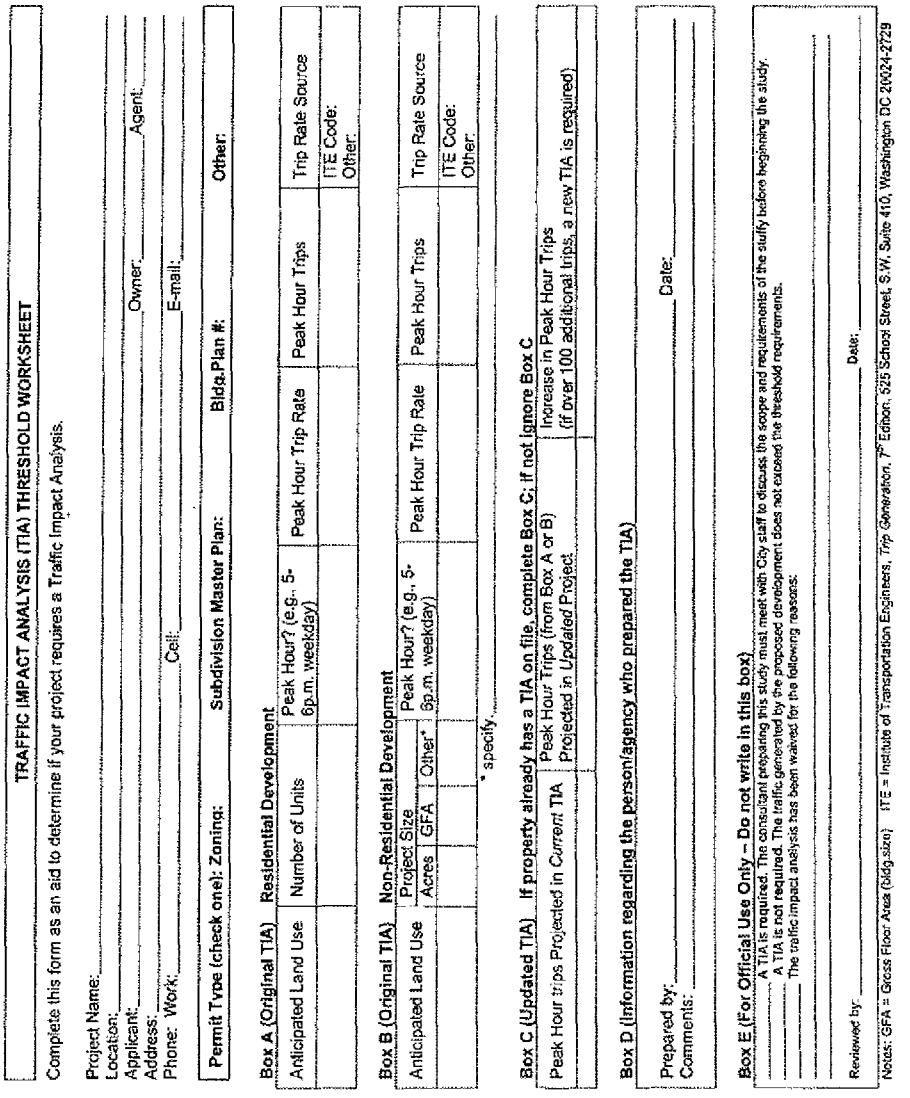
a. The deferral of building permits until the improvements necessary to upgrade the substandard facilities are constructed;
b. A reduction in the density or intensity of development;
c. The dedication or construction of facilities needed to achieve the level of service required herein; or
d. Escrow with the city an amount equivalent to the cost of the improvements necessary to mitigate the adverse traffic impact.
e. Execute a development agreement with the city in accordance with this chapter.
f. Any combination of techniques identified herein that would ensure that development will not occur unless the levels of service for all roadways and intersections within the traffic impact analysis study are adequate to accommodate the impacts of such development.

(6) *Implementation.* For phased construction projects, implementation of these traffic improvements must be accomplished no later than the completion of the project phase for which the capacity analyses show they are required. Plats for project phases subsequent to a phase for which a traffic improvement is required may be approved only if the traffic improvements are completed or secured as approved by the city engineer.

(7) *Traffic mitigation concepts.*

a. Voluntary efforts, beyond those herein required, to mitigate traffic impacts are encouraged as a means of providing enhanced traffic handling capabilities to users of the land development site as well as others.
b. Traffic mitigation concepts include, but are not limited to, pavement widening, turn lanes, median islands, access controls, curbs, sidewalks, traffic signalization, traffic signing, pavement markings, etc.

(8) *Traffic signal warrants analysis.* A TIA that contains a traffic impact mitigation for installation of a new traffic signal location shall include a traffic signal warrants analysis satisfying the requirements of the Texas Manual of Uniform Traffic Control Devices.



TRAFFIC IMPACT ANALYSIS (TIA) THRESHOLD WORKSHEET

Complete this form as an aid to determine if your project requires a Traffic Impact Analysis.

Project Name:
Location:
Applicant: Owner: Agent:
Address:
Phone: Work: Cell: E-mail:

Permit Type (check one): Zoning: **Subdivision Master Plan:** **Bldg.Plan #:** **Other:**

Box A (Original TIA) Residential Development

Anticipated Land Use	Number of Units	Peak Hour? (e.g., 5-6p.m. weekday)	Peak Hour Trip Rate	Peak Hour Trips	Trip Rate Source
					ITE Code: Other:

Box B (Original TIA) Non-Residential Development

Anticipated Land Use	Project Size			Peak Hour? (e.g., 5-6p.m. weekday)	Peak Hour Trip Rate	Peak Hour Trips	Trip Rate Source
	Acres	GFA	Other*				
							ITE Code: Other:

* specify.

Box C (Updated TIA) If property already has a TIA on file, complete Box C; if not ignore Box C

Peak Hour Trips (from Box A or B)	Increase in Peak Hour Trips (if over 100 additional trips, a new TIA is required)
Projected in *Current* TIA	
Projected in *Updated* Project	

Box D (Information regarding the person/agency who prepared the TIA)

Prepared by: Date:
Comments:

Box E (For Official Use Only – Do not write in this box)

_____ A TIA is required. The consultant preparing this study must meet with City staff to discuss the scope and requirements of the study before beginning the study.
_____ A TIA is not required. The traffic generated by the proposed development does not exceed the threshold requirements.
_____ The traffic impact analysis has been waived for the following reasons:

Reviewed by: Date:

Notes: GFA = Gross Floor Area (bldg.size) ITE = Institute of Transportation Engineers, *Trip Generation*, 7th Edition, 525 School Street, S.W. Suite 410, Washington DC 20024-2729

Traffic Impact Analysis (TIA) Threshold Worksheet

(z) *Street signs.* Within the corporate limits and ETJ of the city, on both public and private streets, street signs shall be erected and installed by the city. Before final approval and acceptance of the streets by the city, the developer shall pay the city such sum, as computed by the city engineer, for street sign materials, and the cost of labor for making and installing such signs.

(aa) *Streetlights.* Streetlights shall be installed, at the cost of the developer and at no cost to the city, at all intersections, at the end of a cul-de-sac, and throughout the subdivision as required by NBU in accordance with standards published by NBU in accordance with section 118-18

(Ord. No. 2006-84, § 1(Exh. A), 9-11-06; Ord. No. 2008-44, § 1, 7-14-08; Ord. No. 2008-55, § 1, 8-11-08)

Sec. 118-47. - Alleys.

(a) Alleys may be required in business and industrial areas. Alleys may be provided by the developer in residential areas. Alleys, if required or provided, shall be constructed at the expense of the developer and shall conform to the provisions of this chapter.

(b) Dedicated alleys must be approved by the planning commission at the time of plat approval before they can become public alleys. Otherwise, they shall be treated as service drives or private alleys and the developer, HOA or property owners' association shall be responsible for maintenance.

(c) Alley rights-of-way, except as provided in subsection (f), shall be a minimum of 20 feet right-of-way with 20 feet of paving in business and industrial areas and a minimum of 12 feet of paving in residential areas. All alley paving shall be done in accordance with city standards.

(d) Where two alleys or utility easements intersect or turn at a right angle, a cutoff or corner clip of not less than ten feet from the normal intersection of the property or easement line shall be provided along each property or easement line.

(e) If alleys are not themselves straight within each block, or if the alleys do not connect on a straight course with the alleys of adjoining blocks, then an easement shall be provided for the placing of guy wires on lot division line in order to support poles set on curving or deviating rights-of-way of alleys.

(f) Lots that have rear entry garages or access will be provided with a service drive or private or public alley abutting the rear lot line. Such service drive or alley shall have a minimum right-of-way width of 25 feet, a minimum paved surface width of 22 feet, and shall be constructed in accordance with city standards. Service drives and private or public alleys shall not exceed 900 feet in length without providing access at the midsection of the alley to a public street. Dead-end service drives serving less than eight units will be permitted. Service drives shall not be dedicated to the city and maintenance of such service drives shall be the responsibility of the owner or owners within the subdivision.

(Ord. No. 2006-84, § 1(Exh. A), 9-11-06)

Sec. 118-48. - Utility easements.

(a) The location and width of sanitary sewer system, water, electrical, communication or other such utility easements shall be determined by New Braunfels Utilities in accordance with standards published by NBU in accordance with sections 118-18 and 118-31 or other utility provider. Drainage and storm water easements and rights-of ways shall be determined in accordance with chapter 143 and the Drainage and Erosion Control Design Manual.

(b) Where easements are required for other than public utilities, then the location and width must be acceptable to the private utility company concerned with the approval of the planning commission.

(c) Where any public or private utility line is required to be adjusted in location or elevation, the developer shall cause such changes to be made with the approval of the city engineer and the utility using the easement.

(d) Where the proposed subdivision adjoins an unplatted property and a utility easement is to be dedicated on the adjacent property, then the adjacent property owner shall join in the dedication of the easement, which shall be shown on the plat.

(e) Where utility easements are not themselves straight within each block, or if such easements do not connect on a straight course with the utility easements of adjoining blocks, then an additional easement shall be provided for the placing of guy wires on lot division lines in order to support utility poles.

(f) Where two utility easements intersect or turn at a right angle, a cutoff or corner clip of not less than ten feet from the normal intersection of the property or easement line shall be provided along each property or easement line.

(Ord. No. 2006-84, § 1(Exh. A), 9-11-06)

Sec. 118-49. - Sidewalks.

(a) *Requirement for installation.* Sidewalks shall be required, unless an exception is granted by the planning commission, in accordance with the following:

(1) On the subdivision or development side or sides of all major thoroughfares or arterial streets as indicated on the city's thoroughfare plan, or a major thoroughfare as determined by the planning commission, and on perimeter streets.

(2) On both sides of a street that serves as a local or collector street, except:

a. No sidewalks are required along a local residential large-lot street section, as shown in this chapter, where there is no parking on the street and where each lot has at least 100 feet of frontage;

b. When an alternative pedestrian access plan is approved by the planning commission; and

c. When an exception is granted by the planning commission.

(3) As deemed necessary by the planning commission in any area based on uniformity along the street and conformity with the surrounding area.

(b) *Installation.* Sidewalks shall be installed at the street front of lots, along the street side of corner lots, and as required on perimeter streets. Sidewalks shall be constructed in accordance with city standards and specifications at such time as the lot is improved unless otherwise determined by the planning commission. For instance, where there would be no building improvement to the area adjacent to the sidewalk.

(c) *Escrow.* With regard to sidewalks on perimeter streets, the planning commission, upon request of the applicant, may allow the applicant to deposit in escrow the cost of sidewalks, as approved by the city engineer, for installation of sidewalks at a later date. The escrow money or letter of credit shall be deposited with the city prior to filing of the final plat.

(d) *Plat note.* A plat note shall be placed on the final plat indicating that sidewalks were required, upon which streets sidewalks were required and who is responsible for installation.

(e) *Location of sidewalks.*

(1)

Sidewalks shall usually be constructed in the right-of-way of the adjacent street, but may be in easements as approved by the planning commission. For instance, along TxDOT ROW where future improvements would damage the sidewalk or where the walk is not adjacent to a street.

(2) Sidewalks adjacent to single family or two family lots, along a local street, shall be placed in the right-of-way at least three feet from the curb.

(3) All sidewalks adjacent to collector streets, arterial streets, or TxDOT highways shall be separated by at least four feet from the curb or edge of the shoulder.

(g) *Pedestrian and bikeways.* Pedestrian and bikeways, six feet in width, located in the right-of-way or in a public access easement, shall be dedicated and constructed where deemed necessary by the planning commission, to provide circulation or access to schools, playgrounds, parks, shopping centers, arterial streets and community facilities, or to provide pedestrian circulation within the subdivision. For instance, the commission may require such pedestrian or bikeways between lots at the end of culs-de-sac. Pedestrian and bikeways shall be constructed by the developer with a surface approved by the planning commission. Such pedestrian and bikeways may be required along perimeter streets.

(h) *Sidewalk widths.* Sidewalk widths shall be as follows:

(1) Along one or two family lots: Four feet.

(2) Along multifamily or non-residential lots: Six feet.

(3) In front of a commercial or multifamily building(s) where there is less than a ten-foot building setback: Ten feet.

(i) *Alternate pedestrian access plan.* Rather than requiring sidewalks on both sides of all streets within a subdivision, or along a perimeter street, the applicant may present for commission approval an alternate plan showing pedestrian access within and to destinations outside the subdivision such as schools and shopping. Such a plan might provide for no sidewalks on cul-de-sac bubbles, on both sides of all streets, or where the street was wider than the minimum standards.

(Ord. No. 2006-84, § 1(Exh. A), 9-11-06)

Sec. 118-50. - Off-street bikeways and trails.

(a) Off-street bikeways or trails shall be provided by the subdivider/developer as shown on the bikeway plan of the comprehensive plan and this section, if the city agrees to maintain the bikeway or trail.

(b) The easement or right-of-way width and surface width of the bikeway or trail shall be determined by the planning commission at the time of plat approval.

(Ord. No. 2006-84, § 1(Exh. A), 9-11-06)

Sec. 118-51. - Water, sewer and drainage facilities; flood hazards.

(a) *Generally.* The subdivider/developer shall dedicate, at his own cost, such rights-of-way and/or easements, and construct such water mains, water lines, fire hydrants, sanitary sewers, storm sewers, and drainage of such a size as to adequately serve the area being subdivided, as determined by the city engineer or the utility company under whose jurisdiction the subdivision falls. All facilities shall be constructed in accordance with the standards as set forth in this chapter and approved construction plans.

(b) *Water.*

(1) All subdivisions or developments shall be provided with water supply and water distribution systems constructed in compliance with this chapter.

(2) Standard fire hydrants shall be installed as part of the water distribution system per specifications established by this chapter.

(3) Fire flow. A subdivision or development, which does not provide each lot with fire flow according to chapter 54, is declared a subdivision or development with an inadequate water system. Subdividers/developers shall provide all lots with fire flow according to the standards of chapter 54

(c) *Wastewater.* All subdivisions or developments shall be provided with a sewage disposal system constructed in compliance with this chapter and approved construction plans. Connection with the sanitary sewer system shall be required except where the planning commission, upon the recommendation of the planning director, determines that such connection will require unreasonable expenditure, when compared with other methods of sewage disposal.

(d) *Extension to adjacent development.* Wherever the subject property adjoins undeveloped land, or wherever required by the commission to serve the public good, utilities shall be extended to adjacent property lines to allow connection of these utilities by adjacent property owners when such adjacent property is platted and/or developed.

(e) *Drainage.*

(1) *Drainage requirements.* The subdivider or developer shall be responsible for submitting a drainage study with construction plans to the city engineer in accordance with the requirements of this chapter, chapter 143, and the drainage and erosion control and design manual. The drainage study shall be prepared by a professional

engineer registered in the state. The study shall demonstrate to the city engineer's satisfaction that all ordinance and drainage and erosion control manual requirements are met. The developer shall be responsible for constructing the drainage improvements in accordance with the construction plans approved by the city engineer. The requirements of chapter 143 are adopted by reference in this chapter, except that in the ETJ, no provision concerning fees or charges is applicable.

(2) *Easement.* Natural waterways and channels should be used to carry runoff, wherever practical. Any modification to existing waterways and channels must be approved by the city engineer. Where a subdivision is traversed by a watercourse, drainageway, natural channel or stream, there shall be provided an easement or right-of-way conforming substantially to the one percent annual chance floodplain limits of such watercourse, plus additional width to accommodate future needs.

a. Storm drainage easements of 15 feet minimum width shall be provided for existing and proposed enclosed drainage systems. Easements shall be centered on the systems. Larger easements, where necessary, shall be provided as directed by the city engineer.

b. Storm drainage easements along proposed or existing open channels shall provide sufficient width for the required channel and such additional width as may be required to provide ingress and egress of maintenance equipment, to provide clearance from fences and space for utility poles, to allow maintenance of the channel bank, and to provide adequate slopes necessary along the bank.

c. Storm drainage easements shall provide emergency overflow drainageways of sufficient width to contain within the easement stormwater resulting from a one percent annual chance frequency storm assuming fully developed upstream watershed frequency storm less the amount of stormwater carried in any enclosed system.

(3) *Installation of drainage system.* The subdivider/developer shall be responsible for providing an adequate drainage system approved by the city engineer that may consist of pipes, swales, natural features and manmade improvements that effectively carry runoff from the development. Detention ponds, retention ponds, and siltation ponds and/or improved storm water conveyance facilities, either on or off site, shall be used individually or in concert to control runoff and protect downstream interests from increased flooding from the subdivision or development.

(4) *Topography of the land.* In order to help reduce storm water runoff and resulting erosion, sedimentation and conveyance of non-point source pollutants, the layout of the street network, lots and building sites shall, to the greatest extent possible, be sited and aligned along natural contour lines and shall minimize the amount of cut and fill on slopes in order to minimize the amount of land area that is disturbed during construction.

(f) *Flood hazards.*

(1) *Generally.* Proposed subdivisions or developments shall be developed to assure that:

a. All such proposals are consistent with the need to minimize flood damage.

b. All public utilities and facilities, such as sewer, gas, electric and water systems are located, elevated and constructed to minimize or eliminate flood damage.

c. Adequate drainage is provided so as to reduce exposure to flood hazards.

(2) *Water and/or wastewater systems.* New or replacement water supply systems and/or wastewater systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems discharges from the systems into floodwaters and to require on-site waste disposal systems to be located so as to avoid impairment of them or contamination from them during flooding.

(3) *Floodplain.*

a. When a proposed subdivision or development has within it a drainageway where no regulatory floodway has been designated, no new construction, substantial improvements or other development, including fill, shall be permitted in an area that may have flood hazards, unless it is demonstrated that the cumulative effect of the proposed development or improvements, when combined with all other existing and anticipated development and improvements will not substantially increase the water surface elevation.

b. In areas where there is an approved and mapped floodway, the subdivider or developer shall designate a drainage easement(s) for the floodway.

c. In areas where a floodway is mapped and approved by the city, a flood study or demonstration of "no flood height increase" shall be required.

d. If a proposed subdivision is within an area where flooding may occur, where there is no floodplain shown on a city-approved floodplain map, or where there is located an approved floodplain but no floodway, the subdivider shall:

1. Conduct a study of where the base flood elevation would be, assuming a fully developed watershed, show a drainage easement on the plat, and show the elevation of the flood plain at intervals of every 500 lineal feet;

2.

Conduct a study, using HEC or similar modeling that is approved by the city engineer, to insure that the proposed development would not increase the elevation of the one percent annual chance base flood; or

3. Request a waiver from the above requirements. The request for waiver shall be assessed with respect to proposed density, land use, lot sizes, building sizes, anticipated impervious cover, and the width and depth of the existing floodplain. All waiver requests shall be considered and decided by the planning commission.

(4) *System design requirements.* Drainage improvements shall accommodate runoff from the upstream drainage area in its anticipated maximum "build-out" or "fully developed" condition, and shall be designed to prevent overloading the capacity of the downstream drainage system.

(5) *Alterations to existing drainageways.* No person, individual, partnership, firm or corporation shall deepen, widen, fill, reclaim, reroute or change the course or location of any existing ditch, channel, stream or drainageway without first obtaining written permission (or approved engineering and drainage studies) and a grading permit from the city engineer and any other applicable agency having jurisdiction, such as FEMA or the U.S. Army Corps of Engineers. The costs of such study, if required, shall be borne by the developer.

(g) *Access to subdivision.* New "island" subdivisions, lots or streets that would be surrounded by the floodwater of the one percent annual chance flood shall not be allowed unless:

(1) The area is accessible to high ground by a street elevated above the one percent annual chance flood level.

(2) The evidence presented shows that the surface area and elevation of the "island" is sufficient to sustain the residents safely during a .75 percent annual chance flood.

(h) *Drainage and floodplain easements.* All storm drainage and flood easements and all base flood elevations shall be shown on the final plat with a plat note stating that no development or building or structure is permitted within the easement and stating who will be responsible for maintaining the easement. Flood and storm drainage easements shall be of adequate width to accommodate drainage flows and the width of such easements shall be subject to approval of the city engineer.

(Ord. No. 2006-84, § 1(Exh. A), 9-11-06; Ord. No. 2008-40, § 2, 6-9-08)

Sec. 118-52. - Escrow policies and procedures.

(a) *Request for escrow.* Whenever this chapter requires a property owner to construct a street, sidewalk, drainage improvement, or other type of public improvement, the property owner may petition the city to construct the street or other public improvement, at a later date, in exchange for deposit of escrow as established in this Section, if there exists unusual circumstances, such as a timing issue due to pending roadway improvements by another agency such as TxDOT or the applicable county, that would present undue hardships or that would impede public infrastructure coordination or timing. If more than one street or thoroughfare must be constructed in order to meet adequacy requirements for roadways, for instance as demonstrated by a traffic impact analysis, the planning commission may prioritize roadways for which escrow is to be accepted and require the deposit of all funds attributable to the development in escrow accounts for one or more of such affected roadways. The city engineer shall review the particular circumstances involved (a traffic impact analysis may be required to facilitate the city engineer's deliberations on the matter), and shall determine, at its sole discretion, whether or not provision of escrow deposits will be acceptable in lieu of the property owner's obligation to construct the street, sidewalk or other public improvement with his or her development.

b. *Escrow deposit with the city.* Whenever the commission agrees to accept escrow deposits in lieu of construction by the owner of the property under this chapter, the property owner or developer shall deposit in escrow with the city an amount equal to his or her share of the costs of "turnkey" design, construction, permits, reviews and approvals, inspections, any additional land acquisition, and an appropriate inflation factor to be determined by the city engineer to ensure that the actual "future dollar" costs will be covered when actual bid pricing and construction occur in the future. Such amount shall be reviewed by the city engineer, and shall be paid prior to release of construction plans by the city engineer, or if there are no construction plans, prior to recording the plat. The obligations and responsibilities of the property owner shall become those of the property owner's transferees, successors and assigns; and the liability therefore shall be joint and several.

(c) *Termination of escrow.* Escrows or portions of escrowed amounts, which have been placed with the city under this section and which have been held for a period of ten years from the date of such payment or agreement, in the event that the city has not authorized the preparation of plans and specifications for construction of such roadway facilities for which the escrow was made, shall, upon written request, be returned to the property owner along with one-half of its accrued interest. Such return does not remove any obligations of the property owner for construction of the required facilities if a building permit has not been issued on the subject lot or if a new building permit is applied for.

(d) *Refund.* If any street or highway for which escrow is deposited is constructed by a party other than the city or is reconstructed by another governmental authority at no cost to the city, the escrowed funds and accrued interest shall be refunded to the property owner or applicant who originally paid the escrow amount after completion and

acceptance of the public improvements. In the event that a portion of the cost is borne by the city and the other portion of the cost by another party or governmental authority, the difference between the property owner's actual proportionate cost and the escrowed funds, including accrued interest, if any, shall be refunded after completion and acceptance of the improvements.

(e) *Interest limitation.* If money is refunded within six months of deposit, only the principal will be refunded. Monies returned after this date will be refunded with one-half of its accrued interest.

(f) *Credit toward impact fees.* All escrowed funds may be subject to credits against applicable impact fees.

(g) *Petition for relief.* The requirements of this section are subject to a petition for relief from a dedication or construction requirement, pursuant to this chapter.

(Ord. No. 2006-84, § 1(Exh. A), 9-11-06)

Sec. 118-53. - ETJ regulations applicable in Comal County.

In the city's extraterritorial jurisdiction in Comal County, in accordance with the Interlocal agreement between Comal County and the city, the following regulations shall apply in addition to the regulations of this chapter:

(1) *Lot sizes within the ETJ in Comal County.*

a. Subdivisions requiring platting, where each lot within the proposed subdivision will be served by a Texas Commission on Environmental Quality (TCEQ) approved public water supply and will utilize individual on -site sewage facility methods for sewage disposal, shall provide for individual lots having surface areas of at least one acre.

b. Subdivisions requiring platting, where each lot within the proposed subdivision will not be served by a TCEQ approved public water supply and will utilize individual on-site sewage facility methods for wastewater treatment, shall provide for individual lots having surface areas of at least 5.01 acres.

(2) *Water availability within the ETJ in Comal County.* A person seeking approval of a plat that creates one or more lots or is seeking approval of replat that results in an increase in the total amount of lots shall:

a. If no public water system is proposed or exists; and the proposed lots will be served by individual groundwater wells and not utilizing groundwater regulated by the Edwards Aquifer Authority;

Submit a certification of groundwater availability for platting form pursuant to Title 30 Texas Administrative Code, Chapters 230, §§ 230.2 through and including 230.11, with the following additional requirements;

All supporting information, data, and calculations necessary to meet the requirements of §§ 230.2 through and including 230.11 shall be attached to the certification of groundwater availability for platting form.

§ 230.3(c), form required, the first sentence is revised as follows;

This chapter and the following form shall be used and completed if the city requires plat applicants to certify that adequate groundwater is available to provide water to the land to be subdivided.

Submit documentation from a hydrogeologist indicating his/her concurrence with the findings presented within the above certification of groundwater availability for platting form.

b. If no public water system is proposed or exists; and the proposed lots will be served by individual groundwater wells utilizing groundwater regulated by the Edwards Aquifer Authority,

1. Provide an analysis prepared by a registered engineer determining the projected water use of the final expected number of residences, businesses, or other dwellings in the platted area.

2. Submit documentation from the Edwards Aquifer Authority indicating a permit allocation of groundwater rights to the proposed platted area in an amount adequate to meet the water needs as identified in the above engineering analysis. The permit allocation cannot involve leased water rights.

c. If the proposed lots are to be served by a new public water system utilizing groundwater wells and not using groundwater regulated by the Edwards Aquifer Authority,

1. Submit a certification of groundwater availability for platting form pursuant to Title 30 Texas Administrative Code, Chapters 230, §§ 230.2 through and including 230.11, with the following additional requirements;

All supporting information, data, and calculations necessary to meet the requirements of §§ 230.2 through and including 230.11 shall be attached to the certification of groundwater availability for platting form.

§ 230.3(c), form required, the first sentence is revised as follows,

This chapter and the following form shall be used and completed if the city requires plat applicants to certify that adequate groundwater is available to provide water to the land to be subdivided.

Submit documentation from a hydrogeologist indicating his/her concurrence with the findings presented within the above certification of groundwater availability for platting form.

2. Submit a copy of the final approval letter and all supporting documentation from the executive director of the Texas Commission for Environmental Quality (TCEQ), pursuant to TCEQ Rule 30 TAC Chapter 290.41(c)(3)(A), for each new well and provide a copy of the TCEQ approval letter and supporting documentation for the engineering plans and specifications for the water production and water distribution facilities.
3. Provide a surety, in a form acceptable to the city, in an amount determined by the city engineer, to ensure the proper completion of any and all water distribution facilities such as water mains, valves, and other necessary water distribution appurtenances.

d. If the proposed lots are to be served by a new public water system utilizing groundwater wells using groundwater regulated by the Edwards Aquifer Authority,
   1. Provide an analysis prepared by a registered engineer determining the projected water use of the final expected number of residences, businesses, or other dwellings in the platted area.
   2. Submit documentation from the Edwards Aquifer Authority indicating a permit allocation of groundwater rights to the proposed platted area in an amount adequate to meet the water needs as identified in the above engineering analysis. The permit allocation cannot involve leased water rights.
   3. Submit a copy of the final approval letter and all supporting documentation from the executive director of the Texas Commission for Environmental Quality (TCEQ), pursuant to TCEQ Rule 30 TAC Chapter 290.41(c)(3)(A), for each new well and provide a copy of the TCEQ approval letter and supporting documentation for the engineering plans and specifications for the water production and water distribution facilities.
   4. Provide a surety, in a form acceptable to the city, in an amount determined by the city engineer, to ensure the proper completion of any and all water distribution facilities such as water mains, valves, and other necessary water distribution appurtenances.

e. If the proposed lots are to be served by a new public water system utilizing surface water,
   1. Provide a copy of the TCEQ approval letter and supporting documentation for the engineering plans and specifications for any required water production and water distribution facilities, pursuant to TCEQ Rule 30 TAC Chapter 290.
   2. Provide an analysis prepared by a registered engineer determining the projected water use of the final expected number of residences, businesses, or other dwellings in the platted area.
   3. Submit a copy of an executed contract, agreement, or commitment letter from the TCEQ or the Guadalupe Blanco River Authority stating surface water, in an amount adequate to meet the water needs as identified in the above engineering analysis, has been committed to the platted area for a period of 20 years or greater. Said document shall identify the amount of surface water committed, the point of diversion, and the term of the commitment.
   4. Provide a surety, in a form acceptable to the city, in an amount determined by the city engineer, to ensure the proper completion of any and all water distribution facilities such as water mains, valves, and other necessary water distribution appurtenances.

f. If the proposed lots are to be served by an existing public water system utilizing groundwater and currently providing service to less than 1,000 connections,
   1. Provide documentation from the existing public water system indicating that the existing system has agreed to provide water service to the platted area.
   2. Provide a copy of the latest TCEQ public water sanitary survey of the existing public water system indicating no alleged violations pertaining to water quality or water production capability.
   3. Provide an engineering analysis of the existing public water system showing that the existing system has an adequate water supply and adequate water production facilities to serve the final expected number of residences, businesses, or other dwellings in the existing service area in addition to the needs of the final expected number of residences, businesses, or other dwellings in the proposed platted area.
   4. If the existing public water system uses groundwater regulated by the Edwards Aquifer authority, submit documentation from the Edwards Aquifer Authority indicating the permit allocation of groundwater rights necessary to meet the needs identified to the preceding paragraph. The permit allocation cannot involve leased water rights.
   5. If an expansion to an existing public water system is necessary due to the addition of the platted area or due to the existing deficiencies in the system, as identified above, submit a copy of the final approval letter and all supporting documentation from the executive director of the TCEQ, pursuant to TCEQ rule 30 TAC Chapter 290.41(c)(3)(A), for any new well, and provide a copy of

the TCEQ approval letter and supporting documentation for the engineering plans and specifications for the required water production and water distribution facilities.

Provide a surety, in a form acceptable to the city, in an amount determined by the city engineer, to ensure the proper completion of any and all water distribution facilities such as water mains, valves, and other necessary water distribution appurtenances.

g. If the proposed lots are to be served by an existing public water system utilizing surface water or an existing public water system currently providing interconnected water service to 1,000 connections or more,

1. Provide documentation from the existing public water system (utility) indicating that the utility has agreed to provide water service to the platted area.
2. Provide documentation from the utility indicating that the utility has had a water availability report approved by the Comal County Commissioners Court within the last 36 months.
3. A water availability report is defined as a document prepared by the utility to reveal their ability to meet the needs of their existing users and show their preparedness to meet the needs of future water users as their system expands. The report shall include, but is not necessarily limited to, the following:
   A. Copy of the latest TCEQ public water sanitary survey of the utility's existing water system indicating no alleged violations pertaining to water quality or water production capability.
   B. A map of the utility's service area showing:
      i. The utility's current service area as defined by their existing certificate of convenience and necessity and the projected service area in 20 years.
      ii. A schematic of the utility's existing distribution system with line sizes identified.
      iii. Locations of water wells and/or surface water plants with capacities.
      iv. Locations of pump stations and elevated storage tanks with capacities.
   C. An analysis of the population and land use development projections for the utility's estimated service area in 20 years.
   D. Copies of documents and/or an engineering analysis showing that the utility has adequate groundwater rights, surface water rights, existing groundwater production capability, or other proofs of water rights or reservations in an amount sufficient to supply the anticipated water use of the expected population and land use within the projected service area in 20 years.
   E. In areas where groundwater withdrawal is not regulated by the Edwards Aquifer Authority, if applicable, provide a report prepared by a registered engineer certifying that adequate groundwater is available from the source aquifer(s) to supply the utility's anticipated groundwater needs for 20 years.

h. Definitions.

Hydrogeologist means an individual with at least five years of progressively more responsible professional experience, following receipt of a baccalaureate degree, during which full competence has been demonstrated in the application of scientific or engineering principles and methods to the execution of work involving:

1. The understanding of the occurrence, movement, and composition of ground water in relation to the geologic environment,
2. The development, management, or regulation of ground water, or
3. the teaching and research of ground water subjects at the university level.

Public water system means a system, approved by the TCEQ, for the provision to the public of water for human consumption through pipes or other constructed conveyances.

Water production facility means a collection of pumps, treatment equipment, tanks and other devices designed to extract water from a source, provide necessary treatment to purify and disinfect, pressurize, pump, and store potable water.

Water distribution facility means a system of network of pipes and valves designed to deliver potable water to users.

Water supply means a source of water.

(3) *Comal County Thoroughfare Plan.* The subdivider shall dedicate right-of-way according to the Comal County Thoroughfare Plan, if such right-of-way is greater than prescribed elsewhere in this chapter. The requirements of this paragraph are subject to a petition for relief from a dedication or construction requirement, pursuant to this chapter.

(4) The city shall not record a plat with the Comal County Clerk until:

a.

The developer of said plat has completed all roads, stormwater drainage improvements, and water distribution facilities, as applicable; and has received written notice from the county engineer that states that the roads, stormwater drainage improvements, and water distribution facilities are complete and are acceptable to Comal County; or

b. The city has received from the developer a corporate surety bond, irrevocable letter of credit, or escrow agreement, in an amount determined by the city engineer, to ensure the proper completion of roads, drainage, and water distribution facilities, as applicable, within subdivisions involving said infrastructure. The surety shall be executed by a surety company authorized to do business in the state and shall be made payable to the county judge or his successors in office, of Comal County, Texas. The condition of the bond, letter of credit or escrow agreements shall be that the owner or owners of the tract of land to be subdivided will construct the roads or streets, stormwater drainage, and water distribution facilities of such subdivision within one year. The time period for completion may be extended upon written agreement of the developer and county. The full amount of the bond or letter of credit shall remain in force until the road construction and other infrastructure is completed and roads and other infrastructure are approved and/or accepted by the county, the city shall deliver said surety to the county within ten working days of the recording of the subdivision plat.

(5) The subdivider shall allow county inspectors access to road construction sites of subdivisions within the ETJ and the city shall timely submit copies of all road materials and road construction test results to the county during road construction. City inspectors shall have inspection and approval authority over the road construction, stormwater drainage construction, and water distribution facility construction within the right-of-way and easements. The county may request that the city issue a stop-work notice if the applicable construction standards are not being met.

(6) The city shall enforce the more stringent subdivision regulations of the city and county when approving development within the ETJ.

(7) The city shall incorporate the portion of the county subdivision regulations as attachment "A" into their subdivision regulation ordinance and enforce these regulations within their ETJ in Guadalupe County.

Additional Requirements within the ETJ of the City of New Braunfels, Texas

Lot Sizes within the ETJ of the City of New Braunfels, Texas

Subdivisions requiring platting, where each lot within the proposed subdivision will be served by a Texas Commission on Environmental Quality (TCEQ) approved public water supply and will utilize individual on-site sewage facility methods for sewage disposal, shall provide individual lots having surface areas of at least 1.0 acres and meeting the city subdivision ordinance requirements and Guadalupe County's rules for on-site septic facilities.

Subdivisions requiring platting, where each lot within the proposed subdivision will not be served by a TCEQ approved public water supply and will utilize individual on-site sewage facility methods for wastewater treatment, shall provide for individual lots having surface areas of at least 1.0 acres.

(8) The city shall require the preparation of a subdivision plat for the division of property into five acre tracts or less, and in accordance with V.T.C.A., Local Government Code ch. 212.004.

(9) The city shall deliver two copies of all recorded subdivision plats within the city's ETJ to the county within ten working days of the recording of the subdivision plat.

(10) The city shall require the developer to provide a corporate surety bond, irrevocable letter of credit, or escrow agreement, in an amount determined by the city's engineer, or designee, to ensure the proper completion of roads, drainage, and water distribution facilities, as applicable, within subdivisions involving said infrastructure. The surety shall be executed by a surety company authorized to do business in the state and shall be made payable to the county judge or his successors in office, of Guadalupe County, Texas. The condition of the bond, letter of credit or escrow agreement shall be that the owner or owners of the tract of land to be subdivided will construct the roads or streets, stormwater drainage, and water distribution facilities of such subdivision within one year of plat filing. The time period for completion may be extended upon written agreement of the developer and county. The full amount of the bond or letter of credit shall remain in force until the road construction and other infrastructure is completed and roads and other infrastructure are approved and/or accepted by the county. The city shall deliver said surety to the county within ten working days of the recording of the subdivision plat.

(11) The city shall allow county inspectors unfettered access to road construction sites of subdivisions within the ETJ and the city shall timely submit copies of all road materials and road construction test results to the county during road construction. The county shall request that the city halt construction if the applicable construction standards are not being met.

(12) Unless otherwise agreed by the city or county, all curbs, sidewalks and green spaces, as platted, will be maintained by the developer or a homeowners association.

(13)

Guadalupe County thoroughfare plan. The subdivider shall dedicate right-of-way according to the Guadalupe County thoroughfare plan, if such right-of-way is greater than prescribed elsewhere in this chapter. The requirements of this paragraph are subject to a petition for relief from a dedication or construction requirement, pursuant to this chapter.

(Ord. No. 2006-84, § 1(Exh. A), 9-11-06; Ord. No. 2008-40, § 3, 6-9-08)

Sec. 118-54. - Monuments and lot markers.

(a) *Location of monuments.* Monuments shall be set at each corner of the survey boundary of the subdivision and permanent lot markers shall be placed at each lot corner. Monuments and lot markers shall be set immediately after completion of utility installations and street construction, or as the city engineer may require.

(b) *Requirements.* Monuments and lot markers shall be artificial monuments. An artificial monument considered permanent shall be construed as any mark or marker of relative permanence that if left undisturbed will remain in place for a period of at least 25 years. Monuments must be set at sufficient depth to retain a stable and distinctive location and be of sufficient size to withstand the deteriorating forces of nature. All monuments should be set in such a fashion as to remain stable against an applied force of approximately ten pounds from any direction for a duration in time of at least ten seconds. The monument material should be chosen in regard to the terrain and situation that exists at the site of monumentation. Where the view is obstructed between any two adjacent monuments, due to topographical conditions, permanent structures, or other conditions, intermediate monuments shall be so set as to assure a clear view between adjacent monuments. Lot markers shall be artificial monuments set at all angle points and at all points of curves.

(c) *Registered surveyor.* A public surveyor, registered in the state, shall certify that the monument criteria of this section have been met.

(Ord. No. 2006-84, § 1(Exh. A), 9-11-06)

Sec. 118-55. - Landscaping and maintenance.

(a) *Vegetation.* Trees and groundcover should be preserved whenever possible. Existing trees, substantial vegetation and new plantings will be allowed within the right-of-way in accordance with this section. New planting shall only be those listed in the approved plant list in the landscape section of chapter 144

(b) *Landscape features.* Subdivision entrance features, medians, median landscaping, islands, fence screening, landscaping, trees, and meandering sidewalks within the right-of-way are encouraged in locations where future street improvement, sidewalks, drainage improvements or utilities would not be located, or such landscaping or other improvements would not interfere with such utilities. Such features should be maintained by a property owner's association.

(c) *Tree location.* Trees shall be planted no closer than six feet from the street's curb or edge of a street's shoulder.

(d) *Power lines.* In no event may trees other than ornamental trees listed in the landscape section of chapter 144, be planted under or within ten lateral feet of any overhead utility wire.

(e) *Underground utilities.* In no event may trees be planted over or within five lateral feet of any underground water line, sewer line, electric line or other utility line unless written consent of utility provider(s) is obtained.

(f) *Maintenance.* It shall be the duty and the obligation of all owners and occupants of real property abutting upon a tree or tree part, including those trees or tree parts situated in the right-of-way, (excluding any median in a street), parkway, utility easement, drainage easement or other public way, to maintain, at the expense of said owner/occupant the tree or tree part in a safe condition and to trim, prune or remove any tree or tree part that is in an unsafe or hazardous condition.

(g) *Maintenance of lots/property.* After completion of construction, it shall be the responsibility of the developer and/or lot owner to clean and keep clean the lot or lots to a condition satisfactory to the fire marshal and to remove and prevent grass and/or weed growth in the paved street area.

(Ord. No. 2006-84, § 1(Exh. A), 9-11-06)

Sec. 118-56. - Closure, abandonment, and sale of public right-of-way.

(a) *Procedures.* All persons desiring to have the city council exercise its powers under Article X, Section 10.05, Home Rule Charter, regarding the abandonment or closing of public streets, alleys, or other public ways, shall file their request in writing with the planning director, in writing, directed to the planning commission. Such request shall contain a legal description, including metes and bounds, of the street, alley or public way as well as a plan or survey showing the street, alley or public way and the surrounding property within 400 feet therefrom. If the property(s) abutting the street, alley or public way is under separate ownership, the applicant shall provide with such request, together with the last known address of all such owners joining in the request and a copy of the deed of said property. Unless all owners of abutting property(s) join in the request, a statement shall be attached giving reason for nonparticipation by those who have not signed the request. The planning commission shall forwards its recommendations to the city council.

(b) *Fee.* Each request shall be accompanied by the payment of a nonrefundable application fee in the amount of $150.00 to cover the expense of administrative processing, notification, and legal publication incurred by the city.

(c) *Sale or exchange.* The city may sell or exchange the public street, alley, or other public way to be abandoned either to:

(1) Abutting property owners in the same subdivision, if the land had been subdivided; or

(2) Abutting property owners in proportion to their abutting ownership, provided that the apportionment among such abutting owners of the land to be sold or exchanged shall be made in an equitable manner.

However, nothing in this section obligates the city to complete a proposed sale or exchange.

(d) *Appraisal.* The sale or exchange price of the public street, alley, or other public way to be abandoned shall be the fair market value of the land, which price shall be conclusively determined by an appraisal obtained by the city. The applicant shall reimburse the city for the cost of the appraisal prior to consideration by the planning commission. To affect the sale or exchange, the city council shall adopt an ordinance authorizing the mayor or city manager to execute the conveyance.

(e) *Land exchange.* Any land acquired by the city in exchange for any portion of the public street, alley or other public way to be abandoned shall also be appraised at fair market value and shall be devoted to use for streets, rights-of-way or other similar public purposes after the exchange is completed. An exchange within the meaning of this section may be accomplished by simultaneous dedication of other street, alley or public right-of-way designed to provide traffic circulation meeting the requirements of the city's thoroughfare master plan or other street plan acceptable to the city. The city may also accept in exchange other land or easements, such as park land and drainage easements.

(f) *Fund established.* All payments received by the city pursuant to this section, other than administrative fees and expenses, shall be paid into a fund which is hereby established as the "street trust account" to be used for land acquisitions and improvements related to street projects in the city.

(g) *Updating plat records.* Upon the abandonment, closure or alteration of any public street, under the terms of this section, the applicant shall be required to plat or replat the affected properties so that the plat records shall accurately reflect the revised subdivision of the property.

(Ord. No. 2006-84, § 1(Exh. A), 9-11-06)

New Braunfels, Texas, Code of Ordinances >> PART II - CODE OF ORDINANCES >> Chapter 118 - PLATTING >> ARTICLE V. - PARK LAND >>

ARTICLE V. - PARK LAND

Sec. 118-57. - Purpose.
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Sec. 118-59. - Park land dedication.
Sec. 118-60. - Park land dedication acceptance criteria.
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Sec. 118-63. - Credit against park land dedication.
Sec. 118-64. - Park development fund and right to refund.
Sec. 118-65. - Approval and appeal process.
Exhibit A. - City park planning districts.
Exhibit B. - Fee calculation methodology.
Exhibit C. - City parks and recreation department neighborhood parks guidelines.

Sec. 118-57. - Purpose.

The purpose of this article is to provide adequate recreational areas and amenities in the form of neighborhood parks as a function of subdivision development in the city and to make the park land dedication and park development fee requirements an integral part of the review and approval of residential developments, whether the developments consist of new construction on previously vacant land or rebuilding and redeveloping existing residential areas.

(Ord. No. 2006-84, § 1(Exh. A), 9-11-06)

Sec. 118-58. - Applicability.

(a) This article applies to all residential development within the city's corporate boundaries and within its extraterritorial jurisdiction.

(b)

This article also does not apply to activities involving the remodeling, rehabilitation or other improvements to an existing residential structure, or to the rebuilding of a damaged structure, or to permits required for accessory uses, unless such activity results in a new dwelling.

(c) The park fee shall not be imposed on any residential development for which a completed application for a subdivision master plan had been received and accepted by the city on or before the effective date of this article.

(d) Neighborhood parks are those parks that provide a variety of outdoor, recreational facilities and within convenient distances from a majority of the residences to be served by such parks, the standards for which are set forth in exhibit C to this article.

(e) The park planning areas established by the city parks and recreation department and shown in exhibit A attached hereto, shall be prima facie evidence that any park located therein is within a convenient distance from the majority of residences to be served thereby. The cost of the neighborhood parks should be borne by the ultimate residential property owners who, by reason of the proximity of their property to such parks, shall be the primary beneficiaries of such parks.

(f) For purposes of this article, property is "served by" park facilities when funds collected for such facilities have been spent for facilities identified in the park master plan and park improvements plan, within ten years from the date of collection within the benefit area in which the property is located.

(Ord. No. 2006-84, § 1(Exh. A), 9-11-06)

Sec. 118-59. - Park land dedication.

(a) The city has adopted by council action the New Braunfels Parks, Recreation and Open Spaces Master Plan, which provides planning policy and guidance for the development of a municipal park and recreation system for the city. The plan has assessed the need for park land and park improvements to serve the citizens of the city. The plan has assessed the impact on the park and recreation system by new individual dwelling units. Park land dedication requirements and park development fee assessments are based upon the mathematical formulas and allocations set forth within this article. A summary table of the dedication and cost requirements is set forth in park land dedication table attached hereto and incorporated herein for all purposes as exhibit B to this article.

(b) When developing residential properties, the owner or developer shall be responsible for a fee simple dedication of park land at a ratio of one-one hundredth fiftieth (1/150) of an acre or 290.4 square feet of land for each proposed dwelling unit. A "dwelling unit" shall mean each individual residence, including each individual residential unit in a multi-family residential structure or manufactured home park, designed or intended for habitation by a single family. Hereinafter, all references to "the developer" shall mean both the owner and the developer jointly and severally, where the owner and developer are not the same party.

(c) Any proposed plat submitted to the city for approval shall show the area required to be dedicated under this section. All land dedicated according to this ordinance will be dedicated by warranty deed.

(d) Each corner of the park land dedication shall have an iron rod or pin set, in accordance with other lot corners in the subdivision. In the absence of a plat, the location of iron rods or pins set for corners shall be identified on a recordable land survey completed by a land surveyor registered in the state, provided to the city by the developer, and approved by the city as to form and substance.

(e) The owner or developer shall meet with the director of parks and recreation or his/her designee (hereinafter referred to the "director") to ensure compliance with the requirements in this section prior to platting. An application for plat approval shall not be approved unless it is accompanied by written review comments from the director.

(f) The city council and the city parks and recreation department generally consider that development of an area less than five acres for neighborhood park purposes may be inefficient for public maintenance. Therefore, if fewer than five acres are proposed as park land dedication, the director shall have the option to:

(1) Accept the land dedication;

(2) Require the developer to pay the applicable cash in lieu of land amount as provided in section 118-61; or

(3) Reject the land dedication and grant credit for a private park as provided in section 118-63

(g) The director, prior to plat submittal, will define the optimum location of the required park land dedication based upon the proposed park being located adjacent to current or future park land and based on the city's parks, recreation and open space master plan. If there is not an opportunity for the proposed park land dedication to be adjacent to current or future park land, then the director and the developer will work together to define an optimum location for the park land dedication. If an optimum location cannot be determined, then the director shall accept the cash in lieu of land option as outlined in section 118-61

(h) In the case of a multi-phase development, if the developer dedicates all the park land required by this ordinance in the first or early phase(s) of the development, no additional park land dedication will be required in later phases unless additional lots that are not shown in the original plat are included in the later phases of the development.

(i) Unless approved by the director, no construction materials shall be disposed of or deposited within the dedicated park land by the developer or its contractors, subcontractors, employees, or agents, at any time while the subdivision is

being built. If materials are deposited or disposed of within the park, the developer shall remove such materials within 72 hours of written notice by the city. If the developer fails to remove the materials after notice, the city may do so at the developer's expense and no building permits shall be issued for the subdivision(s) until that debt is paid to the city by the developer.

(Ord. No. 2006-84, § 1(Exh. A), 9-11-06)

Sec. 118-60. - Park land dedication acceptance criteria.

(a) Land dedicated for a park or recreational area shall be of such size, dimensions, topography, and general character as is reasonably required by the city for the type of use necessary to meet the demand and need of future residents. Recreational needs for which land is dedicated may include but not be limited to multipurpose trails, open space buffer areas, active recreation for team or individual sports, playground, picnic area, and similar uses.

(b) Rare, unique, endangered, historic or other significant natural areas will be given a high priority for dedication pursuant to this article. Areas that provide an opportunity for linkages between parks or that preserve the natural character of the surrounding environment may be required by the city to be included in the park land dedication.

(c) The city shall not accept land dedication pursuant to this ordinance if it is subject to one or more of the following disqualifications unless individually and expressly approved by the director:

(1) Land within floodplain and floodway designated areas, unless such land dedication contains an open area as part of the total park land dedication property that is topographically suitable for the installation of the park amenities as defined in exhibit C for neighborhood parks.

(2) Park land dedication sites which do not have ready access to at least 200 feet of street frontage. Preferable land will provide a 200-foot by 200-foot corner site at the intersection of two internal subdivision streets.

(3) Park land dedication sites abutted by private properties on more than two-thirds of the total boundary dimension of such site.

(4) Areas encumbered by overhead utility lines or easements of any type which might limit the opportunity for park and recreation development.

(d) The location of park land may be required at the edge of a subdivision so that additional land may be added at such time as adjacent land is subdivided or acquired for public use. Otherwise a central location is preferred.

(e) The city will not accept park land dedication sites encumbered by hazardous and or municipal waste materials or dump sites.

(f) The developer shall be responsible for certain minimum utilities as listed below at a location acceptable to the director of public works or designee. The director of public works or designee will be required to approve such location in writing prior to final approval and release of fiscal requirements of said subdivision. These requirements do not include New Braunfels Utilities connection.

(1) A three-quarter-inch metered water supply located 12 feet behind the curb.

(2) A six-inch sewer stub ten feet behind the curb.

(g) Any disturbed park land shall be restored and the soil stabilized by vegetative cover by the developer.

(h) The dedicated park land shall not exceed a 20 percent grade on more than 50 percent of the land.

(i) If a developer proposes to dedicate land for park development purposes pursuant to the terms, conditions and requirements of this article, he or she shall permit the director to make an onsite inspection of the property for the purposes of determining site suitability and identification of any visual hazards or impediments to park development and use. If the property owner has any form of environmental assessment on the tract, a copy of that assessment shall be provided to the director. The director may initiate and/or require the developer to initiate specific environmental studies or assessments if the visual inspection of the site gives rise to the belief that an environmental problem may exist on the site. The director may require the employment of those consultants necessary to evaluate any environmental issues relating to the site providing that the director makes such determination in good faith. If an environmental hazard is identified on the site, the developer must remove the hazard prior to its acceptance into the park and recreation system of the city.

(j) The intentions of this article are not to discourage the creation of parks and amenities in subdivisions that will be maintained by homeowners associations.

(Ord. No. 2006-84, § 1(Exh. A), 9-11-06)

Sec. 118-61. - Cash in lieu of land.

(a) An owner or developer responsible for park land dedication under this article may be required, at the director's option, to meet the dedication requirements in whole or in part by a cash payment in lieu of land in the amount set forth below. Such payment in lieu of land dedication shall be made prior to filing the plat for record or prior to the issuance of a building permit where a plat is not required. All funds collected pursuant to this section shall be used solely for the acquisition of park land in the park planning area in which the subdivision or development is located.

(b) In instances where land is required to be dedicated, the director shall have the right to reject the park land dedication and require a cash payment in lieu of land in the amount set forth below, if the director determines that:

(1) The park land dedication site is such a small area that it is inefficient to maintain; or

(2) Sufficient park area is already in the public domain for the park planning area where the proposed development is located, and the recreation needs of the citizens will be better served by expanding or improving existing parks in said park planning area.

(3) Development projects within the extraterritorial jurisdiction of the city are subject to the park land dedication requirements set forth within this article; however, the difficulty faced by the city in maintaining property outside the corporate limits of the city may result in the application of a fee in lieu of the land dedication requirement.

(c) The cash payment in lieu of land dedication shall be met by the payment of a fee set from time to time by city ordinance sufficient to acquire neighborhood park land. Unless and until changed by city ordinance, the cash payment shall be computed on the basis of $100.00 per dwelling unit within the proposed subdivision.

(d) A cash payment in lieu of land dedication, as set forth in this section, does not relieve the owner or developer of the obligation to pay the park development fee set forth in section 118-62. The cash payment in lieu of land dedication is in addition to the required park development fee.

(Ord. No. 2006-84, § 1(Exh. A), 9-11-06)

Sec. 118-62. - Park development fee.

(a) In addition to the required dedication of land, as set forth above and based upon the study referenced in this article, the developer or his successor shall pay a park development fee to the city as a condition to final plat approval. Developments in the extraterritorial jurisdiction shall pay the park development fee prior to the recording of the final plat at the county. The park development fee shall be set from time to time by city ordinance and shall be sufficient to provide for the development of amenities and improvements on dedicated neighborhood park land in the park quadrant in which the subdivision or development is located. Unless and until changed by city ordinance, the park development fee shall be calculated on the basis of $500.00 per dwelling unit in the subdivision.

(b) In lieu of payment of the required park development fee, the developer, with approval of the director, may have the option to construct the neighborhood park improvements. All public park improvements shall meet the minimum requirements set forth in the New Braunfels Parks, Recreation and Master Plan or amendment thereof. All development plans and specifications for the construction of said park improvements shall meet the minimum design and construction standards as provided by the city parks and recreation department, be sealed by a landscape architect registered in the state and be reviewed and approved by the director prior to construction. The developer shall financially guarantee the construction of such park improvements by providing performance and payment bonds, an irrevocable letter of credit, or other similar security that is deemed acceptable by the director prior to the recording of the plat for the subdivision. Performance and payment bonds shall name the city as dual obligee and shall cover 100 percent of the estimated construction cost of such park improvements as shown in a construction contract executed by the developer. The developer shall be required to provide a two-year maintenance bond that is equal in amount to 100 percent of the construction cost of said park improvements and a manufacturer's letter stating the main play structure and safety surface was installed in accordance with the manufacturer's installation requirements. The developer shall also provide a copy of the application and subsequent inspection report prepared by the state department of licensing and regulation or their contracted reviewer for compliance with the Architectural Barriers Act, codified as Vernon's Ann. Civ. St. art. 9102. All park improvements may be inspected by the city while construction is in progress. Once the park improvements are constructed, and after the director has accepted such improvements, the developer shall deed and convey such improvements to the city free and clear of any lien or other encumbrances.

(Ord. No. 2006-84, § 1(Exh. A), 9-11-06)

Sec. 118-63. - Credit against park land dedication.

(a) Where a substantial private park and recreational area is provided in a proposed residential subdivision and such area is to be privately owned and maintained by the future residents of the subdivision, partial credit may be given to the developer, not to exceed 50 percent of the total acreage requirements for land dedication if the city finds that it is in the public interest to do so and that all the following standards are met:

(1) That yards, court areas, setbacks and other open areas required to be maintained by the zoning and subdivision rules and regulations ordinances shall not be included in the computation of such private open space;

(2) That the private ownership and maintenance of the open space is adequately provided for by recorded agreement, covenants or restrictions;

(3) That the use of the private open space is restricted for park and recreation purposes by recorded covenant, which runs with the land in favor or future owners of the property and which cannot be defeated or eliminated without the written consent of the city or its successors;

(4) That the proposed private open space is reasonably adaptable for use for park and recreational purposes, taking into consideration such factors as size, shape, topography, geology, access and location;

(5) That facilities proposed for the private open space are in substantial accordance with the provisions of the comprehensive plan, parks and recreation plan and other adopted plans of city; and

(6) That the private open space for which credit is given is a minimum of two acres and provides a minimum of four of the local park elements listed below, or a combination of such and other recreational improvements that will meet the specific recreation park needs of the future residents of the area:

Criteria List	Credit Acres
Children's play apparatus area	.50
Landscape park-like and quiet areas	.50
Walk/hike/bike trail	.50
Family picnic area	.25
Game court area	.25
Turf playfield	.50
Swimming pool (42' × 75') [with adjacent deck and lawn areas]	.50
Recreation center building	.25
Recreation community gardening	.15

Before credit is given, the city shall make written findings that the above standards are met.

(b) Credits requested pursuant to this article will only be given for amenities that meet the minimum design and construction standards as set forth by the city parks and recreation department.

(c) A developer of a subdivision who dedicates more than the required park land requirements for that specific subdivision may receive credits for future park land dedication requirements for other subdivision developments that he may undertake at a future date in the same quadrant.

(d) A developer of a subdivision may dedicate park land that is not within the boundaries of his development and receive park land dedication credits for that subdivision. The proposed park land dedication must be approved by the director prior to the filing of the plat. The proposed park land dedication property must be in the same park planning area as the proposed subdivision, within a reasonable distance of existing or developing residential neighborhoods and meet the park land dedication criteria outlined in section 118-59

(Ord. No. 2006-84, § 1(Exh. A), 9-11-06)

Sec. 118-64. - Park development fund and right to refund.

(a) All funds collected pursuant to this ordinance shall be deposited in the city park development fund and used solely for the acquisition or leasing of park land and the development, improvement, or upgrades of new and existing parks. All expenditures shall be administered in accordance with the current purchasing requirements of the city. Funds shall not be used for the operation and maintenance of parks.

(b) The city shall account for all sums paid into the park development fund. Any monies paid into said fund must be expended by the city within ten years from the date that all the land for a neighborhood park for the subdivision has been acquired and when the subdivision(s) adjacent to that park land has been 75 percent built out. If not expended within the ten-year period, the current owners of the property shall, on the last day of such period, be entitled to a refund of the remaining fees. Said owners must submit to the city a written request for the refund within one year of the date of entitlement or the right to receive the refund will be deemed waived and the funds shall remain as property of the city and be used for the general purpose of park land acquisition, design and development as expressed in this ordinance.

(Ord. No. 2006-84, § 1(Exh. A), 9-11-06)

Sec. 118-65. - Approval and appeal process.

(a) The director shall be responsible for the review and approval of all park land dedication and park development fees submitted in accordance with the requirements of this article.

(b) Any decision made by the director may only be appealed to the city parks and recreation advisory board and must be appealed within ten working days of the director's decision.

(c) The director may defer the approval of park land dedication or park development fees to the city parks and recreation advisory for any reason.

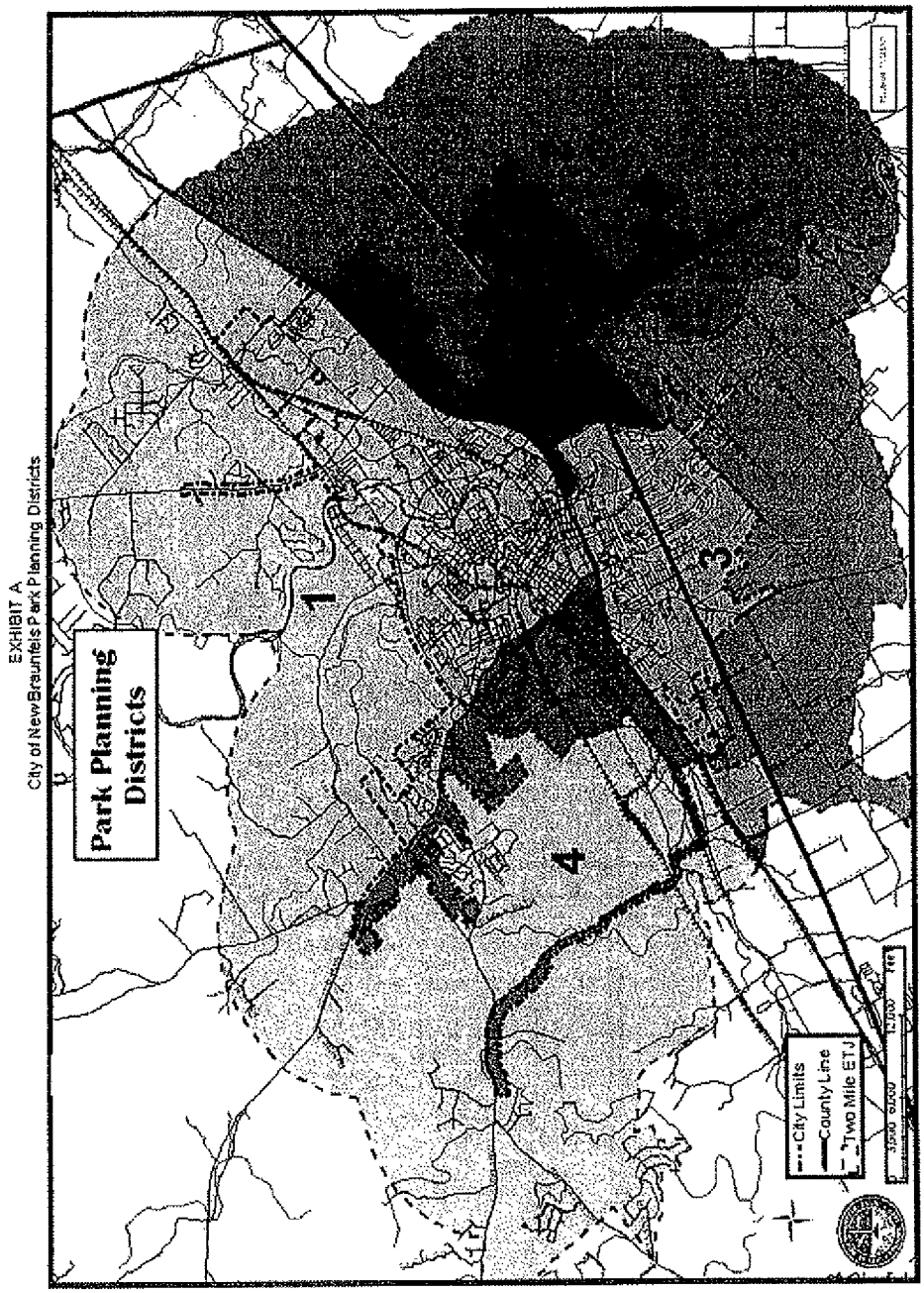
(d) Variances from the requirement of this article may be appealed to the city parks and recreation advisory board.

(e)

Any decision made by the city parks and recreation advisory board may only be appealed in writing through the city manager to the city council.

(Ord. No. 2006-84, § 1(Exh. A), 9-11-06)

Exhibit A. - City park planning districts.



City park planning districts

(Ord. No. 2006-84, § 1(Exh. A), 9-11-06)

Exhibit B. - Fee calculation methodology.

Park Land Level of Service in 2001 Citywide Parks Master Plan

Neighborhood Parks — 2.5 Acres per 1000 population

Part 1 — Land Requirements

Neighborhood Parks and Linear Parks — 2.5 Acres per 1000 population

1000/2.5 acres = 1 acre of neighborhood/linear park per every 400 residents of New Braunfels

Average household size in New Braunfels per 2000 Census — 2.60 residents per household 400 residents per acre of neighborhood park and linear park/2.60 persons per household = 153 dwelling units per acre of parkland required

Round to 150 dwelling units per acre of parkland required

Part 1A — Park Acquisition Cost (to determine fee in lieu of land)

Assumption that 1 acre of land costs $15,000 to purchase (in area that is being developed, not large agricultural tracts)

$15,000/150 dwelling units = $100 per Dwelling unit

Part 2 — Park Development Costs (to determine fee for development)

Recommended size of neighborhood parks in New Braunfels	-	5 acres minimum
Development cost per neighborhood park (5 to 10 acre size)	-	$500,000
Cost per acre of development	-	$50,000 to $100,000
Average per acre cost is $75,000 per acre		

$75,000/150 dwelling units = $500 per dwelling unit

Total Dedication Fee (with fee in lieu of land and Park Development fee) Fee in lieu of land ($100) + Park Development fee ($500) = $600

(Ord. No. 2006-84, § 1(Exh. A), 9-11-06)

Exhibit C. - City parks and recreation department neighborhood parks guidelines.

General Description.

Neighborhood parks are the basic unit of the park system. Neighborhood parks serve as the recreational and social focus of the neighborhood. Amenities center on informal active and passive recreation.

Location Criteria.

Neighborhood parks are located ¼ to ½ mile from residences. This distance should be uninterrupted by non-residential road and other physical barriers.

Size Criteria.

Neighborhood parks are generally 5—10 acres in size.

Typical Features.

Generally, neighborhood park features include play structures, court games, informal playing fields or open space, tennis courts, volleyball courts, shuffleboard, horseshoe pits, trails, and picnic area. Activities should generally accommodate 50% active and 50% passive.

(Ord. No. 2006-84, § 1(Exh. A), 9-11-06)

Chapter 130 - UTILITIES [1]

ARTICLE I. - IN GENERAL
ARTICLE II. - BOARD OF TRUSTEES
ARTICLE III. - ELECTRICAL SERVICE
ARTICLE IV. - WATER SERVICE
ARTICLE V. - SEWER SERVICE
ARTICLE VI. - WATER AND WASTEWATER CAPITAL RECOVERY FEES
ARTICLE VII. - NATURAL GAS SERVICE

FOOTNOTE(S):

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Editor's note—*Ord. No. 2002-29, § 1(Att. A), adopted July 22, 2002, amended ch. 130 in its entirety to read as herein set out. Formerly, ch. 30 pertained to similar subject matter and derived from the Code of 1961, §§ 2-41, 2-41.18—2-41.26, 18-1, 18-2, 18-4—18-14, 18-25, 18-27, 18-30—18-33, 18-44—18-48, 18-59—18-70, 24-24—24-27, 26-1, 26-2, 26-4, 26-5—26-17, 26-28—26-38, 26-49, 26-51, 26-54—26-57, 26-68—26-70, 26-74—26-76, 26A-2—26A-8, 26A-16—26A-21, 26A-51—26A-53, 26A-61—26A-63, 26A-31—26A-40; Ord. No. 93-37, adopted August 9, 1993; Ord. No. 94-33, § I, adopted August 22, 1994; Ord. No. 95-3, § I, adopted January 23, 1995; Ord. No. 95-10, §§ I(18-5), I(18-34), adopted February 27, 1995; Ord. No. 96-10, § I, adopted February 26, 1996; Ord. No. 96-11, § I, adopted March 25, 1996; Ord. No. 97-28, § I, adopted July 28, 1997; Ord. No. 98-10, § I, adopted April 13, 1998, Ord. No. 99-1, § I, adopted January 11, 1999; Ord. No. 99-5, §§ I, II, adopted January 1, 1999, Ord. No. 99-52, § I, adopted July 12, 1999; Ord. No. 99-53, §§ II, III, adopted July 12, 1999; Ord. No. 2000-34, §§ I, II, adopted September 11, 2000; Ord. No. 00-37, § I, adopted September 11, 2000; Ord. No 2000-49, § I, adopted December 11, 2000, Ord. No. 2002-02, § I, adopted January 28, 2002; Ord. No. 2002-03, § I, adopted January 28, 2002. Section 9 of Ord. No. 77-30, adopted Sept. 26, 1977, provided that: "The New Braunfels Board of Utilities, duly appointed by the City Council of the City of New Braunfels, is hereby vested with power and authority to adopt rules and regulations relating to the fixing and collecting of water and sewer deposits and fees including collection fees and fees for return of checks, special services and meter test fees, as well as rules and regulations for the methods and procedures for such collection; provided, however, that such rules and regulations must first be approved by the City Council of New Braunfels, and the same shall not conflict with the substantive rules of the Public Utilities Commission of the State of Texas, the laws of the State of Texas or the Charter of the City of New Braunfels." (Back)*

Charter reference— *Franchise and public utilities. § 11.01 et seq. (Back)*

Cross reference— *Miscellaneous actions and ordinances not affected by Code, § 1-9; administration, ch. 2; buildings and building regulations, ch. 14; plumbing code, § 14-91 et seq.; liquefied petroleum gas code, § 14-141 et seq.; cable communications, ch. 22; civil emergencies, ch. 34; fire prevention and protection, ch. 54, water distribution system for fire protection, § 54-146 et seq.; floods, ch. 58; health and sanitation, ch. 62; solid waste, ch. 110; streets, sidewalks and other public places, ch. 114, platting, ch. 118; mobile home communities, app. B. (Back)*

State Law reference— *Plumbing and sewers, V.T.C.A., Local Government Code § 214.011 et seq ; municipal utilities, Vernon's Ann. Civ. St. art. 1106 et seq., V.T.C.A., Local Government Code § 401.001 et seq.; water, V.T.C.A., Water Code § 1.001 et seq.; public utilities, Vernon's Ann. Civ. St. art. 1416 et seq.; Public Utility Regulatory Act, Vernon's Ann. Civ. St. art. 1446c; authority for municipal public services and utility systems, V.T.C.A., Local Government Code § 402.002; water quality control, V.T.C.A., Water Code § 26.001 et seq. (Back)*

ARTICLE I. - IN GENERAL

Sec. 130-1. - Definitions.
Sec. 130-2. - Scope of regulations.
Sec. 130-3. - Locality of service.
Sec. 130-4. - Contracts.
Sec. 130-5. - Billings.
Sec. 130-6. - Deposits and credit security.
Sec. 130-7. - Liability for payment of service.
Sec. 130-8. - Delinquent utility charges; lien authorized.
Sec. 130-9. - Civil and criminal remedies for violation of chapter.
Sec. 130-10. - Submetering and resale of utility services.
Sec. 130-11. - Right of entry.
Sec. 130-12. - Connection or disconnection of service.
Sec. 130-13. - Safety.
Sec. 130-14. - Damage to system.
Sec. 130-15. - Sanctions.
Sec. 130-16. - Other rules.
Sec. 130-17. - Variances and waivers.
Sec. 130-18. - Service interruptions; right to disconnect service.
Secs. 130-19—130-25. - Reserved.

Sec. 130-1. - Definitions.

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

Board or *Board of trustees* means the public utilities board created by ordinance of the city council pursuant to section 11.09 of the City Charter.

CEO means general manager/chief executive officer of New Braunfels Utilities.

City means the City of New Braunfels or any authorized employee or agent of the city acting in its behalf.

City manager means the chief administrative officer of the city, or a duly authorized representative acting on behalf of that person.

NBU means New Braunfels Utilities which is the municipal agency authorized by law to operate and manage the waterworks, sanitary sewer and electrical power systems owned by the city.

Person means any individual, corporation, partnership, municipality, trust, estate, association, institution, enterprise, governmental agency, political subdivision, the state, the United States of America, or other legal entity, or their legal representatives, agents, employees or assigns. The masculine gender shall include the feminine, and the singular shall include the plural where indicated by the context.

State means the State of Texas.

Utilities management means the NBU CEO and those employees of the utilities designated by the CEO as management personnel.

Utility service means electric, water, wastewater treatment, or other service provided by NBU.

(Ord. No. 2002-29, § 1(Att. A), 7-22-02)

Sec. 130-2. - Scope of regulations.

The following rules, regulations, policies, and rate provisions shall constitute the controlling ordinance provisions relative to the NBU systems.

(Ord. No. 2002-29, § 1(Att. A), 7-22-02)

Sec. 130-3. - Locality of service.

The following rules, regulations, policies, and rate provisions shall be applicable in all locations within the designated and approved service area of the NBU electric, water, and wastewater systems, unless specifically noted otherwise.

(Ord. No. 2002-29, § 1(Att. A), 7-22-02)

Sec. 130-4. - Contracts.

(a) All customers desiring utility service shall make proper application for such service in accordance with the NBU Service Conditions Policy. Such application upon execution by the customer and the NBU management, shall constitute a contract and shall specify the conditions of sale of utility service to the customer.

(b) No utility service shall be extended or supplied until such proper application and other service prerequisites have been made and have been accepted by NBU.

(c) Utility service shall be on a month to month basis, unless otherwise specified by contract, with service continuous from the date of the initial connection until proper notice of discontinuance is given by the customer to NBU or service is otherwise terminated under the provisions of this chapter or under the terms of such contract.

(d) All contracts between NBU and utility customers shall be expressly made subject to the Charter and this Code; and in the event of any conflict between a provision of any contract and the provisions of the Charter or this Code, the applicable Charter or Code provision shall prevail.

(Ord. No. 2002-29, § 1(Att. A), 7-22-02)

Sec. 130-5. - Billings.

(a) NBU shall periodically determine the consumption or usage of utility services by each of its customers and render a bill for services no less frequently than monthly. The bill may reflect averaged, estimated, and/or annualized utility services consumed but billed on a monthly basis in accordance with the NBU Service Conditions Policy as then in effect. If the amount due shown on the billing statement is not paid by the due date, the customer will be subject to late

charges as specified in the credit requirements section of the NBU Service Conditions Policy as then in effect. The total amount due by the customer, including late charges, and the last day for payment of such amount, will be shown on the billing statement. If the customer fails to pay the full amount due by the last date for payment shown on the billing statement, the customer will be subject to disconnection of service. Reconnection fees or processing fees incurred shall be charged as prescribed by NBU Service Conditions Policy as then in effect.

(b) When a payment due date falls on a Saturday or Sunday, or an official NBU holiday, the first business day following such weekend or holiday shall be deemed to be the payment due date. All bills will be considered rendered when mailed to customers by NBU and the failure to receive or a delay in receipt of a bill by any customer will not relieve the customer of the duty and necessity of timely paying the bill. Payment for service is only effective when actually received by NBU.

(c) The customer of record to which utility service is furnished shall cooperate with NBU by promptly giving notice when the property becomes vacant. The customer of record shall be liable for payment of all utility service to the property until such time as notice is received and service is disconnected or transferred.

(d) No free utility service or service discounts shall be allowed to any person, firm, corporation, association, or governmental entity, except as provided by applicable law or otherwise in this section. NBU shall have the authority and discretion to waive some or all charges for service in the event of catastrophic or other extraordinary circumstance which in its judgment justifies such waiver.

(Ord. No. 2002-29, § 1(Att. A), 7-22-02)

Sec. 130-6. - Deposits and credit security.

Any customer desiring utility service shall make application therefore to NBU, and shall meet the deposit and/or credit conditions as detailed in the NBU Service Conditions Policy as then in effect. Deposit and credit requirements as established in the Policy, are designed to manage the risk incurred by NBU in providing utility services to its customers. The policies as established by NBU are to be non-discriminatory and designed in such a manner as to protect the public assets of the utility.

(Ord. No. 2002-29, § 1(Att. A), 7-22-02)

Sec. 130-7. - Liability for payment of service.

(a) As used in this chapter, customer of record refers to the person or entity who executes the application for utility services.

(b) The customer of record has primary personal liability for payment for utility services provided under this chapter. Nevertheless, if service is provided to property:

(1) Owned by a person or entity jointly with the customer of record; or

(2) Managed or operated by the customer of record for the owner or owners of the property, the owner or owners of the property shall not be treated as new customers, but shall remain jointly and severally liable with the customer of record for unpaid delinquent charges.

If the customer of record is an entity or does business under an assumed name, all principals of the customer of record, as defined in the NBU Service Conditions Policy as then in effect, shall be jointly and severally liable for unpaid delinquent charges. NBU may refuse or discontinue service to any property for which any person obligated to pay delinquent charges is receiving or applying for service until all delinquent charges are paid, regardless of the particular property to which the delinquent charges relate.

(c) Spouses receiving service to premises they jointly own or occupy are deemed to be joint customers of record, not withstanding that only one spouse may have signed an application, and shall be jointly and severally liable as provided by law for unpaid delinquent charges incurred by the other spouse even if the other spouse did not receive the benefit of the services.

(Ord. No. 2002-29, § 1(Att. A), 7-22-02)

Sec. 130-8. - Delinquent utility charges: lien authorized.

(a) *Authorization to create lien.* The city is authorized, pursuant to Article XI, Section 5 of the Texas Constitution (Home Rule), together with V.T.C.A., Local Government Code § 51.072 and 402.0025, to impose liens upon property for the purpose of securing payment of delinquent charges incurred as a result of utility service to such property. The city council has determined that utility services benefit the occupants of property served, the owners of property served, and the property served. If charges for utility service amounting to $25.00 or more incurred by the owner of the property served remain unpaid for 90 days and the CEO of NBU or designee complies with the filing procedures specified in subsections (b) and (c) of this section, such customer's charges, together with applicable delinquency and late charges, shall be a lien against the real property for which NBU provided utility service.

(b)

Procedures relating to filing of liens. A lien for delinquent and utility service charges may be filed anytime after the conditions specified in subsection (a) of this section occur.

(1) The form of lien shall be promulgated by NBU's CEO and approved by its legal counsel. The form shall contain:
   a. A statement indicating the purpose of the lien;
   b. The address of the property which is the subject of the lien;
   c. A complete legal description of the property which is the subject of the lien;
   d. The amount of delinquent charges incurred upon the property as of the date of execution of the lien including penalties, interest, and collection costs if any; and
   e. The NBU customer account number for the delinquent charges.

(2) Each lien that is filed shall be executed by the CEO of NBU or designee and acknowledged by a notary public of the state and filed in the deed or lien records of the county in which the property is located.

Should additional delinquent charges be incurred subsequent to the date of the original lien, additional liens may be executed and filed, in the form provided under subsection (b)(1), above, fixing the additional delinquent charges.

(3) NBU may file suit to judicially foreclose the lien or liens in a state court of competent jurisdiction.

(4) When all delinquent charges which existed against the property have been fully paid, NBU's CEO or designee is authorized to execute a release of the lien. The release shall be prepared by counsel for NBU and shall be duly acknowledged. After execution, the release shall be made available to the customer so that the customer may record such release in the deed or lien records of the county in which the property is located.

(5) No utility services shall be provided to property encumbered by a lien filed pursuant to this section, provided, however, NBU shall be authorized to reconnect utility services if the customer or owner agrees in writing to pay the accrued delinquent utility charges for such property together with all costs incurred by NBU in accordance with a payment schedule acceptable to the CEO of NBU and applicable reconnection fees.

(6) This section is cumulative of any other remedies, methods of collection, or security available to the city under the Charter and ordinances of the city or under state law. This section does not effect the authority of NBU to refuse or to furnish service when delinquent charges exist.

(7) The lien authorized by this section is superior to all other liens except a bona fide mortgage lien recorded prior to the recording of NBU's lien in the deed or lien records of the county in which the property is located.

(8) The debt for which the lien is created shall bear 10 percent per annum interest, NBU shall add to the charges for which any lien is filed pursuant to this section the amount of the filing fee charged by the county clerk for filing that lien and an administrative expense cost of $75.00.

(c) *Notice of lien.* At least seven days prior to recording of a lien for delinquent utility charges, NBU shall send notice that a lien will be recorded on the subject property, in accordance with law. The notice shall provide a means by which the charges constituting the lien may be paid or disputed. The notice must be mailed by prepaid certified mail, return receipt requested, and sent to the customer in whose name the account for service at the property exists.

(1) The customer or owner may file a written protest concerning the lien for any of the following reasons:
   a. The charges assessed are not owed to NBU;
   b. The charges assessed are for utility service at a site other than the property described in the notice;
   c. The property to be subject to the lien is exempt as a homestead under the State Constitution; or
   d. The charges incurred are for services connected in a tenant's name and the property in question is rental property.

In the event of any such protest, the CEO of NBU or designee shall determine the validity of such protest.

(2) Absence of receipt of notice required under this section by customer or owner does not affect the enforceability of the lien or NBU's right to record the lien.

(d) *Rental property.* The owner of any property whose property is rented to a tenant and which tenant carries NBU's utility service in the tenant's name, unless otherwise obligated by law or other provision of this section, shall not be liable for the payment of delinquent utility service charges for service to that property incurred by the tenant, and the property shall not be subject to the lien provisions of this section.

(Ord. No. 2002-29, § 1(Att. A), 7-22-02)

Sec. 130-9. - Civil and criminal remedies for violation of chapter.

The city by and through NBU's board of trustees, may pursue all civil and criminal remedies to which it is entitled under authority of statutes and ordinances against a person or corporation violating the rules, regulations, policies, and provisions of this chapter. If such violator shall be a corporation, any officer, manager, agent, or employee thereof committing the violation shall also be severally liable for the penalties provided.

(Ord. No. 2002-29, § 1(Att. A), 7-22-02)

Sec. 130-10. - Submetering and resale of utility services.

It shall be unlawful for any person, firm, corporation, association, or governmental agency to submeter and resell utility services for a profit as delivered by NBU to any entity.

(Ord. No. 2002-29, § 1(Att. A), 7-22-02)

Sec. 130-11. - Right of entry.

Duly authorized representatives and/or agents of NBU shall have the right at all reasonable times to enter any premises or building to examine utility equipment and fixtures and the manner in which such equipment and fixtures are used and to read or test metering equipment. In the event an agent or representative is refused the right to make such examinations, NBU may disconnect utility services for such premises or building. Customer will admit NBU on customer's premises to perform any other activities necessary to provide utility service, including tree trimming and tree removal where such trees in the opinion of NBU constitute a hazard to utility personnel or facilities, or jeopardize the provision of continuous electric service.

(Ord. No. 2002-29, § 1(Att. A), 7-22-02)

Sec. 130-12. - Connection or disconnection of service.

It shall be unlawful for any person other than an authorized employee or agent of NBU to connect or disconnect any structure, apparatus, equipment, or facility designed to receive utility service to or from NBU electric, water, or wastewater systems.

(Ord. No. 2002-29, § 1(Att. A), 7-22-02)

Sec. 130-13. - Safety.

NBU reserves the right at any time to disconnect utility service to the customer in order to upgrade equipment, perform maintenance, restore power, and resolve emergency conditions on the system. No posters, banners, placards, signs, light fixtures, radio or television antennas, basketball backboards, fences, structures, electrical conductor not owned by NBU or any other type of foreign object may be attached to or installed on the utility poles, property or equipment. NBU may remove any foreign objects and/or equipment from NBU's property and equipment without notice and without liability to the owner of said foreign object. Such individuals will be subject to fees and penalties as specified by applicable city ordinance.

(Ord. No. 2002-29, § 1(Att. A), 7-22-02)

Sec. 130-14. - Damage to system.

It shall be unlawful for any person, firm, corporation, or governmental entity to damage or tamper with any property of NBU. Any person who damages any property belonging to NBU, regardless of fault or cause, shall be subject to applicable tampering fees as provided in the NBU Service Conditions Policy as then in effect and shall reimburse NBU for its actual damages, including incidental expenses resulting from such damages, within 30 days of receipt of a statement therefore. Customer's shall use reasonable diligence to protect NBU personnel and facilities on customer's premises. In the event of loss of, or damage to NBU facilities on customer's premises caused by or arising out of carelessness, neglect, or misuse by customer or unauthorized persons, NBU may require customer to reimburse NBU for the full cost of such damage.

(Ord. No. 2002-29, § 1(Att. A), 7-22-02)

Sec. 130-15. - Sanctions.

In addition to sanctions provided by this chapter for failure to pay any rates, charges or fees provided in this chapter, NBU is entitled to impose sanctions provided for by other ordinances of the city. NBU shall be authorized to immediately disconnect service to any address where meter tampering or other activity deemed unlawful by this chapter has occurred, or where a customer fails to reimburse NBU for damages to property and such disconnection is not otherwise prohibited by law.

(Ord. No. 2002-29, § 1(Att. A), 7-22-02)

Sec. 130-16. - Other rules.

The board of trustees of NBU reserves the right to make such other rules and regulations, policies, and provisions as may be necessary for the preservation, protection, and economical administration of the utility systems.

(Ord. No. 2002-29, § 1(Att. A), 7-22-02)

Sec. 130-17. - Variances and waivers.

NBU shall have the authority to vary or waive any deposit, deposit condition, imposition and amount of late charges, time for payment of amounts due, and such other ordinance requirements, except rates, when in its opinion, equity, business judgment or community interest justify such variance or waiver.

(Ord. No. 2002-29, § 1(Att. A), 7-22-02)

Sec. 130-18. - Service interruptions; right to disconnect service.

Service interruptions may occur. NBU shall make reasonable efforts to prevent service interruptions, and when they do occur shall reestablish service as soon as is practicable. NBU may interrupt service in the event of national emergency or local disaster. NBU may also disconnect service as necessary, without liability, for maintenance, repairs, construction, moving of buildings or oversized objects, relocation or changes of facilities, to prevent or alleviate an emergency which may disrupt operation of all or any portion of the NBU utility systems, to lessen or remove risk of harm to life or property, and to aid in the restoration of utility service. Investigation of service interruptions and irregularities normally terminates at the point of utility service delivery. NBU shall not be obligated to inspect customer's service delivery equipment.

(Ord. No. 2002-29, § 1(Att. A), 7-22-02)

Secs. 130-19—130-25. - Reserved.

ARTICLE II. - BOARD OF TRUSTEES [2]

Sec. 130-26. - Composition and term of office.
Sec. 130-27. - Organization and authority.
Sec. 130-28. - Insurance.
Sec. 130-29. - Employment of general manager, chief executive officer (CEO) and attorney.
Sec. 130-30. - Compensation of members, exception.
Sec. 130-31. - Duties.
Sec. 130-32. - Liability of members.
Sec. 130-33. - Fiscal year; creating special funds, use of surplus funds.
Sec. 130-34. - Investigation by city council.
Secs. 130-35—130-55. - Reserved.

Sec. 130-26. - Composition and term of office.

(a) Pursuant to authority contained in V.T.C.A., Government Code, § 1502.070, and by the Charter of the city, the complete management and control of the city's waterworks, sanitary sewer and electric light systems shall be through a board of trustees, to consist of five citizens, one of whom shall be the mayor, permanently residing in New Braunfels, Comal County, Texas, to be known as the board of trustees of the New Braunfels Waterworks, Sanitary Sewer and Electric Light Systems, and referred to as the board of trustees, New Braunfels Utilities, in which name such board of trustees shall act and transact business, and referred to in this chapter as the "board of trustees" or "board."

(b) All members of the board of trustees, except the mayor, shall be appointed by the city council to serve for five-year terms of office; with such term of office to commence on November 1; provided that vacancies in office for any reason other than the expiration of a trustee's term of office shall be filled only for the unexpired term of the office vacant.

(c) Any member of the board of trustees whose term of office has expired shall continue to serve as a member of the board until their successor in office has been appointed. Appointments to the board of trustees resulting from the expiration of a member's term of office shall be made by the city council at its first regular meeting in October each year in which the term of office to be filled shall expire, or as soon as possible thereafter. All vacancies in membership on the board of trustees, other than the mayor, whether occasioned by failure or refusal of any person named to such board to accept appointment, or by expiration of the term of office or otherwise, shall be filled by the majority vote of the city council. No person who is related within the second degree of consanguinity or affinity to any member of the city council shall be eligible to membership on the board.

(Ord. No. 2002-29, § 1(Att. A), 7-22-02)

Sec. 130-27. - Organization and authority.

The members of the board of trustees shall continue to organize their body by the election of one of the board members as president and another as vice-president. The board of trustees shall also appoint a secretary who may or may not be a member of the board, as the board may elect. The board of trustees may make such resolutions and bylaws for the orderly handling of its affairs and the governing of its own procedure, and shall thereafter manage and operate the systems with the same freedom and in the same manner as is ordinarily enjoyed and followed by the board or directors of a private corporation operating properties of a similar nature; provided, however, that nothing in this section shall be construed to take away from the city council the exercise of all duties imposed upon such governing body under the provisions of the other sections of this article and/or the Charter of the city. A majority of the trustees shall constitute a quorum for the transaction of business at any meeting. Any member of the board of trustees, other than the mayor, who shall be continuously absent from all meetings of the board for a period of four consecutive months shall, unless granted a leave of absence by the unanimous vote of the remaining members of the board, be considered to have vacated their office. Any member of the board of trustees, other than the mayor, may be removed by action of the city council for adequate cause.

(Ord. No. 2002-29, § 1(Att. A), 7-22-02)

Sec. 130-28. - Insurance.

The board of trustees shall obtain and keep continuously in force a fidelity and indemnity bond of the so-called "blanket" type, covering both members of the board of trustees and any employees who are charged with the handling of any funds, securities and/or materials owned by NBU, written by a solvent and recognized indemnity company and covering such members, officers and employees in an amount of not less than $5,000.00 per person, the premiums for such bonds to be paid out of the waterworks, sanitary sewer and electric light systems funds as part of the operating expenses of such systems.

(Ord. No. 2002-29, § 1(Att. A), 7-22-02)

Sec. 130-29. - Employment of general manager, chief executive officer (CEO) and attorney.

The board of trustees shall appoint a CEO of the systems and an attorney or attorneys. The CEO shall appoint all employees. No contracts of tenure shall be given to any employee.

(Ord. No. 2002-29, § 1(Att. A), 7-22-02)

Sec. 130-30. - Compensation of members; exception.

The members of the board of trustees, excluding the mayor, shall receive an annual compensation of not less than $1,200.00, and such compensation may be increased from time to time by the city council as it is deemed advisable, subject to the limitations set out in the Charter of the city.

(Ord. No. 2002-29, § 1(Att. A), 7-22-02)

Sec. 130-31. - Duties.

Subject to the provisions and restrictions contained in this article, and as set forth in bond ordinances, which can only be issued by the city, and the provisions of the City Charter, all of the provisions and covenants of which shall be binding upon the board of trustees in like manner as they would have been binding on the city council had operation of the systems been retained by the city council, the board of trustees shall have complete authority and control of the management and operation of the waterworks, sanitary sewer and electric light systems; and among the powers that may be exercised by the board of trustees, but not limited thereto, the same are hereby enumerated for greater certainty:

(1) To take, have and exercise exclusive possession and control of such waterworks, sanitary sewer and electric light systems, and all additions thereto, and to collect, and enforce the collection of, all funds and revenues that may be or become owing or that may arise out of the operation of such systems, and to disburse the same in accordance with the provisions of this article, and in the manner provided by V.T.C.A., Government Code, §§ 1502.070 and 1502.071;

(2) To maintain, improve, enlarge and extend such waterworks, sanitary sewer and electric light systems;

(3) To fix all rates for all services to be furnished by such systems, with the power to alter such rates at any time, subject to approval of the city council, as set out in section 11.12 of the charter;

(4) To employ and pay the compensation of a CEO of the systems, and attorneys, engineers and other professional or technical aids as the board of trustees may deem necessary in the proper conduct of its business;

(5) To adopt, alter, amend and enforce all such rules and regulations governing the conduct of the business of such systems as the board of trustees may deem necessary or proper; and

(6) To do any and all things necessary in reference to the installing and maintaining of a complete system of records and accounts pertaining to such systems and to make the monies available for the payment of such revenue bonds in the manner provided by V.T.C.A., Government Code, § 1502.057.

(Ord. No. 2002-29, § 1(Att. A), 7-22-02)

Sec. 130-32. - Liability of members.

(a) The members of the board of trustees, either singly or collectively, shall not be personally liable for any act or omission not willfully fraudulent or mala fide on their part. If any act or omission, willfully fraudulent or mala fide on the part of any employee, is investigated by the board of trustees, a report of such investigation shall be immediately provided to the city council by the mayor.

(b) Complying with the city Charter, any member of the board of trustees who has a substantial financial interest, direct or indirect, or by reason of ownership of stock in any corporation, in any contract with the board or in the sale of any land, material, supplies or services to the board or to a contractor supplying the board, shall make known that interest to the board of trustees and refrain from voting upon or otherwise participating in their capacity as a board member in the making of such sale or in the making or performance of such contract. Any board member who conceals such substantial financial interest or violates the requirements of this subsection shall be guilty of malfeasance in office or position and shall forfeit their office or position. Violation of this subsection with the knowledge express or implied of the person or corporation contracting with or making sale to the board of trustees shall render the contract or sale voidable by the board. Where ownership or stock in a corporation is involved, such stock ownership in an amount in excess of one percent of the stock of such corporation shall constitute substantial interest.

(Ord. No. 2002-29, § 1(Att. A), 7-22-02)

Sec. 130-33. - Fiscal year; creating special funds; use of surplus funds.

The systems shall be operated on the basis of a fiscal year commencing on August 1 of each year and ending on July 31 of the following year, and the city covenants and agrees that as received, all revenues and income of every nature derived from the operation of its waterworks, sanitary sewer and electric light systems shall be deposited from day to day into accounts designated as utility system funds, kept separate and apart from all other funds or accounts, and such system funds shall be pledged, appropriated and used for the following purposes, and in the order of precedence shown, all in accordance with the laws of the state, the ordinances of the city and all current and future utility system revenue bond ordinances, as follows:

(1) *First.* Payment of the necessary and reasonable expense of operating and maintaining the systems, including salaries, labor, materials, interest, repairs and extensions necessary to render efficient service. Repairs and extensions referred to in this section shall include only such as are found by the board of trustees to be necessary to keep the systems in operation and render efficient service, or necessary to remedy some physical defect which would otherwise impair the security of any bonds authorized and issued.

(2) *Second.* Payment to those funds required by bond ordinances previously adopted and as may be adopted in the future.

(3) *Third.* All revenues of the systems remaining after the above requirements of this section have been satisfied (including any increased payments into the aforesaid interest and sinking fund, reserve fund and contingencies fund, as may be necessary by reason of the issuance of additional parity bonds in the future under the provisions of this section) and after all deficiencies existing in such requirements have been remedied, may be used either for retiring in advance of maturity bonds issued hereunder, previously issued bonds, or additional bonds issued on a parity therewith according to the provisions made for their prior redemption, or may be used to purchase bonds on the open market at not exceeding the market value thereof. All bonds so paid, redeemed, or purchased shall be canceled and shall not be reissued. It is further provided that all revenues of the systems remaining at the close of any fiscal year, after the requirements of the bonds herein authorized, the previously issued bonds, or additional parity bonds hereafter legally authorized have been completely satisfied in accordance with the provisions of the ordinances authorizing such bonds, may be transferred to the city's general fund as permitted by V.T.C.A., Government Code, § 1502.059.

(Ord. No. 2002-29, § 1(Att. A), 7-22-02)

Sec. 130-34. - Investigation by city council.

As provided in the city Charter, the city council shall have power to inquire into the conduct of the board of trustees, NBU, or any office, department, agency, officer or employee of the board of trustees, and to make investigations as to the affairs of the board, and for that purpose may subpoena witnesses, administer oaths and compel the production of books,

papers or other evidence as ordered under the provision of this section. Any violation of this article shall constitute a misdemeanor and shall be punishable by a fine as provided in section 3.12 of the city Charter and/or cancellation of a faithful performance bond.

(Ord. No. 2002-29, § 1(Att. A), 7-22-02)

Secs. 130-35—130-55. - Reserved.

FOOTNOTE(S):

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Cross reference— *Administration, ch. 2* *(Back)*

New Braunfels, Texas, Code of Ordinances >> PART II - CODE OF ORDINANCES >> Chapter 130 - UTILITIES >> ARTICLE III. - ELECTRICAL SERVICE >>

ARTICLE III. - ELECTRICAL SERVICE

DIVISION 1. - RATES
DIVISION 2. - RULES; POLICIES

New Braunfels, Texas, Code of Ordinances >> PART II - CODE OF ORDINANCES >> Chapter 130 - UTILITIES >> ARTICLE III. - ELECTRICAL SERVICE >> DIVISION 1. - RATES >>

DIVISION 1. - RATES [3]

Sec. 130-56. - Electric rates.
Sec. 130-57. - Power factor penalty.
Sec. 130-58. - Billing adjustments.
Secs. 130-59—130-77. - Reserved.

Sec. 130-56. - Electric rates.

(a) Service rate classifications. All electric service supplied by NBU shall be designated by the following classifications with descriptions, rates and conditions of sale as indicated further in this article:
- (1) Residential (RE);
- (2) Small general service (SGS);
- (3) Large general service (LGS);
- (4) Very large power-distribution (VLP-D);
- (5) Interruptible (IRT);
- (6) Experimental electric rate (EER);
- (7) Lighting athletic fields (LAF);
- (8) Area lighting rate (AL);
- (9) Second feeder service (SFS);
- (10) Net metering (NM); and
- (11) Interstate highway lighting rate (HL).

(b) Upon application for service, NBU shall make the initial determination of the customer's service rate classification, which classification is subject to change in accordance with the provisions of this article.

(c) Residential service rate (RE).
- (1) *Availability.* The residential rate (RE) is available in the electric service area of NBU under the rules, regulations, and policies as provided for in this article, at the rates set forth in this section.
- (2) *Applicability.* The residential rate is applicable for electric service used solely for residential purposes, and related activities, consisting of service to single-family dwellings or individually metered multifamily dwellings. Where two residential units are billed through one meter, the customer charge shall be doubled. Where more than two residential units or apartments are billed through one meter, the applicable general service rate shall be used.

  This rate shall not be applicable for service to a residence also used for nonresidential purposes, including but not limited to boardinghouses, barbershops, beauty shops, general contractors, storing equipment or building

materials on the property, child care centers, retail businesses, restaurants, technical repair services, professional services offered to the public on the premises, and other similar nonresidential activities. If the wiring is so arranged that the service for residential purposes and that for commercial purposes are separately metered, this rate is applicable to the service supplied for residential purposes.

(3) *Service conditions.* The service furnished under this section shall be nominal 120/240 volt single-phase, 60-hertz, three-wire. Other service voltages may, under certain specific conditions, be furnished with the approval of the CEO.

(4) *Monthly rates.* Monthly residential service rates are as follows:

a. Customer charge, per month $14.50

b. Delivery charge, per kWh 0.0127

c. Cost of power charge:

October—May billing period, per kWh 0.0452

June—September billing period, per kWh 0.0552

d. Minimum monthly bill. The minimum monthly bill shall be the customer charge plus any special charges or adjustments.

(d) Small general service rate (SGS).

(1) *Availability.* The small general service rate (SGS) is available in the electric service area of NBU under the rules, regulations, and policies as provided for in this article, at the rates set forth in this section.

(2) *Applicability.* The small general service rate is applicable for electric service to all nonresidential establishments, or where a residence is also used for nonresidential purposes and billed through one meter, or where the nonresidential part of a residence is separately metered from the part solely residential, or where three or more residential units are billed through one meter, and use does not exceed 25 kilowatt demand.

(3) *Service conditions.* The service furnished under this section shall be nominal 120/240 volt single-phase, 60-hertz, three-wire; or 120/208 volt three-phase, 60-hertz, four-wire; or 120/240 volt three-phase, 60-hertz, three-wire or four-wire; or 277/480 volt three-phase, 60-hertz, four-wire.

(4) *Monthly rates.* Monthly rates for small general service are as follows:

a. Customer charge, per month $20.00

b. Delivery charge, per kWh 0.0070

c. Cost of power charge:

October—May billing period, per kWh 0.0452

June—September billing period, per kWh 0.0552

d. Minimum monthly bill. The minimum monthly bill shall be the customer charge plus any special charges or adjustments.

(5) *Determination of metered kW demand.* The customer's kW demand may be measured when the customer's monthly energy consumption exceeds 3,000 kilowatt hours, and/or where customer's total connected load exceeds 25 kilowatts in motors and other inductive-type equipment. Measurement shall be by maximum 15-minute demand. If after measurement it is determined that the customer's monthly demand has exceeded 25 kilowatts, the customer shall be charged for kW billing demand under the appropriate rate class schedule.

(6) *Discounts.* To the extent a discount is offered by the Lower Colorado River Authority (LCRA) for certain customers or customer types, such discount may be passed through to each customer or customer type at the discretion of the NBU board of trustees.

(e) Large general service rate (LGS).

(1) *Availability.* The large general service rate (LGS) is available in the electric service area of NBU under the rules, regulations, and policies as provided for in this article, at the rates set forth in this section.

(2) *Applicability.* The large general service rate is applicable for electric service to all nonresidential establishments, or where a residence is also used for nonresidential purposes and billed through one meter, or where the part of a residence is separately metered from the part solely residential, or where three or more residential units are billed through one meter, and use exceeds a maximum 15-minute measured demand of 25 kilowatts during two billing periods for the June through September billing periods or for any four billing periods over a 12-month period, but does not exceed an estimated or measured 1,000 kilowatt, maximum 15-minute measured demand during two billing periods.

When a customer is reclassified to the LGS rate from another rate schedule, the customer may not change to another rate within a 12-month period unless there is a substantial change in the character or conditions of service. A customer may request reclassification to another rate only after fulfilling all obligations of this rate.

(3) *Service conditions.* The service furnished under this section shall be nominal 120/240 volt single-phase, 60-hertz, three-wire; or 120/208 volt three-phase, 60-hertz, four-wire; 120/240 volt three-phase, 60-hertz, three-

wire or four-wire; or 277/480 volt, three-phase, 60-hertz, four-wire; or 7200/12470 volt, three-phase, 60-hertz, four-wire.

(4) *Monthly rate.* The monthly rates for large general service are as follows:

a. Customer charge: $30.00—3,750.00 per month determined by installed kVA aggregated per customer as follows:

Greater than 12,999 kVA, per month $3,750.00
Less than 13,000 kVA and greater than 7,999 kVA, per month 3,000.00
Less than 8,000 kVA and greater than 3,999 kVA, per month 2,250.00
Less than 4,000 kVA and greater than 2,999 kVA, per month 1,500.00
Less than 3,000 kVA and greater than 1,999 kVA, per month 1,000.00
Less than 2,000 kVA and greater than 1,499 kVA, per month 500.00
Less than 1,500 kVA and greater than 750 kVA, per month 300.00
Less than 751 kVA and greater than 500 kVA, per month 225.00
Less than 501 kVA and greater than 300 kVA, per month 175.00
Less than 301 kVA and greater than 150 kVA, per month 100.00
Less than 151 kVA, per month 30.00

b. Delivery demand charge: $4.40 per kW billing demand per month

c. Cost of power charge:

October—May billing period, per kWh 0.0400
June—September billing period, per kWh 0.0500
Power supply demand charge, per kW billing demand per month 1.15

d. Minimum monthly bill. The minimum monthly bill shall be the customer charge plus any special charges or adjustments.

(5) *Determination of billing kW demand.* The billing kW demand shall be the highest measured kW demand established in any 15-minute demand interval during the current month.

(6) *Discounts.* To the extent a discount is offered by the LCRA for certain customers or customer types, such discount may be passed through to each customer or customer type at the discretion of the NBU Board of Trustees.

(f) Very large power distribution rate (VLP-D).

(1) *Availability.* Very large power-distribution service (VLP-D) shall be available, as approved by the board of trustees, in the electric service area of NBU under the rules, regulations, and policies as provided for in this article, at the rates set forth in this section.

(2) *Applicability.* The very large power-distribution rate is applicable for electric service when the measured kW demand exceeds 1,000 kilowatts during a 15-minute demand interval during two billing periods over a 12-month period.

(3) *Service conditions.* The service furnished under this section shall be nominal 277/480 volt, three-phase, 60-hertz, four-wire; or 7200/12470 volt, three-phase, 60-hertz, four-wire.

(4) *Monthly rate.* The monthly rates for very large power-distribution service are as follows:

a. Customer charge: $30.00—3,750.00 per month determined by installed kVA aggregated per customer as follows:

Greater than 12,999 kVA, per month $3,750.00
Less than 13,000 kVA and greater than 7,999 kVA, per month 3,000.00
Less than 8,000 kVA and greater than 3,999 kVA, per month 2,250.00
Less than 4,000 kVA and greater than 2,999 kVA, per month 1,500.00
Less than 3,000 kVA and greater than 1,999 kVA, per month 1,000.00
Less than 2,000 kVA and greater than 1,499 kVA, per month 500.00
Less than 1,500 kVA and greater than 750 kVA, per month 300.00
Less than 751 kVA and greater than 500 kVA, per month 225.00
Less than 501 kVA and greater than 300 kVA, per month 175.00
Less than 301 kVA and greater than 150 kVA, per month 100.00
Less than 151 kVA, per month 30.00

b. Delivery demand charge: $2.70 per kW billing demand per month

c. Cost of power charge:

October—May billing period, per kWh 0.0400
June—September billing period, per kWh 0.0500

Power supply demand charge per KW billing demand, per month 1.15

d. Minimum monthly bill. The minimum monthly bill shall be the customer charge plus any special charges or adjustments. The minimum monthly bill will not include the power factor penalty for the first six months to any new customer to this rate class.

(5) *Determination of billing kW demand.* The kW billing demand shall be the highest measured kW demand established in any 15-minute period during the current month or 75 percent of the highest 15-minute kW demand in any of the preceding 11 months, but not less than 1,000 kW.

(6) *Discounts.* To the extent a discount is offered by the Lower Colorado River Authority (LCRA) for certain customers or customer types, such discount may be passed through to each customer or customer type at the discretion of the NBU board of trustees.

(g) Interruptible rate (IRT).

(1) *Availability.* Interruptible rate (IRT) shall be available, as approved by the board of trustees, in the electric service area of the New Braunfels Utilities under the rules, regulations, and policies as established by New Braunfels Utilities, which are subject to change from time to time, and as provided for in this article, at the rates set forth in this section.

(2) *Applicability.* The interruptible service is applicable only for electric service to customers which require transmission level service at each specifically identified individual service location and which meet all of the service conditions provided in this article.

(3) *Service conditions.*

a. The availability of this rate to a customer is subject to the approval of the LCRA. This rate is available only if a supplement agreement for firm and interruptible electric service between New Braunfels Utilities and LCRA is executed which specifically identifies the customer to receive electric service under this rate.

b. Any customer receiving service under this rate will be required to interrupt a portion of its load or execute other options as prescribed under the procedures, terms and conditions established by New Braunfels Utilities pursuant to its agreement with LCRA.

c. Service will be provided only by long-term contract approved by the board of trustees of New Braunfels Utilities. This long-term contract must establish, in addition to other terms and conditions, the amount of interruptible and firm load for a customer receiving service under this rate.

(4) *Monthly rates.* The monthly charge for interruptible rate shall be the sum of the following:

a. *Delivery charge*: The monthly delivery charge shall be $18,500.00 per month; or, for new customers taking service at this rate after June 25, 2006, as specified in the service contract as approved by the board of trustees of New Braunfels Utilities; plus $0.0016 per kWh.

b. *Cost of power charge:* The monthly power charge shall be the total costs as they are incurred by New Braunfels Utilities for purchasing, scheduling, coordinating, and providing capacity and energy to the customer. Such costs shall include, but are not limited to, charges and costs for generation, transmission, transition, transformation, customer service and metering, ancillary services, wheeling, power factor penalties, and any and all costs and charges.

c. *Minimum monthly bill.* The minimum monthly bill shall be the delivery charge plus any special charges or adjustments.

(h) Experimental electric rate (EER).

(1) *Applicability.* The experimental rate shall be applicable to customers in any rate class groups at times selected by NBU. The time period for which the experimental rate may apply shall not exceed two years. At any time, the number of customers affected by the experimental rate shall not exceed one percent of the total number of customers served by NBU.

(2) *Purpose.* The purpose of the experimental rate is to aid in design of new rates. NBU shall have the authority to initiate or discontinue the experimental rate at NBU's discretion.

(3) *Selection.* The methods and criteria for selection for rate class groups to be used for the experimental rate shall be chosen and defined by NBU. Participation in the experimental rate by customers shall be on a voluntary basis.

(i) Lighting athletic fields (LAF).

(1) *Applicability.* Service will be supplied through a single point of delivery and shall be used for lighting of outdoor athletic fields and facilities used exclusively in conjunction with athletic events on these fields.

(2) *Service.* Single or three-phase service at the voltage of the available primary distribution lines of NBU (primary), or at the secondary voltage of transformation facilities supplied from NBU's distribution system (secondary).

(3) *Monthly rate.* Monthly athletic field rates are as follows:

a. Customer charge. (Customer charge is) $30.00—3,750.00 per month determined by installed kVA aggregated per customer as follows:

Greater than 12,999 kVA, per month $3,750.00
Less than 13,000 kVA and greater than 7,999 kVA, per month 3,000.00
Less than 8,000 kVA and greater than 3,999 kVA, per month 2,250.00
Less than 4,000 kVA and greater than 2,999 kVA, per month 1,500.00
Less than 3,000 kVA and greater than 1,999 kVA, per month 1,000.00
Less than 2,000 kVA and greater than 1,499 kVA, per month 500.00
Less than 1,500 kVA and greater than 750 kVA, per month 300.00
Less than 751 kVA and greater than 500 kVA, per month 225.00
Less than 501 kVA and greater than 300 kVA, per month 175.00
Less than 301 kVA and greater than 150 kVA, per month 100.00
Less than 151 kVA, per month 30.00

b. Delivery demand charge: $.0415 per kWh

c. Cost of power charge:
October—May billing period, per kWh 0.0452
June—September billing period, per kWh 0.0552

d. Minimum monthly bill. The minimum monthly bill shall be the customer charge plus any special charges or adjustments.

(j) Area lighting rate (AL).

(1) *Availability.* The area lighting rate (AL) is available in the electric service area of NBU under the rules, regulations, and policies as provided for in this article, at the rates set forth in this section. Service under this tariff is subject to connection charges contained in the NBU Electrical Connection Policy.

(2) *Applicability.* The area lighting rate is applicable for electric service for pole mounted area security lighting near NBU's electric distribution lines.

(3) *Service conditions.* The service furnished under this section shall be nominal 120/240 volt single phase, 60-hertz, three wire. Other service voltages may, under certain specific conditions, be furnished with the approval of the CEO.

(4) *Monthly rates.* Monthly area lighting rates are as follows:

a. $10.00 per lamp per month.

b. Minimum monthly bill. The minimum monthly bill shall be the charge per lamp plus any special charges or adjustments.

(k) Second feeder service rate (SFS).

(1) *Availability.* The second feeder service rate (SFS) is available in the electric service area of NBU under the rules, regulations, and policies as provided for in this article, at the rates set forth in this section, provided NBU agrees that such service can be feasibly and economically provided by NBU. Service under this tariff is subject to connection charges and specifications contained in New Braunfels Utilities Electrical Connection Policy.

(2) *Applicability.* The second feeder service rate is applicable only for electric service to customers in LGS and VLP rate classes which require reserve capacity on a second distribution feeder at a specifically identified individual service location and which meet all of the service conditions provided in this article.

(3) *Service conditions.* Second feeder service is the reservation of capacity on a second feeder in order to provide redundant feeder capacity and provide the capability to automatically transfer the customer's total load from a primary feeder to an alternate second feeder.

a. Service will be provided only by long-term contract approved by the board of trustees of New Braunfels Utilities. This long-term contract will establish, in addition to other terms and conditions, the amount of capacity reserved on a second feeder for a customer and the adjustment of minimum reserve capacity permitted under this rate.

b. Second feeder service does not guarantee continuous service availability and may be interrupted for maintenance activities or when necessary for operational or emergency reasons.

c. Where appropriate, the customer will be required to maintain appropriate load balancing as determined by NBU.

(4) *Monthly rates.* Capacity reservation charge, per contract kW per month $3.18

(l) Net metering service rate.

(1) *Availability.* The net metering service rate is available in the electric service area of NBU under the rules, regulations, and policies as provided for in this article, at the rates set forth in this section. Service under this rate may be subject to additional connection charges and specifications contained in New Braunfels Utilities Electrical Connection Policy.

(2)

Applicability. The net metering service rate is available to residential customers and small general service customers with grid connected solar or wind generation of ten kilowatts or less where the customer's load profile exceeds the generating capacity.

(3) *Service conditions.* Service will be provided only by contract approved by the board of trustees of New Braunfels Utilities. Any power generated by the customer may be used to offset the amount of power purchased from NBU. NBU will not purchase excess generation.

(4) *Monthly rates.* Monthly net metering service rates are as follows:

a. *Customer charge, per month.* As specified in the appropriate RE or SGS rate.

b. *Delivery charge, per kWh.* As specified in the appropriate RE or SGS rate plus a fixed cost per type of installed kW as shown below:

Residential (RE) solar $1.37

Residential (RE) wind 0.64

Small general service (SGS) solar 0.75

Small general service (SGS) wind 0.35

c. *Cost of power charge.*

October—May billing period, per kWh. As defined in the appropriate RE or SGS rate.

June—September billing period, per kWh. As defined in the appropriate RE or SGS rate.

d. *Minimum monthly bill.* The minimum monthly bill shall be the customer charge plus the delivery charge per installed kW of generation, and any special charges or adjustments.

(5) *Determination of delivery charge kWh.* Customer's monthly delivery charge kWh shall equal the customer's kWh purchased from NBU less any kWh generated into the NBU delivery system, but never less than zero.

(6) *Determination of power charge kWh.* Customer's monthly power charge kWh shall equal the actual kWh purchased from NBU.

(m) Interstate highway lighting rate (HL).

(1) *Applicability.* The interstate highway lighting rate (HL) is applicable for electric service for pole mounted interstate highway lighting located in the electric service area of New Braunfels Utilities, but within the corporate limits or extra-territorial jurisdiction of another municipality, pursuant to the terms and conditions of a contract between that municipality and New Braunfels Utilities and at the rates set forth in this section.

(2) *Monthly rate.* Monthly interstate highway lighting rates are as follows:

a. Customer charge, per month $15.00

b. Cost of power charge.

October—May billing period, per kWh 0.0452

June—September billing period, per kWh 0.0552

(3) *Minimum monthly bill.* The minimum monthly bill shall be the customer charge plus any special charges or adjustments.

(Ord. No. 2003-74, § I(Exh. A), 10-27-03, Ord. No. 2006-05, §§ I, II, 1-23-06; Ord. No. 2006-49, § I(Exh. A), 6-12-06; Ord. No. 2009-15, § 2(Exh. A), 3-23-09)

Sec. 130-57. - Power factor penalty.

(a) NBU shall assess a power factor penalty on all customers if the necessary equipment for determining power factor is installed and operational and if the measured power factor during the non-coincident peak kW demand is less than 0.95.

(b) The power factor penalty shall be calculated by increasing the measured billing demand such that the adjusted billing demand and measured kVAR yield a calculated power factor of 0.95. If the measured power factor is 0.95 or greater, the billing kW demand shall be the kW demand in accordance with the appropriate rate schedule. Any additional metering equipment necessary to measure or compute kVAR or power factor may be installed at any demand metered customer, without notice, at the discretion of NBU.

(c) Monthly rate. Power factor penalty, per kW: $2.00

(Ord. No. 2003-74, § I(Exh. A), 10-27-03, Ord. No. 2006-49, § I(Exh. A), 6-12-06)

Sec. 130-58. - Billing adjustments.

(a) *Generation cost recovery factor (GCRF).* GCRF is the generation cost recovery factor expressed as dollars per kWh, to be multiplied by the energy (kWh) sold during a billing period to each customer (except IRT customers). Prior to January 1 of each calendar year, the GCRF applicable to the months of January—May and October—December billing periods and applicable to the months of June-September billing periods is to be calculated based on estimated variables for the period.

GCRF	=	{AC}	-	BGR
		S		

A is the total estimated cost of generation for purchases from all NBU power suppliers excluding generation costs for IRT customers.

S is the estimated energy (kWh) sales in the billing periods to all customers, excluding IRT customers.

BGR is the base generation rate, expressed as dollars per kWh, included in the base rates for all customers, excluding IRT customers. BGR shall be:

$0.04000 per kWh sold for the January—May and October—December billing periods.

$0.05000 per kWh sold for the June—September billing periods.

C is the additional amount in dollars to be added to or subtracted from the total estimated cost of generation to adjust for differences between the actual cost of generation and the recovery of generation revenue in previous periods.

The GCRF factors applicable to the January—May and October—December billing periods and the June—September billing periods will be computed according to the above formula to be applicable for the calendar year; however, the GCRF factors so calculated may be adjusted accordingly as actual monthly data is available or notification of changes in rates are supplied by generation service providers.

(b) *Transmission cost recovery factor (TCRF).* TCRF is the transmission system cost recovery factor expressed as dollars per kWh, to be multiplied by the energy (kWh) sold during a billing period to each customer (except IRT customers). Prior to January 1 of each calendar year, the TCRF applicable to the months January—May and October—December billing periods and applicable to the months of June—September billing periods is to be calculated on estimated variables for the period.

TCRF	=	{TTC}	-	BTR
		ST		

T is the estimated total cost of transmission services (including transmission and transformation charges, ERCOT ISO fees, other ERCOT charges, delivery point charges, and other miscellaneous transmission charges), excluding transmission costs directly billed to IRT customers.

ST is the estimated energy (kWh) sales in the billing periods to all customers excluding IRT customers.

BTR is the base transmission rate, expressed as dollars per kW for LGS and VLP and as dollars per kWh in other rate classes, included in the base rates for all customers, excluding the IRT customers. BTR shall be:

$0.0052 per kWh per month.

TC is the additional amount in dollars to be added to or subtracted from the total estimated cost of transmission and transportation services to adjust for differences between the actual total cost of transmission and transformation services and the recovery of transmission and transformation services revenue in previous periods.

The TCRF factors applicable to the January—May and October—December billing periods and the June—September billing periods will be computed according to the above formula to be applicable for the calendar year; however, the TCRF factors so calculated may be adjusted accordingly as actual monthly data is available or notification of changes in rates are supplied by transmission service providers.

(Ord. No. 2003-74, § I(Exh. A), 10-27-03; Ord. No. 2006-49, § I(Exh. A), 6-12-06)

Secs. 130-59—130-77. - Reserved.

FOOTNOTE(S):

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Editor's note—*Ord. No. 2003-74, § I(Exh. A), adopted October 27, 2003, amended division 1 in its entirety to read as herein set out. Formerly, division 1 pertained to similar subject matter and derived from Ord. No 2002-29, § 1(Att. A), adopted July 22, 2002.* (Back)

DIVISION 2. - RULES; POLICIES

Sec. 130-78. - Liability for damage.
Sec. 130-79. - Technical service conditions.
Sec. 130-80. - Special service or excess use charges.
Sec. 130-81. - Customer owned high voltage transformers.
Sec. 130-82. - Cutting, trimming of trees and vegetation located within or extending into power line easements.
Secs. 130-83—130-120. - Reserved.

Sec. 130-78. - Liability for damage.

It is expressly understood as a prerequisite to furnishing electrical service to customers that NBU shall not be liable for either direct or consequential damages to customers, their agents, servants, employees, business or social invitees, resulting from failures, interruptions or voltage and wave form fluctuations in electric service, or for any injury or damage, whether to persons or to property, occasioned by causes beyond its reasonable control, including, without limitation, acts of God or public enemy, sabotage and/or vandalism, accidents, fire, labor troubles, strikes, shutdowns necessary for repair, order of any court commission, tribunal or agency, or any other such causes or reasons whatever. For claims resulting from failures, interruptions or voltage and wave form fluctuations occasioned in whole or in part by the negligence of NBU, its liability shall be limited to the cost of necessary repairs to, or if repair is impracticable, the fair market value of, at the time of the loss, electrical facilities of the customer that suffer physical damage proximately caused by service failure, provided such electrical facilities of customer were then equipped with such protective safeguards as may be recommended or required by the then current edition of the National Electrical Code, and as may be necessary to protect the customer's electrical facilities against fluctuations or interruptions in supply; provided, however, in no event shall NBU be liable for indirect, special or consequential damages, including, without limitation, loss of profit, loss of revenue and loss of productive capacity; provided further, that this limitation of liability is not intended to increase or decrease any liability of NBU for damage arising from personal injury, death of persons, or intentional tort. Any claim for property damage or for personal injury against NBU shall be subject to the claims procedures established by NBU Policy.

(Ord. No. 2002-29, § 1(Att. A), 7-22-02)

Sec. 130-79. - Technical service conditions.

NBU shall provide service within the technical limitations as generally prescribed by the current rules and regulations of the Public Utility Commission; and in no event shall NBU be required to supply computer-grade power, nor guarantee noise-free or critical voltage or frequency variation conditions. The customer is responsible for installing and maintaining devices which protect their service installation, equipment, and processes during periods of abnormal service conditions.

(Ord. No. 2002-29, § 1(Att. A), 7-22-02)

Sec. 130-80. - Special service or excess use charges.

A special service or excess use charge as described in the NBU Electrical Connection Policy may be made if service supply requirements to a customer involve abnormal installation expense, such as three-phase service, usage of low-power-factor type equipment, or other special conditions as determined by the CEO.

(Ord. No. 2002-29, § 1(Att. A), 7-22-02)

Sec. 130-81. - Customer owned high voltage transformers.

If the electric service is supplied through customer owned transformers and metered at NBU's distribution level voltage, the customer shall be responsible for all maintenance and operating costs, and must provide equipment and maintenance satisfactory to NBU.

(Ord. No. 2002-29, § 1(Att. A), 7-22-02)

Sec. 130-82. - Cutting, trimming of trees and vegetation located within or extending into power line easements.

(a) The board of trustees may authorize and direct cutting and trimming of trees or vegetation growing within or extending into power line easements held by the city whenever such trees or vegetation shall constitute a danger to health and safety, and whenever such growth condition restricts access to the power line in such manner as to impair health and safety.

(b) All work authorized by this section shall be done under the supervision of the board of trustees, its agents or employees; provided, however, that nothing contained in this section shall prohibit or restrict the board of trustees from

entering into a contract with a private firm or individual for the performance of such work whenever the board of trustees deems it advisable to do so.

(Ord. No. 2002-29, § 1(Att. A), 7-22-02)

Secs. 130-83—130-120. - Reserved.

New Braunfels, Texas, Code of Ordinances >> PART II - CODE OF ORDINANCES >> Chapter 130 - UTILITIES >> ARTICLE IV. - WATER SERVICE >>

ARTICLE IV. - WATER SERVICE [4]

DIVISION 1. - GENERAL
DIVISION 2. - INSTALLATIONS; CONNECTIONS
DIVISION 3. - SERVICE REQUESTS; RATES
DIVISION 4. - METERS
DIVISION 5. - WATER CONSERVATION AND CRITICAL PERIOD MANAGEMENT PLAN—GENERALLY
DIVISION 6. - REGULATED ACTIVITIES
DIVISION 7. - DROUGHT MANAGEMENT PLAN

FOOTNOTE(S):

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Cross reference— *Plumbing code, § 14-91 et seq.; water distribution system for fire protection, § 54-146 et seq.; health and sanitation, ch. 62; water pollution, § 62-288.* *(Back)*

New Braunfels, Texas, Code of Ordinances >> PART II - CODE OF ORDINANCES >> Chapter 130 - UTILITIES >> ARTICLE IV. - WATER SERVICE >> DIVISION 1. - GENERAL >>

DIVISION 1. - GENERAL

Sec. 130-121. - Supply of water.
Sec. 130-122. - Water pressure.
Sec. 130-123. - Liability for damage.
Sec. 130-124. - Penalty for violation of article.
Secs. 130-125—130-145. - Reserved.

Sec. 130-121. - Supply of water.

In the sale of water by NBU to any person and in the supply of water for municipal use for the protection of property against fires, NBU only undertakes to furnish the kind and the amount of water that may be supplied from the wells of NBU, or such other sources as NBU may select, and in an amount within the capacity of the NBU water system.

(Ord. No. 2002-29, § 1(Att. A), 7-22-02)

Sec. 130-122. - Water pressure.

Customers of the NBU water system shall be guaranteed a minimum residual pressure of 20 pounds per square inch under any and all normal conditions or demands that can be placed on the system.

(Ord. No. 2002-29, § 1(Att. A), 7-22-02)

Sec. 130-123. - Liability for damage.

(a) If NBU may for any reason become unable to supply water to the customers of the NBU' water system, within or without the city, or to the municipality for the prevention or suppression of fire, NBU shall in no way be liable to any customer for damage by reason of any failure of the water system, or to any person whose property may have been destroyed by fire or otherwise damaged.

(b) New Braunfels Utilities shall not be liable for any damages resulting from leakage, breakage or malfunction of pipes resulting from an act of God or from any other cause not resulting from the negligence of the utilities.

(Ord No. 2002-29, § 1(Att. A), 7-22-02)

Sec. 130-124. - Penalty for violation of article.

Violators of any of the provisions of this article shall be guilty of a class C misdemeanor, and upon conviction shall be fined a sum not to exceed $500.00, and each and every day's violation shall constitute a separate and distinct offense. If the violator under the provisions of this article shall be a corporation, the president, vice-president, secretary, or treasurer of such corporation, or any manager, agent, or employee of such corporation shall also be severally liable for the penalties provided in this section.

(Ord. No. 2002-29, § 1(Att. A), 7-22-02)

Secs. 130-125—130-145. - Reserved.

DIVISION 2. - INSTALLATIONS; CONNECTIONS [5]

Sec. 130-146. - Supervision of extensions.
Sec. 130-147. - Mandatory connections.
Sec. 130-148. - Authorized connections.
Sec. 130-149. - Private water source, cross connections prohibited; right to disconnect without notice.
Sec. 130-150. - Mixing of water supplies forbidden.
Sec. 130-151. - Service lines—Quality.
Sec. 130-152. - Same—Placement of stop.
Sec. 130-153. - Connections to mains, position; depth.
Sec. 130-154. - Service pipes.
Sec. 130-155. - Tapping.
Secs. 130-156—130-165. - Reserved.

Sec. 130-146. - Supervision of extensions.

All pipes or mains for the extension of the water system of NBU shall be laid under the management and control of NBU or its authorized agents.

(Ord. No. 2002-29, § 1(Att. A), 7-22-02)

Sec. 130-147. - Mandatory connections.

(a) All property owners or their agents situated in any part of the NBU certificated water service area where public water mains are constructed or may hereafter be constructed shall connect to the NBU water system.

(b) When a public water main becomes available to a property served by a private water source, a direct connection shall be made to the water main at the property owner's expense in compliance with this article.

(c) The connection required by this section shall be made to the public water main within 60 days from the date such main is accepted into the system.

(d) All property owners or their agents situated in any part of the NBU certificated water service area where a public water main does now exist where such property owners or their agents construct or cause to be constructed a residence, building or structure requiring water service shall connect to the water main at the property owner's expense in compliance with this article.

(Ord. No. 2002-29, § 1(Att. A), 7-22-02)

Sec. 130-148. - Authorized connections.

Only an employee or agent of NBU shall be authorized to turn on or off any water from the meter curb valve, to tap any water main or pipes belonging to NBU, or to do any work in connection with the laying of street service connections.

(Ord. No. 2002-29, § 1(Att. A), 7-22-02)

Sec. 130-149. - Private water source, cross connections prohibited; right to disconnect without notice.

Any cross connection between piping receiving water from NBU water mains and piping receiving water from any other source or storage is positively forbidden, and NBU and the city reserve the right to disconnect the service connecting such piping with NBU's mains without notice.

(Ord. No. 2002-29, § 1(Att. A), 7-22-02)

Sec. 130-150. - Mixing of water supplies forbidden.

Mixing of water supplied by the NBU water system and water taken from a private source shall be absolutely forbidden. Existing storage tanks where such mixing takes place may remain, provided that the utility supply and the private source are separated by methods approved by NBU.

(Ord. No. 2002-29, § 1(Att. A), 7-22-02)

Sec. 130-151. - Service lines—Quality.

All service lines shall be of such quality as specified in the NBU' water/sewer connection policy manual.

(Ord. No. 2002-29, § 1(Att. A), 7-22-02)

Sec. 130-152. - Same—Placement of stop.

The NBU Water Division shall place a meter curb valve in each service line. Where the service line is 1 1/4 inches or larger, the type of valve utilized shall be determined by NBU. All main line valves shall be for the exclusive use and control of NBU. Yard cutoffs shall be furnished and installed by NBU for the exclusive use and responsibility of the property owner.

(Ord. No. 2002-29, § 1(Att. A), 7-22-02)

Sec. 130-153. - Connections to mains, position; depth.

(a) All connections to the NBU' waterworks mains shall be made on the side of the mains and not on the top of the mains. The service pipe shall be laid not less than 18 inches below the subgrade of the street and gutter.

(b) All connections made to the water mains of NBU shall be at least two feet from any joint in such water mains.

(Ord. No. 2002-29, § 1(Att. A), 7-22-02)

Sec. 130-154. - Service pipes.

All water pipes, at the joint of connection to NBU's water mains, shall conform to the standards specified in the NBU Water Connection Policy as then in effect.

(Ord. No. 2002-29, § 1(Att. A), 7-22-02)

Sec. 130-155. - Tapping.

(a) *Persons authorized.* Only NBU or its authorized agents shall be allowed to tap any NBU main or any service pipe.

(b) *Spacing of taps.* In no case shall taps in the NBU' water mains be closer than 12 inches.

(Ord. No. 2002-29, § 1(Att. A), 7-22-02)

Secs. 130-156—130-165. - Reserved.

FOOTNOTE(S):

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Cross reference— *Water, sewer and drainage facilities; flood hazards, § 118-51* *(Back)*

DIVISION 3. - SERVICE REQUESTS; RATES

Sec. 130-166. - Requests for water service.
Sec. 130-167. - Water rates.
Sec. 130-168. - Water service for acquired systems.
Sec. 130-169. - Water tap charges.
Sec. 130-170. - Water rates—Reuse water.
Sec. 130-171. - Private water systems.
Secs. 130-172 - 130-185. - Reserved.

Sec. 130-166. - Requests for water service.

Service authorization for the use of water shall be issued only by authorized employees of NBU, who shall collect the proper payment amount according to the rates and fees established in NBU Connection Policies and Service Conditions Policy.

(Ord. No. 2002-29, § 1(Att. A), 7-22-02)

Sec. 130-167. - Water rates.

(a) *Service rate classifications.* All water service supplied shall be designated by the following classifications with descriptions, rates and conditions of sale as indicated further in this section:

Residential service 1: Inside corporate limits of the city.

Residential service 2: Outside corporate limits of the city.

Multi-unit permanent residential water service 1: Inside corporate limits of the city.

Multi-unit permanent residential water service 2: Outside corporate limits of the city.

General service 1: Inside corporate limits of the city.

General service 2: Outside corporate limits of the city.

Large general service.

Fire hydrant service.

Irrigation service 1: Inside corporate limits of the city.

Irrigation service 2: Outside corporate limits of the city.

Tanker service.

Wholesale service.

Contractual water service.

Experimental service.

(b) *Determination of classification.* Upon application for service, NBU shall make the initial determination of the customer's service rate classification. The classification is subject to change in accordance with the provisions of this article.

Rate schedule administration and assignment. Upon request for water service from a prospective customer, NBU shall assign the appropriate rate classification for water service to the applicant requesting service. This assignment may be based upon information provided by the applicant, or other information available at the time the assignment is made.

If a customer receiving service changes the nature or character of water service requirements, then NBU shall, upon review of the information available pertaining to the revised water service requirement, reassign the customer to the appropriate rate schedule.

If a prospective or existing customer is eligible to receive water service under more than one of the NBU' rate schedules, or if the rates charged are unduly burdensome as a result of the customer's technical qualification for a specific rate schedule, then NBU shall assign the most appropriate rate schedule for water service after consideration of the various service requirements, potential impact on NBU facilities, the potential relative costs of serving the customer, and other available pertinent information.

If a customer requests an adjustment to the billing units due to an unusual occurrence or due to unusual or special circumstances, then NBU may, upon review of the information available pertaining to the customer's request and after consideration of the potential impact on NBU, adjust the billing units.

(c) *Residential service 1 rate.*

(1) *Availability.* The residential service 1 rate is available only within the corporate limits of the city under the rules, regulations, policies, and at the rates set forth in this section.

(2) *Applicability.* The residential service 1 rate is applicable for water service used solely for residential purposes and related activities consisting of service to single-family dwellings, or permanent residential multifamily dwellings where each dwelling unit is individually metered.

(3) *Excluded uses.* The residential service 1 rate shall not be applicable for service to a residence located outside the city limits or to a residence also used for commercial purposes, including, but not limited to, boardinghouses, motels, hotels, nursing homes, barbershops, beauty shops, general contractors storing equipment or building materials on the property, child care centers, retail businesses, restaurants, technical repair services, professional services offered to the public on the premises, and other similar commercial or nonresidential activities.

(4)

Monthly rates. The residential service 1 rate will be calculated monthly in accordance with this section and will be an amount equal to the sum of the monthly customer charge plus the monthly volume charge, as shown below.

Monthly customer charge. The monthly customer charge shall be determined by the size of the water meter serving each customer, as follows:

Meter Size	Customer Charge Effective December 1, 2007
5/8-inch and smaller	$10.35
1-inch	11.94
1½-inch	14.13
2-inch	17.59
3-inch	26.38
4-inch and greater	31.40

Monthly volume charge. The monthly volume charge for monthly water usage per 1,000 gallons, or any part thereof, shall be:

Gallons of Water Usage	$ per 1,000 gallons Effective December 1, 2007
0—7,500	1.885
7,501—15,000	2.199
15,001—25,000	2.512
Excess of 25,000	3.014

(5) *Minimum monthly charge.* The minimum monthly charge shall be the larger of the following:

a. The monthly customer charge plus the monthly volume charge; or

b. The amount specified in any contract between the customer and NBU.

(d) *Residential service 2 rate.*

(1) *Availability.* The residential service 2 rate is available outside the corporate limits of the city under the rules, regulations, policies, and at the rates set forth in this section.

(2) *Applicability.* The residential service 2 rate is applicable for water service used solely for residential purposes and related activities consisting of service to single-family dwellings, or permanent residential multifamily dwellings where each dwelling unit is individually metered.

(3) *Excluded uses.* The residential service 2 rate shall not be applicable for service to a residence also used for commercial purposes, including but not limited to boardinghouses, motels, hotels, nursing homes, barbershops, beauty shops, general contractors storing equipment or building materials on the property, child care centers, retail businesses, restaurants, technical repair services, professional services offered to the public on the premises, and other similar commercial or nonresidential activities.

(4) *Monthly rates.* The residential service 2 rate will be calculated monthly in accordance with this section and will be an amount equal to the sum of the monthly customer charge plus the monthly volume charge, as shown below.

Monthly customer charge. The monthly customer charge shall be determined by the size of the water meter serving each customer, as follows:

Meter Size	Customer Charge Effective December 1, 2007
5/8-inch and smaller	$14.48
1-inch	16.50
1½-inch	18.81
2-inch	24.31
3-inch	34.73
4-inch and greater	46.31

Monthly volume charge. The monthly volume charge for monthly water usage per 1,000 gallons, or any part thereof, shall be:

Gallons of Water Usage	$ per 1,000 gallons Effective December 1, 2007
0—7,500	2.356
7,501—15,000	2.749
15,001—25,000	3.140
Excess of 25,000	3.768

(5) *Minimum monthly charge.* The minimum monthly charge shall be the larger of the following:

a. The monthly customer charge plus the monthly volume charge; or

b. The amount specified in any contract between the customer and NBU.

(e) *Multi-unit permanent residential service 1 rate.*

(1) *Availability.* The multi-unit permanent residential service 1 rate is available only within the corporate limits of the city under the rules, regulations, policies, and at the rates set forth in this section.

(2) *Applicability.* The multi-unit permanent residential service 1 rate is applicable for water service used solely for permanent residential multi-unit development, such as duplexes, triplexes, quadruplexes, apartment buildings, or an individual residence with separate apartment type unit(s) where each dwelling unit is not individually metered.

(3) *Excluded uses.* The multi-unit permanent residential service 1 rate shall not be applicable for service to a multi-unit development located outside the city limits or to individually metered residential dwellings.

(4) *Monthly rates.* The multi-unit permanent residential service 1 rate will be calculated monthly in accordance with this section and will be an amount equal to the sum of the monthly customer charge plus the monthly volume charge plus the monthly unit charge, as shown below.

Monthly customer charge. The monthly customer charge shall be determined by the size of the water meter serving each customer, as follows:

Meter Size	Customer Charge Effective December 1, 2007
5/8-inch and smaller	$10.35
1-inch	11.94
1½-inch	14.13
2-inch	17.59
3-inch	26.38
4-inch and greater	31.40

Monthly volume charge. The monthly volume charge for monthly water usage per 1,000 gallons, or any part thereof, shall be:

Number of Units	Gallons of Water Usage	$ per 1,000 gallons Effective December 1, 2007
2—4	0—8,000	1.984
	8,001—20,000	2.073
	Excess of 20,000	2.450
5—10	0—20,000	1.885
	20,001—40,000	1.946
	Excess of 40,000	2.009
11—25	0—40,000	1.822
	40,001—100,000	2.009
	Excess of 100,000	2.073
26—50	0—100,000	1.885
	100,001—200,000	2.073
	Excess of 200,000	2.324
51—75	0—200,000	1.847
	200,001—300,000	1.946
	Excess of 300,000	2.135
76—100	0—300,000	1.910
	300,001—400,000	2.135
	Excess of 400,000	2.387

100 +	0—400,000	1.922
	400,001—800,000	2.199
	Excess of 800,000	2.387

Monthly unit charge. When a customer with a master metered water service receives service at a duplex, triplex, quadruplex, apartment complex or individual residence with separate apartment type unit(s) each such separate and identifiable permanent residential area and each public bathroom, laundry area, or other area where water service exists shall be subject to a monthly unit charge for billing purposes. The monthly charge for each unit in excess of one unit shall be $5.02 per month effective December 1, 2007.

NBU will not undertake the apportionment of charges for such users of water among the occupants or tenants. Charges for multi-unit service will be assessed against the customer of record for such location.

(5) *Minimum monthly charge.* The minimum monthly charge shall be the larger of the following:

a. The monthly customer charge plus the monthly volume charge, plus the monthly unit charge; or

b. The amount specified in any contract between the customer and NBU.

(f) *Multi-unit permanent residential service 2 rate.*

(1) *Availability.* The multi-unit permanent residential service 2 rate is available in the water service area of NBU outside the corporate limits of the city under the rules, regulations, policies, and at the rates set forth in this section.

(2) *Applicability.* The multi-unit permanent residential service 2 rate is applicable for water service used solely for permanent residential multi-unit development, such as duplexes, triplexes, quadruplexes, apartment buildings or individual residence with separate apartment type unit(s) where each dwelling unit is not individually metered.

(3) *Excluded uses.* The multi-unit permanent residential service 2 rate shall not be applicable for service to a multi-unit development located inside the corporate limits of the city or to individually metered residential dwellings.

(4) *Monthly rates.* The multi-unit permanent residential service 2 rate will be calculated monthly in accordance with this section and will be an amount equal to the sum of the monthly customer charge plus the monthly volume charge plus the monthly unit charge, as shown below.

Monthly customer charge. The monthly customer charge shall be determined by the size of the water meter serving each customer, as follows:

Meter Size	Customer Charge Effective December 1, 2007
5/8-inch and smaller	$19.97
1-inch	22.00
1½-inch	24.90
2-inch	31.26
3-inch	38.20
4-inch and greater	45.15

Monthly volume charge. The monthly volume charge for monthly water usage per 1,000 gallons, or any part thereof, shall be:

Number of Units	Gallons of Water Usage	$ per 1,000 gallons Effective December 1, 2007
2—4	0—8,000	2.480
	8,001—20,000	2.591
	Excess of 20,000	3.063
5—10	0—20,000	2.356
	20,001—40,000	2.433
	Excess of 40,000	2.511
11—25	0—40,000	2.278
	40,001—100,000	2.511
	Excess of 100,000	2.591
26—50	0—100,000	2.356
	100,001-200,000	2.591
	Excess of 200,000	2.905
51—75	0—200,000	2.309
	200,001—300,000	2.433

	Excess of 300,000	2.669
76—100	0—300,000	2.388
	300,001—400,000	2.669
	Excess of 400,000	2.984
100 +	0—400,000	2.403
	400,001—800,000	2.749
	Excess of 800,000	2.984

Monthly unit charge. When a customer with a master metered water service receives service at a duplex, triplex, quadruplex, apartment complex or individual residence with separate apartment type unit(s) each such separate and identifiable permanent residential area and each public bathroom, laundry area, or other area where water service exists shall be subject to a monthly unit charge for billing purposes. The monthly charge for each unit in excess of one unit shall be $6.66 per month effective December 1, 2007.

NBU will not undertake the apportionment of charges for such users of water among the occupants or tenants. Charges for multi-unit service will be assessed against the customer of record for such location.

(5) *Minimum monthly charge.* The minimum monthly charge shall be the larger of the following:

a. The monthly customer charge plus the monthly volume charge, plus the monthly unit charge; or

b. The amount specified in any contract between the customer and NBU.

(g) *General Service 1 rate.*

(1) *Availability.* The general service 1 rate is available only within the corporate limits of the city under the rules, regulations, policies, and at the rates set forth in this section.

(2) *Applicability.* The general service 1 rate is applicable to water service for any customer which does not qualify for service under another rate schedule, and includes, but is not limited to nursing homes, schools, restaurants, cafes, bakeries, grocery stores, motels, hotels, banks, barbershops, beauty shops, child care and day care centers, churches, professional offices, feed and hardware stores, funeral homes, furniture stores, general offices, laundries, nurseries and garden centers, retail businesses, and warehouses and other similar nonresidential customers.

(3) *Monthly rates.* The general service 1 rate will be calculated monthly in accordance with this section and will be an amount equal to the sum of the monthly customer charge plus the monthly volume charge plus the monthly unit charge, if applicable, as shown below.

Monthly customer charge. The monthly customer charge shall be determined by the size of the water meter serving each customer, as follows:

Meter Size	Customer Charge Effective December 1, 2007
5/8-inch and smaller	$11.62
1-inch	12.56
1½-inch	16.33
2-inch	20.73
3-inch	31.40
4-inch	47.74
6-inch and greater	82.90

Monthly volume charge. The monthly volume charge for monthly water usage per 1,000 gallons, or any part thereof, shall be:

Gallons of Water Usage	$ per 1,000 gallons Effective December 1, 2007
0—5,000	1.885
5,001—50,000	1.946
50,001—200,000	2.009
Excess of 200,000	2.135

Monthly unit charge. When a customer receives service at a multi-unit facility, each separate and identifiable office, retail, wholesale or other type of working areas designed for occupancy by separate tenants or unrelated

users shall be subject to a monthly unit charge for billing purposes. The monthly charge for each unit in excess of one unit shall be $5.02 per month effective December 1, 2007.

NBU will not undertake the apportionment of charges among the occupants or tenants. Charges for multi-unit service will be assessed against the customer of record for such location.

(4) *Minimum monthly charge.* The minimum monthly charge shall be the larger of the following:

a. The monthly customer charge plus the monthly volume charge plus the monthly unit charge, if applicable; or

b. The amount specified in any contract between the customer and NBU.

(h) *General service 2 rate.*

(1) *Availability.* The general service 2 rate is available outside the corporate limits of the city under the rules, regulations, policies, and at the rates set forth in this section.

(2) *Applicability.* The general service 2 rate is applicable to water service for any customer which does not qualify for service under another rate schedule, and includes, but is not limited to nursing homes, schools, restaurants, cafes, bakeries, grocery stores, motels, hotels, banks, barbershops, beauty shops, child care and day care centers, churches, professional offices, feed and hardware stores, funeral homes, furniture stores, general offices, laundries, nurseries and garden centers, retail businesses, and warehouses and other similar nonresidential customers, and where the customer is located within NBU service area but outside the corporate limits of the city except as specifically set forth in this article.

(3) *Monthly rates.* The general service 2 rate will be calculated monthly and will be an amount equal to the sum of the monthly customer charge plus the monthly volume charge plus the monthly unit charge, if applicable, as shown below.

Monthly customer charge. The monthly customer charge shall be determined by the size of the water meter serving each customer, as follows:

Meter Size	Customer Charge Effective December 1, 2007
5/8-inch and smaller	$17.37
1-inch	18.52
1½-inch	24.02
2-inch	30.39
3-inch	46.31
4-inch	70.61
6-inch and greater	122.71

Monthly volume charge. The monthly volume charge for monthly water usage per 1,000 gallons, or any part thereof, shall be:

Gallons of Water Usage	$ per 1,000 gallons Effective December 1, 2007
0—5,000	2.547
5,001—50,000	2.605
50,001—200,000	2.663
Excess of 200,000	2.837

Monthly unit charge. When a customer receives service at a multi-unit facility, each separate and identifiable office, retail, wholesale or other type of working areas designed for occupancy by separate tenants or unrelated users shall be subject to a monthly unit charge for billing purposes. The monthly charge for each unit in excess of one unit shall be $6.66 per month effective December 1, 2007.

NBU will not undertake the apportionment of charges among the occupants or tenants. Charges for multi-unit service will be assessed against the customer of record for such location.

(4) *Minimum monthly charge.* The minimum monthly charge shall be the larger of the following:

a. The monthly customer charge plus the monthly volume charge plus the monthly unit charge, if applicable; or

b. The amount specified in any contract between the customer and NBU.

(i) *Large general service rate.*

(1)

Availability. The large general service rate is available under the rules, regulations, policies, and at the rates set forth in this section.

(2) *Applicability.* The large general service rate is applicable to customers with water consumption exceeding 1,250,000 gallons per month for at least any six months of the immediately preceding 12-month billing period. Service shall only be provided under contract approved by the board of trustees of NBU due to the special capacity service requirements.

(3) *Monthly rates.* The large general service rate will be calculated monthly in accordance with this section and will be an amount equal to the sum of the monthly customer charge and the monthly volume charge, as shown below.

Monthly customer charge: $1,437.53 effective December 1, 2007.

Monthly volume charge: $1.922 per 1,000 gallons effective December 1, 2007.

(4) *Minimum monthly charge.* The minimum monthly charge shall be the larger of the following:

a. The monthly customer charge plus the monthly volume charge; or

b. The amount specified in any contract between the customer and NBU.

(j) *Fire hydrant service rate.*

(1) *Availability.* The fire hydrant water service rate is available under the rules, regulations, policies, and at the rates set forth in this section.

(2) *Applicability.* The fire hydrant water service rate is applicable to water service provided through a fire hydrant, whether metered or estimated. Any customer requesting service under this rate must make arrangements with NBU prior to the date service is required. A service charge of $100.00 will be assessed to set and remove the fire hydrant meter.

(3) *Monthly rates.* The fire hydrant service rate will be calculated monthly in accordance with this section and will be an amount equal to the sum of the monthly customer charge and the monthly volume charge, as shown below.

Monthly customer charge: $101.74 effective December 1, 2007.

Monthly volume charge: $2.450 per 1,000 gallons effective December 1, 2007.

(4) *Minimum monthly charge.* The minimum monthly charge shall be the larger of the following:

a. The monthly customer charge plus the monthly volume charge; or

b. The amount specified in any contract between the customer and NBU.

(5) *Deposit.* All customers using a fire hydrant meter shall furnish a deposit of $300.00 or establish other means of credit acceptable to NBU.

(k) *Landscape/irrigation service 1 rate.*

(1) *Availability.* The landscape/irrigation service 1 rate is available only within the corporate limits of the city under the rules, regulations, policies, and at the rates set forth in this section.

(2) *Applicability.* The landscape/irrigation service 1 rate is applicable to water service for a residential 1 or general service 1 rate classification customer who has a sprinkler or irrigation system on a separate water meter:

a. Dedicated exclusively to such purpose, and

b. Which is in addition to one or more other water meters serving the same location.

(3) *Monthly rates.* The landscape/irrigation service 1 rate will be calculated monthly and will be an amount equal to the sum of the monthly customer charge and the monthly volume charge, as shown below.

Monthly customer charge. The monthly customer charge shall be determined by the size of the water meter serving each customer, as follows:

Meter Size	Customer Charge Effective December 1, 2007
5/8-inch and smaller	$5.97
1-inch	6.91
1½-inch	7.54
2-inch	9.10
3-inch	13.19
4-inch and greater	15.71

Monthly volume charge. The monthly volume charge for monthly water usage per 1,000 gallons, or any part thereof, shall be:

Gallons of Water Usage	

	$ per 1,000 gallons Effective December 1, 2007
0—7,500	2.356
7,501—25,000	2.749
Excess of 25,000	4.124

(4) *Minimum monthly charge.* The minimum monthly charge shall be the larger of the following:

a. The monthly customer charge plus the monthly volume charge; or

b. The amount specified in any contract between the customer and NBU.

(l) *Landscape/irrigation service 2 rate.*

(1) *Availability.* The landscape/irrigation service 2 rate is available outside the corporate limits of the city under the rules, regulations, policies, and at the rates set forth in this section.

(2) *Applicability.* The landscape/irrigation service 2 rate is applicable to water service for a residential 2 or general service 2 rate classification customer who has a sprinkler or irrigation system on a separate water meter:

a. Dedicated exclusively to such purpose, and

b. Which is in addition to one or more other water meters serving the same location.

(3) *Monthly rates.* The landscape/irrigation service 2 rate will be calculated monthly and will be an amount equal to the sum of the monthly customer charge and the monthly volume charge, as shown below.

Monthly customer charge. The monthly customer charge shall be determined by the size of the water meter serving each customer, as follows:

Meter Size	Customer Charge Effective December 1, 2007
5/8-inch and smaller	$8.11
1-inch	8.98
1½-inch	9.85
2-inch	13.02
3-inch	16.50
4-inch and greater	22.00

Monthly volume charge. The monthly volume charge for monthly water usage per 1,000 gallons, or any part thereof, shall be:

Gallons of Water Usage	$ per 1,000 gallons Effective December 1, 2007
0—7,500	2.945
7,501—25,000	3.473
Excess of 25,000	5.155

(4) *Minimum monthly charge.* The minimum monthly charge shall be the larger of the following:

a. The monthly customer charge plus the monthly volume charge; or

b. The amount specified in any contract between the customer and NBU.

(m) *Tanker service rate.*

(1) *Availability.* The tanker service rate is available under the rules, regulations, policies, and at the rates set forth in this section.

(2) *Applicability.* The tanker water service rate is applicable to water service provided at locations approved by NBU, whether metered or estimated. Under this rate, a customer may acquire and purchase water through the use of water tanker trucks or other mobile water transport containers. Any customer requesting service under this rate must make arrangements with NBU prior to the date service is required.

(3) *Rates.* The rate for each tanker or other mobile water transport containers acquiring water at locations approved by NBU shall be the sum of the tanker charge and the volume charge, as shown below.

Tanker charge	Effective December 1, 2007
Per month	$13.82
Volume charge, per 1,000 gallons or any part thereof	2.009

(4) *Minimum charge.* The minimum charge for each tanker truck connection shall be the larger of the following:

a. The tanker charge plus the volume charge; or

b. The amount specified in any contract between the customer and NBU.

(n) *Wholesale water service.*

(1) *Availability.* Wholesale water service is available under the rules, regulations, and policies, as set by contract and approved by the NBU board of trustees. Contracts for wholesale service will be approved only when water supplies are sufficient to satisfy the requirements of the contract without jeopardizing the water needs of the citizens of the city and customers of NBU.

(2) *Applicability.* A wholesale service contract is applicable for water service to water systems created by the appropriate agency of the state as well as to other water systems and purveyors which resell water or water service.

(3) *Rates.* The rate set by contract shall not be less than the marginal cost to serve that customer.

(o) *Experimental rate.*

(1) *Applicability.* The experimental rate shall be applicable to any and all rate class groups at times chosen by NBU. The time period for which the experimental rate may apply shall not exceed one year. At any time, the number of customers affected by the experimental rate shall not exceed one percent of the total number of customers served by NBU.

(2) *Purpose.* The purpose of the experimental rate is to aid in design of new rates. NBU shall have the authority to initiate or discontinue the experimental rate at NBU's sole discretion.

(3) *Selection.* The methods and criteria for selection of rate class groups to be used for the experimental rate shall be chosen and defined by NBU. Participation in the experimental rate by customers shall be on a voluntary basis.

(Ord. No. 2002-29, § 1(Att. A), 7-22-02; Ord. No. 2002-48, §§ I, II, 12-9-02; Ord. No. 2007-76, § 2, 10-22-07)

Sec. 130-168. - Water service for acquired systems.

In any area served by an existing water system acquired by NBU, water rates may be set at an amount sufficient to provide a fair return on the adjusted value of the invested capital for such acquired water system used and useful in rendering service to the public; and, upon recovery in full by NBU of the entire cost of the acquired system, including interest and acquisition expenses, such rates for users of the acquired system shall revert to the rate for such services as provided in this article for the appropriate location and classification.

(Ord. No. 2002-29, § 1(Att. A), 7-22-02)

Sec. 130-169. - Water tap charges.

Charges for water taps shall be based on the schedule of construction charges and impact fees as approved by the NBU board of trustees.

(Ord. No. 2002-29, § 1(Att. A), 7-22-02)

Sec. 130-170. - Water rates—Reuse water.

(a) *Availability.* Reuse water service is available under the rules, regulations, and policies, as set by contract and approved by the NBU board of trustees. Contracts for reuse water service will be approved only when reuse water supplies are sufficient, as determined by NBU, to satisfy the requirements of the contract.

(b) *Rates.* The rate for sales of reuse water shall be established by contract between NBU and any customer proposing to use reuse water. The rate set by contract shall not be less than the marginal cost to serve that customer.

(c) *Sale.* The sale of reuse water shall be in accordance with and subject to the regulations of the Texas Commission of Environmental Quality (TCEQ) and applicable statutes.

(Ord. No. 2002-29, § 1(Att. A), 7-22-02; Ord. No. 2007-65, § I, 7-23-07)

Editor's note—

Ord. No. 2007-65, § I, adopted July 23, 2007, changed the title of § 130-170 from "Water rates—Reclaimed water" to "Water rates—Reuse water." The historical notation has been preserved for reference purposes.

Sec. 130-171. - Private water systems.

Pursuant to Section 13.042 of the Texas Water Code, the city surrenders to the Texas Commission on Environmental Quality its exclusive original jurisdiction over the rates, operations and services of privately owned water systems within the incorporated limits of the city.

(Ord. No. 2003-27, § I, 4-14-03)

Secs. 130-172—130-185. - Reserved.

DIVISION 4. - METERS

Sec. 130-186. - Separate charge for each meter.
Sec. 130-187. - Establishing new meter connections.
Sec. 130-188. - Control of meter, curb valves, and meter boxes.
Sec. 130-189. - Ownership and maintenance.
Sec. 130-190. - Fire protection service.
Secs. 130-191—130-205. - Reserved.

Sec. 130-186. - Separate charge for each meter.

Each meter installed at a premises shall constitute a separate service and must be paid for as such.

(Ord. No. 2002-29, § 1(Att. A), 7-22-02)

Sec. 130-187. - Establishing new meter connections.

(a) Each individual residence or building making connection with the NBU water system shall have a separate meter, and no new connection shall be made by NBU unless such individual residence or building is separately metered.

(b) Offices in the same building under one piping system may have a single meter.

(Ord. No. 2002-29, § 1(Att. A), 7-22-02)

Sec. 130-188. - Control of meter, curb valves, and meter boxes.

All meters, curb valves, and meter boxes connected with the NBU' water mains and service pipes, including those furnished at the expense of the customer or property owners, shall remain under the direct control of NBU or its authorized agents. It shall be unlawful for any unauthorized person to connect, disconnect, move or tamper with any such meter or meter box or to turn the water on or off at the curb valve or meter.

(Ord. No. 2002-29, § 1(Att. A), 7-22-02)

Sec. 130-189. - Ownership and maintenance.

All water meters furnished by NBU shall remain the property of NBU, and shall be maintained and repaired, when rendered unserviceable by fair wear and tear, by the NBU' water division. When replacement, repairs or adjustments on any meter are rendered necessary by the act, neglect or carelessness of the owner or occupant of any premises, any expense caused to the water division thereby shall be charged to the owner of the premises, and, if not paid, service shall be discontinued.

(Ord. No. 2002-29, § 1(Att. A), 7-22-02)

Sec. 130-190. - Fire protection service.

Any person desiring a fire protection line shall cause a separate water line to be installed on the premises. The fire line shall be sized as required by the standards of the State Board of Insurance. The fire marshal of the city must inspect and approve all fire lines. Any person wishing to connect a fire line to the NBU's water system shall cause an appropriate fire line tap to be installed. In addition to any tapping charges for the fire line, NBU shall also apply a fire line demand charge. This fire line demand charge shall be a one-time charge representing a demand potential to the water system. All charges and installation fees shall be defined and paid as per the schedule of construction charges and impact fees as approved by the NBU board of trustees.

(Ord. No. 2002-29, § 1(Att. A), 7-22-02)

Secs. 130-191—130-205. - Reserved.

DIVISION 5. - WATER CONSERVATION AND CRITICAL PERIOD MANAGEMENT PLAN—GENERALLY [5]

Sec. 130-206. - Definitions.
Sec. 130-207. - Nuisance declared.
Sec. 130-208. - Presumption and exception.
Sec. 130-209. - Authorization to enforce.
Sec. 130-210. - Access to premises.
Sec. 130-211. - Divisions 5, 6 and 7 to prevail if conflict.
Sec. 130-212. - Severability.

Sec. 130-206. - Definitions.

Air conditioning system(s) means a mechanical system generally consisting of a compressor, thermostat and duct work permanently installed in a building for the purpose of controlling humidity and temperature. For the purposes of this article, an air conditioning system does not include window units.

Aesthetic use means the use of water for outdoor fountains, waterfalls, and landscape lakes, ponds, or other water related features where such use is entirely ornamental and serves no other functional purpose.

Agricultural irrigation means irrigation for the purpose of growing crops commercially for human consumption or to use as feed for livestock or poultry.

Athletic field means a sports playing field, the essential feature of which is turf grass, used primarily for organized sports for schools, professional sports, or organized league play.

Automatic irrigation controller means a device that automatically activates and deactivates an irrigation system at times selected by the operator.

Base usage means the average monthly total water usage for the three lowest months of November and December and the following January and February during each of the three consecutive 12-month periods preceding the commencement of the user's use of water.

Beneficial use means the amount of water that is economically necessary for a purpose not otherwise prohibited by the city, state or federal law or regulation, when reasonable intelligence and reasonable diligence is used in applying water for that purpose.

Blowdown meter means a meter that tracks the amount of water discharged from a cooling tower system.

Bucket means a bucket or other container holding five gallons or less, used singly by one person.

CEO means the chief executive officer of NBU or designee.

Certificate of convenience and necessity (CCN) means the service area of NBU as granted by the TCEQ. Also referred to as the certified service area.

Cfs means cubic feet per second.

Commercial dining facility means a business that serves prepared food and beverages to be consumed on the premises.

Computer controlled irrigation system (CCIS) means a system comprised of a computer controller (digital operating system), software, interface modules, satellite field controllers, soil sensors, weather station, or similar devices which is capable of achieving maximum efficiency and conservation in the application of water for irrigation. A CCIS, at a minimum, should be designed to:

(1) Prevent overwatering, flooding, pooling, evaporation and run-off; and
(2) Prohibit sprinkler heads from applying water at an intake rate exceeding the capability of the soil.

Conductivity controller means a device used to measure the conductivity of total dissolved solids in the water of a cooling system and control the discharge of water in order to maintain efficiency.

Conservation compliance officer or *compliance officer* means the person acting in the position of conservation compliance officer.

Conservation coordinator or *coordinator* means the person acting in the position of conservation coordinator of New Braunfels Utilities.

Cooling tower means an open water recirculation device that uses fans or natural draft to draw or force air to contact and cool water through the evaporative process.

Day means a 24-hour period beginning at midnight.

Drip irrigation means an irrigation system (drip, porous pipe, etc.) that applies water at low-flow levels directly to the roots of the plant.

Drought management plan means the plan for management of the aquifer described and set out in division 7, as amended from time to time.

EAA means Edwards Aquifer Authority.

Edwards Aquifer or *aquifer* means that portion of an arcuate belt of porous, water-bearing, predominately carbonate rocks known as the Edwards and Associated Limestones in the Balcones Fault Zone extending from west to east to northeast from the hydrologic division near Brackettville in Kinney County that separates underground flow toward the Comal Springs and San Marcos Springs from underground flow to the Rio Grande Basin through Uvalde, Medina, Atascosa, Bexar, Guadalupe and Comal counties, and in Hays County south of the hydrologic division near Kyle that separates flow toward the San Marcos River from flow to the Colorado River Basin.

Essential use means a use of water which is:

(1) Essential to the protection of public health, safety, or welfare, including but not limited to use for drinking, food preparation, personal hygiene, public sanitation, control or prevention of disease and firefighting;
(2) Essential to an industrial use or agricultural or military activity which directly supports gainful employment, unless the use is specifically defined in this article as a discretionary use;
(3) Essential to irrigation use; or
(4) Watering of livestock.

Evapotranspiration rate (ET rate) means the rate which the combination of evaporation from soil surface and transpiration from vegetation will occur for specific climatic conditions.

Existing landscaping plant means a landscaping plant existing after such period of time as to accomplish an establishment and maintenance of growth.

Golf course means an irrigated and landscaped playing area made up of greens, tees, fairways and roughs and related areas used for the playing of golf.

Gray water means water after use in bath and utility sinks, tubs, showers and washing machines.

Hand-held hose means a hose attended by one person, fitted with a manual or automatic shutoff nozzle.

Health care facility means any hospital, clinic, nursing home or other health care or medical research facility.

Hose-end sprinkler means a sprinkler that applies water to landscape plants that is piped through a flexible, movable hose.

Household use means the use of water, other than uses in the outdoor category, for personal needs or for household purposes, such as drinking, bathing, heating, cooking, sanitation or cleaning, whether the use occurs in a residence or in a commercial or industrial facility.

Impervious surface area means any structure or any street, driveway, sidewalk, patio or other surface area covered with asphalt, concrete, brick, paving, tile or other material preventing water to penetrate the ground.

Industrial use means the use of water for or in connection with commercial or industrial activities, including manufacturing, bottling, brewing, food processing, scientific research and technology, recycling, production of concrete, asphalt, and cement, commercial uses of water for tourism, entertainment, and hotel or motel lodging, generation of power other than hydroelectric, and other business activities.

Irrigation system, also referred to as an in-ground or permanent irrigation system, being a system with fixed pipes and emitters or heads that apply water to landscape plants or turfgrass.

Irrigation system analysis means a zone-by-zone analysis of an irrigation system that, at a minimum, includes a review of the following elements:

(1) Design appropriateness for current landscape requirements;
(2) Irrigation spray heads and valves;
(3) Precipitation rates expressed in inches per hour; and
(4) Annual maintenance plan that includes irrigation system maintenance, landscape maintenance, and a basic summer and winter irrigation scheduling plan.

Landscape renovation means the removal and replacement of existing landscape plants with new landscape plants.

Landscape watering means the application of water to grow or maintain landscaping plants, such as flowers, ground covers, turf or grasses (other than golf courses or athletic fields), shrubs, and trees, but for purposes of this article does not include:

(1) Essential use without waste of water by a commercial nursery to the extent the water is used for production rather than decorative landscaping;
(2) Application of water without waste to a noncommercial family garden or orchard the produce of which is for household consumption only; and
(3) Except when stages II and III of the drought management plan are in effect, application of water at any time on any day by means of a bucket, hand-held hose, soaker hose (but not one that sprays water in the air), or properly installed drip irrigation system.

Landscaping plant means any member of the kingdom planate, including any tree, shrub, vine, herb, flower, succulent, groundcover or grass species that grows or has been planted out-of-doors.

Large property means a land tract owned by a general customer that equals or exceeds five acres in size and has an irrigation system.

Livestock means cattle, sheep, goats, hogs, poultry, horses, and game, domestic, exotic and other animals and birds, including zoo animals, used for commercial or personal purposes.

Livestock use means the use of water for drinking by or washing of livestock.

Low-flow toilet means a tank toilet that is designed to use 1.6 gallons or less of water per flush.

Make-up meter means a meter that measures the amount of water entering a cooling tower system.

msl means elevation above mean sea level.

Mulch means any material such as bark, leaves, straw or other materials left loose and applied to the soil surface to reduce evaporation.

NBU means New Braunfels Utilities.

NPDES/TPDES permit holders means those entities that have valid state or federal permits commonly referred to as NPDES or TPDES [National Pollutant Discharge Elimination System/Texas Pollutant Discharge Elimination System] permits to satisfy requirements of the federal Clean Water Act.

Organic material means organic substances in differing stages of decay.

Other outdoor use means the use of water outdoors for the maintenance, cleaning and washing of structures and mobile equipment, including automobiles and boats, or the washing of streets, driveways, sidewalks, patios and other similar areas.

Park means a tract of land maintained by a city, private organization, or individual, as a place of beauty or of public recreation.

Person means any individual, corporation (including a government corporation), organization, state or federal governmental subdivision or agency, political subdivision of a state, interstate agency or body, business, trust, partnership, limited partnership, association, firm, company, joint stock company, joint venture, commission or any other legal entity.

Pervious hardscape means patios, pathways and other areas where firm footing is desired, constructed in such a way that allows for water to penetrate the ground. Examples include flagstone set in sand and wood plank decks, but exclude concrete slab patios and sidewalks or pavers set with mortar.

Pervious surface means any ground surface which can absorb water or other liquids.

Positive shut-off means a valve that is held in a closed position by system pressure until overridden by an outside force.

Precipitation rate means the speed at which a sprinkler or irrigation system applies water. Precipitation rates are measured in inches per hour or inches per minute.

Prescribed hours for sprinkling means between the hours of 8:00 p.m. and 10:00 a.m. when the drought management plan is not in effect, and during the hours specified therein when the drought management plan is in effect.

Private residential swimming pool. See "Swimming pool."

Property address means the street address of a property, unless multiple street addresses are served by a single meter, in which case the billing address will be used.

Public facilities means municipally-owned or operated facilities.

Public swimming pool. See "Swimming pool".

Rain sensor means a device designed to stop the flow of water to an automatic irrigation system when rainfall has been detected.

Recycled or reuse water means domestic or municipal wastewater which has been treated to a quality suitable for a beneficial use in accordance with applicable law.

Requestor means a customer who requests a variance under this article.

Residential customer means a single or multi-family dwelling unit containing two or fewer family units.

Soaker hose means plastic or flexible hose with holes that send a fine spray in the air. Also includes flexible leaky hoses that emit water across the entire length based on water pressure, and connect directly to a flexible hose or spigot.

Soil holding capacity means the amount of moisture in the soil that can occur without becoming saturated.

Sprinkler means an emitter that applies water to the landscape plants in a stream that travels through the air. Sprinkler irrigation can be applied by an irrigation system or hose-end sprayer or a soaker hose that sprays water in the air.

Swimming pool means any structure, basin, chamber, or tank, including hot tubs, containing an artificial body of water for swimming, diving, or recreational bathing, and having a depth of two feet or more at any point.

(1) *Private residential swimming pool.* Any swimming pool located on private property under the control of the homeowner, the use of which is limited to swimming or bathing by the homeowner's family or invited guests.

(2) *Public swimming pool.* Any swimming pool, other than a private residential swimming pool, intended to be used collectively by persons for swimming or bathing, operated by any person as defined herein, whether owner, lessee, operator, licensee, or concessionaire, regardless of whether a fee is charged for such use. The term includes, but is not limited to, apartment community pools, condominium association pools and community association pools.

TCEQ means the Texas Commission on Environmental Quality.

TDS means total dissolved solids.

Trigger level means the mean sea level of the Edwards Aquifer as indicated by the J-17 index well and/or the discharge from the Comal Springs according to the USGS log in cubic feet per second (cfs).

Turf means a surface layer of earth containing mowed grass with roots.

Turfgrass means perennial ground cover plants and grasses that are adapted to regular mowing and traffic through management.

Vacuum system means a system, often consisting of a pump, chamber, and tubes, that is used to create a vacuum for any of a variety of purposes, including but not limited to medical, dental and industrial applications.

Vegetable garden means any "non-commercial" vegetable garden planted primarily for household use; "non-commercial" includes incidental direct selling of produce from such a vegetable garden to the public.

Vehicle wash facility means a permanently-located business that washes vehicles with water or waterbased product, including but not limited to self-service car washes, full-service car washes, roll-over/in-bay style car washes, and fleet maintenance wash facilities.

Vehicle wash fundraiser means any special-purpose vehicle wash event for which a fee is charged or donation accepted.

Water includes, but is not limited to potable water supplied by NBU or other water purveyor, potable water withdrawn from any groundwater well, surface water from any river, creek, natural watercourse, pond, lake or reservoir, and recycled water supplied by NBU or other water purveyor.

Water waste means use of water without obtaining maximum beneficial use thereof. Waste shall also include, but not be limited to, causing, suffering, or permitting a flow of water used for landscape watering to run into any river, creek or other natural water course or drain, superficial or underground channel, bayou, or unto any sanitary or storm sewer, any street, road or highway or other impervious surface area, or upon the lands of another person or upon public lands. Waste shall also include, but not be limited to, any discharge of water used for commercial, industrial, municipal or domestic purposes to any storm, sanitary sewer, or septic system without the user first having obtained maximum beneficial use thereof. Waste shall also include, but not be limited to, failure to repair any controllable leak on property owned by any registered meter holder.

Water conservation plan means the water conservation plan required as part of the drought management plan referred to in division 7 must include proof of irrigation efficiency of 60 percent or greater and demonstrate specific measures to be taken to reduce consumption to meet the reduction goal established for each stage I, II and III. A plan should also include precipitation rates and irrigation schedules with run times. NBU may, on a case by case basis, waive the requirements for irrigation efficiency and/or submission of a water conservation plan.

Water flow restrictor means an orifice or other device through which water passes at a restricted rate.

Water purveyor use means water used for withdrawal, treatment, remediation, transmission and distribution by a potable water purveyor.

Watering day means a day designated for landscape watering in this ordinance. Thus, if it is stage I and Wednesday is a designated watering day, the period of time referenced is Wednesday morning between midnight to 10:00 a.m., and Wednesday evening between 8:00 p.m. and midnight.

Xeriscape means a landscape consisting of a maximum of 50 percent turfgrass, with the remaining percentage of landscape incorporating low water use plants and/or pervious hardscape. The approved low water use plant list, as may be amended from time to time, shall be available from NBU and located at NBU and at www.nbutexas.com.

Zonal irrigation system means an irrigation system that segregates by station areas of shrubs, ground cover, bedding plants, and turf to accommodate a diversity of watering requirements.

(Ord. No. 2008-50, § I, 7-28-08)

Sec. 130-207. - Nuisance declared.

The violation of any part of division 6 and 7 is deemed a nuisance which may be abated and enjoined by the city. Any person creating a public nuisance shall be subject to the provisions of this Code and other applicable law governing such nuisances, including reimbursing NBU or the city for any costs incurred in removing, abating or remedying such nuisance. The owner of any property where such nuisance has occurred shall be liable to the city and/or NBU for the cost of such abatement, removal or remediation, and shall pay such cost on demand, and the city acting for itself and/or NBU shall have the right to file a lien on the property to secure payment of the cost of such abatement, removal or remediation of the nuisance.

(Ord. No. 2008-50, § I, 7-28-08)

Sec. 130-208. - Presumption and exception.

For purposes of this article, it shall be presumed that the person in whose name a water meter connection is registered with NBU, or other water purveyor servicing the property, is the responsible party who has made, caused, allowed or permitted a violation of the provisions of this article. Proof that the particular premises had a water meter connection registered in the name of the defendant cited in a criminal or civil complaint filed pursuant to this article shall constitute a prima facie presumption that the defendant is a person who made, caused, allowed or permitted a violation pursuant to the

provisions of this article. An exception to this presumption is found in subsection 130-214.3(b), wherein the city, whose premises are used by a tenant/lessee, is generally not responsible for the tenant/lessee's compliance. In such cases, the tenant/lessee of the city is responsible for compliance, and the city shall have no duty to enforce against the tenant/lessee except to the extent the city's municipal courts may be fully utilized by the NBU enforcement officers or other duly authorized governmental personnel charged with enforcement duties.

(Ord. No. 2008-50, § I, 7-28-08)

Sec. 130-209. - Authorization to enforce.

The CEO of NBU or his or her designee and/or the city is authorized and directed to commence any action, in law or in equity, including the filing of criminal charges deemed necessary for the purpose of enforcing this article. The CEO of NBU or the designee and/or the city may seek civil penalties or impose surcharges as may be allowed by statute and this ordinance and any other legal or equitable relief available under common law or this article, under V.T.C.A., Local Government Code ch. 54 as it may be amended to address the subject matter of this article, or any other applicable city, state or federal code, ordinance, statute, rule or regulation.

(Ord. No. 2008-50, § I, 7-28-08)

Sec. 130-210. - Access to premises.

The city and NBU and all persons or agents employed by either shall, at all reasonable hours, have free access to properties to ascertain if water is being wasted and whether provisions of this article have been and are being complied with in all aspects, however, this section does not authorize entry into a residence without consent of the owner or occupant.

(Ord. No. 2008-50, § I, 7-28-08)

Sec. 130-211. - Divisions 5, 6 and 7 to prevail if conflict.

In the event any section or provision of divisions 5, 6 and 7 of this article conflict in effect or application with any other section of this Code, the section or provision of divisions 5, 6 and 7 of this article will prevail.

(Ord. No. 2008-50, § I, 7-28-08)

Sec. 130-212. - Severability.

If for any reason, any division, section, sentence, clause or part of this article is held legally invalid, such judgment shall not prejudice, affect, impair or invalidate the remaining divisions or sections of this article, but shall be confined to the specific division, section, sentence, clause or part of this article held legally invalid.

(Ord. No. 2008-50, § I, 7-28-08)

FOOTNOTE(S):

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Editor's note—*Ord. No. 2008-50, § I, adopted July 28, 2008, amended division 5 in its entirety to read as herein set out. Formerly, division 5 pertained to similar subject matter, and derived from Ord. No. 2006-33, § I(Exh. A), adopted April 24, 2006.* (Back)

DIVISION 6. - REGULATED ACTIVITIES [7]

Sec. 130-213. - Activities to be regulated on and after effective dates.
Sec. 130-213.1. - Landscape watering.
Sec. 130-213.2. - Vehicle wash fundraisers.
Sec. 130-213.3. - Golf courses.
Sec. 130-214. - Activities to be regulated on and after January 1, 2007.
Sec. 130-214.1. - Minimum irrigation area and flow direction.
Sec. 130-214.2. - Annual irrigation system analysis for athletic fields, and large properties.
Sec. 130-214.3 - Cooling towers.
Sec. 130-214.4 - Ice machines.
Sec. 130-214.5 - Commercial dining facilities.
Sec. 130-214.6 - Vehicle wash facilities.
Sec. 130-214.7. - Vacuum systems.
Sec. 130-215. - Other activities to be regulated on and after January 1, 2007.

Sec. 130-215.1. - Condensate collection.
Sec. 130-215.2. - Rain sensors.
Sec. 130-216. - Landscaping regulations generally applicable on and after January 1, 2007.
Sec. 130-216.1. - Xeriscape option.
Sec. 130-216.2. - Model homes.
Sec. 130-216.3. - Zonal system.
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Sec. 130-218. - Variances.
Sec. 130-218.1. - Variance.
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Sec. 130-218.4. - Appeal.
Sec. 130-218.5. - Variance qualifications.
Sec. 130-218.6. - Variance criteria.
Sec. 130-219. - Enforcement.
Secs. 130-219.1—130-219.3. - Reserved.
Sec. 130-219.4. - Defenses.
Sec. 130-219.5. - Conservation compliance officer.

Sec. 130-213. - Activities to be regulated on and after effective dates.

The following activities shall be regulated in the manner set out herein on and after the respective dates indicated in the sections and subsections. A person affected by such regulations may request a variance in the manner set out in section 130-218. A violation of this section and subsections shall be subject to the enforcement provisions set out in section 130-219. It shall be and is hereby declared unlawful for any person to violate, refuse or fail to implement the requirements of this division or of the drought management plan set out in division 7.

(Ord. No. 2008-50, § I, 7-28-08)

Sec. 130-213.1. - Landscape watering.

It is the policy of the city to promote the efficient use of water without waste at all times on a year round basis. From and after the effective date of this division, it is unlawful for any person to perform or permit landscape watering on any property within the city or its extraterritorial jurisdiction or areas covered by NBU's CCN between the hours of 10:00 a.m. and 8:00 p.m. on any day, except as expressly provided herein. Landscape watering is also restricted further during the times the drought management plan is in effect as provided herein.

(Ord. No. 2008-50, § I, 7-28-08)

Sec. 130-213.2. - Vehicle wash fundraisers.

From and after the effective date of this division, any vehicle wash fundraiser shall be conducted at a vehicle wash facility using such facility's equipment.

(Ord. No. 2008-50, § I, 7-28-08)

Sec. 130-213.3. - Golf courses.

From and after the effective date of this division, no golf courses shall be allowed to irrigate the greens, tees, roughs or fairways with potable water. Use of potable water for landscape irrigation in and around the club house will be permitted but must conform to all other requirements for landscape irrigation.

(Ord. No. 2008-50, § I, 7-28-08)

Sec. 130-214. - Activities to be regulated on and after January 1, 2007.

Except as provided by a specific and alternative application date, particularly systems analysis, the following activities shall be regulated in the manner set out herein on and after January 1, 2007. A person affected by such regulations may request a variance in the manner set out in section 130-218. A violation of this section and subsections shall be subject to the enforcement provisions set out in section 130-219. It shall be and is hereby declared unlawful for any person to violate, refuse or fail to implement the requirements of this division.

(Ord. No. 2008-50, § I, 7-28-08)

Sec. 130-214.1. - Minimum irrigation area and flow direction.

Effective January 1, 2007, newly installed irrigation systems using pop-up spray or rotor technology shall not be used in landscaped areas which have both:

(1) Dimensions less than five feet in length and/or width; and

(2) Impervious pedestrian or vehicular traffic surfaces along two or more perimeters.

Where pop-up sprays and rotor heads are allowed in newly installed irrigation systems, they (a) must direct flow away from any adjacent impervious surface and (b) shall not be placed within four inches from an impervious surface.

(Ord. No. 2008-50, § I, 7-28-08)

Sec. 130-214.2. - Annual irrigation system analysis for athletic fields, and large properties.

Effective January 1, 2007:

(1) An annual irrigation system analysis demonstrating no water waste shall be required for all athletic fields, and large properties and shall be submitted in writing to the NBU conservation coordinator on or before May 1st of each year, beginning on May 1, 2007.

(2) Municipal tenants and lessees of sports and athletic playing fields, and any other municipally owned properties, shall be responsible for compliance with this section and subsection. NBU shall look directly to such tenants and lessees for compliance unless the municipality concedes by contractual agreement with the tenant/lessee to assume the tenant/lessee's responsibility for compliance.

(Ord. No. 2008-50, § I, 7-28-08)

Sec. 130-214.3. - Cooling towers.

Effective January 1, 2007:

(1) Cooling towers, not utilizing recycled water, shall operate a minimum of four cycles of concentration. For the purposes of this section "concentration" means recirculated water that has elevated levels of total dissolved solids as compared to the original make-up water.

(2) Newly constructed cooling towers shall be operated with conductivity controllers, as well as make-up and blowdown meters.

(Ord. No. 2008-50, § I, 7-28-08)

Sec. 130-214.4. - Ice machines.

Effective January 1, 2007, newly installed ice machines shall not be single pass water-cooled.

(Ord. No. 2008-50, § I, 7-28-08)

Sec. 130-214.5. - Commercial dining facilities.

Effective January 1, 2007, commercial dining facilities shall:

(1) Utilize positive shut-offs for hand-held dish-rinsing wands.

(2) Utilize water flow restrictors for all garbage disposals.

Comment: NBU strongly encourages that water be served to guests only upon request. Many guests do not drink water which is not requested, and water use involved with dishwashing occurs whether or not the guest consumes the water served.

(Ord. No. 2008-50, § I, 7-28-08)

Sec. 130-214.6. - Vehicle wash facilities.

(a) Vehicle wash facilities, commencing operation on or after January 1, 2007, using conveyorized, touchless, and/or rollover in-bay technology shall reuse a minimum of 50 percent of water from previous vehicle rinses in subsequent washes.

(b) Vehicle wash facilities, commencing operation on or after January 1, 2007, using reverse osmosis to produce water rinse with a lower mineral content, shall incorporate the unused concentrate in subsequent vehicle washes.

(c) Regardless of date of operation commencement, from and after January 1, 2007, self-service spray wands used shall emit no more than three gallons of water per minute.

(Ord. No. 2008-50, § I, 7-28-08)

Sec. 130-214.7. - Vacuum systems.

Newly constructed commercial buildings installing vacuum systems on and after January 1, 2007 shall not be water-cooled with single-pass potable water when alternative systems are available.

(Ord. No. 2008-50, § I, 7-28-08)

Sec. 130-215. - Other activities to be regulated on and after January 1, 2007.

The following activities shall be regulated in the manner set out herein on and after January 1, 2007. A person affected by such regulations may request a variance in the manner set out in section 130-218. A violation of this section and subsections shall be subject to enforcement provisions set out in section 130-219. It shall be and is hereby declared unlawful for any person to violate, refuse or fail to implement the requirements of this division 6.

(Ord. No. 2008-50, § I, 7-28-08)

Sec. 130-215.1. - Condensate collection.

Newly constructed commercial buildings installing air conditioning systems on and after January 1, 2007, shall have a single and independent condensate wastewater line to collect condensate wastewater to provide for future utilization as:

(1) Process water and cooling tower make-up, and/or

(2) Landscape irrigation water. Condensate wastewater shall not be allowed to drain into a storm sewer, roof drain overflow piping system public way or impervious surface.

(Ord. No. 2008-50, § I, 7-28-08)

Sec. 130-215.2. - Rain sensors.

Effective January 1, 2007, rain sensors shall be installed and maintained on all irrigation systems equipped with automatic irrigation controllers.

(Ord. No. 2008-50, § I, 7-28-08)

Sec. 130-216. - Landscaping regulations generally applicable on and after January 1, 2007.

Except as specifically provided with alternative effective dates, persons affected by the regulations set out herein below shall comply on and after January 1, 2007, and may request a variance to such regulations in the manner set out in section 130-218. A violation of this section and subsections shall be subject to the enforcement provisions set out in section 130-219. It shall be and is hereby declared unlawful for any person to violate, refuse or fail to implement the requirements of this division 6.

(Ord. No. 2008-50, § I, 7-28-08)

Sec. 130-216.1. - Xeriscape option.

Effective January 1, 2007, homebuilders and/or developers subdividing lots and/or constructing new single family residential homes shall offer a xeriscape option in any series of landscaping options offered to prospective home buyers.

(Ord. No. 2008-50, § I, 7-28-08)

Sec. 130-216.2. - Model homes.

Effective January 1, 2007, homebuilders and/or developers who construct one or more model homes for a designated subdivision shall have at least one model home per subdivision landscaped according to a xeriscape design.

(Ord. No. 2008-50, § I, 7-28-08)

Sec. 130-216.3. - Zonal system.

In-ground irrigation systems installed on and after January 1, 2007, shall be zonal irrigation systems.

(Ord. No. 2008-50, § I, 7-28-08)

Note—Comment: This comment does not have force of law, but is provided here for informational purposes only. The Texas Property Code, Chapter 202, Section 202.001, et. seq., entitled "Certain Restrictive Covenants," reflects a growing public interest in water conservation and its relationship to the public health, safety, and welfare.

Texas Property Code, Chapter 202, Section 202.007, provides that a property owners association may not include or enforce a provision in a

dedicatory instrument that prohibits or restricts a property owner from implementing certain efficient irrigation systems, including underground drip or other drip systems. Any dedicatory instrument provision, attempting to restrict a property owner from installing such efficient systems, is void. Therefore, such restrictions, running counter to certain conservation efforts, cannot be enforced. Texas Real Property Code, Sec. 202.007(b).

Added by Acts 2003, 78th Legislature, chapter 1024, § 1, Effective, September 1, 2003.

As used within the Texas Property Code, "dedicatory instrument" means a governing instrument for the establishment, maintenance, and operation of a residential subdivision, planned unit development, condominium, townhouse regime, or any similar planned development. Texas Property Code, Sec. 202.007(1).

The Texas Property Code also allows that a property owners' association may restrict the type of turf used by a property owner in the planting of new turf [in the future] in order to encourage or require water conserving turf.

According to the Texas Property Code, property owners' associations may regulate, by dedicatory instrument or other legal means, installation of efficient irrigation systems, including establishing visibility limitations for aesthetic purposes.

NBU endorses and advocates the use of dedicatory instruments and other legal obligations among private parties which understandings may support and promote a culture of water conservation.

Sec. 130-217. - Conservation provisions in wholesale water contracts.

Each wholesale potable water supply contract entered into by NBU after this division becomes effective, including contract extensions, must include:

(1) A provision that the wholesale customer is required to conform to the city's water conservation ordinance set out as article IV, divisions 5, 6 and 7, as amended from time to time;

(2) A provision that NBU may implement a pro rata curtailment of water deliveries to or diversions by wholesale water customers as provided by V.T.C.A., Administrative Code tit. 30, ch. 288;

(3) A provision that in case of a shortage of water resulting from drought, the water to be distributed shall be divided in accordance with V.T.C.A., Administrative Code tit. 30, ch. 288.

(Ord. No. 2008-50, § I, 7-28-08)

Sec. 130-218. - Variances.

The authority to grant a variance and an appeal from such variance to the provisions of this division 6 or division 7, is hereby delegated to NBU in the manner described herein. A determination by NBU pursuant to this section shall be deemed final for purposes of appeal. Appeal procedures are detailed below.

(Ord. No. 2008-50, § I, 7-28-08)

Sec. 130-218.1. - Variance.

A person who is affected by these provisions may seek a variance in the manner set out herein. A person shall request a variance within 30 days of the date a provision becomes apparently applicable to that person's activities and/or properties. For example, a person will have standing to seek a variance within 30 days following receipt of a formal (citation) or informal notice of violation; prior to a notice of violation; or at the discretion of the conservation coordinator when, in the coordinator's judgment, to deny standing to pursue a variance would clearly deny the applicant an opportunity to have justice and equity done for the applicant's case. In the latter situation, for purposes of justice and equity, the standard for allowing a variance application to be heard or considered are the common notions of rightness and fair play.

(Ord. No. 2008-50, § I, 7-28-08)

Sec. 130-218.2. - Time, date, place.

A person seeking a variance under these provisions shall make such request in writing to the conservation coordinator. Such request shall be reviewed by the conservation coordinator. If the application, on its face, warrants a variance, the coordinator may grant the request without hearing. Otherwise, the coordinator shall review such request within 30 days of receipt and shall inform the requestor in writing of the time, date and place for variance hearing if necessary.

(Ord. No. 2008-50, § I, 7-28-08)

Sec. 130-218.3. - Representation and notice of NBU's response; first hearing.

The requestor may be represented by a duly authorized representative and may introduce such evidence as the requestor believes to be relevant. The coordinator and appropriate NBU personnel shall hear the request. The requestor shall receive written notification by the coordinator within 30 days of the date of the hearing whether such variance is granted or denied.

(Ord. No. 2008-50, § I, 7-28-08)

Sec. 130-218.4. - Appeal.

In the event the variance is granted, the decision of the coordinator shall be final. Should the variance be denied, however, the requestor shall have ten days from receipt of the denial of the variance to seek an appeal in writing. Within 30 days of the written request for an appeal from the denial of a variance, a three member variance appeals panel composed of NBU customers appointed by and serving at the pleasure of the NBU board of trustees shall hear the appeal. The requestor shall be informed in writing of the time, date and place where such appeal shall be heard. The requestor and/or his authorized representatives may present evidence to the variance appeals panel why such appeal should be granted. The variance appeals panel shall inform the requestor within 30 days of the date of the hearing of the appeal whether the appeal has been granted or denied. The determination of the variance appeals panel shall be final and shall be in writing. If a judicial appeal is pursued, the applicant must take such appeal to district court or other court of competent jurisdiction within 30 days of the variance appeals panel's final determination, which further appeal shall be pursued under appropriate standards of the substantial evidence rule.

(Ord. No. 2008-50, § I, 7-28-08)

Sec. 130-218.5. - Variance qualifications.

Variances to the regulated activities in this division 6 or the drought management plan in division 7 may be issued by the conservation coordinator provided that the general intent of the provisions of this division 6 or division 7 has been met, and strict compliance with this division 6 or division 7 is proven to be impracticable to accomplish and to cause unnecessary hardship. The criteria to determine hardship shall include, but not be limited to, a showing of level of capital outlay and technical complexity in relation to conservation benefit to be derived, and time and effort required to accomplish compliance with this article.

(Ord. No. 2008-50, § I, 7-28-08)

Sec. 130-218.6. - Variance criteria.

The conservation coordinator shall also develop specific criteria to be used for the granting of variances from the provisions of division 6 or division 7 which are appropriate to the provision for which a variance is being sought. Such criteria shall be applied equally to each request for variance under a particular provision. A requestor shall be furnished with the criteria to be utilized by the coordinator prior to his/her variance application and/or appeal being heard.

(Ord. No. 2008-50, § I, 7-28-08)

Sec. 130-219. - Enforcement.

(a) *Violations.* It shall be a violation of this article for any person in the corporate limits of the city or its extra territorial jurisdiction or any person in the NBU CCN that receives water service from NBU, intentionally, knowingly, recklessly or criminally negligently to allow or cause water waste, to allow landscape watering outside the prescribed hours for sprinkling, or to allow or cause any violation of any provision of this division or of the drought management plan.

(b) *Continued violations.* At locations of repeated or continued violations of this division or of the drought management plan, the CEO of NBU shall have the authority to discontinue the supply of potable water to the registered meter holder.

(c) *Penalties; surcharges.*

(1) *Criminal.* Any person violating any provision of this article shall be guilty of an offense, and upon citation and conviction, shall be punished by a fine not less than $100.00 and not more than $500.00 for the first offense; a fine not less than $200.00 and not more than $500.00 for the second offense; a fine of not less than $400.00 and not more than $500.00 for the third and additional offenses. If the court determines the offense relates to public health or sanitation, the maximum fine is $2,000.00, regardless of the number of offenses. Each violation of a particular section of this division or division 7 shall constitute a separate offense, and each day an offense continues shall be considered a new violation for purposes of enforcing this article. All fines collected under this section shall be remitted to NBU and used by NBU for the furtherance of water conservation programs and to help defray the cost of enforcement of this article.

(2) *Civil.* Civil penalties, imposed by courts of competent jurisdiction in civil actions for violations of this article, may also be assessed as may be allowed by applicable state law in any amount to be authorized by the state. Under V.T.C.A., Local Government Code ch. 54, NBU and the office of the city attorney may presently pursue civil enforcement for injunctive relief and the imposition of up to $1,000.00 per day civil penalties appropriately imposed by the court. This statutory remedy is in addition to the city's common law right to bring civil actions for injunctive relief to stop harmful acts, independent of authority found in the Texas Local Government Code.

(3)

Surcharges. Any person who violates the watering restriction provisions of this division or of the drought management plan will be held strictly liable and the punishment for such violation may include the imposition of punitive surcharges. NBU is authorized to assess one or more surcharges on the water bill of any person presumed to have been the one who violated this division or a provision of the drought management plan. In the event NBU determines a violation has occurred, the person assessed the punitive surcharge by NBU is prima facia presumed to have violated this division or the drought management plan for the purpose of assessment of surcharges. Punitive surcharges may be assessed as follows:

First violation in any 12-month period	Warning
Second violation in any 12-month period	$ 25.00
Third violation in any 12-month period	100.00
Fourth violation in any 12-month period	300.00

Non-payment of any assessed surcharge or repeated or continued violations of watering restrictions imposed by this article can result in termination of water service. A person who believes that a surcharge was unwarranted because either the violation did not occur or the violation was excused, may appeal the determination to the conservation coordinator and then to the variance appeals panel, whose decision on the matter is final.

(Ord. No. 2008-50, § I, 7-28-08)

Secs. 130-219.1—130-219.3. - Reserved.

Sec. 130-219.4. - Defenses.

(a) It shall be a defense to prosecution or imposition of punitive surcharges that landscape watering was performed on any plant or seed planted in or transplanted to an area within such period of time as to accomplish a reasonable establishment and maintenance of growth, generally three weeks.

(b) It shall be a defense to prosecution or imposition of punitive surcharges that landscape watering was performed by a commercial enterprise in the business of growing or maintaining plants for sale, such as plant nurseries; provided, however, that such landscape watering shall be performed solely for the establishment, growth, and maintenance of such plants and not wasted.

(Ord. No. 2008-50, § I, 7-28-08)

Sec. 130-219.5. - Conservation compliance officer.

(a) A conservation compliance officer shall be appointed by NBU. The compliance officer shall be authorized to administer and enforce this article.

(b) The compliance officer is authorized and directed to enforce all of the provisions of this article, and the compliance officer, upon presentation of proper credentials, may enter properties in accordance with section 130-210 at reasonable times for the purpose of making inspections or preventing violations of this article. This section shall not be construed as imposing upon NBU and/or the city (or any official or employee of either) any liability or responsibility for damages to any property by reason of the inspections authorized under this section.

(Ord. No. 2008-50, § I, 7-28-08)

FOOTNOTE(S):

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Editor's note—*Ord. No. 2008-50, § I, adopted July 28, 2008, amended division 6 in its entirety to read as herein set out. Formerly, division 6 pertained to similar subject matter, and derived from Ord. No. 2006-33, § I(Exh. A), adopted April 24, 2006.* (Back)

DIVISION 7. - DROUGHT MANAGEMENT PLAN [8]

Sec. 130-220. - Adoption of drought management plan, water use reduction measures, and aquifer stage conditions.
Sec. 130-221. - Basis of water use reduction measures and aquifer stage conditions.
Sec. 130-222. - Implementation of water use reduction measures and stages, generally.
Sec. 130-223. - Declaration of water use reduction measures, stages in effect, notice by publication required.
Sec. 130-224. - "Trigger levels" for implementation and termination of water use reduction measures, stages I, II and III.

Sec. 130-225. - Designated landscape irrigation times and days (stages I, II, III).
Sec. 130-226. - Implementation of additional water use reduction measures, ("aquifer risk").
Sec. 130-227. - Termination of water use reduction measures, stages.
Sec. 130-228. - Specific water use reduction measures.
Secs. 130-229, 130-230. - Reserved.

Sec. 130-220. - Adoption of drought management plan, water use reduction measures, and aquifer stage conditions.

The drought management plan, including the water use reduction measures and associated aquifer stage conditions set out therein, is hereby adopted.

(Ord. No. 2008-50, § I, 7-28-08)

Sec. 130-221. - Basis of water use reduction measures and aquifer stage conditions.

The water use reduction measures shall be based on the aquifer stage conditions. The aquifer stage conditions shall be based on the Edwards Aquifer water levels in Well AY-68-37-203 in San Antonio (also known as "Dodd Field Test Well" or "J-17") as set out in section 130-224, or on the discharge level of the Comal Springs, NBU water supply, or on aquifer water quality or other aquifer, seasonal or weather conditions not based on water levels in J-17 (set out in section 130-226).

(Ord. No. 2008-50, § I, 7-28-08)

Sec. 130-222. - Implementation of water use reduction measures and stages, generally.

When the aquifer falls to 675 msl, NBU staff shall begin preparations for public awareness, education and enforcement of the respective stage provisions, as set out in section 130-223. The water use reduction measures shall be declared to be in effect when the aquifer level in the index well J-17 is at or below 660 feet msl or the discharge from the Comal Springs is at or below 225 cfs. Each stage of the water use reduction measures shall be implemented when the aquifer water in J-17 reaches the "trigger levels" set out in sections 130-224, 130-225 and 130-226. Specific water use reduction measures are set out in table I of this division and shall cover the categories of regulated use, applicable stages and corresponding required water use reduction measures.

(Ord. No. 2008-50, § I, 7-28-08)

Sec. 130-223. - Declaration of water use reduction measures, stages in effect; notice by publication required.

(a) The mayor of the city, in consultation with NBU, is hereby authorized to declare that each "trigger level" has been reached and that the water use reduction measures and each respective stage are in effect.

(b) Notices of the implementation and termination of the water use reduction measures and each of the various stages, as appropriate, shall be publicly announced and published in a daily newspaper for a minimum of one day. The implementation or termination of the measures and each of the stages shall become effective immediately upon publication of the respective notice.

(Ord. No. 2008-50, § I, 7-28-08)

Sec. 130-224. - "Trigger levels" for implementation and termination of water use reduction measures, stages I, II and III.

Implementation and termination of stages I, II and III of the water use reduction measures shall occur according to the following schedule:

	Description	Stage I	Stage II	Stage III
1	When the aquifer is at or below this level msl or the discharge from the Comal Springs is at or below this cfs, whichever happens first, the mayor, in consultation with NBU, shall officially declare the respective stage. NBU shall coordinate water use reduction with customers in its service area. The city and NBU shall enforce the water use reduction provisions set out in section 130-225, for each stage.	660 msl 225 cfs	650 msl 200 cfs	640 msl 150 cfs
2	When the aquifer subsequently rises above this level msl or the discharge from the Comal Springs rises above this cfs, whichever occurs last, the mayor and NBU staff shall monitor consistency of various levels for the next ten days, considering pumpage trends, seasonal adjustments, and current and forecast precipitation as set out in section 130-227, before deciding whether to terminate the respective stage.	660 msl 225 cfs	650 msl 200 cfs	640 msl 150 cfs

(Ord. No. 2008-50, § I, 7-28-08)

Sec. 130-225. - Designated landscape irrigation times and days (stages I, II, III).

During any period when stages I, II, or III have been declared to be in effect, irrigation with a sprinkler or irrigation system of existing landscape on any property (other than parks and athletic fields, the restrictions for which are set out in section 130-228) may occur only on certain designated days and at certain times, as follows:

(1) For stage I, landscape watering for residential and commercial properties will be limited to two days per week according to the street address as follows:

If the last digit of the address ends in 0, 2, 4, 6, or 8, irrigation days are Monday and Thursday.

If the last digit of the address ends in 1, 3, 5, 7 or 9, irrigation days are Tuesday and Friday.

If there is no street address associated with the property, such as a parkway, or if there is more than one street address associated with a single contiguous property, the irrigation days are Monday and Friday.

(2) For stage II, landscape watering for residential and commercial properties will be limited to one day per week according to the street address as follows:

If the last digit of the address ends in 0 or 1, the irrigation day is Monday.

If the last digit of the address ends in 2 or 3, the irrigation day is Tuesday.

If the last digit of the address ends in 4 or 5, the irrigation day is Wednesday.

If the last digit of the address ends in 6 or 7, the irrigation day is Thursday.

If the last digit of the address ends in 8 or 9, the irrigation day is Friday.

If there is no street address associated with the property, such as a parkway, or if there is more than one street address associated with a single contiguous property, the irrigation day is Wednesday.

(3) For stage III, landscape watering for residential and commercial properties will be limited to one day per week every other week beginning on the second Monday after the stage III has been declared according to the street address as follows:

If the last digit of the address ends in 0 or 1, the irrigation day is Monday.

If the last digit of the address ends in 2 or 3, the irrigation day is Tuesday.

If the last digit of the address ends in 4 or 5, the irrigation day is Wednesday.

If the last digit of the address ends in 6 or 7, the irrigation day is Thursday.

If the last digit of the address ends in 8 or 9, the irrigation day is Friday.

If there is no street address associated with the property, such as a parkway, or if there is more than one street address associated with a single contiguous property, the irrigation day is Wednesday.

(4) For stage I, II and III the following associated irrigation methods apply: Irrigation with a hose-end sprinkler or in-ground irrigation system is allowed on the days specified.

(5) For stage II and III irrigation with a soaker hose (that does not send spray in the air), handheld hose, drip irrigation system or bucket is allowed on any day before 10:00 a.m. and after 8:00 p.m.

Note: Vehicle washing at home is limited to designated landscape sprinkling watering days and times, but use of a commercial facility is permitted any day.

(Ord. No. 2008-50, § I, 7-28-08)

Sec. 130-226. - Implementation of additional water use reduction measures, ("aquifer risk").

(a) Implementation of additional water use reduction measures need not be based on the trigger levels set forth in section 130-224 but may instead be based on consideration of aquifer water quality or on other aquifer, seasonal or weather conditions not based on water levels in J-17.

(b) Whenever aquifer quality measures 30 percent TDS above historical average and above the maximum TDS value for any public supply water well, the mayor, in consultation with NBU, shall declare additional measures to protect the aquifer and shall be implemented by the city council as necessary.

(c) Regardless of consideration of aquifer quality, whenever the mayor, in consultation with NBU may determine that the NBU water supply, or other aquifer, seasonal, or weather conditions not based on water levels in J-17 warrant, the mayor may also impose additional restrictions for all water uses.

(Ord. No. 2008-50, § I, 7-28-08)

Sec. 130-227. - Termination of water use reduction measures, stages.

When the aquifer level at J-17 rises to 660 feet msl during a period when the water use reduction measures have been declared in effect, the mayor, or his or her designee, in consultation with NBU, shall monitor consistency of aquifer

levels for the next ten days to determine if conditions warrant termination of the measures, and such determination shall include consideration of pumpage trends, seasonal adjustments, and current and forecast precipitation unless conditions significantly change to warrant an earlier review for stage termination. After this monitoring period and due consideration of all of the above-described conditions, the mayor, in consultation with NBU, may declare the measures terminated.

Notice of the termination of the water use reduction measures and each of its various stages, as appropriate, shall be publicly announced and published in a daily newspaper for a minimum of one day. Termination of the measures and each of its stages shall become effective immediately upon publication of the respective notice.

(Ord. No. 2008-50, § I, 7-28-08)

Sec. 130-228. - Specific water use reduction measures.

Specific water use reduction measures, their corresponding stages and scope are set out in the table, below:

Measures for	Stages	Scope of Restrictions
Essential Services	I, II, III	Fire-fighting & medical uses – no restrictions.
	I	Reduction in fire hydrant & sewer line flushing recommended.
	II, III	Hydrant flushing & sewer line flushing – only on emergency basis.
Water Purveyor Use	I, II, III	Water purveyors are encouraged to implement voluntary measures, such as improving leak detection surveys and repair programs and stabilizing and equalizing system pressure.
Power Production	I, II, III	Water used for power production shall be voluntarily reduced.
Agricultural	I	Reduction of water use by any means available is encouraged.
	II, III	The escape of irrigation tail water, as that term is commonly used in the agricultural community, is prohibited. Water loss through percolation in transmission canals is prohibited.
	III	Additional reductions may be imposed by the City Council if conditions warrant.
Livestock Use	I, II, III	Reduction of water use by any means available is encouraged.
Industrial, Commercial, and Other	I, II, III	Reduction of water use by any means available is encouraged. Compliance with the mandatory demand reduction measures is required for those uses in the outdoor category, including landscape watering, swimming pools, hot tubs and similar facilities, golf courses, aesthetic uses such as fountains; such restrictions specifically include industrial users, as well as all others. Use of gray water, treated wastewater or reuse water is a defense to prosecution.
	III	Additional reductions may be imposed by the Mayor if conditions warrant. Use of treated wastewater or recycled water is a defense to prosecution.
Restaurants, or other Eating Establishments	I, II, III	NBU strongly encourages that water be served to guests only upon request.
Household	I, II, III	Reduction of water use by any means available is encouraged. Compliance with the mandatory demand reduction measures shall be achieved for those uses in the outdoor category, such as landscape watering, swimming pools, hot tubs, and similar facilities.
Swimming Pools, Hot Tubs, etc.	I, II, III	NBU strongly suggests that all swimming pools other than public swimming pools be covered with an effective evaporation cover or screen or evaporation shields covering at least 25% of the surface of the pool when the pool is not in active use. Active use includes necessary maintenance that requires removal of the cover, screen, or shields. Active use of public, commercial and apartment pools is whenever the pool is not officially closed.
	II, III	Replenishing to maintenance level permitted. Draining permitted only onto pervious surface, or onto pool deck where the water is transmitted directly to a pervious surface, only if:
		1. Draining excess water from pool due to rain in order to lower water to maintenance level. For purposes of this section "maintenance level" means the level of water in a swimming pool required for proper operation of circulation and filter equipment for the swimming pool;
		2. Repairing, maintaining or replacing pool component which has become hazardous; or
		3. Repairing pool leak.
Aesthetics (fountains, waterfalls, etc.)	I, II, III	Outside prohibited. The use of treated wastewater is a defense to prosecution under this paragraph.
Other Outdoor Uses	I, II, III	Waste is prohibited. No person may allow irrigation tailwater to escape from that person's land.
	I, II, III	Use of water to wash any impervious outdoor ground covering, such as a parking lot, driveway, street or sidewalk, is prohibited. The washing of any impervious surfaces for immediate health and safety shall be a defense to prosecution under this paragraph. A variance from NBU should be obtained for any washing of impervious surfaces. Non-commercial washing of vehicles and mobile equipment (e.g., washing vehicle at a residence) is permitted only on assigned residential landscape sprinkling watering days and times (see Sec. 130-225) with hand-held hose (with automatic shut-off nozzle) or bucket of five (5) gallons or less, but is prohibited between the hours of 10:00 a.m. and 8:00 p.m. every day. Use of commercial vehicle wash facility permitted any day. Citizens are encouraged to wash their cars no more than twice a month. Use of gray water, treated wastewater or recycled water is a defense to prosecution.

Landscape Irrigation: Established Plants	I	Landscape watering using sprinkler or irrigation systems is permitted only on designated landscape watering days and times [see Sec. 130-225(a)]. The use of gray water, treated wastewater or reuse water is a defense to prosecution. Voluntary irrigation system audits encouraged. A user may file with NBU a request for an exception to the designated days and times. The request must include: (1) a statement indicating compelling reasons why the user is unable to meet the specific designated watering times and days; and (2) a water conservation plan. The water conservation plan must also include proof of irrigation efficiency of sixty percent (60%) or greater and demonstrate specific measures to be taken to reduce consumption to meet the reduction goal established for Stage I. NBU may, on a case by case basis, waive the requirements for irrigation efficiency and/or submission of a water conservation plan. Upon the approval of the water conservation plan as set forth herein, the user may be granted an exception.
	II, III	Landscape watering using sprinklers or irrigation systems is permitted only on designated landscape watering days and times [see Sec. 130-225(b) and (c)]. The use of gray water, treated wastewater or reuse water is a defense to prosecution. Voluntary irrigation system audits encouraged. A user may file with NBU a request for an exception to the designated days and times. The request must include: (1) a statement indicating compelling reasons why the user is unable to meet the specific designated watering times and days; and (2) a water conservation plan. The water conservation plan must also include proof of irrigation efficiency of sixty percent (60%) or greater and demonstrate specific measures to be taken to reduce consumption to meet the reduction goal established for Stage II or III. NBU may, on a case by case basis, waive the requirements for irrigation efficiency and/or submission of a water conservation plan. Upon the approval of the water conservation plan as set forth herein, the user may be granted an exception.
Landscape Irrigation: New Landscaping Plants	I	Landscape watering permitted to maintain adequate growth until established, generally three (3) weeks. Property owners should submit by mail, facsimile, or e-mail to the NBU Conservation Coordinator their name, address where the new landscape is to be installed and the date of installation in order to receive a confirmation letter from NBU. Thereafter, landscape watering using sprinkler or irrigation systems for landscaping plants is permitted only on designated landscape watering days and times [see Sec. 130-225(a) and (d)]. Watering with hand-held hose, soaker hose (but not one that sprays water in the air), bucket of five (5) gallons or less, or drip irrigation system is permitted at any time. The use of gray water, treated wastewater or reuse water is a defense to prosecution.
	II	Landscape watering permitted to maintain adequate growth until established, generally three (3) weeks. Property owners should submit by mail, facsimile, or e-mail to the NBU Conservation Coordinator their name, address where the new landscape is to be installed and the date of installation in order to receive a confirmation letter from NBU. Thereafter, landscape watering using sprinklers or irrigation systems is permitted only on designated landscape watering days and times [see Sec. 130-225(b) and (d)]. Watering with hand-held hose, soaker hose (but not one that sprays water in the air), bucket of five (5) gallons or less, or drip irrigation system is permitted at any time, but only until adequate growth is established as set out in NBU's confirmation letter. Use of gray water, treated wastewater or reused water is a defense to prosecution. Voluntary irrigation system audits encouraged.
	III	Landscape watering permitted to maintain adequate growth until established, generally three (3) weeks. Property owners should submit by mail, facsimile, or e-mail to the NBU Conservation Coordinator their name, address where the new landscape is to be installed and the date of installation in order to receive a confirmation letter from NBU. Thereafter, landscape watering using sprinklers or irrigation systems is permitted only on designated landscape watering days and times [see Sec. 130-225(c), (d)]. Watering with hand-held hose, soaker hose (but not one that sprays water in the air), bucket of five (5) gallons or less, or drip irrigation system is permitted at any time, but only until adequate growth is established as set out in NBU's confirmation letter. Installation of new landscapes is permitted only if not more than fifty percent (50%) of the available landscape area is planted with turf and if proper horticultural practices are followed, including use of mulch and zonal irrigation systems if a permanent irrigation system is installed. A user may file with NBU a request to install more than fifty percent (50%) turf. The request must include: (1) a statement or plan describing the landscaping plan; and (2) a statement indicating how the landscaping plan will achieve the goals of this chapter. Upon the approval of the alternate landscaping plan as set forth herein, the user may be granted an exception. Landscape renovation is allowed only if proper horticultural practices are followed, including use of mulch. Additionally, if the newly renovated landscaped area is watered with an irrigation system, then a zonal irrigation system must be installed.
Parks/Athletic Fields	I, II, III	Parks and athletic fields owner/operators shall be required to submit a water conservation plan and shall be defined as "conforming" or "non-conforming". An athletic field or park will be deemed "conforming" if there is a CCIS in place and the owner/operator is utilizing the system to achieve maximum conservation and the goals of this division. Conforming facilities should have a conservation plan approved and on file with NBU. A park or athletic field that is not conforming is deemed "non-conforming" for the purposes of this division. Owners/operators of athletic fields or parks shall reduce water usage under the following terms:
	I, II, III	Use of gray water, treated wastewater or recycled water is a defense to prosecution.
	I	A. A conforming park/athletic fields shall implement a ten percent (10%) reduction in the replacement of daily evapotranspiration rate ("ET rate") or daily soil-holding capacity, achieved by use of an existing and properly operating CCIS (as defined) capable of achieving such water conservation goals.
		B. A non-conforming park/athletic fields shall not use more than 1.8 times the base usage for a park/athletic field not equipped with a CCIS. If not separately metered an irrigation audit showing precipitation rates and run times along with a conservation plan shall be submitted and approved by NBU for the purpose of establishing acceptable irrigation run times and days as approved by NBU.
	II	A. A conforming park/athletic field shall implement a twenty percent (20%) reduction in replacement of daily ET rate or daily soil holding capacity, achieved by use of an existing and properly operating CCIS (as defined) capable of achieving such water conservation goals;
		B. A non-conforming park/athletic field shall not use more than 1.6 times the base usage for a park/athletic field not equipped with a CCIS. If not separately metered an irrigation audit showing precipitation rates and run times

		along with a conservation plan shall be submitted and approved by NBU for the purpose of establishing acceptable irrigation run times and days as approved by NBU.
	III	A. A conforming park/athletic field shall implement a thirty percent (30%) reduction in replacement of daily ET rate or daily soil holding capacity, achieved by use of an existing and properly operating CCIS (as defined) capable of achieving such water conservation goals;
		B. A non-conforming park/athletic field shall not use more than 1.4 times the base usage for a park/athletic field not equipped with a CCIS. If not separately metered an irrigation audit showing precipitation rates and run times along with a conservation plan shall be submitted and approved by NBU for the purpose of establishing acceptable irrigation run times and days as approved by NBU.

(Ord. No. 2008-50, § I, 7-28-08)

Secs. 130-229, 130-230. - Reserved.

FOOTNOTE(S):

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Editor's note—*Ord. No. 2008-50, § I, adopted July 28, 2008, amended division 7 in its entirety to read as herein set out. Formerly, division 7 pertained to similar subject matter, and derived from Ord. No. 2006-33, § I(Exh. A), adopted April 24, 2006.* *(Back)*

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ARTICLE V. - SEWER SERVICE [9]

DIVISION 1. - GENERAL
DIVISION 2. - SERVICE REQUESTS; RATES
DIVISION 3. - CONNECTIONS, USE OF PUBLIC, PRIVATE SEWERS
DIVISION 4. - WASTEWATER COLLECTION, TREATMENT

FOOTNOTE(S):

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Cross reference— *Plumbing code, § 14-91 et seq.; health and sanitation, ch. 62; wastewater from house cars, § 62-212; wastewater from tourist courts, § 62-232; solid waste, ch. 110.* *(Back)*

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DIVISION 1. - GENERAL

Sec. 130-231. - Definitions.
Sec. 130-232. - Liability for damage.
Sec. 130-233. - Penalty for violation of article.
Secs. 130-234—130-255. - Reserved.

Sec. 130-231. - Definitions.

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

Biochemical Oxygen Demand (BOD) means the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure as specified in approved methods, in five days at 20 degrees Celsius expressed as milligrams per liter (mg/l).

Building drain means that part of the lowest horizontal piping of a drainage system which receives discharge from soil, wastes and other drainage pipes within the walls of a building, and conveys it to the building service connection, beginning three feet outside the inner face of the building wall or foundation.

Building service connection means the extension from the public sewer in the street, alley or easement, or other lawful place of disposal, of the building drain.

Chemical Oxygen Demand (COD) means the measure of the oxygen-consuming capacity of organic matter present in water or wastewater, as determined by standard laboratory procedure as specified in approved methods, expressed in mg/l as the amount of oxygen consumed from a chemical oxidant in a specific test.

Domestic sewage or domestic wastewater means waterborne wastes normally discharged into the sanitary conveniences of dwellings, including apartment houses, duplexes, motels and hotels, office buildings, factories, and institutions, free of industrial wastes.

Environmental Protection Agency (EPA) means the United States Environmental Protection Agency, or where appropriate the term may also be used as a designation for the administrator or other duly authorized official of such agency.

Garbage means any solid wastes from the domestic or commercial preparation, cooking or dispensing or manufacturing of food or from the handling, storage, and sale of food products and produce.

Industrial waste means any amount of solid, liquid or gaseous substance or form of energy discharged or disposed of or permitted to flow or escape from any industrial, manufacturing, trade or commercial establishments, including nonprofit organizations, governmental agencies or business activities or educational institutions. It shall not include sewage discharge from sanitary conveniences on the premises unless the sewage is commingled with industrial waste.

Industrial waste charge or *waste requiring special treatment charge* means the charge made on those persons who discharge industrial wastes or wastes requiring special treatment into the city's sewerage system.

Local health authority means the duly appointed local health authority of the city, or a duly authorized representative acting in his behalf.

Milligrams per liter (mg/l) means parts per million and is a weight-to-volume ratio. The milligrams per liter value multiplied by the factor 8.34 shall be equivalent to pounds per million gallons of water.

pH means the logarithm (base 10) of the reciprocal of the concentration of hydrogen ions expressed in grams per liter of solution.

Plumbing code means the Standard Plumbing Code, 1991 edition, or subsequent editions or amendments as adopted or as amended by the city council.

Property line means the legal limit of the frontal of real estate abutting on a street or public right-of-way.

Publicly owned treatment works (POTW) means a treatment works as defined by section 212 of the Act (33 USC 1292) which is owned in this instance by the City and operated by NBU. This definition includes any sewers that convey wastewater to the POTW treatment plant, but does not include pipes, sewers or other conveyances not connected to a facility providing treatment. For the purposes of this division, "POTW" shall also include any sewers that convey wastewater to the treatment works from persons outside the city who are, by contract or agreement, users of the POTW.

Public sewer means pipes or conduits carrying wastewater or unpolluted drainage to which owners of abutting properties shall have the right of usage, subject to control by the city, acting by and through NBU.

Reclaimed water means domestic wastewater which has been treated to a quality suitable for beneficial use, and as further defined in 30 Texas Administrative Code, Chapter 210.

Sanitary sewer means a pipe or conduit owned, controlled or subject to the jurisdiction of NBU designed to collect and transport sewage and industrial waste.

Septic tank means a watertight tank which serves as a sedimentation and sludge digestion chamber placed between the house sewer and the soil absorption field.

Sewage means the waterborne waste, normally discharged from the sanitary conveniences of dwellings (including apartment houses), hotels, office buildings, factories, and institutions, free from stormwater, surface water and industrial wastes.

Sewer means a pipe or conduit for carrying sewage or wastewater.

Sewer pipeline service means the construction, maintenance and repair of sanitary sewer pipes from property lines to street mains and their connection with and to such mains.

Sewerage means the piping, pumping and treatment facilities, as in the term "sewerage system."

Standard methods shall mean the examination and analytical procedures set forth in the latest edition, at the time of analysis, of Standard Methods for the Examination of Water and Wastewater, as prepared, approved and published jointly by the American Public Health Association, the American Water Works Association, and the Water Environment Federation.

Storm sewer means a sewer or open drainage channel owned, controlled or subject to the jurisdiction of the city, designed to carry stormwater, surface water, street wash and drainage water.

Stormwater means rainfall or any other forms of precipitation.

Suspended solids (SS) means solids that either float on the surface of or are in suspension in water, sewage, industrial waste, or other liquid and which are removable by laboratory filtering as specified in approved methods, expressed as milligrams per liter (mg/l).

TNRCC means Texas Natural Resource Conservation Commission or it's successor.

To discharge means to deposit, conduct, drain, emit, throw, run, allow to seep, or otherwise release or dispose of, or to allow, permit or suffer any of such acts or omissions.

Total Suspended Solids (TSS) means the total content of suspended and dissolved solids as determined under standard laboratory procedure as specified in approved methods in one hour at 104 degrees centigrade, expressed as milligrams per liter (mg/l).

Trap means a device designed to skim, settle or otherwise remove grease, oil, sand, flammable wastes or other harmful substances.

Unpolluted wastewater means water containing:

(1) No free or emulsified grease or oil;
(2) No acids or alkalis;
(3) No phenols or other substances producing taste or odor in receiving water;
(4) No toxic or poisonous substances in suspension, colloidal state, or solution;
(5) No noxious or otherwise obnoxious or odorous gases;
(6) Not more than 20 mg/l of each of suspended solids and BOD, as determined by the TNRCC ; or
(7) Color not exceeding 50 units as measured by the platinum-cobalt method of determination as specified in Standard Methods.

Waste means and includes sanitary sewage and any and all other waste substances, liquid, solid, gaseous, or radioactive, associated with human habitation, or of human or animal origin, or from any producing, processing, manufacturing, or industrial operation of whatever nature, including such waste placed within containers prior to and for purposes of disposal.

Wastewater means the liquid and water-carried industrial or domestic wastes from dwellings, commercial buildings, industrial facilities, and institutions, together with such groundwater, surface water and stormwater as may be present, whether treated or untreated, which is contributed into or permitted to enter the POTW.

Wastewater facilities means any facilities for collection, pumping, treating and disposing of wastewater and industrial wastes.

Wastewater service charge means the charge on all users of the public sewer system whose wastes do not exceed in strength the concentration values established as representative of normal wastewater.

Wastewater system means and includes all POTW facilities for collection, pumping, treating, and disposing of wastewater and industrial water that may be present.

Wastewater treatment plant means any utility-owned facilities, devices and structures used for receiving, processing and treating wastewater, industrial waste and sludges from the sanitary sewers.

Watercourse means a natural or manmade channel in which a flow of water occurs, either continuously or intermittently.

(Ord. No. 2002-29, § 1(Att. A), 7-22-02)

Sec. 130-232. - Liability for damage.

NBU is not liable for any damage on account of leakage, breakage of pipes and/or malfunction of pipes resulting from an act of God or from any other cause not resulting from the negligence of NBU.

(Ord. No. 2002-29, § 1(Att. A), 7-22-02)

Sec. 130-233. - Penalty for violation of article.

Violators of any of the provisions of divisions 1, 2, and 3 of this article shall be guilty of a class C misdemeanor, and upon conviction shall be fined a sum not to exceed $500.00, and each and every day's violation shall constitute a separate and distinct offense. Violators of any of the provisions of division 4 of this article will be subject to the fines and enforcement procedures specified in section 130-311 of this code. If the violator under the provisions of this article shall be a corporation, the president, vice-president, secretary, or treasurer of such corporation, or any manager, agent, or employee of such corporation shall also be severally liable for the penalties provided in this section.

(Ord. No. 2002-29, § 1(Att. A), 7-22-02)

Secs. 130-234—130-255. - Reserved.

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DIVISION 2. - SERVICE REQUESTS; RATES

Sec. 130-256. - Requests for sewer service.
Sec. 130-257. - Sewer rates.
Sec. 130-258. - Sewer service for acquired systems.
Sec. 130-259. - Sewer tap charges.
Sec. 130-260. - Private sewer systems.
Secs. 130-261—130-275. - Reserved.

Sec. 130-256. - Requests for sewer service.

Authorization for sewer service shall be issued only by authorized employees of NBU, who shall collect the proper payment amount according to the rate and fees established in NBU Connection Policies and Service Conditions Policy.

(Ord. No. 2002-29, § 1(Att. A), 7-22-02)

Sec. 130-257. - Sewer rates.

(a) *Service rate classifications.* All sewage treatment services supplied shall be designated by the following classifications with descriptions, rates, and conditions of service as indicated further in this section:

Residential service 1 (with water service)

Residential service 2 (without water service)

General service 1 (with water service)

General service 2 (without water service)

Contractual service

Experimental service

(b) *Rate schedule administration and assignment.* Upon request for sewer service from a prospective customer, NBU shall assign the appropriate rate classification for sewer service to the applicant requesting service. This assignment may be based upon information provided by the applicant, or other information available at the time the assignment is made.

If a customer receiving service changes the nature or character of sewer service requirements, then NBU shall, upon review of the information available pertaining to the revised sewer service requirement, reassign the customer to the appropriate rate schedule.

If a prospective or existing customer is eligible to receive sewer service under more than one of the NBU's rate schedules, or if the rates charged are unduly burdensome as a result of the customer's technical qualification for a specific rate schedule, then NBU shall assign the most appropriate rate schedule for sewer service after consideration of the various service requirements, potential impact on NBU facilities, the potential relative costs of serving the customer, and other available pertinent information.

If a customer requests an adjustment to the billing units due to an unusual occurrence or due to unusual or special circumstances, then NBU may, upon review of the information available pertaining to the customer's request and after consideration of the potential impact on NBU, adjust the billing units.

(c) *Residential service 1 rate, with water service provided by NBU.*

(1) *Availability.* The residential service 1 rate is available in the sewer service area of NBU under the rules, regulations, policies, and at the rates set forth in this section.

(2) *Applicability.* The residential service 1 rate is applicable to sewer service used solely for residential purposes and related activities consisting of service to single-family dwellings or permanent residential multifamily dwellings with not more than four separate and identifiable permanent residential dwelling areas, such as duplexes, triplexes, or quadruplexes, and where water service is provided by NBU to all units through one water meter.

(3) *Excluded uses.* The residential service 1 rate shall not be applicable to service to a residence also used for commercial purposes, including, but not limited to, boardinghouses, motels, hotels, nursing homes, apartment complexes with more than four separate and identifiable residential dwelling areas, barbershops, beauty shops, general contractors storing equipment or building materials on the property, child care centers, retail businesses, restaurants, technical repair services, professional services offered to the public on the premises, and other similar commercial or nonresidential activities.

(4) *Monthly rates.* The residential service 1 rate will be calculated monthly in accordance with this section and will be an amount equal to the sum of the monthly customer charge plus the monthly volume charge plus the monthly unit charge, if applicable, as shown below:

Monthly customer charge. The monthly customer charge shall be $12.46 effective January 1, 2012.

Monthly volume charge. The monthly volume charge shall be $3.34 effective January 1, 2012 per 1,000 gallons, or any part thereof, of average water consumption calculated on a monthly basis as specified under determination of sewer volume billing units.

Monthly unit charge. The monthly unit charge shall be applicable when a customer with a master metered water service receives service at a duplex, triplex, quadruplex, or an individual residence with separate apartment type unit, each such separate and identifiable permanent residential dwelling area shall be subject to a monthly unit charge for billing purposes. The monthly charge for each unit in excess of one unit shall be $5.53 per month effective January 1, 2012.

NBU will not undertake the apportionment of charges among the occupants residing in multi-unit residential structures. Charges for multi-unit service will be assessed against the customer of record for such location.

(5) *Determination of sewer volume billing units.* Sewer volume billing units shall be calculated each month for each residential service 1 rate customer by averaging that customer's water consumption for the lowest three months during the preceding 12-month period. Only one month of metered water consumption of less than 100 gallons will be included in the calculation as long as the customer has two or more months of metered water consumption of more than 100 gallons. If the customer has less than two months of metered water consumption of 100 gallons or more, zero consumption months are not restricted from use in the calculation. This calculated three-month average water consumption will be billed each month using the rate specified under monthly volume charge in the preceding paragraph.

Residential service 1 rate customers who have a water usage history less than 12 months shall be billed at the lesser of the system calculated average consumption for similar residential service 1 rate customers or the current billing month's water consumption until the customer has established a water usage history of 12 months.

(6) *Minimum monthly charge.* The minimum monthly charge shall be the larger of the following:

a. The monthly customer charge plus the monthly volume charge plus the monthly unit charge, if applicable; or

b. The amount specified in any contract between the customer and NBU.

(7) *Maximum monthly charge.* The maximum charge for a single unit residential structure shall be $77.25 per month effective January 1, 2012. A maximum charge is not applicable to any multi-unit residential service 1 customer.

(8) *Proration of bills.* Single unit residential service 1 rate customers who receive less than a full month of sewer service will have their total bill prorated based on the number of days for which service is received by the customer, divided by the number of days in the current calendar month. Days of service received will be calculated based on the date of initial service or cutoff of service by NBU and will not be prorated for partial days. Proration of bills will not be applicable to any multi-unit residential customer.

(d) *Residential service 2 rate, with water service not provided by NBU.*

(1) *Availability.* The residential service 2 rate is available in the sewer service area of NBU under the rules, regulations, policies, and at the rates set forth in this section.

(2) *Applicability.* The residential service 2 rate is applicable to sewer service used solely for residential purposes and related activities consisting of service to single-family dwellings or permanent residential multifamily dwellings with not more than four separate and identifiable permanent residential dwelling areas, such as duplexes, triplexes or quadruplexes, where water service is not provided by NBU.

(3) *Excluded uses.* The residential service 2 rate shall not be applicable to service to a residence also used for commercial purposes, including, but not limited to, boardinghouses, motels, hotels, nursing homes, apartment complexes with more than four separate and identifiable residential dwelling units, barbershops, beauty shops, general contractors storing equipment or building materials on the property, child care centers, retail businesses, restaurants, technical repair services, professional services offered to the public on the premises, and other similar commercial or nonresidential activities.

(4) *Monthly rates.* The residential service 2 rate will be calculated monthly in accordance with this section and will be an amount equal to the sum of the monthly customer charge plus the monthly unit charge, if applicable, as shown below:

Monthly customer charge. The monthly customer charge shall be $38.75 effective January 1, 2012 plus the monthly unit charge if applicable. Triplexes and quadruplexes will be billed for two monthly customer charges.

Monthly unit charge. When a customer with a master metered water service receives service at a duplex, triplex, quadruplex, or an individual residence with separate apartment type units, each such separate and identifiable permanent residential dwelling area shall be subject to a monthly unit charge for billing purposes. The monthly charge for each unit in excess of one unit shall be $5.53 per month effective January 1, 2012.

NBU will not undertake the apportionment of charges residing in multi-unit residential structures among the occupants. Charges for multi-unit service will be assessed against the customer of record for such location.

(5) *Minimum monthly charge.* The minimum monthly charge shall be the larger of the following:

a. The monthly customer charge plus the monthly unit charge, if applicable; or

b. The amount specified in any contract between the customer and NBU.

(e) *General service 1 rate, with water service provided by NBU.*

(1) *Availability.* The general service 1 rate is available in the sewer service area of NBU under the rules, regulations, policies, and at the rates set forth in this section.

(2) *Applicability.* The general service 1 rate is applicable to sewer service for any customer which does not qualify for the residential service rate, and where water service is provided by NBU.

(3) *Monthly rates.* The general service 1 rate will be calculated monthly in accordance with this section and will be an amount equal to the sum of the monthly customer charge plus the monthly volume charge plus the monthly unit charge, if applicable, as shown below.

Monthly customer charge. The monthly customer charge shall be determined by the size of the water meter serving each customer, as follows:

Meter Size	Customer Charge Effective January 1, 2012
5/8-inch and smaller	$17.99
1-inch	$19.72
1½-inch	$25.95
2-inch	$32.54
3-inch	$50.53
4-inch	$72.32
6-inch and greater	$130.47

Monthly volume charge. The monthly volume charge shall be based upon actual water consumption measured in 1,000-gallon increments or any part thereof, as follows:

Gallons of Water Usage	$ per 1,000 gallons Effective January 1, 2012
0—7,000	$4.292
7,001—25,000	4.222
25,001—300,000	3.875
Excess of 300,000	3.392

Monthly unit charge. When a customer with a master metered water service receives service at a multiple unit residential facility with five or more units, such as an apartment complex or mobile home park, each separate

and identifiable permanent residential dwelling area and each public bathroom, laundry area, or other area where sewer service exists shall be subject to a monthly unit charge for billing purposes. When a customer receives service at a multi-unit nonresidential facility, each separate and identifiable office, retail, wholesale or other type of working space designed for occupancy by separate tenants or unrelated users shall be subject to a monthly unit charge for billing purposes. The monthly charge for each unit in excess of one unit shall be $5.53 per month effective January 1, 2012.

NBU will not undertake the apportionment of charges for such users of water among the occupants or tenants. Charges for multi-unit service will be assessed against the customer of record for such location.

(4) *Minimum monthly charge.* The minimum monthly charge shall be the larger of the following:

a. The monthly customer charge plus the monthly volume charge plus the unit charge, if applicable; or

b. The amount specified in any contract between the customer and NBU.

(f) *General service 2 rate, with water service not provided by NBU.*

(1) *Availability.* The general service 2 rate is available in the sewer service area of NBU under the rules, regulations, policies, and at the rate set forth in this section.

(2) *Applicability.* The general service 2 rate is applicable to sewer service for any customer which does not qualify for the residential service rate, and where water service is not provided by NBU.

(3) *Monthly rates.* The general service 2 rate will be calculated monthly in accordance with this section and will be an amount equal to the sum of the monthly customer charge plus the monthly volume charge plus the monthly unit charge, if applicable, as shown below.

Monthly customer charge. The monthly customer charge shall be determined by NBU based on an engineering study or the size of the water meter serving each customer, using the general service 1 monthly customer charge rate schedule.

If the customer receives water service directly from a private well where the water service is not provided through a meter, then the monthly customer charge shall be determined based upon analysis of the water connection, but not less than $17.99 per month effective January 1, 2012.

Monthly volume charge. NBU shall have the right to require metered water usage data, to perform individual account analysis of water consumption, or to perform sewer flow analysis for any customer under this rate. If metered water usage data becomes available, or if NBU performs an individual water consumption analysis or sewer flow analysis, then the monthly volume charge shall be determined in accordance with the general service 1 monthly volume charge rate schedule.

If metered water data is not available, and if NBU does not require an individual water consumption analysis or sewer flow analysis, then the monthly volume charge shall be $41.53 per month effective January 1, 2012.

Monthly unit charge. When a customer receives service at a multiple unit residential facility with five or more units, such as an apartment complex or mobile home park, each separate and identifiable permanent residential dwelling area and each public bathroom, laundry area, or other area where sewer service exists shall be subject to a monthly unit charge for billing purposes. When a customer receives service at a multi-unit nonresidential facility, each separate and identifiable office, retail, wholesale or other type of working space designed for occupancy by separate tenants or unrelated users shall be subject to a monthly unit charge for billing purposes. The monthly charge for each unit in excess of one unit shall be $5.53 per month effective January 1, 2012.

NBU will not undertake the apportionment of charges for such customers among the occupants or tenants. Charges for multi-unit service will be assessed against the customer of record for such location.

(4) *Minimum monthly charge.* The minimum monthly charge shall be the larger of the following:

a. The monthly customer charge plus the monthly volume charge plus the monthly unit charge, if applicable; or

b. The amount specified in any contract between the customer and NBU.

(g) *Contractual sewage treatment.* NBU shall have the right to enter into contracts with customers for sewage treatment subject to prior approval of the city council. Such sewage treatment charges may be calculated on the basis of customer classification as set forth in this article or on cost of service, at the election of NBU; however, the sewage treatment charge shall never be less than cost of service.

(h) *Experimental rate.*

(1) *Applicability.* The experimental rate shall be applicable to any and all customer rate classifications at times selected by NBU. The time period for which the experimental rate may apply shall not exceed one year. At any time, the number of customers affected by the experimental rate shall not exceed one percent of the total number of customers served by NBU.

(2) *Purpose.* The purpose of the experimental rate is to aid in the design of new rates. NBU shall have the authority to initiate or discontinue the experimental rate as it deems appropriate.

(3)

Selection. The methods and criteria for selection of rate class groups to be used for the experimental rate shall be selected and defined by NBU. Participation in the experimental rate by customers shall be on a voluntary basis.

(Ord. No. 2002-29, § 1(Att. A), 7-22-02; Ord. No. 2002-49, §§ I, II, 12-9-02; Ord. No. 2007-79, § 2, 10-22-07; Ord. No. 2008-74, § 2, 11-24-08; Ord. No. 2011-104, § 2, 11-28-11)

Sec. 130-258. - Sewer service for acquired systems.

In any area served by an existing sewer system acquired by NBU, sewer rates may be set at an amount sufficient to provide a fair return on the adjusted value of the investment capital for such acquired sewer system used and useful in rendering service to the public, and upon recovery in full by NBU of the entire cost of the acquired system, including interest and acquisition expenses, such rates for users of the acquired system shall revert to the rate for such services as provided in this article for the appropriate location and classification.

(Ord. No. 2002-29, § 1(Att. A), 7-22-02)

Sec. 130-259. - Sewer tap charges.

Charges for sewer taps shall be based on the schedule of construction charges and impact fees as approved by the NBU board of trustees.

(Ord. No. 2002-29, § 1(Att. A), 7-22-02)

Sec. 130-260. - Private sewer systems.

Pursuant to Section 13.042 of the Texas Water Code, the city surrenders to the Texas Commission on Environmental Quality its exclusive original jurisdiction over the rates, operations and services of privately owned sewer systems within the incorporated limits of the city.

(Ord. No. 2003-27, § II, 4-14-03)

Secs. 130-261—130-275. - Reserved.

DIVISION 3. - CONNECTIONS; USE OF PUBLIC, PRIVATE SEWERS

Sec. 130-276. - Connection to public sewer.
Sec. 130-277. - Unlawful connections.
Sec. 130-278. - Extension of mains.
Sec. 130-279. - Use of public sewers.
Sec. 130-280. - Private sewage disposal.
Secs. 130-281—130-300. - Reserved.

Sec. 130-276. - Connection to public sewer.

(a) Unless otherwise exempted or waived pursuant to this section, the owner of any establishment, house, building or property used for human occupancy, employment, recreation, or industrial or commercial purpose shall install suitable facilities for conveying all industrial wastes, sanitary sewage and all other sewage to the proper public sewer. Connection to the public sewer shall be made under the terms of applicable ordinances of the city and the rules, regulations and policies of NBU.

(b) The property owner or developer shall extend and construct all wastewater lines and associated facilities needed to connect the land use or development, including all on-site facilities, with New Braunfels Utilities' approved wastewater collection system in any area of the city now served by NBU wastewater facilities or for which such facilities are planned in accordance with the requirements of this code, NBU policies and the policies of the Texas Commission on Environmental Quality ("TCEQ," formerly the TNRCC) or its successor.

(c) A proposed structure to be constructed on an unimproved lot, tract, or parcel shall be connected to an NBU wastewater line if the structure is to be located within 300 feet of such line, for land in the Edwards Aquifer Recharge Zone, as defined under state rules, or within 200 feet of such line for land located elsewhere, unless such requirement is waived pursuant to subsection (d). Existing structures served by an approved and properly functioning on-site

sewage disposal system shall be exempt and shall not be required to be connected to a wastewater line pursuant to this section, unless the system fails, cannot be replaced under applicable state rules with a properly functioning system, and the public health, safety and welfare requires connection to a wastewater line.

(d) For land proposed to be annexed or for annexed land subject to an amended service plan that incorporates waivers authorized by this subsection, the city council in consultation with NBU may waive the connection requirements set forth in subsection (c) for unimproved lots in developed areas, if the reasons for such waiver are incorporated in an approved or amended service plan for the annexed area. In deciding whether waivers should be granted, the council and NBU shall take into consideration the number and location of existing structures within the area to be annexed or that has been previously annexed, the feasibility of providing wastewater services to unimproved lots, tracts or parcels without extension of wastewater facilities to the existing structures and the potential for creation of hazards to the public health, safety or general welfare in the event that such lots, tracts or parcels are not served by public wastewater facilities.

(Ord. No. 2002-29, § 1(Att. A), 7-22-02; Ord. No. 2003-47, § I, 7-14-03)

Sec. 130-277. - Unlawful connections.

It shall be unlawful for any person to make any tap or connection to the NBU sewer system, or to establish and maintain sewer pipeline service in connection with the sewer system, except as provided in this division. NBU shall construct and maintain sewer pipeline service, and it shall be unlawful for any person to connect with the same for sewer service without first paying a charge based on the schedule of construction cost charges and impact fees as approved by the NBU board of trustees.

(Ord. No. 2002-29, § 1(Att. A), 7-22-02)

Sec. 130-278. - Extension of mains.

NBU shall make extensions in accordance with its connection and extension policies as set forth by the board of trustees of NBU, upon payment of required construction charges and impact fees. NBU has the right to make all extensions in coordination with the general sewer main system layout in the city and to the best advantage of the NBU system as a whole. It shall be unlawful for any person not employed and/or authorized by NBU to make any lateral extensions of the sewer mains.

(Ord. No. 2002-29, § 1(Att. A), 7-22-02)

Sec. 130-279. - Use of public sewers.

(a) It shall be unlawful for any person to place, deposit or permit to be deposited in any manner on public or private property within the city, or in any area under the jurisdiction of the city, any human excrement or other unacceptable waste, except as provided in this article.

(b) No person shall discharge or cause to be discharged to any creek, stream, watercourse, lake, pond, or tank, or on any land within the city or jurisdiction of the city, any sanitary sewage, industrial wastes, or other waters, except where such discharge is made in accordance with a valid permit from the TNRCC or it's successor as provided in this article.

(c) Except as provided in this article, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool, or other facility intended or used for the disposal of sewage within the city, or in any jurisdiction of the city. Temporary portable chemical toilet facilities shall be allowed under conditions as set forth in the current plumbing code. In areas where sanitary sewers are not available, septic tank facilities or other approved disposal facilities shall be allowed under conditions as set forth in the currently adopted plumbing code of the city. In areas where sanitary sewers are not available, septic tank facilities or other approved disposal facilities shall meet with the approval of the appropriate state agencies.

(d) Stormwater and all other unpolluted drainage shall be discharged to such sewers as are specifically designated as storm sewers, or to a creek, stream, watercourse, pond, lake, or tank, or land area approved by the city.

(e) Yard, fountain or pond waters may be discharged, upon approval by the city, to a storm sewer.

(Ord. No. 2002-29, § 1(Att. A), 7-22-02)

Sec. 130-280. - Private sewage disposal.

(a) Before commencement of construction on an on-site sewage facility (OSSF), the owner shall first obtain a written permit signed by the city sanitarian, which the applicant shall supplement with any plans, specifications, and other information that shall be deemed necessary by the city sanitarian. A permit and inspection fee of $150.00 for an individual facility and $175.00 for a professional planned facility, as defined by TNRCC rules, and Title 30, Texas Administrative Code Chapter 285.4, On-Site Sewage Facilities, shall be paid to the city at the time the application is

filed. A professionally planned facility shall be defined as a system designed by a registered professional engineer or registered sanitarian.

(b) A permit for an OSSF shall not become effective until the installation is completed to the satisfaction of the city sanitarian. The city sanitarian shall have the right and privilege to inspect any work at any stage of construction and, in any event, the applicant for the permit shall notify the city sanitarian when the work is ready for final inspection, and before any underground portions are covered.

(c) The types, capacities, location and layout of an OSSF shall comply with all recommendations and requirements of the TNRCC and it's successor. No permit shall be issued for any OSSF employing subsurface soil absorption facilities where the area of the lot is less than ½ acre (21,780 square feet) per single-family dwelling for platted or unplatted subdivisions served by a public water supply, and 1 acre (43,500 square feet) per single family dwelling for platted or un platted subdivisions not served by a public served water supply, and 1 acre (43,560 square feet) per single-family dwelling within the Edwards Recharge Zone, as so designed by the TNRCC or its successor. No OSSF shall be allowed to discharge to any creek, stream, watercourse, pond, lake or land area.

(d) The owner shall operate and maintain the OSSF in a sanitary manner at all times to the satisfaction of the city sanitarian, at no expense to the city.

(e) At such time as a public sewer becomes available to a property served by an OSSF, as provided in this section, NBU may require a direct connection to the public sewer at the property owner's expense, and any septic tanks, or similar OSSF, shall be abandoned and filled with suitable material to the satisfaction of the city sanitarian.

(f) When connection to the NBU sewer system is required under this section, the connection must be made within 60 days of date of notification by NBU and the OSSF shall be abandoned, cleaned and filled within 90 days of such connection in accordance with subsection (e) of this section.

(g) No statement contained in this section shall be construed to interfere with any additional requirements that may be made by the local health authority of the city pursuant to uniform city standards.

(Ord. No. 2002-29, § 1(Att. A), 7-22-02)

Secs. 130-281—130-300. - Reserved.

New Braunfels, Texas, Code of Ordinances >> PART II - CODE OF ORDINANCES >> Chapter 130 - UTILITIES >> ARTICLE V. - SEWER SERVICE >> DIVISION 4. - WASTEWATER COLLECTION, TREATMENT >>

DIVISION 4. - WASTEWATER COLLECTION, TREATMENT [10]

Sec. 130-301. - Definitions.
Sec. 130-302. - Purpose and objectives.
Sec. 130-303. Administration.
Sec. 130-304. - Abbreviations.
Sec. 130-305. - Compliance with pretreatment standards.
Sec. 130-306. - Pretreatment and disposal of prohibited wastes.
Sec. 130-307. - Pretreatment facilities.
Sec. 130-308. - Additional pretreatment measures.
Sec. 130-309. - Discharge permits.
Sec. 130-310. - Reporting requirements.
Sec. 130-311. - Recordkeeping requirements.
Sec. 130-312. - Inspection, sampling and monitoring.
Sec. 130-313. - Fees and costs.
Sec. 130-314. - Remedies and enforcement.
Sec. 130-315. - Confidential information.
Sec. 130-316. - Effective date.
Secs. 130-317—130-335. - Reserved.

Sec. 130-301. - 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:

Act as used in this article V, means the Federal Water Pollution Control Act (PL 92-500), also known as the Clean Water Act of 1977, as amended, 33 USC 1251 et seq.

Applicable pretreatment standard means any pretreatment limit or prohibitive standard (federal and/or local) contained in this division deemed to be the most restrictive with which nondomestic users will be required to comply.

Approval authority means the chief administrative officer of the TCEQ, or a duly authorized representative acting on behalf of the TCEQ, so long as the state has an approved state pretreatment program; otherwise, the regional administrator of the EPA.

Approved methods means the laboratory procedures and methods approved by the administrator of the EPA and listed in 40 CFR 136.

Authorized representative of industrial user means:

(1) A responsible corporate officer as that term is defined in 40 CFR 403.12(l), if the industrial user is a corporation;

(2) A general partner or proprietor, if the industrial user is a partnership or proprietorship, respectively; or

(3) The principal executive officer or director having responsibility for the overall operation of the discharging facility if the industrial user submitting the reports is a federal, state or local governmental entity, or their agents; or a duly authorized representative of the individual designated above, if the authorization conforms to the requirements of 40 CFR 403.12(l).

Biochemical oxygen demand (BOD) means the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedures for five days at 20° Centigrade, usually expressed as a concentration (e.g., mg/l).

Categorical standards means any regulation containing pollutant discharge limits promulgated by the EPA in accordance with section 307(b) and (c) of the Act which applies to a specific category of industrial user.

Categorical industrial user (CIU) means any industrial user of the city's POTW which is subject to a national categorical pretreatment standard.

City means the City of New Braunfels, Texas.

Composite sample means a sample formed either by continuous sampling or by mixing discrete samples. If discrete sampling is employed, at least 12 aliquots should be composited. The sample may be composited either as a time composite sample: composed of discrete sample aliquots collected at constant time intervals providing a sample irrespective of stream flow; or as a flow proportional composite sample: collected either as a constant sample volume at time intervals proportional to flow, or collected by increasing the volume of each aliquot as the flow increases while maintaining a constant time interval between the aliquots. For wastewater discharges consisting of a single batch discharge in a 24-hour period, a grab sample of the batch discharge may be used to represent the 24-hour composite quality of the wastewater, as long as the batch is mixed prior to sample collection. For wastewater discharges consisting of two or more batch discharges in a 24-hour period, the 24-hour composite quality of the wastewater may be determined via compositing of one grab sample collected from the discharge of each batch, as long as each batch is mixed prior to sample collection.

Control authority means the chief executive officer (CEO) of New Braunfels Utilities (NBU) or that person's authorized representative, as long as the city has an approved pretreatment program. In the absence of an approved POTW pretreatment program, such term shall mean the approval authority.

Cooling water means a significant amount of water discharged from any system of condensation, such as air conditioning, cooling and refrigeration systems.

Daily maximum limit means the highest allowable daily discharge.

Director means the CEO of NBU or that person's authorized representative.

Discharge permit means the document issued to control the contribution to the POTW by each significant industrial user and other person deemed necessary by the control authority to ensure compliance with applicable pretreatment standards and requirements.

Dissolved solids means the total amount of dissolved material, organic and inorganic, contained in water or waste.

Environmental Protection Agency or *EPA* means the U.S. Environmental Protection Agency or, where appropriate, the regional water management division director, or other duly authorized official of said agency.

Garbage means any solid wastes from the domestic or commercial preparation, cooking or dispensing or manufacturing of food or from the handling, storage, and sale of food products and produce.

Grab sample means an individual sample which is taken form a wastestream collected over a period of time not exceeding 15 minutes with no regard to the flow of the wastestream and without consideration of time.

Hazardous waste means those substances described and listed in 40 CFR 261, which is adopted hereby and incorporated by reference in this division, and a copy of which shall be maintained at the offices of NBU.

Holding tank waste means any waste from holding tanks, such as vessels, chemical toilets, campers, trailers, septic tanks, vacuum pump tank trucks, or similar type facilities or equipment, other than industrial waste.

Indirect discharge or *discharge* means the introduction of pollutants into a POTW from any non-domestic source regulated under section 307(b), (c), or (d) of the Act.

Industrial user or *user* means a source of nondomestic waste; any nondomestic source discharging pollutants to a POTW.

Industrial waste means any amount of solid, liquid or gaseous substance or form of energy discharged by, disposed of, or permitted to flow or escape from any industrial, manufacturing, trade or commercial establishment, including nonprofit organizations, governmental agencies or business activities or educational institutions. It shall not include sewage discharge from sanitary conveniences on the premises unless the sewage is commingled with industrial waste.

Interference means a discharge which, alone or in conjunction with a discharge or discharges from other sources, both:

(1) Inhibits or disrupts the POTW, its treatment processes or operations or its sludge processes, use, or disposal; and

(2) Causes a violation of any requirement of the POTW's NPDES permit, including an increase in the magnitude or duration of a violation, or of the prevention of sewage sludge use or disposal in compliance with the following statutory provisions and regulations or permits issued thereunder, or more stringent state or local regulations: Section 405 of the Clean Water Act, the Solid Waste Disposal Act (SWDA), including title II, more commonly referred to as the Resource Conservation and Recovery Act (RCRA), and including state regulations contained in any state sludge management plan prepared pursuant to subtitle D of the SWDA, the Clean Air Act, the Toxic Substances Control Act, and the Marine Protection, Research, and Sanctuaries Act.

Monthly average limit means the highest allowable average of "daily discharges" over a calendar month, calculated as the sum of all "daily discharges" measured during a calendar month divided by the number of "daily discharges" measured during that month.

National pretreatment standard or *pretreatment standard* or *standard* means any regulation containing pollutant discharge limits promulgated by the EPA in accordance with section 307(b) and (c) of the Act which applies to a specific category of industrial users and provides limitations on the introduction of pollutants into POTWs. This term includes the prohibited discharge standards under 40 CFR 403.5, including local limits.

New source means any building, structure, facility or installation from which there is or may be a discharge of pollutants, the construction of which commenced after the publication of proposed pretreatment standards under section 307 (c) of the Act and any amendments, which will be applicable to such source if standards are thereafter promulgated in accordance with that section, subject to the conditions and limitations of 40 CFR 403.3(k)(1).

Noncontact cooling water means cooling water which does not come into direct contact with any raw material, intermediate product, waste product, or finished product.

Nondomestic user means any person who discharges, causes or permits the discharge of wastewater from any facility other than a residential unit.

Normal domestic sewage means wastewater, excluding industrial wastewater requiring special treatment, discharged into the POTW and in which the average concentration of total suspended solids is not more than 250 mg/l and COD is not more than 500 mg/l.

NPDES permit means a permit issued to the POTW pursuant to section 401 of the Act.

Pass through means a discharge which exits the POTW into waters of the United States in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of the POTW's NPDES permit (including an increase in the magnitude or duration of a violation).

Person means any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity, or any other legal entity, or their legal representatives, agents, or assigns. This definition includes all federal, state, and local governmental entities.

pH means a measure of the acidity or alkalinity of a solution, expressed in standard units.

Pollutant means any dredged spoil, spoil waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discharged equipment, rocks, sand, cellar dirt and industrial, municipal, and agricultural waste discharged into water.

Pollution means the manmade or man-induced alteration of the physical, thermal, chemical, radiological or biological quality of or the contamination of any waters of the state to a degree which unreasonably affects such waters for beneficial uses.

Pretreatment means the reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater prior to or in lieu of discharging or otherwise introducing such pollutants into the POTW. Such reduction or alteration may be obtained by physical, chemical or biological processes, process changes or by other means, except as prohibited by 40 CFR 403.6(d).

Pretreatment program manager means NBU's authorized representative, as long as the city has an approved pretreatment program. In the absence of an approved POTW pretreatment program such term shall mean the approval authority.

Pretreatment requirements means any substantive or procedural requirement related to pretreatment, other than a national pretreatment standard, imposed on an industrial user.

Process wastewater means any water which, during manufacturing or processing, comes into direct contact with, or results from, the production or use of any raw material, intermediate product, finished product, by-product, or waste product.

Publicly owned treatment works (POTW) means a treatment works as defined by section 212 of the Act, which is owned by a state or municipality as defined by section 502(4) of the Act. This definition includes any devices and systems used in the storage, treatment, recycling and reclamation of municipal sewage or industrial wastes of a liquid nature. It also includes sewers, pipes and other conveyances only if they convey wastewater to a POTW treatment plant.

Receiving stream means the watercourse, stream, or body of water receiving the treated effluents from the POTW.

Sanitary convenience means any plumbing fixture (except for a food waste disposal unit) not required to have a sand and/or grease trap (interceptor) according to provisions of the plumbing code of the city.

Shall, may. The use of the word "shall" indicates a mandatory condition. The use of the word "may" indicates a discretionary condition.

Significant industrial user (SIU).

(1) Except as provided in subsection (2) of this definition, the term "significant industrial user" means:
   a. All industrial users subject to categorical pretreatment standards under 40 CFR 403.6 and 40 CFR chapter 1, subchapter N, and
   b. Any other industrial user that:
      1. Discharges an average of 25,000 gallons per day or more of process wastewater to the POTW (excluding sanitary, noncontact cooling and boiler blowdown wastewater);
      2. Contributes a process waste stream which makes up five percent or more of the average dry weather hydraulic or organic capacity of the POTW treatment plant; or
      3. Is designated as such by the control authority, in accordance with 40 CFR 403.8(f)(6) if applicable.

(2) Upon a finding that an industrial user meeting the criteria in subsection (1)b. of this definition has no reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement, the control authority may at any time, on its own initiative or in response to a petition received from an industrial user or POTW, and in accordance with 40 CFR 403.8(f)(6) if applicable, determine that such industrial user is not a significant industrial user.

Significant noncompliance. An industrial user is in "significant noncompliance" if its violation meets one or more of the following criteria:

(1) Chronic violations of wastewater discharge limits, defined here as those in which 66 percent or more of all of the measurements taken during a six-month period exceed, by any magnitude, the daily maximum limit or the average limit for the same pollutant parameter;

(2) Technical review criteria (TRC) violations, defined here as those in which 33 percent or more of all of the measurements for each pollutant parameter taken during a six-month period equal or exceed the product of the daily maximum limit or the average limit multiplied by the applicable TRC (TRC equal to 1.4 BOD, TSS, fats, oil, and grease, and 1.2 for all other pollutants except pH);

(3) Any other violation of a pretreatment effluent limit (daily maximum or longer-term average) that the control authority determines has caused, alone or in combination with other discharges, interference or pass through (including endangering the health of POTW personnel or the general public);

(4) Any discharge of a pollutant that has caused imminent endangerment to human health, welfare or to the environment or has resulted in the POTW's exercise of its emergency authority under 40 CFR 403.8(f)(1)(vi)(B) to halt or prevent such a discharge;

(5) Failure to meet within 90 calendar days after the scheduled date a compliance schedule milestone contained in a local control mechanism or enforcement order for starting construction, completing construction, or attaining final compliance;

(6) Failure to provide, within 30 calendar days after the due date, required reports such as baseline monitoring reports, 90-day compliance reports, periodic self-monitoring reports, and reports on compliance with compliance schedules;

(7) Failure to accurately report noncompliance; and

(8) Any other violation or group of violations which the control authority determines will adversely affect the operation or implementation of the pretreatment program of NBU.

Slug loading means any discharge of water or wastewater which in concentration of any given constituent or in quantity of flow exceeds for any period of duration longer than five minutes more than five times the average 24-hour concentration or flow during normal operation and shall adversely affect the sewage works.

Standard industrial classification (SIC) means a classification scheme based on the type of manufacturing or commercial activity at a facility pursuant to the Standard Industrial Classification Manual prepared by the Executive Office of the President, Office of Management and Budget, 1987 (NIS Order no. PB 87-10001Z). Some facilities have several activities which will cause them to have more than one classification code number.

State means the State of Texas.

Storm water means any flow occurring during or following any form of natural precipitation, and resulting from such precipitation, including snowmelt.

Surcharge means the additional sewer service charge levied against any person for discharging into a sanitary sewer waste greater in strength than the concentration of values established as representative of normal charges or are greater in flow.

Total suspended solids (TSS) means a measure of the suspended solids in wastewater, effluent, or water bodies, determined by tests for "total suspended non-filterable solids."

Toxic pollutant means any pollutant or combination of pollutants listed as toxic in regulations promulgated by the administrator of the Environmental Protection Agency under the provisions of section 307(a) of the Clean Water Act.

Waters of the state means all streams, lakes, ponds, marshes, watercourses, waterways, wells, springs, reservoirs, the Edwards and Trinity Aquifers, irrigation systems, drainage systems and all other bodies or accumulations of water, surface or underground, natural or artificial, public or private, which are contained within, flow through, or border upon the state or any portion thereof.

(Ord. No. 2010-40, § 2(Exh. A), 6-28-10)

Sec. 130-302. - Purpose and objectives.

(a) This division sets forth uniform requirements for users of the wastewater collection and treatment systems for the city operated by NBU, and enables NBU to comply with all applicable state and federal laws required by the Clean Water Act of 1977 (33 USC 1251 et seq.) and the general pretreatment regulations (40 CFR 403).

(b) The objectives of this division are to:

(1) Prevent the introduction of pollutants into the city's wastewater system which will interfere with the operation of the system, including interference with its use or disposal of resulting sludge;

(2) Prevent the introduction of pollutants into the city's wastewater system which will pass through the system, inadequately treated, into receiving waters or the atmosphere or otherwise be incompatible with the system;

(3) Improve the opportunity to recycle and reclaim wastewaters and sludges from the system;

(4) Ensure the quality of sludge to allow its use and disposal in compliance with statutes and regulations;

(5) Provide for equitable distribution of the cost of the city's wastewater collection and treatment systems;

(6) Prevent pollutants which result in the presence of toxic gases, vapors or fumes within the POTW in a quantity that may cause acute worker health and safety problems from being introduced into a POTW; and

(7)

Protect both POTW personnel who may be affected by wastewater and sludge in the course of their employment and the general public.

(c) This division provides for the regulation of users of the city's wastewater collection and treatment systems through the issuance of permits to certain nondomestic users and through enforcement of general requirements for the other users, authorizes monitoring and enforcement activities, requires user reporting, assumes that existing customer's capacity will not be preempted, and provides for the setting of fees for the equitable distribution of costs resulting from the program established in this division.

(d) This division shall apply within the city and to persons outside the city who are, by contract or agreement with the city, users of the publicly owned treatment works of the city operated by NBU. Except as otherwise provided in this division, the CEO of NBU shall administer, implement, and enforce the provisions of this division.

(e) The pretreatment program is intended to enable the POTW to comply with the NPDES permit conditions, sludge use and disposal requirements and federal and state laws in accordance with 40 CFR § 403.2.

(Ord. No. 2010-40, § 2(Exh. A), 6-28-10)

Sec. 130-303. - Administration.

Except as otherwise provided herein, the control authority shall administer, implement, and enforce the provisions of this division. Any powers granted to or duties imposed upon the control authority may be delegated by the pretreatment program manager to other NBU personnel.

The pretreatment program manager will evaluate the data furnished by the user and may require additional information. Within 45 calendar days of receipt of a complete permit application, the pretreatment program manager will determine whether to issue an individual wastewater discharge permit. The pretreatment program manager may deny any application for an individual wastewater discharge permit.

(Ord. No. 2010-40, § 2(Exh. A), 6-28-10)

Sec. 130-304. - Abbreviations.

The following abbreviations, when used in this division, shall have the meanings designated in this section:

ASTM means American Society for Testing and Materials.

BOD means biochemical oxygen demand.

CFR means Code of Federal Regulations.

COD means chemical oxygen demand.

EPA means the United States Environmental Protection Agency.

l means liter.

mg means milligrams.

mg/l means milligrams per liter.

NBU means New Braunfels Utilities.

NPDES means National Pollutant Discharge Elimination System.

POTW means publicly owned treatment works.

SIC means standard industrial classification.

SWDA means the Solid Waste Disposal Act, 42 USC 6901 et seq.

TCEQ means the Texas Commission on Environmental Quality.

TSS means total suspended solids.

USC means the United States Code.

WEF means the Water Environment Federation.

(Ord. No. 2010-40, § 2(Exh. A), 6-28-10)

Sec. 130-305. - Compliance with pretreatment standards.

(a) *Prohibited discharges and limitations in general.* No user shall contribute or cause to be contributed, directly or indirectly, any pollutant or wastewater which will cause pass through or interference. These general prohibitions and the specific prohibitions listed in this section apply to all such users of a POTW whether or not the user is subject to other national pretreatment standards or any other national, state, or local pretreatment standards or requirements. The following substances are specifically prohibited and shall not be introduced into the POTW:

(1) Any liquids, solids or gases which by reason of their nature or quantity are, or may be, sufficient either alone or by interaction with other substances to cause fire or explosion or be injurious in any other way to the POTW or to the operation of the POTW, including but not limited to waste streams with a closed cup flashpoint of less than 140 degrees Fahrenheit (60 degrees Celsius) as determined by the testing methods specified in 40 CFR 261.21. At no time shall two successive readings on an explosion hazard meter, at the point of discharge into the system or at any point in the system, be more than five percent nor shall any single reading be over ten percent of the lower explosive limit (LEL) of the meter. Prohibited materials include substances in sufficient quantities that NBU, the state or the EPA has notified the user that the materials constitute a fire hazard or a hazard to the system.

(2) Solid or viscous substances in amounts which will cause obstruction to the flow in the POTW resulting in interference with the operation of the wastewater treatment facilities, including, but not limited to, grease, garbage with particles greater than one-half inch in any dimension, animal guts or tissues, paunch manure, bones, hair, hides or fleshings, entrails, whole blood, feathers, ashes, cinders, sand, spent lime, stone or marble dust, metal, glass, straw, shavings, grass clippings, rags, spent grains, spent hops, wastepaper, wood, plastics, gas, tar, asphalt residues, residues from refining or processing of fuel or lubricating oil, mud, or glass grinding or polishing wastes.

(3) Any wastewater having a pH less than 5.0 or more than 11.0, or wastewater having any other corrosive property capable of causing damage or hazard to structures, equipment, and/or personnel of the POTW. Samples used shall be grab samples.

(4) Any wastewater containing toxic pollutants in sufficient quantity, either singly or by interaction with other pollutants, to injure or interfere with any wastewater treatment process, constitute a hazard to humans or animals, create a toxic effect in the receiving waters of the POTW, or to exceed the limitation set forth in a pretreatment standard. A toxic pollutant shall include, but not be limited to, any pollutant identified pursuant to section 307(a) of the Act.

(5) Any noxious or malodorous liquids, gases, or solids which either singly or by interaction with other wastes are sufficient to create a public nuisance or hazard to life or are sufficient to prevent entry into the sewers for maintenance and repair.

(6) Any substance which may cause the POTW's effluent or any other product of the POTW such as residues, sludges, or scums, to be unsuitable for reclamation and reuse or to interfere with the reclamation process. In no case shall a substance discharged to the POTW cause the POTW to be in noncompliance with (a) sludge use or disposal criteria, guidelines or regulations developed under section 405 of the Act, (b) any criteria, guidelines, or regulations affecting sludge use or disposal developed pursuant to the Solid Waste Disposal Act, the Clean Air Act, the Toxic Substances Control Act, or (c) state criteria applicable to the sludge management method being used.

(7) Any substance which will cause the POTW to violate its NPDES and/or state disposal system permit or the receiving water quality standards.

(8) Any wastewater with objectionable color not remove in the treatment process, such as, but not limited to, dye wastes and vegetable tanning solutions.

(9) Heat in amounts which will inhibit biological activity in the POTW resulting in interference, but in no case heat in such quantities that the temperature at the POTW treatment plant exceeds 40 degrees Celsius (104 degrees Fahrenheit) unless the approval authority, upon request of the POTW, approves alternate temperature limits.

(10) Any pollutants, including oxygen demanding pollutants (BOD, etc.) released in a discharge at a flow rate and/or pollutant concentration which will cause interference to the POTW. In no case shall a slug load have a flow rate or contain concentration or quantities of pollutants that exceed for any time period longer than 15 minutes more than five times the average 24-hour concentration, quantities, or flow during normal operation, as permitted by the control authority.

(11) Any wastewater which causes a hazard to human life or creates a public nuisance.

(12) Water or waste containing substances which are not amenable to treatment or reduction by the sewage treatment processes employed or are amenable to treatment only to such degree that the wastewater treatment plant effluent cannot meet the requirements of the state and other agencies having jurisdiction over discharge to the receiving waters.

(13)

Any trucked or hauled pollutants, except at discharge points designated by the POTW. Any hauled septic, industrial, or other wastes or pollutants shall not be discharged to the POTW collection system. Any removal of manhole lids or other access to the collection system for the purpose of discharging wastes at times and/or locations other than those designated by NBU shall be considered a violation and shall be subject to enforcement action including fines and penalties.

(14) Any wastes or wastes containing any toxic substances in quantities that are sufficient to interfere with the biochemical processes of the wastewater treatment plant, that will pass through the plant into the receiving stream in amounts exceeding the standards set by federal, state or other competent authority having jurisdiction, that contaminate sewage sludge, or that contain iron or any other toxic ions, compounds, or substances that exert an excessive chlorine requirement on the POTW due to concentrations or amounts exceeding the limits established from time to time by NBU.

(15) Any slug load, which shall mean any pollutant, including oxygen demanding pollutants (BOD or any other similar pollutant), released in a single extraordinary discharge episode of such volume or strength as to cause interference to the POTW.

(16) Stormwater, surface water, groundwater, artesian well water, roof runoff, subsurface drainage, swimming pool drainage, condensate, deionized water, noncontact cooling water or other unpolluted water, unless first approved by the control authority.

(17) Any water or waste containing suspended solids or dissolved solids of such character and quantity that unusual provisions, attention, and expense would be required to handle such materials at the wastewater treatment plant, its pumping stations, or other facilities.

(18) Petroleum oil, non-biodegradable cutting oil, or products of mineral oil origin in amounts that will cause interference or pass through.

(19) Pollutants which result in the presence of toxic gases, vapors, or fumes within the POTW in a quantity that may cause acute worker health and safety problems.

When the CEO determines that a user is contributing to the POTW any of the above specifically prohibited pollutants in such amounts as to cause interference or pass through, the CEO shall: (i) advise the user of the impact of the contribution on the POTW, (ii) develop effluent limitations for such user to correct the interference or pass through, and (iii) take appropriate enforcement action if the user does not comply or make a reasonable effort to eliminate the prohibited discharge.

(b) *Specific pollutant limitations.*

(1) Without limiting the generality of the prohibited discharges set out in subsection 130-305(a), no person shall discharge over a 24-hour period any of the following elements in solution or suspension in concentrations exceeding the limits for the specific wastewater treatment plant which serves such user, as follows:

Constituent	Daily Maximum (mg/l)
Arsenic, Total	0.10
Cadmium, Total	0.11
Chromium (Tot)	2.96
Copper	2.21
Cyanide, Total	1.60
Lead, Total	0.33
Mercury, Total	0.06
Molybdenum	0.59
Nickel, Total	1.99
Selenium, Total	0.055
Silver, Total	2.03
Zinc, Total	2.84

Dilution of these elements in solution or suspension in lieu of treatment or removal is specifically prohibited. The director may further restrict the discharges of those wastes which contain these elements to a definite limit expressed in the units of "pounds per day" to prevent the employment of dilution of such pollutants in order to meet the concentration limits of this subsection.

(2) Phenols or other substances in such concentrations as to produce odor or taste in the waters receiving wastewater treatment effluent if the water is used as drinking water for human consumption.

(3) Phosphorous in excess of 15 milligrams per liter or phosphates in excess of 46 milligrams per liter.

(4) Sulphates at a concentration that will increase the concentration at the treatment plant influent to 50 milligrams per liter or higher.

(5) Fluorides in excess of five milligrams per liter.

(6) Any herbicides, pesticides, fungicides and similar poisonous or toxic substances in quantities that would injure or interfere with the wastewater treatment process or constitute a hazard to human or animal plant life, including aquatic organisms, or create any hazards in the waters receiving the wastewater treatment plant effluent.

(7) Polychlorinated biphenyls (PCB) in excess of 0.0001 milligrams per liter.

(8) Waste containing radioactive materials or isotopes in concentrations greater than allowable under applicable state and federal regulations.

(c) *Preemption of limitations.* Upon the promulgation of federal pretreatment standards for a particular industrial category, the federal standard, if more stringent than the limitations imposed under this division for sources in that category, shall immediately supersede the limitations imposed under this division. The CEO shall notify all affected users of the applicable reporting requirements under 40 CFR 403.12. Further, state requirements and limitations on discharges shall apply in any case where those requirements are more stringent than federal requirements and limitations or those in this division.

(d) *Accidental discharges.*

(1) Each permitted user shall provide protection from accidental discharge of prohibited materials or other substances regulated by this division. Facilities to prevent accidental discharge of prohibited materials shall be provided and maintained at the owner's or user's own cost and expense. Detailed plans showing facilities and operating procedures to provide this protection shall be submitted to the director for review, and shall be approved by the director before construction of the facility. No user who commences contribution to the POTW after the effective date of Ordinance No. 92-22 shall be permitted to introduce pollutants into the system until accidental discharge procedures have been approved by the director. Review and approval of such plans and operating procedures shall not relieve the industrial user from the responsibility to modify the user's facility as necessary to meet the requirements of this division. In the case of an accidental discharge, it is the responsibility of the user to immediately telephone and notify the POTW of the incident. The notification shall include location of the discharge, type of waste, concentration and volume, and corrective actions taken.

(2) Within five days following an accidental discharge, the user shall submit to the director a detailed written report describing the cause of the discharge and the measures to be taken by the user to prevent similar future occurrences. Such notification shall not relieve the user of any expense, loss, damage, or other liability which may be incurred as a result of damage to the POTW, fish kills, or any other damage to persons or property. Such notification shall not relieve the user of any fines, civil penalties, or other liability that may be imposed by this division or other applicable law.

(3) A notice shall be permanently posted on the user's bulletin board or other prominent place informing employees whom to call in the event of a harmful discharge. Employers shall ensure that all employees who may cause or suffer such a harmful discharge to occur are informed of the emergency notification procedure.

(e) *Ordinance amendments.* The city and the control authority reserve the right to establish by ordinance more stringent limitations or requirements on discharges to the POTW if deemed necessary to comply with the objectives presented in section 130-302. References in this division to sections of 40 CFR shall include those sections as they are currently promulgated and as subsequently amended from time to time.

(f) *Special agreements.* NBU is authorized to enter into special agreements with industrial users setting out special terms under which they may discharge to the POTW. In no case will a special agreement waive compliance with a pretreatment standard or requirement. However, the industrial user may request a net gross adjustment to a categorical standard in accordance with 40 CFR 403.15. It may also request a variance from the categorical pretreatment standard from EPA. Such a request will be approved only if the industrial user can prove that factors relating to its discharge are fundamentally different from the factors considered by EPA when establishing that pretreatment standard. An industrial user requesting a fundamentally different factor variance must comply with the procedural and substantive provisions in 40 CFR 403.13.

(Ord. No. 2010-40, § 2(Exh. A), 6-28-10)

Sec. 130-306. - Pretreatment and disposal of prohibited wastes.

(a) *Pretreatment of prohibited wastes.* NBU may deny or condition new or increased contributions of pollutants, or changes in the nature of pollutants to the POTW by nondomestic users where such contributions do not meet applicable pretreatment standards and requirements or where such contributions would cause the POTW to violate its NPDES permit.

Any person contributing waste prohibited from discharge into a sanitary sewer by this division shall pretreat or otherwise dispose of the prohibited waste so as to make the waste to be discharged into the POTW acceptable under the standards established in this division and in compliance with all federal pretreatment standards. All facilities required to pretreat wastewater to a level acceptable to the standards of this division shall be provided, operated, and maintained at the user's expense. Detailed plans showing the pretreatment facility and operating procedures shall be submitted to NBU for review, and shall be acceptable to NBU before construction of such facility. However, the review of such plans and operating

procedures will in no way relieve the user from the responsibility of modifying the facility as necessary to produce effluent acceptable to NBU under the provisions of this division. Any subsequent changes in the pretreatment facilities or methods of operation shall be reported to and be acceptable to NBU prior to the user's initiation of the changes.

(b) *Materials removed from pretreatment facilities.* Storage, handling, disposal and transportation of wastes shall be done according to all applicable federal, state and local regulations and statutes that pertain to the type and/or class of waste generated.

(c) *National pretreatment standards.* Any industrial user subject to categorical pretreatment standards promulgated pursuant to section 307(b) and (c) of the Act shall comply with all regulations, pretreatment requirements, and/or discharge limits applicable to that particular industrial category. National pretreatment standards take precedence over this division; provided, however, that the industrial user shall continue to meet specific discharge limits set forth in this division which are not inconsistent with the categorical pretreatment standards applicable to that industry, and more stringent local standards. The categorical pretreatment standards found at 40 CFR Chapter I, Subchapter N, Parts 405 -471 are hereby incorporated.

(1) Where a categorical pretreatment standard is expressed only in terms of either the mass or the concentration of a pollutant in wastewater, the control authority may impose equivalent concentration or mass limits in accordance with CFR 40 403.6(c).

(2) When wastewater subject to a categorical pretreatment standard is mixed with wastewater not regulated by the same standard, the control authority shall impose an alternate limit using the combined wastestream formula in 40 CFR 403.6(e).

(3) A user may obtain a variance from a categorical pretreatment standard if the user can prove, pursuant to the procedural and substantive provisions in CFR 403.13, that factors relating to its discharge are fundamentally different from the factors considered by EPA when developing the categorical pretreatment standard.

(4) A user may obtain a net gross adjustment to a categorical standard in accordance with 40 CFR 403.15.

(d) *Hazardous waste activity.* Any industrial user or person, by site, whose act or process produces hazardous waste identified or listed in 40 CFR 261 or whose act or process first causes a hazardous waste to become subject to regulation, shall provide the director with the United States EPA Identification Number assigned to that generator as notice of conformance with applicable state and federal regulations regarding the disposal of hazardous waste. An industrial user shall provide the proper notices required by 40 CFR 403.12(p) with respect to substances discharged into the POTW otherwise considered hazardous waste as provided in subsection 130-310(g).

(e) *Dilution limitations.* Dilution as a means of meeting concentration limits shall be prohibited. No user shall ever increase the use of process water or in any way attempt to dilute a discharge as a partial or complete substitute for adequate treatment to achieve compliance with the limitations contained in the applicable pretreatment standards, or in any other pollutant-specific limitation developed by the control authority or state. However, dilution under certain circumstances may be an acceptable means of complying with pretreatment of some of the substances described in section 130-305 if such dilution is used in connection with procedures approved by the control authority consistent with this division. The director may impose mass limitations on users that are using dilution to meet applicable pretreatment standards, or in other cases, where the imposition of mass limitations is appropriate. In such cases, the periodic compliance report shall indicate the mass of pollutants regulated by pretreatment standards in the effluent of the user. These reports shall contain the results of sampling and analysis of the discharge, including the flow and the nature and concentration, or production in mass, where requested by the director, of pollutants contained therein which are limited by the applicable pretreatment standards.

(f) *Hauled wastewater.*

(1) Septic tank waste may be accepted into the POTW at a designated receiving structure within the treatment plant area, and at such times as are established by the director, provided such waste does not violate section 130-305 or any other requirements established or adopted by NBU. Wastewater discharge permits for individual vehicles to use such facilities shall be issued by the director.

(2) The discharge of hauled industrial waste as industrial septage requires prior approval and a wastewater discharge permit from NBU. The director shall have authority to prohibit the disposal of such waste if such disposal would interfere with the treatment plant operation. Waste haulers are subject to all other sections of this division.

(3) Fees for dumping septage will be established as part of the industrial user fee system as authorized in section 130-313

(g) *Vandalism.* No person shall maliciously, willfully or negligently break, damage, destroy, uncover, deface, tamper with or prevent access to any structure, appurtenance or equipment, or other part of the POTW. Any person found in violation of this subsection shall be subject to the sanctions set out in section 130-314

(Ord. No. 2010-40, § 2(Exh. A), 6-28-10)

Sec. 130-307. - Pretreatment facilities.

Users shall provide wastewater treatment as necessary to comply with this division and shall achieve compliance with all categorical pretreatment standards, local limits, and the prohibitions set out in subsection 130-305(a) within the time limitations specified by the EPA, the state, or the control authority, whichever is the most stringent. Any facilities necessary for compliance must be provided, operated and maintained at the user's expense. Detailed plans describing such facilities and operating procedures shall be submitted to the control authority for review, and shall be acceptable to the control authority before such are constructed. The review of such plans and operating procedures shall in no way relieve the user from the responsibility of modifying such facilities as necessary to produce a discharge acceptable to the control authority under the provisions of this division.

(Ord. No. 2010-40, § 2(Exh. A), 6-28-10)

Sec. 130-308. - Additional pretreatment measures.

(a) Whenever deemed necessary, the control authority may require users to restrict their discharge during peak flow periods, to designate that a certain wastewater be discharged only into specific sewers, to relocate and/or consolidate points of discharge, and to separate sewage from industrial wastestreams, and impose such other conditions as may be necessary to protect the POTW and determine the user's compliance with the requirements of this division.

(b) The control authority may require any person discharging into the POTW to install and maintain, on their property and at their expense, a suitable storage and flow control facility to ensure equalization of flow. A wastewater discharge permit may be issued solely for flow equalization.

(c) Grease, oil, and sand interceptors shall be provided when, in the opinion of the control authority, they are necessary for the proper handling of wastewater containing excessive amounts of grease and oil, or sand; except that such interceptors shall not be required for residential users. All interception units shall be of type and capacity approved by the control authority and shall be so located to be easily accessible for cleaning and inspection. Such interceptors shall be inspected, cleaned, and repaired regularly, as needed, by the user at their expense. Interceptors shall be cleaned and serviced at a minimum frequency of 90 calendar days or more often if necessary.

(d) Users with the potential to discharge flammable substances may be required to install and maintain an approved combustible gas detector meter, or other control device as deemed necessary by the control authority.

(Ord. No. 2010-40, § 2(Exh. A), 6-28-10)

Sec. 130-309. - Discharge permits.

(a) *Wastewater analysis.* When requested by the control authority, a user must submit information on the nature and characteristics of its wastewater within 30 calendar days of the request. The control authority is authorized to prepare a form for this purpose and may periodically require users to update this information.

(b) *Permit requirements.*

(1) Non-domestic users must notify the director of the nature and characteristics of their wastewater by completing a wastewater survey prior to commencing their discharge. The director is authorized to prepare a form for this purpose and may periodically require industrial users to update the survey. Failure to complete this survey shall be reasonable grounds for terminating service to the industrial user and shall be considered a violation of this division.

(2) It shall be unlawful for industrial users to discharge wastewater, either directly or indirectly, into the city's sanitary sewer system without first obtaining a discharge permit from NBU. Any violation of the terms and conditions of an industrial user discharge permit shall be deemed a violation of this division. Obtaining a discharge permit does not relieve a permittee of its obligation to obtain other permits required by federal, state or local law.

(3) The director may require that other industrial users, including liquid waste haulers, obtain discharge permits as necessary to carry out the purposes of this division.

(4) Any significant industrial user located beyond the city limits shall obtain a permit application in accordance with subsection (b). New industrial users located beyond the city limits shall submit such applications to the director 90 calendar days prior to discharging into the sanitary sewer. Upon review and approval of such application, the director may enter into a contract with the user which requires the user to subject itself to and abide by this division, including all permitting, compliance monitoring, reporting, and enforcement provisions of this division.

(5) Existing connections. Any significant industrial user which discharges nondomestic waste into the sanitary sewer system prior to the effective date of this division and that wishes to continue such discharges in the future shall apply to NBU for a discharge permit and shall not cause or allow discharges to the POTW to continue, except in accordance with the permit issued by the director.

(6) New connections. Any significant industrial user proposing to begin or recommence discharging non-domestic waste into the sanitary sewer system must obtain a discharge permit prior to beginning or recommending such

discharge. An application for this permit must be filed at least 90 calendar days prior to the anticipated start-up date.

(7) Minor contributors as defined in this section may also be required to obtain a discharge permit in accordance with this division. A "minor contributor" is defined as a person/entity that has potential for discharging pollutants that exceed specific local ordinance limits and/or has potential for accidental spillage of slug discharges of pollutants into the sanitary sewer system.

(c) *Permit application.*

(1) In order to be considered for a discharge permit, persons required to obtain a discharge permit shall submit the following information on an application form approved by NBU:

a. Name, address and location (if different from the address);

b. Standard industrial classification (SIC) code of both the industry as a whole and any processes for which federal categorical standards have been promulgated;

c. Wastewater constituents and characteristics including any pollutants in the discharge which are limited by any federal, state or local standards. Sampling and analysis will be undertaken in accordance with 40 CFR 136;

d. Time and duration of discharge;

e. Daily maximum, daily average, and monthly average wastewater flow rates, including daily, monthly and seasonal variations, if any;

f. Site plans, floor plans, mechanical and plumbing plans and details to show all sewers, floor drains and appurtenances by size, location and elevation;

g. Description of activities, facilities and plant processes on the premises, including a list of all materials and chemicals used at the facility which are or could accidentally or intentionally be discharged to the POTW;

h. Each product produced by type, amount, process or processes and rate of production;

i. Type and amount of raw materials processed (average and maximum per day);

j. Number and type of employees, and hours of operation and proposed or actual hours of operation of the pretreatment system; and

k. Compliance schedule. Whether additional operation and maintenance (O&M) and/or additional pretreatment is required for the user to meet all applicable federal, state and local standards. If additional pretreatment and/or O&M will be required to meet the standards, then the industrial user shall indicate the shortest time schedule necessary to accomplish installation or adoption of such additional treatment and/or O&M. The completion date in this schedule shall not be longer than the compliance date established for the applicable categorical pretreatment standard. The following conditions apply to this schedule:

1. The schedule shall contain progress increments in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the user to meet the applicable pretreatment standards (such events include hiring an engineer, completing preliminary plans, completing final plans, executing contracts for major components, commencing construction, completing construction, beginning operation, and conducting routine operation). No increment referred to in this subsection shall exceed nine months.

2. No later than 14 calendar days following each date in the schedule and the final date for compliance, the user shall submit a progress report to the director including, as a minimum, whether or not it complied with the increment of progress, the reason for any delay, and if appropriate, the steps being taken by the user to return to the established schedule. In no event shall more than nine months elapse between such progress reports to the director.

(2) All plans required in subsection (b)(1) must be certified for accuracy by a state registered professional engineer.

(3) All applications must contain the following certification statement and be signed by an authorized representative of industrial user:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with the system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

(4) If an authorization under subsection (b)(3) is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, or overall responsibility for environmental matters for the

company, a new authorization satisfying the requirements of subsection (b)(3) must be submitted to NBU prior to or together with any reports to be signed by an authorized representative.

(5) NBU will evaluate the data furnished by the industrial user and may require additional information. After evaluation of the data furnished, the director may issue an industrial user a discharge permit subject to the terms and conditions provided in this section.

(d) *Contents of permit.* Discharge permits shall include such conditions as are reasonably deemed necessary by the director to prevent pass through or interference, protect the quality of the water body receiving the POTW's effluent, protect worker health and safety, facilitate POTW sludge management and disposal, protect ambient air quality, and protect against damage to the POTW collection system or plant. Permits may contain, but need not be limited to, the following:

(1) Statement of duration. In no case more than five years.

(2) Statement of non-transferability without first obtaining the prior approval of NBU in accordance with subsection 130-309(e)(5).

(3) Limits on the average and/or maximum rate of discharge, time of discharge, and/or requirements for flow regulation and equalization.

(4) Limits on the average and/or maximum concentration, mass, or other measure of identified wastewater constituents or properties.

(5) Requirements for the installation of pretreatment technology or construction of appropriate containment devices, etc., designed to reduce, eliminate, or prevent the introduction of pollutants into the treatment works.

(6) Development and implementation of spill control plans or other special conditions including additional management practices necessary to adequately prevent accidental, unanticipated, or routine discharges.

(7) The unit charge or schedule of user charges and fees for the management of the wastewater discharged to the POTW.

(8) Requirements for installation and maintenance of inspection and sampling facilities.

(9) Specifications for monitoring programs, which may include sampling locations, frequency of sampling, number, types, and standards for tests, and reporting schedules.

(10) Compliance schedules.

(11) Requirements for submission of technical reports or discharge reports.

(12) Requirements for maintaining and retaining plant records relating to wastewater discharge as specified by the director and affording access to the director or the director's representatives.

(13) Requirements for notification of any new introduction of wastewater constituents or of any substantial change in the volume or character of the wastewater being introduced into the POTW.

(14) Requirements for the notification of any change in the manufacturing and/or pretreatment process used by the permittee.

(15) Requirements for notification of excessive, accidental, or slug discharges.

(16) Statement of applicable civil and criminal penalties for violation of pretreatment standards and requirements and any applicable compliance schedule. Such schedules may not extend the compliance date beyond applicable federal deadlines.

(17) Other conditions as deemed appropriate by the director to ensure compliance with this division and state and federal laws, rules, and regulations.

(18) A statement that compliance with the permit does not relieve the permittee of responsibility for compliance with all applicable federal pretreatment standards, including those which become effective during the term of the permit.

(e) *Issuance of permits.*

(1) *Permit duration.* Permits shall be issued for a specified time period, not to exceed five years. A permit may be issued for a period less than five years at the discretion of the director. Each wastewater discharge permit will indicate a specific expiration date.

(2) *Public notification.* The director will publish in the newspaper in Comal County, Texas, with the largest circulation, notice of intent to issue a pretreatment permit, at least 14 calendar days prior to issuance. The notice will indicate a location where the draft permit may be reviewed and an address where written comments may be submitted.

(3) *Appeals.* The director will provide all interested persons with notice of a final permit decision. Within 30 calendar days of the date the director issues a decision, any person, including an industrial user, may petition for a review of the director's permit decision as outlined below. Failure to submit a timely petition shall be considered waiver of an appeal.

a. The appealing party shall submit a written petition for review to the chief executive officer (CEO) of NBU at the administrative offices of NBU.

b.

The petition for review must identify the specific permit provision(s) objected to, the reasons for each objection, and the relief sought, including any alternative permit provision(s) requested, if any.

c. The CEO shall issue a written decision on the petition for review within 14 calendar days of receipt of the petition. The CEO may request additional information from the appealing party or NBU staff while the review is pending at the CEO's discretion.

d. The appealing party may seek a re-consideration of the CEO's decision by submitting a written request for re-consideration to the NBU board of trustees. The board of trustees may request a written response from NBU or may convene a hearing on the re-consideration request, or both, at the sole discretion of the board of trustees. The board of trustees shall affirm the decision of the CEO or remand the permit to the CEO with instructions for modification of the permit in accordance with the ruling of the board of trustees.

e. The NBU board of trustees shall issue a written decision concerning the appeal and its decision shall be considered the final administrative decision on the permit for purposes of judicial review.

f. The appealing party seeking judicial review of the final administrative decision on the permit must file a petition in the District Court, Comal County Texas, within 30 calendar days of the date the final administrative decision is signed.

g. Filing an appeal shall not suspend or stay the permit issued by NBU. However, enforcement of the specific provision or provisions subject to appeal shall be stayed during the pendency of an appeal.

(4) *Permit modifications.* The director may modify the permit for good cause, including, but not limited to, the following:

a. To incorporate or implement any new or revised federal, state, or local pretreatment standards or requirements.

b. To address material or substantial alterations or additions to the discharger's operation processes, discharge volume, or discharge character that were not considered in the provisions of a current permit.

c. To address a change in any condition in either the industrial user or the POTW that requires either a temporary or permanent reduction or elimination of the authorized discharge.

d. To evaluate information indicating that the permitted discharge poses a threat to the control authority's collection and treatment systems, POTW personnel or the receiving waters.

e. To adjudicate a violation of any terms or conditions of the permit.

f. To assess a misrepresentation or failure to disclose fully all relevant facts in the permit application or in any required reporting.

g. To consider a revision or grant of variance from such categorical standards pursuant to 40 CFR 403.13.

h. To correct typographical or other errors in the permit.

i. To reflect transfer of the facility ownership and/or operation to a new owner/operator.

j. To respond to the request of the permittee, provided such request does not create a violation of any applicable requirements, standards, laws, or rules and regulations.

The filing of a request by the permittee for a permit modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance, does not stay any permit condition or provision.

(5) *Transfer of permit.* Permits may be reassigned or transferred to a new owner and/or operator with prior approval of the director, as follows:

a. The permittee must give at least 30 calendar days advance notice to the director.

b. The notice must include a written certification by the new owner which:

1. States that the new owner has no immediate intent to change the facility's operations and processes;

2. Identifies the specific date on which the transfer is to occur; and

3. Acknowledges that the new owner and/or operator accepts full responsibility for complying with the existing permit.

(6) *Termination of permit.* Pretreatment permits may be terminated as provided in subsection 130-314(a)(8).

(7) *Reissuance of permit.* The user shall apply for permit reissuance by submitting a complete permit application a minimum of 90 calendar days prior to the expiration of the user's existing permit.

(8) *Continuation of expired permits.* An expired permit will continue to be effective and enforceable until the permit is reissued if:

a. The industrial user has submitted a complete permit application at least 90 calendar days prior to the expiration date of the user's existing permit; and

b. The failure to reissue the permit, prior to expiration of the previous permit, is not due to any act or failure to act on the part of the industrial user.

(9)

Special agreements. Nothing in this division shall be construed as preventing any special agreement or arrangement between the POTW and any user whereby wastewater of unusual strength or character is accepted into the POTW and specially treated and subject to any payments or user charges as may be applicable. However, no discharge which violates pretreatment standards will be allowed under the terms of such special agreements. If, in the opinion of the Director, the wastewater may have the potential to cause or result in any of the following circumstances, no such special agreement will be made:

a. Pass through or interference;

b. Endangering of municipal or utility employees or the public.

(Ord. No. 2010-40, § 2(Exh. A), 6-28-10)

Sec. 130-310. - Reporting requirements.

(a) *Baseline reports.* Within 180 calendar days after the effective date of a categorical pretreatment standard, or 180 calendar days after the final administrative decision made upon a category determination submission under 40 CFR 403.6(a)(4), whichever is later, existing industrial users subject to such categorical pretreatment standards and currently discharging to or scheduled to discharge to a POTW shall be required to submit to the control authority a report which contains the information listed in 40 CFR 403.12(b)(1)—(7). Where reports containing this information already have been submitted to the director or regional administrator of the EPA in compliance with the requirement of 40 CFR 128.140(b)(1977), the industrial user will not be required to submit this information again. At least 90 calendar days prior to commencement of discharge, new sources, and sources that become industrial users subsequent to the promulgation of an applicable categorical standard, shall be required to submit to the control authority a report which contains the information listed in 40 CFR 403.12(b)(1)—(5). New sources shall also be required to include in this report information on the method of pretreatment the source intends to use to meet applicable development standards. New sources shall give estimates of flow measurements and measurement of pollutants as required in 40 CFR 403.12 (b)(4) and (5).

(b) *Compliance reports.* Within 90 calendar days following the date for final compliance with applicable categorical pretreatment standards or in the case of a new source following commencement of the introduction of wastewater into the POTW, any industrial user subject to pretreatment standards and requirements shall submit to the control authority a report containing the information described in 40 CFR 403.12(b)(4)—(6). For industrial users subject to equivalent mass or concentration limits established by the control authority in accordance with the procedures in 40 CFR 403.6 (c), this report shall contain a reasonable measure of the user's long term production rate. For all other industrial users subject to categorical pretreatment standard expressed in terms of allowable pollutant discharge per unit of production (or other measure of operation), this report shall include the user's actual production during the appropriate sampling period.

(c) *Periodic reports on continued compliance by categorical industrial users.*

(1) Any industrial user subject to a categorical pretreatment standard, after the compliance date of such pretreatment standard, or, in the case of a new source, after commencement of the discharge into the POTW, shall submit to the control authority during the months of June and December, unless required more frequently in the pretreatment standard or by the control authority or the approval authority, a report indicating the nature and concentration of pollutants in the effluent which are limited by such categorical pretreatment standards. In addition, this report shall include a record of measured or estimated average and maximum daily flows for the reporting period for the discharge reported in 40 CFR 403.12(b)(4), except that the control authority may require more detail reporting of flows. At the discretion of the control authority and in consideration of such factors as local high or low flow rates, holidays, budget cycles, etc., the control authority may agree to alter the months during which the above reports are to be submitted.

(2) Where the control authority has imposed mass limitations on industrial users, the report required by subsection (c)(1) shall indicate the mass of pollutants regulated by pretreatment standards in the discharge from the industrial user.

(3) For industrial users subject to equivalent mass or concentration limits established by the control authority, the report required by subsection (c)(1) shall contain a reasonable measure of the user's long-term production rate. For all other industrial users subject to categorical pretreatment standards expressed only in terms of allowable pollutant discharge per unit of production (or other measure of operation), the report required by subsection (c) (1) shall include the user's actual average production rate for the reporting period.

(d) *Reporting requirements for significant industrial users not subject to categorical pretreatment standards.* Non-categorical significant industrial users are required to submit to the control authority at least once every six months on dates specified by the control authority a description of the nature, concentration, and flow of the pollutants required to be reported by the control authority. The report shall be based on sampling and analysis performed in the period covered by the report, and, where possible, performed in accordance with the techniques described in 40 CFR 136. The sampling and analysis may be performed by the control authority in lieu of the significant non-categorical industrial user.

(e) *Notice of potential problems.* All categorical and non-categorical industrial users shall notify the POTW immediately of all discharges that could cause problems to the POTW, including any slug loadings by the industrial user.

(f) *Compliance monitoring and analysis.*

(1) The reports required in subsections (a), (b), (c) and (d) shall contain the results of sampling and analysis of the discharge, including the flow and the nature and concentration, or production in mass where requested by the control authority, of pollutants contained therein which are limited by the applicable pretreatment standards. This sampling and analysis may be performed by the control authority in lieu of the industrial user. Where the POTW performs the required sampling and analysis in lieu of the industrial user, the user will not be required to submit the compliance certifications required by this division. In addition, where the POTW itself collects all the information required for the report, including flow data, the industrial user will not be required to submit the report.

(2) If sampling performed by an industrial user indicates a violation, the user shall notify the control authority within 24 hours of becoming aware of the violation. The user shall also repeat the sampling and analysis and submit the results of the repeat analysis to the control authority within 30 calendar days after becoming aware of the violation.

(3) The reports required in subsections (c) and (d) shall be based upon data obtained through appropriate sampling and analysis performed during the period covered by the report, which data is representative of conditions occurring during the reporting period.

(4) All analyses shall be performed in accordance with procedures established by the administrator of the EPA pursuant to section 304(h) of the Act and contained in 40 CFR 136 and amendments thereto, or with any other test procedures approved by the administrator of the EPA. Sampling shall be performed in accordance with the techniques approved by the administrator. Where such regulations do not include sampling or analytical techniques for the pollutants in question, or where the administrator determines that 40 CFR 136 sampling and analytical techniques are inappropriate for the pollutant in question, sampling and analyses shall be performed using validated analytical methods or any other sampling and analytical procedures, including procedures suggested by the POTW or other parties, approved by the administrator.

(5) If an industrial user subject to the reporting requirements of subsections (c) and (d) monitors any pollutant more frequently than required by the control authority, using the procedures prescribed in subsection (f)(4), the results of this monitoring shall be included in the applicable reports.

(g) *Sample collection.*

(1) Except as indicated below, the user must collect wastewater samples using flow proportional composite collection techniques. In the event flow proportional sampling is not feasible, the control authority may authorize the use of time proportional sampling or a minimum of four grab samples where the user demonstrates that this will provide a representative sample of the effluent being discharged. In addition, grab samples may be required to show compliance with instantaneous discharge limits.

(2) Samples for oil and grease, temperature, pH, cyanide, phenols, sulfides, and volatile organic compounds must be obtained using grab collection technique.

(h) *Timing.* Written reports will be deemed to have been submitted on the date postmarked. For reports which are not mailed, postage prepaid, into a mail facility serviced by the United States Postal Service, the date of receipt of the report shall govern.

(i) *Notification of changed discharge.* All industrial users shall promptly notify the POTW in advance of any substantial change in the volume or character of pollutants in their discharge, including the listed or characteristic hazardous waste for which the industrial user has submitted initial notification under 40 CFR 403.12(p). An industrial user shall notify the POTW, the EPA regional waste management division director and the approval authority in writing of any discharge into the POTW of a substance which, if otherwise disposed of, would be a hazardous waste under 40 CFR 261. Such notification shall be in accordance with 40 CFR 403.12(p). This provision does not create a right to discharge any substance not otherwise permitted to be discharged by this division, a permit issued hereunder, or any applicable federal or state law.

(j) *Certification and signatory requirements.* The reports required by subsections (a), (b), (c) and (d) shall include the certification set out in subsection 130-309(c)(3) and be signed by an authorized representative of the industrial user.

(k) *Fraud and false statements.* The reports and other documents required to be submitted or maintained under this section shall be subject to:

(1) The provisions of 18 USC 1001 relating to fraud and false statements;

(2) The provisions of section 309(c)(4) of the Act, as amended, governing false statements, representation or certification; and

(3) The provisions of section 309(c)(6) of the Act regarding responsible corporate officers.

(Ord. No. 2010-40, § 2(Exh. A), 6-28-10)

Sec. 130-311. - Recordkeeping requirements.

(a) Users shall maintain suitable operating records of all pretreatment facilities. Such records shall include summary reports of the character of the influent and effluent as the POTW may prescribe. All records relating to compliance with pretreatment standards shall be made available to officials of the approval authority upon request.

(b) Any industrial user subject to the reporting requirements established in this division shall maintain records of all information resulting from any monitoring activities required by this division. Such records shall include for all samples:

(1) The date, exact place, method, and time of sampling and the name of the person taking each sample;

(2) The dates analyses were performed;

(3) The name and title of the person who performed the analyses;

(4) The analytical techniques or methods used; and

(5) The results of such analyses.

(c) Any industrial user subject to the reporting requirements established in this division shall be required to retain for a minimum of three years any records of monitoring activities and results, whether or not such monitoring activities are required by this division, and shall make such records available for inspection and copying by the director and the regional administrator of the EPA (and POTW in the case of an industrial user). This period of retention shall be extended during the course of any unresolved litigation regarding the industrial user or POTW or when requested by the director or the regional administrator of the EPA.

(d) Any reports submitted to the POTW by an industrial user shall be retained for a minimum of three years and the POTW shall make such reports available for inspection and copying by the director and the regional administrator of the EPA. This period of retention shall be extended during the course of any resolved litigation regarding the discharge of pollutants by the industrial user or the operation of the POTW pretreatment program or when requested by the director or the regional administrator of the EPA.

(Ord. No. 2010-40, § 2(Exh. A), 6-28-10)

Sec. 130-312. - Inspection, sampling and monitoring.

(a) *Inspection of user facilities.* NBU shall inspect the facilities of any user to ascertain whether the requirements of this division are being met. Persons or occupants of premises where wastewater is created or discharged shall allow NBU or its representatives ready access at all reasonable times to all parts of the premises for the purpose of inspection, sampling, records examination and copying, or in the performance of any of their duties. NBU, the TCEQ and the EPA shall have the right to set up on the user's property such devices as are necessary to conduct sampling inspections, compliance monitoring and/or metering operations. Where a user has security measures in force which would require proper identification and clearance before entry into its premises, the user shall make necessary arrangements with its security guards so that upon presentation of suitable identification, personnel from NBU, the TCEQ and the EPA will be permitted to enter, without delay, for the purposes of performing their specific responsibilities.

(b) *Monitoring facilities.* NBU shall require user to provide and operate, at the user's expense, monitoring facilities to allow inspection, sampling and flow measurement of the premises' sewer and internal drainage systems. The monitoring facility shall normally be situated on the user's premises, but NBU may, when such a location would be impractical or cause undue hardship on the user, allow the monitoring facility to be constructed in public areas. There shall be ample room in or near such sampling manholes or other monitoring facilities to allow accurate sampling and preparation of samples for analysis. The monitoring facility, sampling and measuring equipment shall be maintained at all times in a safe and proper operating condition at the expense of the user. The sampling and monitoring facility shall be provided in accordance with the requirements of NBU and all applicable city construction standards and specifications. Construction shall be completed within 90 calendar days following written notification by NBU. Any relocation expense of monitoring facilities from public property to the user's property shall be the responsibility of the user.

(c) *Laboratory procedures.* Analysis shall be performed in accordance with procedures established by the administrator pursuant to section 304(g) of the Act and contained in 40 CFR 136 and amendments thereto, or with any other test procedures approved by the administrator of the EPA. The POTW may charge the user a fee for the standard initial analyses of the user's wastes, as well as for other nonstandard tests as required by the user's specific process waste loading. Regular periodic check analysis and analysis made by the POTW at the request of the user may be charged to the user according to standard work order billing practice. All such analysis shall be binding in determining strength of waste surcharges and other matters dependent upon the character and concentration of wastes.

(d) *Use of representative analysis.* Until an adequate analysis of a representative sample of the user's wastes has been obtained, the POTW shall, for the purpose of this division, make a determination of the character and concentration of the user's wastes by using data based on analysis of similar processes or data for this type of business that are available from the EPA or from industry-recognized authoritative sources. This method, if selected by the POTW, shall continue at the POTW's discretion or until an adequate analysis has been made.

(e) *Public identification of industrial users in significant noncompliance.* All data collected pertaining to industrial wastes, including records kept by each industrial user, shall be subject to audit, review and copying by the EPA, the TCEQ or the control authority upon request. The POTW shall annually publish in the newspaper with the largest daily circulation

published in Comal County, Texas, a list of those industrial users who are deemed in significant noncompliance during the 12 previous months. The published notice shall also summarize any enforcement action taken against such industrial users in significant noncompliance during the same 12-month period.

(f) *Surveillance of industrial users.*

(1) Surveillance of industrial users for the purposes of verifying industry self-monitoring information will be done at such intervals as determined by the director to be necessary to detect prohibited discharges.

(2) A seven-day monitoring period shall be allowed if deemed warranted in order to obtain representative data. The surveillance period will normally be for a period of one day, representative of the normal production day, but can be of longer duration at the discretion of the director. In cases where the surveillance period extends for more than seven consecutive days, the POTW shall have the prerogative of selecting the seven consecutive days of its choice for establishing rates and charges.

(3) The POTW may sample and conduct surveillance and inspection activities on any industrial user when deemed necessary by the director to verify, independent of information supplied by industrial users, compliance or noncompliance with applicable pretreatment standards. For scheduled surveillance, the user shall be given the option of splitting the obtained sample such that it may be analyzed by the user.

(4) In addition to surveillance monitoring conducted by the POTW, a significant industrial user shall conduct self-monitoring and submit monthly monitoring reports to the POTW unless specified otherwise in the user's permit conditions or by the director and report the results of all applicable monitoring to the POTW.

(g) *Search warrants.* If the director has been refused access to a building, structure or property or any part thereof, and if the director has demonstrated probable cause to believe that there may be a violation of this division or that there is a need to inspect as part of a routine inspection program of NBU designed to verify compliance with this division or any permit or order issued under this division, or to protect the overall public health, safety and welfare of the community, then upon application by counsel for the city and NBU, the municipal court judge of the city shall issue a search and/or seizure warrant describing therein the specific location subject to the warrant. The warrant shall specify what, if anything, may be searched and/or seized on the property described. Such warrant shall be served at reasonable hours by the director in the company of a uniformed police officer of the city. In the event of an emergency affecting public health and safety, inspections shall be made without the issuance of a warrant.

(Ord. No. 2010-40, § 2(Exh. A), 6-28-10)

Sec. 130-313. - Fees and costs.

(a) *Purpose.* It is the purpose of this section to recover from users of the city's wastewater disposal system the costs for the implementation of the program established in this division. The applicable charges or fees shall be set forth in NBU's schedule of charges and fees.

(b) *Charges and fees.* NBU may adopt charges and fees to include:

(1) Fees for reimbursement of costs of setting up and operating the NBU pretreatment program;

(2) Fees for monitoring, sampling, testing, inspections and surveillance procedures;

(3) Fees for reviewing accidental discharge procedures and construction;

(4) Fees for permit applications;

(5) Fees for filing appeals;

(6) Fees for consistent removal of pollutants otherwise subject to federal pretreatment standards;

(7) Other fees as NBU may deem necessary to carry out the requirements contained in this division.

These fees relate solely to the matters covered by this division, are separate from all other fees chargeable by NBU, and intended to be used by NBU for the costs of the pretreatment program.

(c) *Surcharges.*

(1) *Cost calculations.* Users that are discharging COD or TSS in excess of "normal domestic sewage" as defined in section 130-301 shall be required to pretreat the industrial wastes to meet the requirements of normal domestic sewage. However, such wastes may be accepted for treatment if all the following requirements are met:

a. The waste will not cause damage to the collection system;

b. The waste will not impair the treatment process; and

c. The user agrees to pay a surcharge over and above the existing sewer rates with the basis for surcharge on the industrial waste to be computed in the following manner:

$ Surcharge =

(Volume in 1000 gallons)COT/1000 gal +

(Avg. BOD mg/l × 8.34 × Q mgd)COT/lb +

(Avg. TSS mg/l × 8.34 × Q mgd)COT/lb

Cost of treatment (COT): Determined annually

(2) *Volume determination.* The volume of wastes may be determined by the same methods used to calculate the regular sewer service charge, or as a percentage of user's water bill. For users discharging less than 20,000 gallons/day, the BOD and suspended solids values may be determined from standard values for various industries established by the control authority. In cases where the discharge exceeds 20,000 gallons/day, or in the event that the user desires to determine accurate values of COD and TSS, the user shall install at user's expense a sampling point at a location near the outlet of each building drain or connection with any sanitary sewer of the city. COD and TSS calculated from samples collected from any establishment shall be determined by the director or a qualified professional employed by the user. Such report shall contain a statement that the samples collected and values determined are based on samples representative of the establishment's discharge. Each sampling point shall be installed and shall be so maintained by the user so that any authorized representative of NBU may readily and safely obtain samples at all times. Plans and location of such sampling points shall be approved by the director prior to construction.

(3) *Annual review.* All flow rates and COD and TSS in determination of the industrial sewer service charge shall be re-evaluated on an annual basis. If there is a major change in the operation to cause changes in value, however, the values may be increased or decreased on a study of changes or actual measurements.

(4) *Surcharge review.* The basis for determining the surcharge shall be reviewed annually and shall be adjusted to reflect any increase or decrease in wastewater treatment costs based on the previous year's experience.

(Ord. No. 2010-40, § 2(Exh. A), 6-28-10)

Sec. 130-314. - Remedies and enforcement.

(a) *Administrative enforcement remedies.*

(1) *Notification of violation.* Whenever the director finds that any industrial user has violated or is violating this division or a discharge permit or order issued under this division, the director may serve upon such user written notice of the violation. Within 14 calendar days of the receipt date of such notice, an explanation of the violation and a plan for the satisfactory correction and prevention thereof, to include specific required actions, shall be submitted to the director. Submission of this plan in no way relieves the user of liability for any violations occurring before or after receipt of the notice of violation. Nothing in this section shall limit the authority of the director to take any action, including emergency actions or any other enforcement action, without first issuing a notice of violation.

(2) *Consent orders.* The director is authorized to enter into consent orders, assurances of voluntary compliance, or other similar documents establishing an agreement with the industrial user responsible for the noncompliance. Such orders will include the specific action to be taken by the industrial user to correct the noncompliance within a time period also specified by the order. Consent orders shall have the same force and effect as administrative orders issued pursuant to subsection (a)(4).

(3) *Show cause hearing.* The director may order any industrial user which causes or contributes to violation of this division or discharge permit or order issued under this division to show cause why a proposed enforcement action should not be taken. Notice shall be served on the user specifying the time and place for the meeting, the proposed enforcement action and the reasons for such action, and a request that the user show cause why this proposed enforcement action should not be taken. The notice of the meeting shall be served personally or by registered or certified mail, return receipt requested, at least 14 calendar days prior to the hearing. Such notice may be served on any principal executive, general partner or corporate officer of the industrial user. Whether or not a duly notified industrial user appears as noticed, immediate enforcement action may be pursued.

(4) *Compliance order.* When the director finds that an industrial user has violated or continues to violate this division or a permit or order issued under this division, the director may issue an order to the industrial user responsible for the discharge directing that, following a specified time period, sewer service shall be discontinued unless adequate treatment facilities, devices, or other related appurtenances have been installed and are properly operated. Such orders may also contain such other requirements as may be reasonably necessary and appropriate to address the noncompliance, including the installation of pretreatment technology, additional self-monitoring, and management practices.

(5) *Cease and desist orders.* When the director finds that an industrial user has violated or continues to violate this division or any permit or order issued under this division, the director may issue an order to cease and desist all such violations and direct those persons in noncompliance to:

a. Comply immediately;

b. Take such appropriate remedial or preventive action as may be needed to properly address a continuing or threatened violation, including halting operations and terminating the discharge.

(6) *Administrative fines.* Notwithstanding any other section of this division, any user who is found to have violated any provision of this division, or permits or orders issued under this division, shall be fined in an amount not to exceed $1,000.00 per violation. Each day on which noncompliance shall occur or continue shall be deemed a

separate and distinct violation. Such assessments may be added to the user's next scheduled sewer service charge and the director shall have such other collection remedies as available to collect other service charges. Unpaid charges, fines, and penalties shall constitute a lien against the individual user's property. Industrial users desiring to dispute such fines must submit to the director a request for reconsideration of the fine within ten calendar days of being notified of the fine. If the director determines a request has merit, the director shall convene a hearing on the matter within 15 calendar days of receiving the request from the industrial user.

(7) *Emergency suspensions.*

a. The director may suspend the wastewater treatment service and/or discharge permit of an industrial user whenever such suspension is necessary in order to stop an actual or threatened discharge presenting or causing an imminent or substantial endangerment to the health or welfare of persons, the POTW, or the environment.

b. Any user notified of a suspension of the wastewater treatment service and/or the discharge permit shall immediately stop or eliminate its contribution. In the event of a user's failure to immediately comply voluntarily with the suspension order, the director shall take such steps as deemed necessary, including immediate severance of the sewer connection, to prevent or minimize damage to the POTW, its receiving waters, or endangerment to any individuals. The director shall allow the user to recommence its discharge when the endangerment has passed, unless the termination proceedings set forth in subsection (a)(8) are initiated against the user.

c. An industrial user which is responsible, in whole or in part, for imminent endangerment shall submit a detailed written statement describing the causes of the harmful contribution and the measures taken to prevent any future occurrence to the director no later than two business days prior to the date of the hearing described in subsection (a)(3).

Nothing in this subsection shall be interpreted as requiring a hearing prior to any emergency suspension under this section.

(8) *Termination of permit.* Significant industrial users proposing to discharge into the POTW must first obtain a wastewater discharge permit from the control authority. Any user who violates the following conditions of this division or a discharge permit or order, or any applicable state and federal law, is subject to permit termination:

a. Violation of permit conditions.

b. Failure to accurately report the wastewater constituents and characteristics of its discharge.

c. Failure to report significant changes in operations or wastewater constituents and characteristics.

d. Refusal of reasonable access to the user's premises for the purpose of inspection, monitoring, or sampling.

e. Falsifying self-monitoring reports.

f. Tampering with monitoring equipment.

g. Refusing to allow timely access to the facility premises and records.

h. Failure to meet effluent limitations.

i. Failure to pay fines.

j. Failure to pay sewer charges.

k. Failure to meet compliance schedules.

Noncompliant industrial users will be notified of the proposed termination of their wastewater permit and be offered an opportunity to show cause under subsection (a)(3) why the proposed action should not be taken.

(b) *Judicial remedies.*

(1) *Commencement of action in district court.* If any person discharges sewage, industrial wastes, or other wastes into the wastewater disposal system contrary to the provisions of this division, or any order or permit issued under this division, the director, through the attorney for NBU or the attorney for the city, may commence an action for appropriate legal and/or equitable relief in the district court for Comal County, Texas.

(2) *Injunctive relief.* When an industrial user has violated or continues to violate the provisions of this division, or any permit or order issued under this division, the director, through counsel, may petition the court for the issuance of a preliminary or permanent injunction, or both, as may be appropriate, which restrains or compels activities on the part of the industrial user. The control authority may also seek such other action as is appropriate for legal and/or equitable relief, including a requirement for the user to conduct environmental remediation. A petition for injunctive relief shall not be a bar against, or a prerequisite for, taking any other action against a user.

(3) *Civil penalties.*

a. Any industrial user who has violated or continues to violate this division or any order or permit issued under this division shall be liable for a civil penalty of not more than $1,000.00 plus actual damages incurred by the POTW per violation per day for as long as the violation continues. In addition to the above-described penalty and damages, the director may recover on behalf of NBU reasonable attorney's

fees, court costs and other expenses associated with the enforcement activities, including sampling and monitoring expenses. The director is entitled to such remedies for collection of these fees as is provided for collection of other sewer service charges and as may be permitted by law. Penalties recovered under this subsection are intended to be used for the operation of the wastewater collection and treatment systems of NBU.

b. The director shall petition the court to impose, assess, and recover such sums. In determining the amount of liability, the court shall take into account all relevant circumstances, including, but not limited to, the extent of harm caused by the violation, the magnitude and duration of the violation, any economic benefit gained through the industrial user's violation, corrective actions by the industrial user, the compliance history of the user, and any other factor as justice requires.

(4) *Criminal prosecution.*

a. Any industrial user who willfully or negligently violates any provision of this division or any orders or permits issued under this division shall, upon conviction, be guilty of a misdemeanor, punishable by a fine not to exceed $1,000.00 per violation per day.

b. Any industrial user which knowingly makes any false statements, representations, or certifications in any application, record, report, plan or other document filed or required to be maintained pursuant to this division or its discharge permit, or which falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required under this division shall, upon conviction, be punished by a fine of not more than $1,000.00 per violation per day.

(c) *Supplemental enforcement remedies.*

(1) *Annual publication of users in significant noncompliance.* The director shall publish a description of those industrial users which are found to be in significant noncompliance, as set out in subsection 130-312(e).

(2) *Performance bonds and assurances.* The director may decline to reissue a permit to any industrial user which has failed to comply with the provisions of this division or any order or previous permit issued under this division unless such user first delivers to the director a satisfactory bond, in an amount not to exceed a value determined by the director to be necessary to ensure consistent compliance, or such user first submits proof that it has obtained other financial assurances sufficient to restore or repair POTW damage caused by its discharge.

(3) *Water supply severance.* When an industrial user violates or continues to violate the provisions of this division, or an order or permit issued under this division, water service to the industrial user may be severed and service will only recommence, at the user's expense, after such user has satisfactorily demonstrated its ability to comply with this division.

(4) *Public nuisances.* Any violation of the prohibitions or effluent limitations of this division, or any permit or order issued under this division, is hereby declared a public nuisance and shall be corrected or abated as directed by the director or the director's designee. Any person(s) creating a public nuisance shall be subject to the provisions of this Code governing such nuisances, including reimbursing the POTW for any costs incurred in removing, abating, or remedying such nuisance.

(d) *Remedies nonexclusive.* The remedies provided for in this division are not exclusive. The control authority may take any, all, or any combination of these actions against a noncompliant user. Enforcement of pretreatment violations will generally be in accordance with the enforcement response plan. However, the control authority may take other action against any user when the circumstances warrant. Further, the control authority is authorized to take more than one enforcement action against any noncompliant user.

(e) *Applicability of more stringent regulations.*

(1) If national pretreatment standards, categorical or otherwise, more stringent than the discharge limits prescribed in this division are promulgated by the United States Environmental Protection Agency for certain industries, the more stringent national pretreatment standards will apply to the affected industrial user. A violation of the more stringent national pretreatment standards will also be considered a violation of this division.

(2) If more stringent pretreatment standards, Texas surface water quality standards, or Texas Pollutant Discharge Elimination System permit conditions are promulgated, the control authority reserves the right to establish, by ordinance or in wastewater discharge permits, more stringent standards or requirements on discharges to the POTW.

(3) An industrial user within the city who discharges industrial waste ultimately received and treated by another governmental entity pursuant to a wholesale wastewater contract or a reciprocal agreement with the city is subject to the following additional rules:

a. If the governmental entity has more stringent discharge limits than those prescribed by this division, or by a discharge permit issued hereunder, because the United States Environmental Protection Agency requires the more stringent discharge limits as part of the governmental entity's wastewater pretreatment program, the more stringent discharge limits shall prevail.

b.

The pretreatment program manager is authorized to issue a discharge permit to an industrial user affected by subsection (e)(3)a., to insure notice of and compliance with the more stringent discharge limits. If the industrial user already has a discharge permit, the control authority may amend the permit to apply and enforce the more stringent discharge limits. An industrial user shall submit to the control authority an expected compliance date and an installation schedule if the more stringent discharge limits necessitate technological or mechanical adjustments to discharge facilities or plant processes.

c. If the control authority chooses not to issue or amend a permit under subsection (e)(3)b., the pretreatment program manager shall notify the affected industrial user in writing of the more stringent discharge limits and their effective date. Regardless of whether or not a permit is issued or amended, an industrial user shall be given a reasonable opportunity to comply with the more stringent discharge limits.

d. The more stringent discharge limits cease to apply upon termination of the city's wholesale wastewater contract or reciprocal agreement with the governmental entity, or upon modification or elimination of the limits by the government entity or the United States Environmental Protection Agency. The Control Authority shall take the appropriate action to notify the affected industrial user of an occurrence under this subsection.

(4) Variances in compliance dates. The control authority may grant a variance in compliance dates to an industry when, in the pretreatment program manager's opinion, such action is necessary to achieve pretreatment or corrective measures. In no case shall the pretreatment program manager grant a variance in compliance dates to an industry affected by national categorical pretreatment standards beyond the compliance dates established by the United States Environmental Protection Agency.

(5) Authority to regulate. The control authority may establish regulations, not in conflict with this division or other laws, to control the disposal and discharge of industrial waste into the wastewater system and to insure compliance with the pretreatment enforcement program with all applicable pretreatment regulations promulgated by the United States Environmental Protection Agency. The regulations established shall, where applicable, be made part of any discharge permit issued to an industrial user by the control authority.

(f) *Affirmative defenses.*

(1) *Act of God defense.* The Act of God defense constitutes a statutory affirmative defense pursuant to V.T.C.A., Water Code § 7.251 in an action brought in municipal or state court. If a person can establish that an event that would otherwise be a violation of a pretreatment ordinance, or a permit issued under the ordinance, was caused solely by an act of God, war, riot, or other catastrophe, the event is not a violation of the ordinance or permit.

An industrial user who wishes to establish the Act of God affirmative defense shall demonstrate, through relevant evidence that:

a. An event that would otherwise be a violation of a pretreatment ordinance or a permit issued under the ordinance occurred, and the sole cause of the event was an act of God, war, strike, riot or other catastrophe; and

b. The industrial user has submitted the following information to the POTW and the city within 24 hours of becoming aware of the event that would otherwise be a violation of a pretreatment ordinance or a permit issued under the ordinance. If this information was provided orally, a written submission with the information below was provided within five calendar days.

1. A description of the event;
2. The time period of the event, including exact dates and times or, if still continuing, the anticipated time the event is expected to continue; and
3. Steps being taken or planned to reduce eliminate and prevent recurrence of the event.

c. In any enforcement proceeding, the industrial user seeking to establish the Act of God affirmative defense shall have the burden of proving by a preponderance of evidence that an event that would otherwise be a violation of a pretreatment ordinance, or a permit issued under the ordinance was caused solely by an act of God, war, strike, riot or other catastrophe.

(2) *Treatment bypasses.*

a. A bypass of the treatment system is prohibited unless all of the following conditions are met:

1. The bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;
2. There was no feasible alternative to the bypass, including the use of auxiliary treatment or retention of the wastewater; and
3. The industrial user properly notified the director as described in subsection (2)b.

b. Industrial users must provide immediate notice to the director upon discovery of an unanticipated bypass. If necessary, the director may require the industrial user to submit a written report explaining the cause(s), nature, and duration of the bypass, and the steps being taken to prevent its recurrence.

c.

An industrial user may allow a bypass to occur which does not cause pretreatment standards or requirements to be violated, but only if it is for essential maintenance to ensure efficient operation of the treatment system. Industrial users anticipating a bypass must submit notice to the director at least 14 calendar days in advance. The director may only approve the anticipated bypass if the circumstances satisfy those set forth in subsection (2)a.

(Ord. No. 2010-40, § 2(Exh. A), 6-28-10)

Sec. 130-315. - Confidential information.

(a) Information and data provided to the control authority pursuant to this division which is effluent data shall be available to the public without restriction. All other information which is submitted to the state or the POTW shall be available to the public at least to the extent provided by 40 CFR 2.302.

(b) Information and data on an industrial user obtained from reports, surveys, questionnaires, permit applications, permits and monitoring programs and from inspections and sampling shall be available to the public without restriction unless the subject industrial user specifically requests and is able to demonstrate to the satisfaction of NBU that the release of such information will divulge information, processes or methods of production entitled to protection as trade secrets of the industrial user under applicable state law. When requested and demonstrated by the industrial user furnishing a report that such information should be held confidential, the portions of a report which might disclose trade secrets or secret processes shall not be made available for inspection by the public, but shall be made immediately available upon request to the EPA and other governmental agencies for uses related to the NPDES program and in enforcement proceedings involving the person furnishing the report. Wastewater constituents and characteristics and other "effluent data" as defined by 40 CFR 2.302 will not be recognized as confidential information and will be available to the public without restriction.

(Ord. No. 2010-40, § 2(Exh. A), 6-28-10)

Sec. 130-316. - Effective date.

This division shall be in full force and effective immediately following the passage, and approval of New Braunfels Utility's (NBU) Texas Pollutant Discharge Elimination System (TPDES) permit issued by the Texas Commission on Environmental Quality (TCEQ), as provided by law.

(Ord. No. 2010-40, § 2(Exh. A), 6-28-10)

Secs. 130-317—130-335. - Reserved.

FOOTNOTE(S):

--- (10) ---

Editor's note—*Ord. No. 2010-40, § 2(Exh. A), adopted June 28, 2010, repealed and reenacted division 4 in its entirety to read as herein set out. Formerly, division 4 pertained to similar subject matter, and derived from Ord. No. 2002-29, § 1(Att. A), adopted July 22, 2002.* *(Back)*

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ARTICLE VI. - WATER AND WASTEWATER CAPITAL RECOVERY FEES [11]

DIVISION 1. - GENERALLY
DIVISION 2. - ADOPTION OF FEES
DIVISION 3. - WATER FACILITIES
DIVISION 4. - WASTEWATER FACILITIES
DIVISION 5. - ADMINISTRATION

FOOTNOTE(S):

--- (11) ---

Cross reference— *Impact fee advisory committee, § 2-101 et seq.; subdivisions, ch. 118.* *(Back)*

New Braunfels, Texas, Code of Ordinances >> PART II - CODE OF ORDINANCES >> Chapter 130 - UTILITIES >> ARTICLE VI. - WATER AND WASTEWATER CAPITAL RECOVERY FEES >> DIVISION 1. - GENERALLY >>

DIVISION 1. - GENERALLY

Sec. 130-336. - Definitions.

Sec. 130-337. - Intent
Sec. 130-338. - Authority.
Sec. 130-339. - Applicability of capital recovery fees.
Sec. 130-340. - Capital recovery fees as conditions of development approval.
Sec. 130-341. - Limitation of liability.
Sec. 130-342. - Remedies for violation of article.
Secs. 130-343—130-355. - Reserved.

Sec. 130-336. - Definitions.

Words and terms used in this article shall have the same meaning and definition as contained in the Act.

Act, as used in this Article, means V.T.C.A., Local Government Code § 395.001 et seq.

Capital recovery fees shall have the same meaning and refer to "impact fees" as defined in the Act.

Living unit equivalent (LUE) is the standardized measure referred to in the definition of service unit in the act and in this article. LUE shall be established by policy of NBU.

(Ord. No. 2002-29, § 1(Att. A), 7-22-02)

Sec. 130-337. - Intent.

This article is intended to impose water and wastewater capital recovery fees, as established in this article, in order to finance public facilities, the demand for which is generated by new development in the NBU' service area, and to replace existing capital recovery or impact fees.

(Ord. No. 2002-29, § 1(Att. A), 7-22-02)

Sec. 130-338. - Authority.

The city is authorized to enact this article by V.T.C.A., Local Government Code § 395.001 et seq., and its successors, which authorize home rule cities, among others, to enact or impose impact fees (capital recovery fees) on land within their corporate boundaries or extraterritorial jurisdictions, as charges or assessments imposed against new development in order to generate revenue for funding or recouping the costs of capital improvements or facility expansions necessitated by and attributable to such new development; and by the city Charter. The provisions of this article shall not be construed to limit the power of the city to adopt such article pursuant to any other source of local authority, nor to utilize any other methods or powers otherwise available for accomplishing the purposes set forth herein, either in substitution of or in conjunction with this article. Guidelines may be developed by resolution or otherwise to implement and administer this article.

(Ord. No. 2002-29, § 1(Att. A), 7-22-02)

Sec. 130-339. - Applicability of capital recovery fees.

(a) This article shall be uniformly applicable to new development which occurs within the water and wastewater service areas, except for new development which occurs within the service areas of NBU's wholesale customers. It shall be the policy of NBU to review contracts with wholesale customers, when the terms of current contracts are completed, to effectively comply with this article.

(b) Except as otherwise provided in this article, no new development shall be exempt from the assessment of capital recovery fees.

(Ord. No. 2002-29, § 1(Att. A), 7-22-02)

Sec. 130-340. - Capital recovery fees as conditions of development approval.

No new development shall be approved by the city or NBU without assessment of capital recovery fees pursuant to this article. No water and wastewater tap shall be connected unless the applicant has paid the capital recovery fees imposed by this article.

(Ord. No. 2002-29, § 1(Att. A), 7-22-02)

Sec. 130-341. - Limitation of liability.

The provisions of this article shall be liberally construed to effectively carry out its purposes, which are hereby found and declared to be in furtherance of the public health, safety, and welfare. Any member of the city council, city official or employee, member of the board of trustees of NBU, and any official or employee of NBU charged with the enforcement of

this article, acting for the city or NBU in the discharge of his duties, shall not thereby render himself personally liable, and is hereby relieved from all personal liability for any damage that might accrue to persons or property as a result of any act required or permitted in the discharge of such duties.

(Ord. No. 2002-29, § 1(Att. A), 7-22-02)

Sec. 130-342. - Remedies for violation of article.

Any violation of this article can be enjoined by a suit filed in the name of the city or NBU in a court of competent jurisdiction, and this remedy shall be in addition to any penal provision in this article or in this Code or the policies of NBU.

(Ord. No. 2002-29, § 1(Att. A), 7-22-02)

Secs. 130-343—130-355. - Reserved.

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DIVISION 2. - ADOPTION OF FEES

Sec. 130-356. - Establishment of conceptual water and wastewater service areas.
Sec. 130-357. - Land use assumptions.
Sec. 130-358. - Capital recovery fees per service unit.
Sec. 130-359. - Assessment of fees.
Sec. 130-360. - Calculation of fees.
Sec. 130-361. - Collection of fees.
Secs. 130-362—130-370. - Reserved.

Sec. 130-356. - Establishment of conceptual water and wastewater service areas.

(a) The conceptual water and wastewater service areas for development of impact fee purposes have been approved by the city council and the maps showing such service areas shall be maintained in the city's planning department.

(b) The conceptual service areas shall be established consistent with any facility service area established in the capital improvement plan. Additions to the service area may be designated by the city council consistent with the procedure set forth in the Act and its successors.

(Ord. No. 2002-29, § 1(Att. A), 7-22-02)

Sec. 130-357. - Land use assumptions.

Land use assumptions used in the development of the capital recovery fees have been approved by the city council and shall be maintained in the city's planning department. These assumptions may be revised by the city council according to the procedure set forth in the Act and its successors.

(Ord. No. 2002-29, § 1(Att. A), 7-22-02)

Sec. 130-358. - Capital recovery fees per service unit.

The maximum capital recovery fee per service unit in the service area shall be computed by dividing the growth-related capital construction cost of service in the service area identified in the capital improvements plan for that category of capital improvements, by the total number of projected service units anticipated within the service area which are necessitated by and attributable to new development, based on the land use assumptions for that service area, and subtracting credits in the form of future rate contributions to CIP funding. The maximum capital recovery fees per service unit that could be assessed and collected have been established under the regulatory provisions of the act and are as follows:

Type of Service	Maximum Fee per LUE
Water	$2,311.40
Sewer	$1,570.11

These maximum capital recovery fees per LUE may be amended from time to time according to the procedures set forth in the Act upon approval of the city council.

(Ord. No. 2002-29, § 1(Att. A), 7-22-02; Ord. No. 2011-23, § 1, 3-14-11)

Sec. 130-359. - Assessment of fees.

(a) The approval of any subdivision of land or of any new development shall include as a condition the assessment of the capital recovery fee applicable to such development.

(b) Assessment of the capital recovery fee for any new development shall be made in accordance with the Act and its successors pursuant to the policy from time to time adopted by the board of trustees of NBU.

(c) Because fire protection is of critical concern to the community as a whole, water demand related solely to fire protection is not subject to assessment of a capital recovery fee. Water demand related solely to fire protection shall be supplied through unmetered infrastructure.

(Ord. No. 2002-29, § 1(Att. A), 7-22-02)

Sec. 130-360. - Calculation of fees.

(a) Following the request for new development as provided in section 130-359, NBU shall compute capital recovery fees due for the new development in accordance with the provisions of the Act and its successors pursuant to policy adopted by the board of trustees thereof from time to time.

(b) Upon application for a water or wastewater tap, NBU shall compute the capital recovery fees due in accordance with the provisions of the Act and its successors pursuant to policy adopted by the board of trustees thereof from time to time.

(c) The amount of each capital recovery fee due for a new development, whether calculated at time of final plat approval or at time of water or wastewater tap purchase, shall not exceed an amount computed by multiplying the fee assessed per service unit pursuant to section 130-358 by the number of service units generated by the development.

(Ord. No. 2002-29, § 1(Att. A), 7-22-02)

Sec. 130-361. - Collection of fees.

(a) No water or wastewater tap shall be made until all capital recovery fees have been paid, except as provided otherwise by contract.

(b) Capital recovery fees shall be collected in accordance with the Act and its successors pursuant to the policy from time to time adopted by the board of trustees of NBU.

(Ord. No. 2002-29, § 1(Att. A), 7-22-02)

Secs. 130-362—130-370. - Reserved.

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DIVISION 3. - WATER FACILITIES

Sec. 130-371. - Water service area.
Sec. 130-372. - Water improvement plan.
Sec. 130-373. - Water facilities fees adopted; amendment.
Secs. 130-374—130-385. - Reserved.

Sec. 130-371. - Water service area.

(a) There is hereby established a conceptual water service area for planning and CIP fee calculation as depicted on the service area maps maintained in the city planning department.

(b) The boundaries of the conceptual water service area may be amended from time to time, and new water service areas may be delineated, pursuant to the procedures in section 130-356

(Ord. No. 2002-29, § 1(Att. A), 7-22-02)

Sec. 130-372. - Water improvement plan.

(a) The water improvement plan for NBU for capital recovery fee calculation purposes is hereby adopted and shall be maintained in the city planning department.

(b) The water improvement plan adopted in this section may be amended from time to time, pursuant to the procedures set forth in the Act and its successors.

(Ord. No. 2002-29, § 1(Att. A), 7-22-02)

Sec. 130-373. - Water facilities fees adopted, amendment.

(a) The maximum capital recovery fees per service unit for water facilities are hereby adopted and are reflected in section 130-358).

(b) The capital recovery fees per service unit for water facilities may be amended from time to time, pursuant to the procedures in section 130-358

(c) The effective capital recovery fee per service unit for water facilities may be amended from time to time by the board of trustees of NBU, but not to exceed the maximum fee ceiling, pursuant to the procedures in section 130-358

(Ord. No. 2002-29, § 1(Att. A), 7-22-02)

Secs. 130-374—130-385. - Reserved.

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DIVISION 4. - WASTEWATER FACILITIES

Sec. 130-386. - Wastewater service area.
Sec. 130-387. - Wastewater improvement plan adopted, amendment.
Sec. 130-388. - Fees adopted, amendment.
Secs. 130-389—130-400. - Reserved.

Sec. 130-386. - Wastewater service area.

(a) There is hereby established a conceptual wastewater service area for planning and CIP fee calculation as depicted on the service area maps maintained in the city planning department.

(b) The boundaries of the conceptual wastewater service area may be amended from time to time, and new wastewater service areas may be delineated, pursuant to the procedures in section 130-356

(Ord. No. 2002-29, § 1(Att. A), 7-22-02)

Sec. 130-387. - Wastewater improvement plan adopted, amendment.

(a) The wastewater improvement plan for NBU for capital recovery fee calculation purposes is hereby adopted and shall be maintained in the city planning department.

(b) The wastewater improvement plan adopted in this section may be amended from time to time, pursuant to the procedures set forth in the Act and its successors.

(Ord. No. 2002-29, § 1(Att. A), 7-22-02)

Sec. 130-388. - Fees adopted, amendment.

(a) The maximum capital recovery fees per service unit for wastewater facilities are hereby adopted and are reflected in section 130-358

(b) The capital recovery fees per service unit for wastewater facilities may be amended from time to time, pursuant to the procedures in section 130-358

(c) The effective capital recovery fee per service unit for wastewater facilities may be amended from time to time by the board of trustees of NBU, but not to exceed the maximum fee ceiling, pursuant to the procedures in section 130-358

(Ord. No. 2002-29, § 1(Att. A), 7-22-02)

Secs. 130-389—130-400. - Reserved.

DIVISION 5. - ADMINISTRATION [12]

Sec. 130-401. - Establishment of accounts.
Sec. 130-402. - Use of proceeds of capital recovery fee accounts.
Sec. 130-403. - Appeals.
Sec. 130-404. - Refunds.
Sec. 130-405. - Updates to plan and revision of fees.
Sec. 130-406. - Advisory committee, functions.
Sec. 130-407. - Agreement for capital improvements.
Sec. 130-408. - Relief procedures.
Sec. 130-409. - Use of other financing mechanisms.
Sec. 130-410. - Capital recovery fees as additional and supplemental regulation.
Secs. 130-411—130-430. - Reserved

Sec. 130-401. - Establishment of accounts.

(a) NBU shall establish separate interest bearing accounts with its authorized depository for each major category of capital facility for which a capital recovery fee is imposed pursuant to this article.

(b) Interest earned by each account shall be credited to that account and is subject to all restrictions placed on the use of such capital recovery fee under the Act.

(c) NBU shall establish adequate financial and accounting controls to ensure that capital recovery fees disbursed from the account are utilized solely for the purposes authorized in section 130-402. Disbursement of funds shall be authorized by the board of trustees of NBU at such times as are reasonably necessary to carry out the purposes and intent of this article; provided, however, that any fee paid shall be expended within a reasonable period of time, but not to exceed ten years from the date the fee is deposited into the account.

(d) NBU shall maintain and keep adequate financial records for each account established under this article, which shall show the source and disbursement of all revenues, which shall account for all monies received, and which shall ensure that the disbursement of funds from each account shall be used solely and exclusively for the provision of projects specified in the capital improvements program as area related capital projects. NBU shall also maintain such records as are necessary to ensure that refunds are appropriately made under the provisions of V.T.C.A., Local Government Code § 395.025 and its successors. The records of the accounts into which capital recovery fees are deposited shall be open to public inspection and copying during ordinary business hours.

(Ord. No. 2002-29, § 1(Att. A), 7-22-02)

Sec. 130-402. - Use of proceeds of capital recovery fee accounts.

(a) The capital recovery fees collected pursuant to this article may be used to finance or to recoup capital construction costs of service. Capital recovery fees may also be used to pay the principal sum and interest and other finance costs on bonds, notes or other obligations issued by or on behalf of NBU to finance such capital improvements or facilities expansions.

(b) Capital recovery fees collected pursuant to this article shall not be used to pay for any of the following expenses:

(1) Construction, acquisition or expansion of capital improvements or assets other than those identified in the capital improvements plan;

(2) Repair, operation, or maintenance of existing or new capital improvements or facilities expansions;

(3) Upgrading, expanding or replacing existing capital improvements to serve existing development in order to meet stricter safety, efficiency, environmental or regulatory standards;

(4) Upgrading, expanding or replacing existing capital improvements to provide better service to existing development; provided, however, that capital recovery fees may be used to pay the costs of upgrading, expanding or replacing existing capital improvements in order to meet the need for new capital improvements generated by new development; or

(5) Administrative and operating costs of the city or NBU.

(Ord. No. 2002-29, § 1(Att. A), 7-22-02)

Sec. 130-403. - Appeals.

A person or entity who has exhausted all administrative remedies set out in the policy adopted by the board of trustees of NBU pursuant to the Act and its successors and who is aggrieved by a final decision is entitled to trial de novo under the Act.

(Ord. No. 2002-29, § 1(Att. A), 7-22-02)

Sec. 130-404. - Refunds.

Capital recovery fees shall be refunded only in accordance with the provisions of the Act and its successors. NBU shall adopt a policy with respect to refunds pursuant to the Act.

(Ord. No. 2002-29, § 1(Att. A), 7-22-02)

Sec. 130-405. - Updates to plan and revision of fees.

The city and NBU shall review the land use assumptions and capital improvements plan for water and wastewater facilities at least every three years, the first three-year period of which shall commence from the date of adoption of the capital improvements plan referenced herein. The city council shall accordingly then make a determination of whether changes to the land use assumptions, capital improvements plan or capital recovery fees are needed and shall, in accordance with the procedures set forth in the Act, or any successor statute, either update the fees or make a determination that no update is necessary.

(Ord. No. 2002-29, § 1(Att. A), 7-22-02)

Sec. 130-406. - Advisory committee, functions.

(a) The city has appointed a capital improvements advisory committee (the "advisory committee") in accordance with the provisions of the Act.

(b) The functions of the advisory committee are those set forth in the Act, or any successor statute, and shall include the following:

(1) Advise and assist the city in adopting land use assumptions;

(2) Review the capital improvements plan regarding water and wastewater capital improvements and file written comments thereon;

(3) Monitor and evaluate implementation of the capital improvements program;

(4) Advise the city of the need to update or revise the land use assumptions, capital improvements program and capital recovery fees; and

(5) File semiannual reports evaluating the progress of NBU in achieving the capital improvements plans and identifying any problems in implementing the plans or administering the capital recovery fees.

(c) The city or NBU shall make available to the advisory committee any professional reports prepared in the development or implementation of the capital improvements plan.

(d) The city council shall adopt procedural rules for the advisory committee to follow in carrying out its duties.

(Ord. No. 2002-29, § 1(Att. A), 7-22-02)

Sec. 130-407. - Agreement for capital improvements.

NBU is authorized to enter into an agreement with the owner of a tract of land for which the plat has been recorded providing for the time and method of payment of capital recovery fees.

(Ord. No. 2002-29, § 1(Att. A), 7-22-02)

Sec. 130-408. - Relief procedures.

NBU shall adopt a policy consistent with the provisions of the Act and its successors with respect to variances or waivers of provisions of this article. Such policy may provide for a waiver or variance if there is a finding that the proposed waiver would result in substantial economic benefit to the city.

(Ord. No. 2002-29, § 1(Att. A), 7-22-02)

Sec. 130-409. - Use of other financing mechanisms.

(a) NBU may finance water and wastewater capital improvements of facilities expansions designated in the capital improvements plan through the use of operating cash transfers, issuance of bonds, the formation of public improvement districts or other assessment districts, or through any other authorized mechanism, in such manner and subject to such limitations as may be provided by law, in addition to the use of capital recovery fees.

(b)

Except as otherwise provided in this article, the assessment and collection of a capital recovery fee shall be additional and supplemental to, and not in substitution of, any other tax, fee, charge or assessment which is lawfully imposed on and due against the property.

(Ord. No. 2002-29, § 1(Att. A), 7-22-02)

Sec. 130-410. - Capital recovery fees as additional and supplemental regulation.

(a) Capital recovery fees established by this article are additional and supplemental to, and not in substitution of, any other requirements imposed by the city or NBU on the development of land or the issuance of building permits or the sale of water or wastewater taps or the issuance of certificates of occupancy. Such fees are intended to be consistent with and to further the policies of the city's comprehensive plan, capital improvements plan, zoning ordinance, subdivision regulations and other city or NBU policies, ordinances and resolutions by which the city or NBU seeks to ensure the provision of adequate public facilities in conjunction with the development of land.

(b) This article shall not affect, in any manner, the permissible use of property, density of development, design and improvement standards and requirements, or any other aspect of the development of land or provision of public improvements subject to the zoning and subdivision regulations or other regulations of the city or NBU which shall be operative and remain in full force and effect without limitation with respect to all such development.

(Ord. No. 2002-29, § 1(Att. A), 7-22-02)

Secs. 130-411—130-430. - Reserved.

FOOTNOTE(S):

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Cross reference— *Administration, ch. 2. (Back)*

ARTICLE VII. - NATURAL GAS SERVICE [13]

Sec. 130-431. - Authorized rates.
Sec. 130-432. - Prohibited resale, shared use.
Sec. 130-433. - Applicability of rates.
Sec. 130-434. - Power of City to regulate rates.

Sec. 130-431. - Authorized rates.

Reliant Energy Entex, its successors and assigns, is hereby authorized to place in effect the schedules of rates referred to in this article within the corporate limits of the city for the supply of natural gas and natural gas service:

(1) *Residential rates.* Rate schedule R-641-2, a copy of which is attached to Ordinance No. 78-7, as amended, marked exhibit A, and made a part hereof by reference.

(2) *Commercial rates.* Rate schedule SC-641-2, a copy of which is attached to Ordinance No. 78-7, as amended, marked exhibit B, and made a part hereof by reference.

The above-described schedules of residential rates and of commercial rates, as adjusted in the manner therein provided, are the rates that may be charged by Reliant Energy Entex, its successors and assigns for residential consumers and commercial consumers within the city. The terms "residential consumer" and "commercial consumer," as used in this section, shall be defined as set out in such exhibits A and B, respectively.

(Ord. No. 2002-29, § 1(Att. A), 7-22-02)

Note—*Exhibits A and B are on file and available for public inspection in the office of the city secretary.*

Sec. 130-432. - Prohibited resale, shared use.

Natural gas supplied by Reliant Energy Entex, its successors and assigns, is for the individual use of the consumer at one point of delivery and shall not be resold or shared with others.

(Ord. No. 2002-29, § 1(Att. A), 7-22-02)

Sec. 130-433. - Applicability of rates.

(2) This subsection shall not apply to any person who has obtained or may obtain a franchise, concession, lease or license from the city to operate any boat, raft or float upon the Comal River in the city under the terms of any existing contract or ordinance or any contract or ordinance that may be executed or enacted in the future. Additionally, this subsection shall not apply to law enforcement and public safety agencies operating watercraft upon the foregoing described waterways in the city.

(Code 1961, §§ 4-2, 4-2.1(a), (b))

State law reference— *Excessive speed, V.T.C.A., Parks and Wildlife Code § 31.095.*

Sec. 142-4. - Methods of fishing.

It shall be unlawful for any person to take or catch any fish within the city limits by any means or device for catching fish other than ordinary pole and line, casting rod and reel, artificial bait, trotline or set line; provided, however, that a seine may be used as provided by the laws of the state or regulations by the state parks and wildlife commission.

(Code 1961, § 4-3)

State law reference— *Parks and wildlife commission, V.T.C.A., Parks and Wildlife Code § 11.011; fish, V.T.C.A., Parks and Wildlife Code § 66.001 et seq.*

Sec. 142-5. - Control of aquatic activities on Mill Race (Comal Channel).

(a) It is an offense and a violation of this section for any person, child or adult, to enter, wade, swim, float or engage in any aquatic activity in any portion of the waterway between Landa Park Lake and the confluence with the Comal River (Dry Comal Creek).

(b) It shall be unlawful for any person to launch any type of boat, canoe, water vehicle or flotation device on any portion of that waterway between Landa Park Lake and the confluence with the Comal River (Dry Comal Creek).

(c) This section shall not apply to law enforcement and public safety agencies operating watercraft in the foregoing described waterways.

(Code 1961, § 4-5)

FOOTNOTE(S):

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Cross reference— *Parks and recreation, ch. 86; glass beverage containers prohibited in park areas and on rivers. lakes and streams, § 86-8; prohibition of use of foam, etc., in certain public waters, § 18-13; streets, sidewalks and other public places, ch. 114; traffic and vehicles, ch. 126; water recreation shuttle services, § 138-166 et seq.* *(Back)*

State Law reference— *Water Safety Act, V.T.C.A., Parks and Wildlife Code § 31.001 et seq.; local regulations, V.T.C.A., Parks and Wildlife Code § 31.092.* *(Back)*

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Chapter 143 - MUNICIPAL DRAINAGE UTILITY SYSTEMS [1]

ARTICLE I. - IN GENERAL
ARTICLE II. - STORMWATER CONNECTIONS
ARTICLE III. - PENALTIES

FOOTNOTE(S):

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Editor's note—*Ord. No. 2005-76, § I, adopted October 24, 2005, amended chapter 143 in its entirety to read as herein set out. Formerly, chapter 143 pertained to similar subject matter and derived from Ord. No. 2000-48, § I, adopted November 27, 2000, and Ord. No. 2005-43, § I, adopted May 4, 2005.* *(Back)*

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ARTICLE I. - IN GENERAL

Sec. 143-1. - Definitions.
Sec. 143-2. - General provisions.
Sec. 143-3. - Declaration.
Sec. 143-4. - Administration.
Sec. 143-5. - Funding of the drainage utility.

Secs. 143-6—143-19. - Reserved.

Sec. 143-1. - Definitions.

Unless specifically defined below, or in the drainage and erosion control design manual, the words or phrases used in this chapter shall be interpreted to give them the meaning they have in common usage and to give this chapter its most reasonable application.

All other improved lots means any lot combination of lots or portions of lots, or parcel of land in the city and its extraterritorial jurisdiction used for any purpose other than a single-family dwelling, with any structure or improvements other than a single-family structure constructed on said lot combination of lots or portions of lots, or parcel of land.

Benefited property means an improved lot or tract to which drainage service is made available.

Cost of service as applied to a drainage system service to any benefited property means:

(1) The prorated cost of the acquisition, whether by eminent domain or otherwise, of land, rights-of-way, options to purchase land, easements, and interests in the land relating to structures, equipment and facilities used in draining the benefited property;

(2) The prorated cost of the acquisition, construction, repair and maintenance of structures, equipment and facilities used in draining the benefited property;

(3) The prorated cost of architectural, engineering, legal, and related services, plans and specifications, studies, surveys, estimates of cost and of revenue and all other expenses necessary or incident to planning, providing, or determining the feasibility and practicability of structures, equipment and facilities used in draining the benefited property;

(4) The prorated cost of all machinery, equipment, furniture and facilities necessary or incident to the provision and operation of draining the benefited property;

(5) The prorated cost of funding and financing charges and interest arising from construction projects and the start-up cost of a drainage facility used in draining the benefited property;

(6) The prorated cost of debt service and reserve requirements of structures, equipment and facilities provided by revenue bonds or other drainage revenue-pledge securities or obligations issued by the municipality; and

(7) The administrative costs of a drainage utility system.

Develop means any manmade change to improved or unimproved real estate, including, but not limited to, adding buildings or other structures, mining, dredging, filling, grading, paving, excavation, drilling operations, grading, clearing or removing the vegetative cover. Any commercial use of the real estate other than non-feedlot agriculture.

Drainage means bridges, catch basins, channels, conduits, creeks, culverts, detention ponds, ditches, draws, flumes, pipes, pumps, sloughs, treatment works, and appurtenances to those items, whether natural or artificial, or using force or gravity, that are used to draw off surface water from land, carry the water away, collect, store, or treat the water, or divert the water into natural or artificial watercourses.

Drainage area means the land area from which water drains to a given point.

Drainage easement means a delineated portion of land set aside for the overland or underground transfer or storage of stormwater. This area shall not have any permanent structures, fences, or other obstacles hindering the safe transfer of water through the easement.

Drainage system means drainage owned or controlled in whole or in part by the city and dedicated to the service of benefited property, including provisions for additions to the system.

Erosion means the wearing away of land by action of wind and water.

Facilities means the property, either real personal or mixed, that is used in providing drainage and included in the system.

Flood or *flooding* means a general and temporary condition of partial or complete inundation of normally dry land areas from either the overflow of inland waters and/or the unusual and rapid accumulation or runoff of surface waters from any source.

Floodplain or *flood-prone area* means any land area susceptible to being inundated by water from any source (see definition of "flooding").

Impervious cover means covering of the land surface by any means that would prevent penetration or percolation by water including but not limited to all parking areas, buildings, patios, sheds, private sidewalks and driveways within the land, tract, parcel or lot and any other impermeable construction covering the natural land surface.

Improved single-family residential lot means any lot, combination of lots or portions of lots, or parcel of land in the city or its extraterritorial jurisdiction used solely for a single-family dwelling with a single-family structure constructed on said lot, combination of lots or portions of lots, or parcel of land.

Must/may means the word "must" is always mandatory, while the word "may" is merely permissive.

Multi-family residential means a residential use of a lot or parcel of land other than for the purposes of a single-family or two family residential use.

Nonresidential means any lot or parcel of land used for any purpose other than as a residential use.

Public utility means a drainage service that is regularly provided by the municipality through municipal property dedicated to the service to the users of benefited property within the service area and that is based on:

(1) An established schedule of charges;
(2) The use of the police power to implement the service; and
(3) Nondiscriminatory, reasonable, and equitable terms as declared under this subchapter C, Chapter 402.041 of the Local Government Code.

Residential means real estate with the principal use of providing a domicile.

Runoff means that portion of the precipitation that makes its way toward stream channels or lakes as surface or subsurface flow. When the term "runoff" is used alone, surface runoff usually is implied.

Sediment means solid soil material, both mineral and organic, that is being moved or has been moved from its original site by wind, gravity, flowing water or ice. Also sometimes referred to as "silt" or "sand."

Shall/should means the word "shall" is always mandatory, while the word "should" is recommended but not mandatory.

Variance means a grant of relief to a person from the requirements of this chapter when specific enforcement would result in unnecessary hardship. A variance, therefore, permits construction or development in a manner otherwise prohibited by this chapter.

Watershed means the total area contributing runoff to a stream or drainage system.

Wholly sufficient and privately owned drainage system means land owned and operated by a person other than a municipal drainage utility system, the drainage of which does not discharge into a creek, river, slough, culvert, or other channel that is part of a municipal drainage utility system.

(Ord. No. 2005-85, § I, 11-28-05)

Sec. 143-2. - General provisions.

(a) *Scope of authority.* Any person, firm, public utility, private corporation, school district or business proposing to develop land or improve property within the city limits of the city and it's extraterritorial jurisdiction is subject to the provisions of this chapter. This chapter also applies to individual building structures, subdivisions, or construction sites, excavation and fill operations and similar activities, as well as, individual owners of lots, parcels or other definable areas of land within the jurisdiction of the city. The fees as described in this chapter shall not apply to the city, county or state government; however, all other provisions shall apply.

(b) *City drainage and erosion control design manual.* The drainage and erosion control design manual describes in detail the technical procedures to be used to comply with the provisions contained in the chapter. The criteria specified in the latest edition of the city's drainage and erosion control design manual shall become part of the official stormwater management plan for the city. Although the intention of this manual is to establish uniform design practices, it neither replaces the need for engineering judgment nor precludes the use of information not presented in the manual. Other accepted engineering procedures may be used to conduct hydrologic and hydraulic studies if approved by the city engineer.

(c) *Exceptions.* In specific cases, the development criteria of the drainage and erosion control design manual may be unattainable as determined by the city engineer, or if it can be demonstrated through modeling that changing the requirements of the drainage and erosion control design manual are in the best interests of the watershed, an exception may be issued by the city engineer.

(d) *Interpretation.* In the interpretation and application of this chapter, all provisions shall be:

(1) Considered as minimum requirements;

(2) Liberally construed in favor of the governing body; and

(3) Deemed neither to limit nor repeal any other powers granted under state statutes.

(e) *Warning and disclaimer of liability.* The degrees of storm drainage and erosion protection required by this chapter are considered reasonable for regulatory purposes and are based on scientific and engineering considerations. This chapter does not imply that land outside the areas of flood hazard or uses permitted within such areas will be free from flooding or flood damages. In addition, this chapter does not imply that erosion controls will survive inundation by runoff from storms greater than the design flood for erosion controls. This chapter shall not create liability on the part of the city, any officer or employee thereof or the Federal Emergency Management Agency for any flood damages that result from reliance on this article or any administrative decision lawfully made thereunder.

(f) *Regulatory permits.* It shall be the owner's responsibility to secure all applicable federal, state, county, and city regulatory permits.

(g) *Maintenance.*

(1) Public drainage improvements conveyed by fee simple title or dedicated to the city as right-of-way and dedicated drainage easements accepted by the city for drainage maintenance shall be under the jurisdiction and maintenance of the city. All drainage improvements which accept storm water run-off from an area greater than 300-acres shall be considered serving a public purpose and shall be dedicated to the city as right-of-way.

(2) Private drainage improvements shall be maintained by the community association or property owners. A maintenance schedule shall be submitted to city engineer prior to approval of construction plans. The city will have the right to do periodic inspections of privately owned and maintained drainage improvements to ensure that the maintenance schedule is being implemented.

(3) Failure to maintain or failure to remove obstructions from private drainage improvements will result in the immediate action of the city engineer. Whenever the city engineer receives information and proof of the existence of any obstruction within a private drainage improvement or poor maintenance common to a private drainage improvement that may diminish the design function of the improvement, the city engineer shall issue a written notice to the persons or entity responsible for maintenance of the improvement ordering the required maintenance. He shall, at the same time, send a copy of the notice to the city manager and the city attorney. Such notice shall specify the nature of the poor maintenance or the presence of an obstruction and shall designate a reasonable time not to exceed 15 days within which such shall be accomplished. In such cases where the poor maintenance constitutes an immediate threat to the health and safety of any person and thereby an emergency, in the opinion of the city engineer, it shall be reasonable to order the immediate maintenance. If such notice is not complied with within the specified time, the city engineer or his respective designee is hereby authorized to immediately institute proceedings for maintenance thereof. Such proceedings may include the filing of charges in municipal court against the owner or other responsible party and/or the city causing the work necessary to maintain the improvement and subsequently charging the owner or other responsible party of the property for the costs incurred by the city. A statement of the costs incurred by the city to maintain such improvement shall be mailed to the owner of such premises, if the owner and mailing address is known, and if not known, may be published in the New Braunfels Herald-Zeitung or other local newspaper having at least weekly issues. The statement shall demand payment within 30 days from the date of receipt or publication. If the statement of costs served or published pursuant to this section is not paid within such period, city engineer or his respective designee may file with the county clerk a statement of the expenses incurred to maintain improvement, to be filed in the deed records, and such statement shall be and the city shall have a privilege lien upon the lot, parcel, or tract of land upon which such expenses were incurred, second only to tax liens and liens for streets improvements, together with ten percent interest per annum on the delinquent amount from the date such payment was due. For any such expenditures and interest, as aforesaid, suit may be instituted and foreclosure had in the name of the city; and the statement so made, as aforesaid, or a certified copy thereof, shall be prima facie proof of the amount expended in any such work.

a. During the pendency of any of the actions authorized by this section, any affected landowner, tenant or occupant shall have the right to appeal to the city council to protest any of the following:

1. The determination that the property is in violation of standards set out in this division;
2. The cost to rectify the situation;
3. The adequacy of the notice;
4. Whether a lien should be placed on the property.

b. Upon conviction for violations of this division the owner of the property or other responsible party shall be fined in accordance with the following:

1. First offenses shall have a minimum fine of $100.00 and a maximum fine of $2,000.00;
2. Second offenses shall have a minimum fine of $200.00 and a maximum fine of $2,000.00;
3.

Third and subsequent offenses shall have a minimum fine of $500.00 and a maximum fine of $2,000.00.

(Ord. No. 2005-85, § I, 11-28-05)

Sec. 143-3. - Declaration.

The city hereby declares all city owned or controlled existing and future drainage facilities to be a public utility and the utility is to be known as the city drainage utility. The service area for the city drainage utility shall be the city.

(Ord. No. 2005-85, § I, 11-28-05; Ord. No. 2008-19, § I, 2-11-08)

Sec. 143-4. - Administration.

(a) *Duties of city officials.* The administration and implementation of this chapter is hereby vested in and shall be exercised by the city engineer of the city, who may prescribe rules and regulations in conformity with this article or for the ascertainment, computation, and collection of the fees imposed hereunder and for the proper administration and enforcement hereof. The duties of the city engineer shall include, but not be limited to:

(1) Determining the appropriate drainage utility fee for each parcel of land, in accordance with the land use and fee structure for the service area.

(2) Requiring that maintenance is provided within the altered or relocated portion of any watercourse so that the flood-carrying capacity is not diminished;

(3) Inspecting sites to determine compliance with the erosion control guidelines and construction relating to drainage; and

(4) Developing, maintaining, interpreting, and updating the city's drainage and erosion control design manual. This manual shall contain the technical policy and details necessary to define the design standards that protect and provide for the safety and general welfare of the community.

(b) *Responsibilities of property owners.*

(1) The owner who develops a property shall be responsible for all storm drainage created by the development that is caused solely by the development of the property. This responsibility also includes acceptance of drainage directed to that property by ultimate development as well as the drainage naturally flowing onto and through the property by reason of topography. The owner of a property shall be responsible for any silt or soils transported downstream from the property by drainage. However, this chapter does not impose responsibility on a property owner for detaining or treating stormwater runoff from upstream third party developments.

(2) In order to manage storm drainage, provide flood protection, and prevent erosion and sediment problems, the owner who develops a property shall provide drainage improvements in one of the following ways:

a. *On-site drainage improvements.* The owner shall construct and pay for any drainage system improvements required by the proposed development and located completely within the limits of the proposed development. If enlargement of the on-site drainage facility beyond the requirements of this chapter is determined to be beneficial by the city engineer, the city shall fund the difference between the enlarged facility and the required improvements, including the design cost, the property cost, and the construction cost.

b. *Off-site drainage improvements.* The owner shall install and pay for any off-site drainage structures which are downstream of the development to a point determined by the city engineer, including, but not limited to: construction, design, engineering, surveying, testing, easement preparation, easement acquisition, and inspection.

c. *On-site and off-site drainage improvements.* The owner shall construct and pay for any combination of on-site and off-site drainage structures and improvements as provided for in subsections a. and b.

d. *Stormwater connection fee.* In lieu of the requirements of subsections 143-4(b)(2) a., b., or c., the owner may pay a one-time connection charge (stormwater connection fee) subject to the provisions of article II.

(3) *Master drainage plan.* Where an owner proposes development or use of only a portion of the property, a master drainage plan of the entire property shall be submitted. Construction of storm drainage and erosion control shall only be required in that portion of the property being immediately developed, unless the construction or improvement of a drainage facility or erosion controls outside that designated portion of the property are deemed essential for the development of that designated portion of the property.

(4) *Erosion hazard setbacks.* Erosion hazard setback determinations will be made for every stream in which natural channels are to be preserved. Natural channel banks will be protected by use of the determined setbacks unless a plan to stabilize and protect stream banks is approved by the city engineer. Where setbacks are used for erosion protection, no building, fence, wall, deck, swimming pool or other structure shall be located, constructed or maintained within the area encompassing the setback. Erosion hazard setbacks will also be utilized to provide stream bank protection for the major streams within the city, which are to be maintained as

natural floodplains. These major streams are the Guadalupe River, Comal River, Dry Comal Creek, Blieders Creek, and Alligator Creek. The setback requirement for each stream shall be determined as described in the drainage and erosion control design manual.

(5) *Building permit.* A complete set of grading and drainage plans (including an electronic media copy in a format acceptable to the city engineer) shall be submitted with all building permit applications (except for single family and duplex residential construction projects). Approval of the building permit is contingent upon approval of such grading and drainage plans.

(c) *Variances.*

(1) Variances to the terms and requirements of this chapter or to the drainage and erosion control design manual may be granted by the city where a literal enforcement of the provisions of this chapter will result in unnecessary hardship. No variance may be granted unless:

a. Such variance will not be contrary to the public interest;

b. Such variance will not substantially or permanently injure the appropriate use of adjacent land, which is regulated by this chapter;

c. Such variance will be in harmony with the spirit and purpose of this article;

d. The variance sought is due to the unique circumstances existing on the property and is not merely financial;

e. The variance will not substantially weaken the general purpose of this chapter or the regulations herein established for the regulated area of the recharge zone;

f. The variance will not cause unreasonable disruption to the natural terrain; and

g. The variance is limited in scope of relief to only that which is necessary to relieve the hardship situation.

(2) *Request for variance.* All requests for variances shall be made in writing to the city engineer's office of the city for council's review and action. All variance requests shall include:

a. The subject of the requested variance; and

b. The justification for granting a variance.

(3) *Burden.* The party requesting the variance has the burden of demonstrating by clear and convincing evidence that the variance should be granted. The city engineer's office shall process all such requests for council action within 30 working days from the date a valid request for variance is received.

(4) *Action.* A request for variance may be granted, rejected or modified by city council. If a variance is granted under this section, said variance shall be valid for a term of one year. The variance shall expire within one year from the date it is granted if a building permit is not obtained on the property.

(Ord. No. 2005-85, § I, 11-28-05; Ord. No. 2008-19, § II, 2-11-08)

Sec. 143-5. - Funding of the drainage utility.

(a) *Drainage utility fee.* Subject to the provisions of this chapter, there is hereby imposed on each benefited property within the city jurisdiction, and the owners thereof, a drainage utility fee. This fee must be directly related to drainage and the terms of the levy, and any classification of the benefited properties in the city must be nondiscriminatory, equitable, and reasonable. All of the proceeds of this fee are deemed to be in payment for use of the city drainage system. The amount of the drainage utility fee shall be established and modified as necessary by separate resolution.

(1) The drainage utility fee established herein shall be established based upon the land use of a benefited property, as follows:

a. Improved single family residential lots or parcels of land; and

b. All other improved lots or parcels of land.

(2) Exempt property. The following shall be exempt from paying the drainage utility fee:

a. Property with proper construction and maintenance of a wholly sufficient and privately owned drainage system.

b. Property held and maintained in its natural state, until such time that the property is developed and all of the public infrastructure constructed has been accepted by the city for maintenance; and

c. A subdivided lot, until a structure has been built on the lot and certificate of occupancy has been issued by the city.

(c) *Drainage utility system fund.*

(1) All revenue from the drainage utility fee shall be paid into a special fund, which is hereby created to be known as the "drainage utility fund". Such fund shall be used for the purpose of paying the cost of the study, engineering, and design of a stormwater program, and for constructing drainage facilities, and paying the cost of operation, administration, and maintenance of the drainage system of the city. To the extent that the drainage utility funds collected are insufficient to construct the needed stormwater facilities, the cost of the

same may be paid from such city fund as may be determined by the city council, but the city council may order the reimbursement of such fund if additional fees are thereafter collected.

(2) The fees paid and collected by virtue of this section shall not be used for general or other governmental or proprietary purposes of the city, except to pay for the equitable share of the cost of accounting, management, and administration thereof. Other than as described above, the fees shall be used solely to pay the cost of operation, repair, maintenance, improvements, renewal, replacement, reconstruction, design, right-of-way acquisition and construction of public storm drainage facilities and costs incidental thereto. All amounts on hand in such fund from time to time may be invested by the city manager in investments proper for city funds.

(d) *Drainage utility fee.*

a. *Assessment.* The drainage utility fee shall be assessed at the beginning of each tax year. The initial assessment shall be for the current city tax year, prorated from the effective date of this chapter.

b. *Collection.* The drainage utility fee shall be collected by an annual charge to be added to the city property tax bill or other means as determined by the city council for each qualified property. The initial collection shall be on the first city property tax bill following the effective date of this article.

(e) *Adjustments to drainage utility fees.* The city council may from time to time by resolution change the amount of the drainage utility fee based upon revised estimates of the cost of service for the city's drainage system.

(f) *Billing.*

(1) *Drainage utility fee.* The drainage utility fee shall be billed and collected by an annual charge to be added to the property tax bill for the property by the tax assessor or by other means as determined by the city council. The tax assessor and the city shall place all such fees so collected into the drainage utility fund.

(2) *Drainage utility fee payable; interest and penalties; lien on real property; abatement of small amounts due.*

a. The drainage utility fee that is due must be paid within 30 days after the bill is mailed or issued to the property owner and is overdue after that date. An overdue fee bears interest at the rate of one percent for each month or fraction of a month that the fee is overdue and a penalty of $25.00.

b. The fee, including interest and penalties, when overdue is a lien on real property and may be collected in the same manner as delinquent real property taxes or by a suit against the property owner.

c. The city manager may abate the fee, including interest and penalties, if the cost of collection is reasonably estimated to exceed the amount of the fee, including any interest and penalties, due and payable.

d. The city may use any remedy stated in Section 402.050, Delinquent Charges, of the Texas Local Government Code.

(g) *Requests for correction of the drainage utility fee.*

(1) A property owner may request correction of the fee by submitting the request in writing to the city engineer within 30 days after the date the assessment notice or the bill is mailed or issued to the property owner. Grounds for correction of the fee include:

a. Incorrect classification of the property for purposes of determining the fee;

b. Errors in the square footage of the impervious surface area of the property;

c. Mathematical errors in calculating the fee to be applied to the property; and

d. Errors in the identifications of the property owner of a property subject to the fee.

(2) The city engineer shall make a determination within 30 days after receipt of the property owner's completed written request for correction of the fee.

(3) A property owner must comply with all rules and procedures adopted by the city when submitting a request for correction of the fee and must provide all information necessary for the city engineer to make a determination on a request for correction of the fee. If a property owner alleges an error under subsection (g)(1)b., the request for correction must include a certification by a registered engineer or professional land surveyor of the impervious surface area of the property. Failure to comply with the provisions of this subsection shall be grounds for denial of the request.

Secs. 143-6—143-19. - Reserved.

ARTICLE II. - STORMWATER CONNECTIONS

Sec. 143-20. - Stormwater connection fee.
Sec. 143-21. - Stormwater connection fee established.

Sec. 143-22. - Stormwater connection fee fund.
Sec. 143-23. - Adjustments to stormwater connection fee.
Sec. 143-24. - Requests for correction of the stormwater connection fee.
Sec. 143-25. - Variances.
Sec. 143-26. - Appeals.
Sec. 143-27. - Previously assessed fees.
Secs. 143-28—143-39. - Reserved.

Sec. 143-20. - Stormwater connection fee.

(a) In lieu of the requirements of subsections 143-4(b)(2)a., b., or c., the owner may pay a one-time connection charge (stormwater connection fee) as established in section 143-21 provided that the owner demonstrates there is no appreciable downstream impact, the owner can connect to the city drainage system, the city drainage system has the capacity to accept the stormwater, and the city engineer has approved the connection.

(b) When the proposed development is located within 3,000 feet of a city drainage system the owner shall provide a study showing any appreciable downstream impact, whether the owner can connect to the city drainage system, and whether the city drainage system has the capacity to accept the stormwater. The city engineer shall review the study and if the study demonstrates no appreciable downstream impact, that a connection can be made to the city drainage system, that the system has capacity to accept the stormwater, and it is in the best interest of the city to accept the fee in lieu of detention, then the owner shall connect to the city drainage system and pay a one time connection charge (stormwater connection fee) as established in section 143-21

(c) To determine an appreciable downstream impact for the purposes of this section, the following criteria shall be used to analyze the receiving stormwater facility for 3,000 linear feet downstream of the project or to the nearest downstream regional facility, whichever is closer to the proposed development.

(1) The water surface elevation in the receiving stormwater facility may not be increased within 3,000 linear feet from the development unless the increased water surface elevation is contained within an easement or right-of-way or the receiving facility has sufficient capacity to contain the increased water surface elevation without increasing flooding to a habitable structure.

(2) Where low water crossings exist within the study area, the water surface elevation cannot be increased above the level of the 100-year ultimate development water surface elevation at the low water crossing. The depth of flow cannot exceed 1-ft and the depth times the velocity product cannot exceed six $feet^2/s^2$ for the 100-year proposed development flood event. If the increase in water surface elevation exceeds this criterion, the development can improve the low water crossing to the standards of this chapter in lieu of providing for on-site controls or paying a fee.

(3) Where a development is upstream of an existing city regional flood control facility, or other detention facility, an analysis shall be provided to insure that capacity exists within the facility to accommodate the increased runoff from the proposed development.

(4) The city may reject a developer's request to pay a stormwater fee and require on-site detention or, at the developer's option, offsite detention. The city's decision will be based on the knowledge of significant appreciable impacts that would be created within the watershed by the proposed development regardless of the distance from the development to the area impacted. The city may also reject a request to pay a stormwater fee when it is not in the best interests of the city. The developer should meet with the city engineer to discuss drainage options prior to commencing the project. This preliminary meeting does not relieve the developer of his responsibility to prepare the necessary engineering documentation to support his request to pay the fee.

(Ord. No. 2005-85, § I, 11-28-05; Ord. No. 2008-19, § III, 2-11-08)

Sec. 143-21. - Stormwater connection fee established.

The city hereby establishes connection charges to be paid by owners/developers of property to be developed in the service area of the city drainage utility upon determination by the city engineer that the property is eligible to be connected to the city drainage utility ("stormwater connection fee") and approves a request for payment of a fee in lieu of detention. The stormwater connection fee schedule of authorized connection charges shall be determined by acreage, number of lots and property use and in accordance with the following fee schedule:

(1) One-family (unattached) and two family (duplex) residential developments, $600.00 per lot.

(2) Residential development other than one-family and two-family, $0.14 per square foot of impervious cover.

(3) Non-residential, $0.14 per square foot of impervious cover.

(4) The stormwater connection fee calculation shall not include the area of any drainage easements or rights of usage or permanent detention facilities if they are in a previous condition. The owner/developer shall provide notice of intent to be serviced by the drainage utility by filing a participation form to be provided by the city engineer.

(Ord. No. 2005-85, § I, 11-28-05; Ord. No. 2005-85, § I, 11-28-05; Ord. No. 2008-19, § IV, 2-11-08)

Sec. 143-22. - Stormwater connection fee fund.

(a) All revenue from the stormwater connection fee shall be paid into a special fund, which is hereby created and shall be known as the "stormwater connection fee fund." Such fund shall be used solely for the purpose of paying the cost of the operation, administration and maintenance of the utility drainage system and the cost of operation, repair, and maintenance of publicly owned right-of-ways and easements whether natural or artificial which convey stormwater to the utility drainage system.

(b) Fee assessment and collection. The city council shall provide for the assessment and the collection of the stormwater connection fee as follows:

(1) *Assessment.* The stormwater connection fee shall be assessed at the time a final plat is approved, or a multi-family or non-residential building permit is approved.

(2) *Collection.* The stormwater connection fee shall be collected prior to recording a plat in the map and plat records of the county, or prior to a final inspection of a multi-family or non-residential building permit.

(Ord. No. 2005-85, § I, 11-28-05)

Sec. 143-23. - Adjustments to stormwater connection fee.

The city council may from time to time by ordinance change the amount of the stormwater connection fee by amending section 143-21.

(Ord. No. 2005-85, § I, 11-28-05)

Sec. 143-24. - Requests for correction of the stormwater connection fee.

(a) A property owner or developer may request correction of the fee by submitting the request in writing to the city engineer within 30 days after the date the assessment notice or the bill is mailed or issued to the property owner. Grounds for correction of the fee include:

(1) Incorrect classification of the property for purposes of determining the fee;

(2) Errors in the square footage of the impervious surface area of the property;

(3) Mathematical errors in calculating the fee to be applied to the property; and

(4) Errors in the identifications of the property owner of a property subject to the fee.

(b) The city engineer shall make a determination within 30 days after receipt of the property owner's completed written request for correction of the fee.

(c) A property owner or developer must comply with all rules and procedures adopted by the city when submitting a request for correction of the fee and must provide all information necessary for the city engineer to make a determination on a request for correction of the fee. If a property owner alleges an error under subsection 143-5(g)(1) b., the request for correction must include a certification by a registered engineer or professional land surveyor of the impervious surface area of the property. Failure to comply with the provisions of this subsection shall be grounds for denial of the request.

(Ord. No. 2005-85, § I, 11-28-05)

Sec. 143-25. - Variances.

(a) Variances to the terms and requirements of this article may be granted by the city where a literal enforcement of the provisions of this chapter will result in unnecessary hardship. No variance may be granted unless:

(1) Such variance will not be contrary to the public interest;

(2) Such variance will not substantially or permanently injure the appropriate use of adjacent land, which is regulated by this chapter;

(3) Such variance will be in harmony with the spirit and purpose of this division;

(4) The plight of the owner of the property for which the variance is sought is due to the unique circumstances existing on the property and are not merely financial;

(5) The variance will not substantially weaken the general purpose of this chapter or the regulations herein established for the regulated area of the recharge zone;

(6) The variance will not cause unreasonable disruption to the natural terrain; and

(7) The variance granted is limited in scope of relief to only that which is necessary to relieve the hardship situation.

(b) *Request for variance.* All requests for variances shall be made in writing to the city engineer's office of the city for council's review and action. All variance requests shall include:

(1) The subject of the requested variance; and

(2) The justification for granting a variance.

(c) *Burden.* The party requesting the variance has the burden of demonstrating by clear and convincing evidence that the variance should be granted. The city engineer's office shall process all such requests for council action within 30 working days from the date a valid request for variance is received.

(d) *Action.* A request for variance may be granted, rejected or modified by city council. If a variance is granted under this section, said variance shall be valid for a term of one year. If building permits have not been obtained on the property for which the variance was granted, within one year from the date the variance was granted, the variance shall expire.

(Ord. No. 2005-85, § I, 11-28-05)

Sec. 143-26. - Appeals.

(a) Appeals from a determination by the city engineer that you are within 3,000 feet of the drainage system may be made to the city council.

(b) Appellant shall provide, within five days of assessment of the stormwater connection fee, a written notice of appeal filed with the city engineer that the development is not within 3,000 feet of the city's utility drainage system. The written notice of appeal shall state the reasons and basis for the appeal and designate the individuals who shall be testifying on behalf of appellant. The city engineer shall notify the appellant of the placement of the appeal on the first available city council agenda in compliance with the Texas Open Meetings law.

(Ord. No. 2005-85, § I, 11-28-05)

Sec. 143-27. - Previously assessed fees.

(a) Stormwater fees assessed under the previously adopted ordinance are hereby re-assessed as stormwater connection fees under the provisions of this article.

(b) Collection of re-assessed fees shall be pursuant to the provisions of this article.

(Ord. No. 2005-85, § I, 11-28-05)

Secs. 143-28—143-39. - Reserved.

New Braunfels, Texas, Code of Ordinances >> PART II - CODE OF ORDINANCES >> Chapter 143 - MUNICIPAL DRAINAGE UTILITY SYSTEMS >> ARTICLE III. - PENALTIES >>

ARTICLE III. - PENALTIES

Sec. 143-40. - Penalty and culpable mental state.

Sec. 143-40. - Penalty and culpable mental state.

The violation of any provision of this chapter shall be a class "C" misdemeanor punishable by a fine of not less than one dollar nor more than $2,000.00. Each day the condition causing the violation remains in place shall constitute a separate offense. The culpable mental state required by chapter 6.02 of the Texas Penal Code is hereby specifically negated. The offenses under this chapter shall be strict liability offenses. Nothing in this section shall be construed as to limit any civil action the city may take to enforce the terms of this article.

(Ord. No. 2005-85, § I, 11-28-05)

New Braunfels, Texas, Code of Ordinances >> PART II - CODE OF ORDINANCES >> Chapter 144 - ZONING >>

Chapter 144 - ZONING [1]

ARTICLE I. - GENERAL PROVISIONS
ARTICLE II. - ZONING PROCEDURES AND ADMINISTRATION
ARTICLE III. - ZONING DISTRICTS
ARTICLE IV. - USE REGULATIONS
ARTICLE V. - DEVELOPMENT STANDARDS
ARTICLE VI. - PENALTY

FOOTNOTE(S):

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***Editor's note**—Ord. No. 2012-49, § 1(Exh. A), adopted September 10, 2012, repealed and reenacted chapter 144 in its entirety to read as herein set out. Formerly, chapter 144 pertained to similar subject matter, and derived from Ord. No. 2006-99, § 1(Exh. A), adopted October 23, 2006; Ord. No. 2007-02, § 2(Exh. B), adopted January 8, 2007, Ord. No. 2007-67, § 1(Exh. 1), adopted August 27, 2007, Ord. No. 2008-22, §§ 1—30, adopted March 10, 2008; Ord. No. 2010-80, § 1, adopted October 25, 2010; Ord. No. 2011-03, § 1, adopted January 10, 2011, Ord. No. 2011-21, § 1, adopted February 28, 2011, and Ord. No. 2011-37, § 1, adopted May 9, 2011. (Back)*

***Cross reference**— Miscellaneous actions and ordinances not affected by Code, § 1-9, compliance with requirements pertaining to animals, § 6-86, airport hazard zoning, § 10-76 et seq.; buildings and building regulations, ch. 14; businesses, ch. 18, cable communications, ch. 22; community development, ch. 38, condition of premises, § 50-36 et seq.; water distribution system for fire protection, § 54-146 et seq.; floods, ch. 58; mobile homes located outside a mobile home park, § 62-261 et seq.; historic preservation, ch. 66; historic landmark preservation, § 66-51 et seq.; planning, ch. 98; planning commission, § 98-26 et seq.; board of adjustment, § 98-56 et seq., secondhand goods, ch. 102; signs, ch. 106; platting, ch. 118, consistency with comprehensive plan and zoning ordinance, § 118-5; mobile home communities, app. B. (Back)*

New Braunfels, Texas, Code of Ordinances >> PART II - CODE OF ORDINANCES >> Chapter 144 - ZONING >> ARTICLE I. - GENERAL PROVISIONS >>

ARTICLE I. - GENERAL PROVISIONS

Sec. 144-1.1. - Purpose.
Sec. 144-1.2. - Zoning maps.
Sec. 144-1.3. - Definitions.

Sec. 144-1.1. - Purpose.

The purpose of this chapter is to zone the entire area of the city limits and the districts in accordance with a comprehensive plan for the purpose of promoting health, safety, and the general welfare of the public. The regulations and districts herein have been established in accordance with V.T.C.A., Local Government Code ch. 211 and have been designed to lessen congestion in the streets; to provide safety from fire, panic, and other dangers; to provide adequate light and air, to prevent the overcrowding of land, to avoid undue concentration of population, and to provide and facilitate adequate provisions for transportation, water, sewerage, schools, parks and other public requirements. Said districts have been established with reasonable consideration for the character of the district and its peculiar suitability for the particular uses, and with the view of conserving the value of buildings and encouraging the most appropriate use of land throughout the community.

(Ord. No. 2012-49, § 1(Exh. A), 9-10-12)

Sec. 144-1.2. - Zoning maps.

1.2-1. *Zoning map of districts created prior to June 22, 1987.* Boundaries of the districts as enumerated in section 144-3.1-1 are hereby established and adopted on the zoning map of the city prepared as a result of the master plan update in 1977. Such zoning map and all notations, references and other information shown on such zoning map are as much a part of this chapter as if the matters and information set forth by such maps were all fully described herein.

1.2-2. *Zoning map of districts created effective June 22, 1987.* Boundaries of the districts as enumerated in section 144-3.1-2 are hereby established and adopted on the zoning map of the city. Such zoning map and all notations, references and other information shown on such zoning map are as much a part of this chapter as if the matters and information set forth by such map were all fully described herein.

1.2-3. *Official zoning maps.* Zoning maps shall be filed in the planning department for use of the public and for observation in issuing building permits, certificates of occupancy and for enforcing this chapter.

It shall be the duty of the planning department to maintain both maps up-to-date by posting thereon all changes and subsequent amendments.

1.2-4. *Written verification of the zoning classification.* Written verification of the zoning classification in which any property has been placed may be given only upon payment of a zoning verification fee of $10.00 to the planning department.

1.2-5. *Boundaries.* When definite distances in feet are not shown on the zoning district maps, the district boundaries are intended to be along existing streets, alleys or platted lot lines, or extensions of the same, and if the exact location of such lines is not clear, it shall be determined by the planning director with due consideration being given to location as indicated by the scale of the zoning district maps.

1.2-6. *Street or alley deviations.* When streets or alleys on the ground differ from the streets or alleys as shown on the zoning district maps, the planning director may apply the district designations on the map to the street or alleys on the ground in such manner as to conform to the intent and purpose of this chapter.

1.2-7. *Zoning district boundaries and vacant streets or alleys.* Whenever any street or alley is vacated, the particular district in which the adjacent property lies shall be automatically extended to the centerline of any such street or alley.

(Ord. No. 2012-49, § 1(Exh. A), 9-10-12)

Sec. 144-1.3. - Definitions.

For the purpose of this chapter, certain words and terms as used herein are defined as follows:

Words used in the present tense include the future; words in the singular number include the plural, and vice versa; the word "building" includes the word "structure;" the word "shall" is mandatory and not directory; the term "used for" includes the meaning "designed for" or "intended for."

Accessory dwelling means a separate, complete housekeeping unit with a separate entrance, kitchen, sleeping area, and full bathroom facilities, which is an attached or detached extension to an existing single-family structure.

Accessory structure or use means a subordinate building having a use customarily incident to and located on the lot occupied by the main building; or a use customarily incident to the main use of the property.

Alley means a minor public right-of-way, not intended to provide the primary means of access to abutting lots, which is used primarily for vehicular service access to the back or sides of properties otherwise abutting a street.

Alternative tower structure shall mean clock towers, bell steeples, light poles, and similar alternative-design mounting structures.

Amusement devices/arcade (also *video arcade*) means any building, room, place or establishment of any nature or kind, and by whatever name called, where more than ten percent of the public floor area is devoted to four or more amusement devices that are operated for a profit, whether the same is operated in conjunction with any other business or not, including but not limited to such amusement devices as coin-operated pinball machines, video games, electronic games, shuffle boards, pool tables or other similar amusement devices. However, the term "amusement device," as used herein, shall not include musical devices, billiard tables which are not coin-operated, machines that are designed exclusively for small children, and devices designed to train persons in athletic skills or golf, tennis, baseball, archery or other similar sports.

Amusement services (indoors) means an amusement enterprise that is wholly enclosed within a building which is treated acoustically so that noise generated by the enterprise is not perceptible at the bounding property line, and that provides activities, services and instruction for the entertainment of customers or members, but not including amusement arcades. Uses may include, but are not limited to, the following: bowling alley, ice skating rink, martial arts club, racquetball or handball club, indoor tennis courts or club, indoor swimming pool or scuba diving facility, and other similar types of uses.

Amusement services (outdoors) means an amusement enterprise offering entertainment or games of skill to the general public for a fee wherein any portion of the activity takes place outdoors and including, but not limited to, a golf driving range, archery range, miniature golf course, batting cages, go-cart tracks, amusement parks, and other similar types of uses.

Antenna shall mean any exterior apparatus designed for telephonic, radio, or television communication through the sending and/or receiving of electromagnetic waves.

Apartment means a room or a suite of rooms within an apartment house arranged, intended, or designed for a place of residence of a single family, individual, or group of individuals.

Apartment house means the same as *Multifamily dwelling.*

Artist studio means a work space for artists or artisans, including individuals practicing one of the fine arts or skilled in an applied art or craft.

Assembly hall means a building or portion of a building in which facilities are provided for civic, educational, political, religious, or social purposes.

Attic means the area between roof framing and the ceiling of the rooms below that is not habitable, but may be reached by ladder and used for storage or mechanical equipment. Improvement to habitable status shall make it a story.

Auto supply store for new and factory rebuilt parts means the use of any building or other premise for the primary inside display and sale of new or used parts for automobiles, panel trucks or vans, trailers, or recreation vehicles.

Bar or *tavern* means a commercial establishment, under license from the Texas Alcohol and Beverage commission (TABC), which is principally engaged in the retail sale of alcoholic beverages, with food only incidental to the sale of alcohol.

Base zoning district means the zoning district, or combination of zoning districts, which will be applied to the subject property contained in a PD. Except as specifically altered through changes or modifications agreed to in the PD land use plan and development standards, the regulations applicable to the base zoning district will apply.

Basement means a story partly or wholly underground. For purposes of height measurement, a basement shall be counted as a story where more than one-half of its height is above the average level of the adjoining ground.

Battery charging station means an electrical component assembly or cluster of component assemblies designed specifically to charge batteries within electric vehicles, which meet or exceed any standards, codes, and regulations set forth.

Bed and breakfast inn or facility(s) means a dwelling or grouping of dwellings at which breakfast is served and sleeping accommodations are provided/offered in rooms or unattached units (e.g., cabins) for transient guests for compensation.

Block means a piece or parcel of land entirely surrounded by public highways or streets, other than alleys. In cases where the platting is incomplete or disconnected, the planning director shall determine the outline of the block.

Boardinghouse means a building other than a hotel, where lodging or meals are provided for five or fewer persons for compensation, pursuant to previous arrangements, but not with rental or lease periods less than one month.

Building means a structure enclosed within exterior walls, built, erected and framed of a combination of materials, whether portable or fixed, having a roof, to form a structure for the shelter of persons, animals, or property.

Bulk storage. Bulk storage of fuel and flammable liquids (except liquefied petroleum gas) shall be any aboveground tank for storage of subject liquids which exceeds 500 gallons water capacity, or any facility for which the total aggregate capacity of belowground storage tanks shall exceed 50,000 gallons. Bulk storage of liquefied petroleum gas shall be any facility for which the total aggregate capacity of storage tanks (including truck and/or trailer tanks) exceeds 2,000 gallons water capacity.

Cabin means a small one-story house built and designed for temporary use.

Cemetery means land used or intended to be used for the burial of the dead and dedicated for cemetery purposes including columbarium's, crematoriums, mausoleums, and funeral establishments, when operated in conjunction with and within the boundary of such cemetery.

Child day care (business) means a commercial children's nursery business or place designed for the care or training of unrelated children for less than 24 hours a day.

Church/place of worship means a building for regular assembly for religious worship which is used primarily and designed for such purpose and those accessory activities which are customarily associated therewith, and the place of residence for ministers, priests, nuns or rabbis on the premises, that is tax exempt as defined by state law. For the purposes of this chapter, bible study and other similar activities which occur in a person's primary residence shall not apply to this definition.

Civic organization is a group of people who hold regular meetings and work towards a common goal. Examples of such civic organizations include, but are not limited to, women's and men's clubs, Kiwanis (and other philanthropic groups), and business associations.

Clinic means a facility providing medical, psychiatric, or surgical service for sick or injured persons exclusively on an out-patient basis, including emergency treatment, diagnostic services, training, administration, and services to outpatients, employees, or visitors. The term "clinic" includes immediate care facilities, where emergency treatment is the dominant form of care provided at the facility.

Club, private means buildings and facilities owned or operated by a corporation, association, person, or persons for a social, educational, or recreational purpose, but not primarily for profit which inures to any individual and not primarily to render a service which is customarily done as a business.

Common open space is private property under common ownership, designated as recreation area, private park (for use of property owners within the subdivision), play lot area, or ornamental areas open to general view.

Community home means a place where not more than six physically or mentally impaired or handicapped persons are provided room and board, as well as supervised care and rehabilitation by not more than two persons as licensed by the

Texas Department of Mental Health and Mental Retardation (also see V.T.C.A., Human Resources Code ch. 123—Community Homes for Disabled Persons Location Act). The limitation on the number of persons with disabilities applies regardless of the legal relationship of those persons to one another.

Condominium means a form of real property with portions of the real property designated for separate ownership or occupancy, and the remainder of the real property designated for common ownership or occupancy solely by the owners of the portions. Real property is a condominium only if one or more of the common elements are directly owned in undivided interests by the unit owners. Real property is not a condominium if all of the common elements are owned by a legal entity separate from the unit owners, such as a corporation, even if the separate legal entity is owned by the unit owners.

Conforming means in compliance with the regulations of the pertinent zoning district.

Contractor's office/sales (with outside storage) means a building, part of a building, or land area for the construction or storage of materials, equipment, tools, products, and vehicles.

Contractor's shop means an establishment used for the indoor repair, maintenance, or storage of a contractor's vehicles, equipment, or materials, and may include the contractor's business office.

Contractor's storage yard means an unenclosed portion of the lot or parcel upon which a construction contractor maintains its principal office or a permanent business office. Designation of the lot or parcel as a contractor's storage yard would allow this area to be used to store and maintain construction equipment and other materials customarily used in the trade carried on by the construction contractor. If permitted to be used in this manner, the entire lot or parcel would then be classified as a "contractor's storage yard" and will be required to conform to all applicable zoning district standards and other legislative regulations.

Convenience store with (or without) fuel sales means [a] retail establishment selling food for off-premises consumption and a limited selection of groceries and sundries, including possibly fuel, if pumps are provided. Does not include or offer any automobile repair services.

Country club means land area and buildings containing golf courses, recreational facilities, a clubhouse, and other customary accessory uses, which is open only to members and their guests.

Court means an open, unoccupied space, other than a yard, on the same lot with the building or group of buildings and which is bounded on two or more sides by such building or buildings.

Coverage, building. Building coverage means the lot area that is covered by all buildings located thereon, including the area covered by all overhanging roofs and canopies.

Coverage, lot. Lot coverage means the combined area of all yards on a given lot.

Curb level means the elevation of the established curb in front of a building measured at the center of such front.

Deck means a roofless platform, either freestanding or attached to a building that is supported by pillars or posts.

Density means the number of dwelling units per gross acre of subdivision, excluding any areas that are non-residential in use.

Depth of rear yard means the horizontal distance between the rear line of the main building and the rear lot line.

Developer means an individual, partnership, corporation or governmental entity undertaking the subdivision or improvement of land and other activities covered by this chapter, including the preparation of a subdivision plat showing the layout of the land and the public improvements involved therein. The term "developer" is intended to include the term "subdivider," even though personnel in successive stages of a project may vary.

Development means the construction of one or more new buildings or structures on one or more building lots, the moving of an existing building to another lot, or the use of open land for a new use. "To develop" shall mean to create development.

Distance between buildings means the shortest horizontal distance between the vertical walls of two structures.

Drive-through means an establishment that dispenses products or services to patrons who remain in vehicles.

Duplex means a building designed as a single structure, containing two separate living units, each of which is designed to be occupied as a separate permanent residence for one family or in two separate structures on one lot.

Dwelling means a building or structure or portion thereof designed for occupancy by one family for residential purposes as a single housekeeping unit. In no case shall a motor home, trailer coach, automobile chassis, tent, or portable building be considered a dwelling.

FAA shall mean the Federal Aviation Administration.

Facade means a side of a building or accessory structure which consists of a separate architectural elevation as viewed horizontally from the ground, street or other nearby location. The area of a facade is defined by the outer limits of all of its visible exterior elements. Separate faces of a building oriented in the same direction or within 45 degrees of each other are considered part of the same facade.

Family means two or more persons who are related by blood, marriage, adoption or guardianship, living together and occupying a single housekeeping unit with single kitchen facilities, or a group of not more than five persons living together by joint agreement and occupying a single housekeeping unit with single kitchen facilities, on a nonprofit, cost-sharing basis.

Family home (adult care in place of residence) means a facility that regularly provides care in the caretaker's own residence for not more than six adults at any given time. No outside employment is allowed at the facility. This facility shall conform to V.T.C.A., Human Resources Code ch. 42, as amended, and in accordance with such standards as may be promulgated by the Texas Department of Human Resources.

Family home (child care in place of residence) means a facility that regularly provides care in the caretaker's own residence for not more than six children under 14 years of age, excluding the caretaker's own children, and that provides care after school hours for not more than six additional elementary school siblings of the other children given care. However, the number of children, including the caretaker's own, provided care at such facility shall not exceed 12 at any given time. No outside employment is allowed at the facility. This facility shall conform to V.T.C.A., Human Resources Code ch. 42, as amended, and in accordance with such standards as may be promulgated by the Texas Department of Human Resources.

FCC shall mean the Federal Communications Commission.

Floodplain means an area of land that is subject to a one-percent or greater chance of flooding in any given year, based on developed conditions existing as of the date a development application is accepted for filing, and not based on projected or anticipated future build-out for a watershed.

Food or grocery store means a store having 10,000 square feet or more of floor area devoted principally to the sale of food and household goods which usually includes a bakery and meat market.

Frontage means the lineal distance measured along all abutting street rights-of-way.

Garage, detached means a private garage wholly separated and independent of the principal building.

Garage, public means a building or portion thereof, designed or used for the storage, sale, hiring, care or repair of motor vehicles, which is operated for commercial purposes.

Governing authority shall mean the city council of the City of New Braunfels, Texas.

Gross floor area means the total area of a building measured by taking the outside dimensions of the building at each floor level intended for occupancy or storage.

Group home means a place that provides care for children in accordance with V.T.C.A., Human Resources Code ch. 42. For city regulatory purposes, the following definitions from V.T.C.A., Human Resources Code ch. 42 will be considered a group home.

Agency foster group home means a facility that provides care for seven to 12 children for 24 hours a day, is used only by a licensed child-placing agency, and meets department standards.

Foster group home means a child-care facility that provides care for seven to 12 children for 24 hours a day.

Health care facility means any facility, place, or building maintained and operated to provide medical care. Health care facilities include but are not limited to hospitals, nursing homes, intermediate care facilities, clinics, and home health agencies, all of which are licensed by the state department of health services and defined in the Texas Health and Safety Code.

Heavy load vehicle means a self-propelled vehicle having a manufacturer's recommended gross vehicle weight (GVW) of greater than 16,000 pounds (including trailers), such as large recreational vehicles (originally manufactured as RVs, not converted), tractor-trailers, buses, vans, and other similar vehicles. The term "truck" shall be construed to mean "heavy load vehicle" unless specifically stated otherwise.

Heavy machinery sales and storage means a building or open area used for the display, sale, rental or storage of heavy machinery, tractors or similar machines, or a group of machines which function together as a unit.

Height means the vertical distance of a structure measured from the average elevation of the finished grade surrounding the structure to the highest point of the structure.

Height, tower shall mean, when referring to a tower or other structure, the distance measured from the natural ground level to the highest point on the tower or other structure, even if said highest point is an antenna.

Heliport means an area of land or water or a structural surface that is used, or intended for use, for the landing and taking off of helicopters, and any appurtenant areas that are used, or intended for use, for heliport buildings and other heliport facilities.

Helistop means the same as a "heliport," except that no fueling, defueling, maintenance, repairs, or storage of helicopters is permitted.

Helistop, hospital means a helistop limited to serving helicopters engaged in air ambulance.

Home occupation means an occupation carried on in a dwelling unit, or in an accessory building to a dwelling unit, by a resident of the premises, which occupation is clearly incidental and secondary to the use of the premises for residential purposes.

Hospital, general means an institution providing primary health services and medical or surgical care to persons, primarily inpatients, suffering from illness, disease, injury, deformity, and other abnormal physical or mental conditions and including, as an integral part of the institution, related facilities, such as laboratories, outpatient facilities, training facilities, medical offices, and staff residences.

Hospital, rehabilitation means an establishment that offers services, facilities, and beds for more than 24 hours for two or more unrelated individuals who are regularly admitted, treated, and discharged and who require services more intensive than room, board, personal services, and general nursing care; has clinical laboratory facilities, diagnostic x-ray facilities, treatment facilities, or other definitive medical treatment; has a medical staff in regular attendance; and maintains records of the clinical work performed for each patient.

Hotel means a facility offering transient lodging accommodations to the general public.

Household means five or fewer people not a family or a family living together in a single dwelling unit, with common access to and common use of all living and eating areas and all areas and facilities for the preparation and serving of food within the dwelling unit. See also the definition of *Family*.

Industry, heavy means uses engaged in the basic processing and manufacturing of materials or products predominately from extracted or raw materials, or a use engaged in storage of, or manufacturing processes using flammable or explosive materials, or storage or manufacturing processes that potentially involve hazardous conditions. "Heavy industry" shall also mean those uses engaged in the operation, parking, and maintenance of vehicles, cleaning of equipment or work processes involving solvents, solid waste or sanitary waste transfer stations, recycling establishments, truck terminals, public works yards, and container storage.

Industry, light means a use that involves the manufacturing, production, processing, fabrication, assembly, treatment, repair, or packaging of finished products, predominantly from previously prepared or refined materials (or from raw materials that do not need refining). Warehousing, wholesaling, and distribution of the finished products produced at the site is allowed as part of this use.

Industry, medium means enterprises in which goods are generally mass produced from raw materials on a large scale through use of an assembly line or similar process, usually for sale to wholesalers or other industrial or manufacturing uses. Medium industry produces moderate external effects such as smoke, noise, soot, dirt, vibration, odor, etc.

Junkyard or *automotive wrecking and salvage yard* means an outdoor place where a person stores three or more vehicles for the purpose of dismantling or wrecking the vehicles to remove parts for sale or for use in automotive repair or rebuilding.

Kennel means the boarding, breeding, raising, grooming, or training of two or more dogs, cats, or other household pets of any age not owned by the owner or occupant of the premises, and/or for commercial gain.

Kiosk (providing a service) means a small, free-standing, one-story accessory structure having a maximum floor area of 100 square feet and used for retail purposes, such as automatic teller machines or the posting of temporary information or posters, notices and announcements. If a kiosk is to be occupied, it shall have a minimum floor area of 50 square feet.

Kitchen means any room or portion of a room within a building designed and intended to be used for the cooking or preparation of food.

Laboratory, support means a facility for scientific laboratory analysis of natural resources, medical resources, and manufactured materials. The scientific analysis is generally performed for an outside customer, to support the work of that customer. This category includes environmental laboratories for the analysis of air, water, and soil; medical or veterinary laboratories for the analysis of blood, tissue, or other human medical or animal products. Forensic laboratories for analysis of evidence in support of law enforcement agencies would also be included in this category.

Lot means a parcel of land occupied or to be occupied by one building, or group of buildings, and the accessory buildings or uses customarily incident thereto, including such open spaces as are required under this chapter.

Lot, corner means a lot abutting upon two or more streets at their intersection. A corner lot shall be deemed to front on that street on which it has its least dimension.

Lot coverage. See *Coverage, lot.*

Lot depth means the length of a line connecting the midpoints of the front and rear lot lines.

Lot, double frontage means any lot, not a corner lot, with frontage on two streets that are parallel to each other or within 45 degrees of being parallel to each other.

Lot frontage means the length of street frontage between property lines.

Lot, interior means a lot whose side lines do not abut upon any street.

Lot lines mean the lines bounding a lot as defined herein.

Lot line, front means the boundary between a lot and the street on which it fronts.

Lot line, rear means the boundary line which is opposite and most distant from front street line; except that in the case of uncertainty the planning director shall determine the rear line.

Lot line, side means any lot boundary line not a front or rear line thereof. A side line may be a part lot line, a line bordering on an alley or place or a side street line.

Lot, through means an interior lot having frontage on two streets.

Lot width means the horizontal distance between side lines, measured at the front building line, as established by the minimum front yard requirement of this chapter.

TYPES OF LOTS

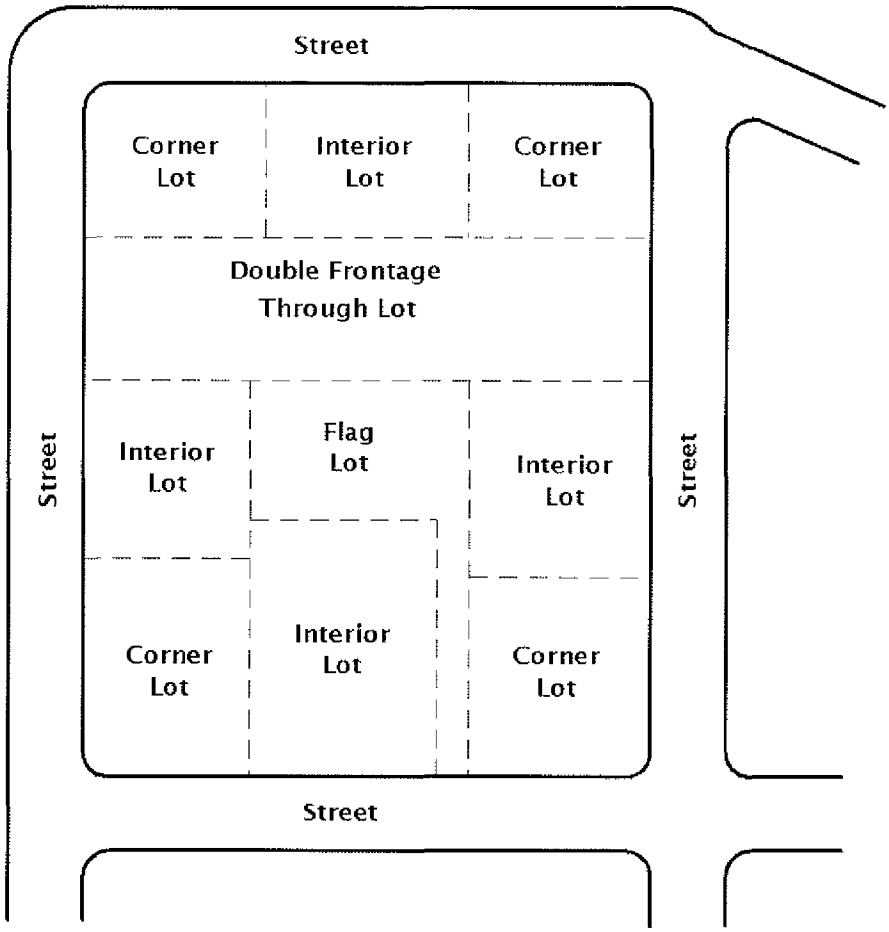
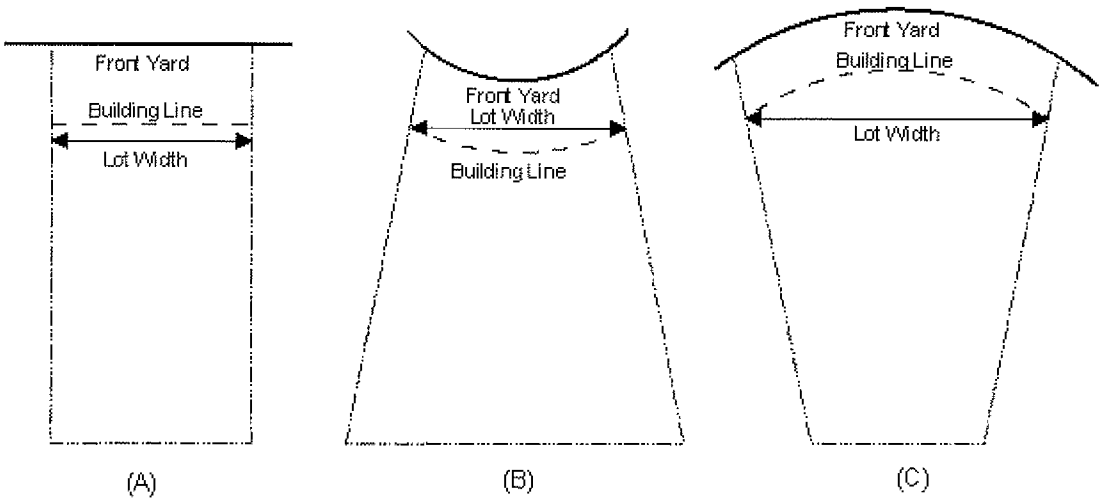


Figure 1



LOT WIDTH



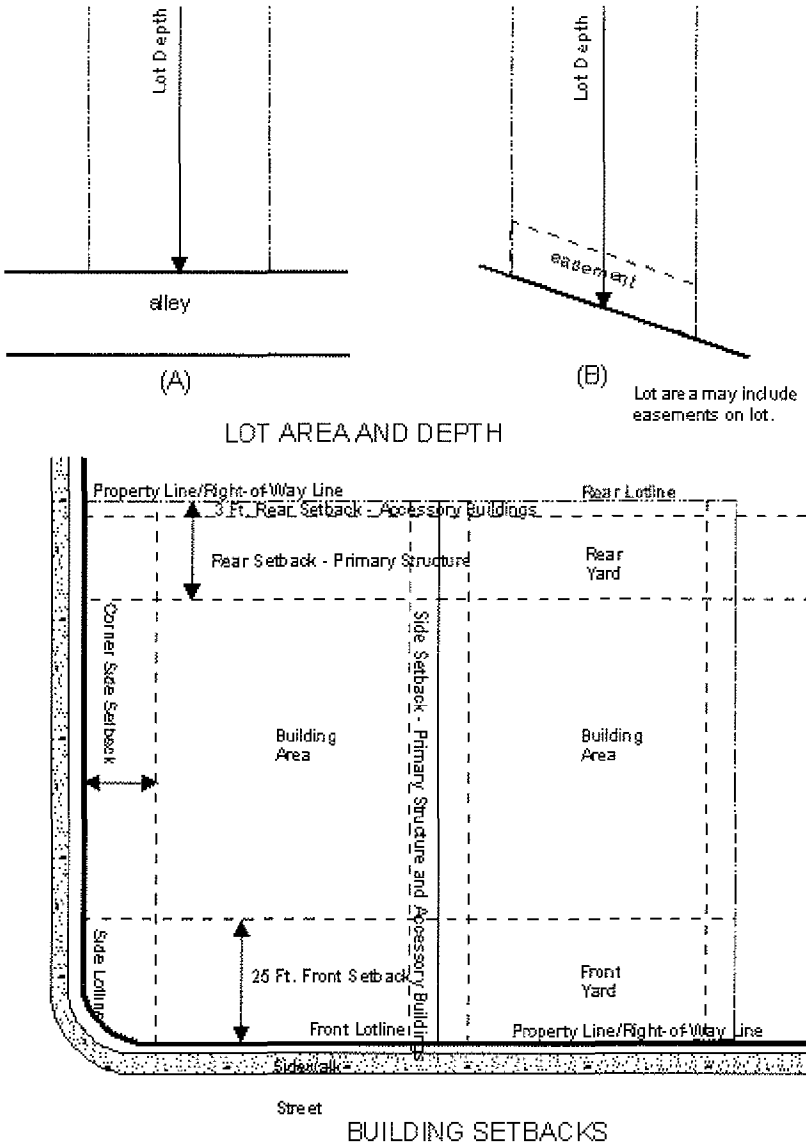


Figure 2

Manufactured home community means a unified development of home spaces restricted to HUD-Code manufactured home use, with community facilities and permitted permanent buildings; this development being located on a single tract of land under one ownership and meeting the requirements of all applicable chapters.

Manufactured home, HUD-Code means a structure constructed on or after June 15, 1976 according to the rules of the United States Department of Housing and Urban Development, transportable in one or more sections, which, in traveling mode, is eight body feet or more in width or 40 body feet or more in length, or, when erected on-site is 320 or more square feet, and which is built on a permanent chassis and designed to be used as a single dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems.

Manufactured home subdivision means any parcel of land changed, resubdivided or rearranged into two or more parts, for the purpose of accommodating the location of HUD-Code manufactured homes thereon.

Manufacturing, light means the manufacture, predominantly 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, but excluding basic industrial processing and custom manufacturing.

Medical facilities:

Medical clinic or office means a facility or group of offices for one or more physicians for the examination and treatment of ill and afflicted human outpatients provided that patients are not kept overnight except under emergency conditions.

Dental office or *doctor's office.* Same as *Medical clinic.*

Hospital. See definitions of *Hospital, general* and *Hospital, rehabilitation.*

Sanitarium means an institution providing health facilities for inpatient medical treatment or treatment and recuperation making use of natural therapeutic agents.

Mini-warehouse/self-storage means small individual storage units for rent or lease, restricted solely to the storage of items. The conduct of sales, business or any other activity within the individual storage units, other than storage, shall be prohibited.

Mobile home means a structure that was constructed before June 15, 1976, transportable in one or more sections, which, in the traveling mode, is eight body feet or more in width or 40 body feet or more in length, or, when erected on-site is 320 or more square feet, and which is built on a permanent chassis designed to be used as a single dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems.

Microbrewery means a facility for the production and packaging of malt beverages of low alcoholic content for distribution, retail, or wholesale, on or off premise, with a capacity of not more than 15,000 barrels per year. The development may include other uses such as a standard restaurant, bar or live entertainment as otherwise permitted in the zoning district.

Multifamily dwelling means a building or portion thereof, arranged, intended, or designed for occupancy by three or more families, being separate quarters and living independently of each other. Multifamily also means three or more dwelling units on a single lot or parcel, whether attached or detached.

Nonconforming use means a use, building or yard which does not, by reason of design, use, or dimensions conform to the regulations of the district in which it is situated. It is a legal nonconforming use if established prior to passage of this chapter, and an illegal nonconforming use if established after the passage of this chapter and not otherwise approved as provided herein.

One-family dwelling means a detached building arranged, intended, or designed for occupancy by one family.

Parking space means space for the parking or temporary storage of one motor vehicle, not on a public street or alley, having a driveway connecting the parking space with a street or alley permitting free ingress and egress without encroachment on the street or alley.

Pavement, permeable means a pavement system with traditional strength characteristics, but which allows rainfall to percolate through it rather than running off. A permeable pavement system utilizes either porous asphalt, pervious concrete, or plastic pavers interlaid in a running bond pattern and either pinned or interlocked in place. Porous asphalt consists of an open graded coarse aggregate held together by asphalt with sufficient interconnected voids to provide a high rate of permeability. Pervious concrete is a discontinuous mixture of Portland cement, coarse aggregate, admixtures, and water which allow for passage of runoff and air.

Pawn shop means an establishment where money is loaned on the security of personal property pledged in the keeping of the owners. The retail sale of primarily used items is also allowed, provided that the sale of such items complies with local, state and federal regulations.

Person shall, for the purpose of this chapter, mean every natural person, firm, partnership, association, corporation or society, and the term "person" shall include both singular and plural, and the masculine shall embrace the feminine gender.

Place means an open, unoccupied space other than a street or alley permanently established or dedicated as the principal means of access to property abutting thereon.

Porch means a one-story, usually covered entrance to a building, with or without a separate roof, that is not used for livable space and extends along the building.

Premises means a parcel or tract of land or one or more platted lots under the same ownership and use, together with the buildings and structures located thereon.

Private club means an establishment providing social or dining facilities which may provide alcoholic beverage service, to an association of persons, and otherwise falling within the definition of, and permitted under the provisions of, that portion of V.T.C.A., Alcoholic Beverage Code tit. 3, ch. 32, as the same may be hereafter amended, and as it pertains to the operation of private clubs.

Reconstruction means the rehabilitation or replacement of a structure which either has been damaged, altered or removed or which is proposed to be altered or removed to an extent exceeding 50 percent of the replacement cost of the structure at the time of the damage, alteration or removal.

Recreational vehicle means any travel trailer, pickup camper, motor home, camping trailer, tent trailer, or similar vehicle which is designed for human habitation.

Restaurant means an eating establishment where customers are primarily served at tables or are self-served, where food is consumed on the premises, and which may include a drive-through window(s).

Roof pitch means the amount of slope of the roof in terms of angle or other numerical measure; one unit of horizontal rise for three units of horizontal shelter is expressed as "1 in 3" or "4:12."

Screening means a method of visually shielding or obscuring an abutting or nearby use or structure from another by fencing, walls, berms, or densely planted vegetation.

Setback line. See Figure 2.

Single-family industrialized home (also called *modular prefabricated structure or modular home*). A structure or building module, as defined under the jurisdiction and control of the Texas Department of Labor and Standards, that is transportable in one or more sections on a temporary chassis or other conveyance device, and that is designed to be installed and used by a consumer as a fixed residence on a permanent foundation system. The term includes the plumbing, heating, air-conditioning and electrical systems contained in the structure. The term does not include mobile homes or HUD-Code manufactured homes as defined in the Texas Manufactured Housing Standards Act (Article 5221f, V.A.C.S.), nor does it include a recreational vehicle as that term is defined by this Code. Industrialized homes must meet all applicable local codes and zoning regulations that pertain to construction of traditional site constructed ("stick built") homes.

Site means a tract of property that is the subject of a development application.

Site plan means a detailed plan showing the roads, parking, footprints of all buildings, existing trees, proposed landscaping, parkland, open space, grading and drainage, and similar features needed to verify compliance with the approved land use plan and development standards.

Stable, private means an accessory building for the keeping of horses, ponies, or mules owned by occupants of the premises, and not kept for remuneration, hire or sale.

Stable, riding means a structure in which horses, ponies, or mules, used exclusively for pleasure riding or driving, are housed, boarded, or kept for hire.

Storage, outdoor means the storage, collection or display for more than three consecutive days, or any part of a day for three consecutive days, of any products, materials, equipment, appliances, vehicles not in service, or personal property of any kind on an unenclosed, uncovered area.

Story means that part of a building included between the surface of one floor and the surface of the floor next above, or if there be no floor above, that part of the building which is above the surface of the highest floor thereof. A top story attic is a half story when the main line of the wall plates is not above the middle of the interior height of such story. A basement that is no more than four feet above average grade shall not be considered a story.

Street means a public maintained thoroughfare or privately maintained public access easement which affords principal means of access to property abutting thereon, and normally consists of the road surface, ditch or curbs, and sidewalk or parking areas.

Street line means the dividing line between the street right-of-way and the abutting property, normally to the lot property line.

Structure means anything constructed or erected, which requires location on the ground, or attached to something having a location on the ground; including, but not limited to, advertising signs, billboards, and poster panels, but exclusive of customary fences or boundary or retaining walls.

Structural alterations mean any change in the supporting members of a building, such as bearing walls, columns, beams or girders.

Subdivider means any person or any agent of the person dividing or proposing to divide land so as to constitute a subdivision, as that term is defined in this section. In any event, the term "subdivider" is restricted to include only the owner, equitable owner or authorized agent of the owner or equitable owner of land to be subdivided.

Temporary field office or construction yard or office means a structure or shelter used in connection with a development or building project for housing on the site of temporary administrative and supervisory functions and for sheltering employees and equipment.

Temporary outdoor retail sales means the display and sales of products outside of a building or structure which is not an accessory use to the retail store on the tract on which the temporary sales will be located.

Tower means any structure that is designed and constructed primarily for the purpose of supporting one or more antennas, including self-supporting lattice towers, guy towers, or monopole towers. The term includes radio and television transmission towers, microwave towers, common-carrier towers, cellular telephone towers, and the like.

Townhouse means a single-family dwelling unit on an individual lot which is one of a series of dwelling units having one or two common side walls with the other units in the series.

Truck stop means an establishment engaged primarily in the fueling, servicing, repair, or parking of tractor trucks or similar heavy commercial vehicles, including the sale of accessories and equipment for such vehicles. A truck stop may also include overnight accommodations, showers, or restaurant facilities primarily for the use of truck crews. Truck stops may only be located outside a two-mile radius of another truck stop.

Use means the classification of the purpose or activity for which land or buildings are designated, arranged, intended, occupied or maintained.

Vehicle storage facility (VSF) means a garage, parking lot, or any facility owned or operated by a person, other than a governmental entity, for storing or parking ten or more vehicles per year, without the consent of the owners of the vehicles. All VSFs must be licensed by the Texas Department of Transportation's Motor Carrier Division.

Vending means any activity by any person involving the display, sale, offering for sale, offering to give away, or giving away of anything of value including any food, beverage, goods, wares, merchandise, or services.

Wrecking yard (junkyard or auto salvage). Any lot upon which two or more motor vehicles of any kind, which are incapable of being operated due to condition or lack of license, have been placed for the purpose of obtaining parts for recycling or resale.

Yard means an open space between a building and the nearest lot line, unoccupied and unobstructed by any portion of a structure from the ground upward. In measuring a yard for the purpose of determining the width of a side yard, the depth of a front yard or the depth of a rear yard, the least horizontal distance between the lot line and the main building shall be used.

Yard, front means a yard across the full width of the lot extending from the front line of the main building to the front line of the lot.

Yard, rear means a yard between the rear lot line and the rear line of the main building.

Yard, side means a yard between the main building and the adjacent side line of the lot, and extending entirely from the front yard to the rear yard thereof.

Zero lot line home means a single-family dwelling that is built adjacent to one side property line.

(Ord. No. 2012-49, § 1(Exh. A), 9-10-12)

New Braunfels, Texas, Code of Ordinances >> PART II - CODE OF ORDINANCES >> Chapter 144 - ZONING >> ARTICLE II. - ZONING PROCEDURES AND ADMINISTRATION >>

ARTICLE II. - ZONING PROCEDURES AND ADMINISTRATION

Sec. 144-2.1. - Changes and zoning amendments.
Sec. 144-2.2. - Zoning board of adjustment (ZBA).
Sec. 144-2.3. - Nonconforming uses and structures.
Sec. 144-2.4. - Enforcement and administration.

Sec. 144-2.1. - Changes and zoning amendments.

2.1-1. *City authority to amend.*

(a) *Zoning district boundaries and regulations.* The city is hereby authorized to amend, supplement, change, modify or repeal the boundaries of the districts or the regulations herein established by this chapter. All zoning change requests shall be submitted to the planning commission for consideration prior to city council action.

(b) *Considerations for approving or denying a zoning change.* In making a determination regarding a requested zoning change, the planning commission and the city council shall consider the following factors:

(1) Whether the uses permitted by the proposed change will be appropriate in the immediate area concerned, and their relationship to the general area and to the city as a whole;

(2) Whether the proposed change is in accord with any existing or proposed plans for providing public schools, streets, water supply, sanitary sewers, and other utilities to the area;

(3) How other areas designated for similar development will be, or are likely to be, affected if the proposed amendment is approved;

(4) Any other factors that will substantially affect the public health, safety, morals, or general welfare; and

(5) Whether the request is consistent with the comprehensive plan.

(c) *Application.*

(1) Except as provided in section 144-2.1-4 for newly annexed territory, consideration for (i) a change in any zoning district boundary line, or (ii) zoning regulation, or (iii) an amendment to the zoning chapter text, may be initiated only by the owner of the real property (or authorized agent), by the planning commission, or by the city council.

(2) Each application for zoning, rezoning, special use permit (SUP), planned development (PD) detail plan, or for a text amendment to a provision(s) of this chapter, shall be made in writing on an application form available in the planning director's office, shall be accompanied by payment of the fee and an accurate legal description with a plat or map of the area proposed for zoning or rezoning.

(3) Completeness of application.

(i) If the application is incomplete or the full fee has not been paid, the planning director or his/her designee shall notify the applicant in writing, within ten business days of the date of the application, that the application is incomplete and will not be considered by the city until the application is complete and/or the full fee is paid. If the full fee is not paid or the application is not complete within 45 days of the date of the application, the application shall expire.

(ii) Traffic impact analysis. The planning director, planning commission or city council shall require the applicant to provide a traffic impact analysis worksheet which may trigger a full traffic impact analysis to be completed for consideration in accordance with chapter 114 of this Code prior to final approval of a zoning or rezoning.

(iii) Filing fees.

1. The following fees shall be paid in advance:

Zoning, rezoning or special use permit:

Filing fees	Amount
Less than one acre	$500.00
One acre to 9.99 acres	680.00
Ten acres to 19.99 acres	950.00
20 acres or more	1,200.00

Planned development detail plan fee:

Filing fees	Amount
Less than one acre	$250.00
One acre to 9.99 acres	340.00
Ten acres to 19.99 acres	475.00
20 acres or more	600.00

2. The filing fee for a text amendment shall be $500.00.

3.

Exemption from fee. An application for a zoning classification or text amendment initiated by the city council, planning commission, or planning director of the city shall be without fee.

2.1-2. *Procedure before the planning commission.*

(a) *Public hearing and notification.* The planning commission shall hold a public hearing on all proposed zoning changes and text amendments. Written notices of all such public hearings shall be sent by the planning director to all owners of real property living within 200 feet of the property on which the change is proposed. Such notices shall be given not less than ten days before the day set for hearing to all such owners who have rendered their said property for city taxes as the ownership appears on the last approved city tax roll. Such notice may be served by depositing the same properly addressed and first class postage paid in the city post office. If the property lying within 200 feet of the property proposed for a zoning change is located in territory which was annexed to the city and is not included on the most recently approved city tax roll notice to such owners shall be given by publication once in a newspaper of general circulation in the city at least 15 days prior to the hearing. Notice shall state the time and place of such hearing. In addition to the written and published notification, a zoning pending change sign shall be placed adjacent to each public street or right-of-way abutting the subject property or if the property does not front a public street or right-of-way, adjacent to the closest public street or right-of-way, located in the middle of the frontage, and within three feet of the curb or pavement, or as prescribed by the planning department at the time of application. One sign shall be required for the first 100 feet of frontage of the tract, and, thereafter, one additional sign for every 200 feet of frontage, or fraction thereof, except that not more than three signs shall be required on each roadway frontage. If the tract has less than 200 feet of frontage per roadway, then only one sign is required per road. All signs shall be clearly visible to the public from the adjacent public streets. The applicant shall post the sign(s) at least 15 days prior to the planning commission's meeting and maintain said sign(s) in good condition and in place until final action by city council. If the sign(s) is not posted 15 days prior to the planning commission hearing, the applicant's case shall be withdrawn and rescheduled. In the event that a sign(s) is removed from the property or damaged, the applicant shall be responsible for purchasing a replacement sign(s) and installing it immediately. The sign(s) shall be furnished by the city and a fee of $15.00 per sign shall be charged the applicant.

(b) *Planning commission recommendation.* After such public hearing the planning commission may, within its discretion, make one of the following recommendations in connection with each proposed change in zoning classification:

(1) Recommend against the change in zoning or text amendment.

(2) Recommend for the change in zoning or text amendment.

(3) Recommend the change in zoning for such area together with any other recommendations which, within the discretion of the planning commission, will protect adjacent property and secure substantially the purpose and intent of this chapter; or for text amendments, recommend different text amendments than submitted by the applicant.

2.1-3. *Procedure before city council.*

(a) *Public hearing and notification.* A public hearing shall be held by the city council before adopting any proposed amendment, supplement or change, at which parties in interest and citizens shall have an opportunity to be heard. Before the 15th day before the date of the hearing, notice of the time and place of the hearing must be published in an official newspaper of general circulation in the municipality. When the planning commission has recommended zoning, a change in zoning, or a special use permit, together with recommendations as to requirements as provided herein, the city council shall be at liberty to either accept, reject, or make other or additional requirements. Such requirements shall become a part of the ordinance changing the zoning classification of such property, and such requirements shall be considered as an amendment to the zoning ordinance as applicable to such property. Such requirements shall not be considered conditions precedent to the granting of the change in zoning. Such requirements shall be complied with before a certificate of occupancy may be issued by the building official for the use or occupancy of the building, land or structure on such property.

(b) *Protests.* In accordance with the provisions of V.T.C.A., Local Government Code § 211.006 (commonly referred to as the "20 percent rule") if a protest against such proposed zoning or zoning change has been filed with the planning department, duly signed and acknowledged by the owners of 20 percent or more, either of the area of the land included in such a proposed change or those owners of property immediately adjacent to the subject property and extending 200 feet from, such zoning change shall not become effective except by a three-fourths vote of all the members of the city council. In computing the percentage of land area, the area of streets and alleys shall be included.

2.1-4. *Zoning upon annexation—Timing and effect of zoning after annexation.*

(a)

Zoning newly annexed territory. As soon as practical following annexation, but no more than 90 calendar days thereafter, the planning director shall, on the director's own application or upon application by property owners of the annexed area, initiate proceedings to establish appropriate zoning on the newly annexed territory. The planning director shall commence public notification and other standard procedures for zoning amendments as set forth in this chapter. The proceedings to establish zoning may be undertaken concurrently with annexation procedures (i.e., notices and public hearings). The zoning approval and formal adoption of the chapter establishing zoning must occur, however, after the annexation takes effect, and as a separate and distinct action by the city council.

(b) *Compliance with agricultural/pre-development (APD) standards and uses.* From the time an annexation takes effect until action is completed to zone the land, no plat shall be approved for a lot size or dimension that is inconsistent with the minimum standards for the agricultural/pre-development (APD) district unless the land is subject to an approved subdivision master plan. Nor shall any building permit be issued for any use other than a use allowed in the APD district except where a plat for one- or two-family development has been approved or construction of a building has begun. Except as herein provided, and unless vested in accordance with V.T.C.A., Local Government Code ch. 245 or unless otherwise approved as part of a development agreement, all zoning and development regulations of the APD zoning district shall be adhered to with respect to development and use of the land that has been newly annexed during such period between annexation and the establishment of a zoning district.

(c) *Public hearing and notification requirements.* The initial zoning of a land parcel, whether by initiation of the landowner or by initiation of the city, must meet the requirements for notification and public hearings as set forth in this chapter (see sections 144-2.1-2 and 144-2.1-3) and all applicable state laws. Notice shall be made to land within 200 feet that may be in the ETJ.

(d) *Simultaneous submission of annexation and zoning.* The owner of land to be annexed may submit an application for zoning the property simultaneously with submission of a petition for annexation, but an annexation petition may not be conditioned upon the approval of any particular zoning classification, and the land may not be zoned until annexation is complete.

2.1-5. *Reapplication of zoning, rezoning, special use permit or planned development district detail plan requests.*

(a) No application for the zoning, rezoning, special use permit, or planned development district detail plan of any land situated in the city shall be received or filed with the city and consideration thereof if, within 180 calendar days prior thereto, an application for substantially the same zoning, rezoning, special use permit, or planned development district detail plan as determined by the planning director, was received, and a final hearing was held on such before the planning commission. However, if new, relevant and substantial evidence, which could not have been secured at the time set for the original hearing, shall be produced by the applicant, the planning commission shall then have the right to waive such 180 calendar days provision and proceed to hear and consider such application.

(b) No application for the zoning, rezoning, special use permit, or planned development district detail plan of any land situated in the city shall be received or filed with the planning commission and no consideration held thereon if within one year prior thereto the city council, after consideration and hearing, has denied an application on that land for substantially the same change as is applied for, as determined by the planning director.

(c) If an application for zoning, rezoning, special use permit, or planned development district detail plan is withdrawn before the planning commission holds a public hearing on it, reapplication may be made at any time.

(Ord. No. 2012-49, § 1(Exh. A), 9-10-12)

Sec. 144-2.2. - Zoning board of adjustment (ZBA).

2.2-1. *Power and duty.* The zoning board of adjustment (ZBA) may, in appropriate cases and subject to appropriate conditions and safeguards, make special exceptions and variances to the terms of this chapter, and decide appeals from decisions of administrative officials, in harmony with its general purpose and intent and in accordance with general or specific rules herein contained.

2.2-2. *ZBA procedures.* The ZBA shall operate in accordance with V.T.C.A., Local Government Code §§ 211.008—211.011 and shall adopt rules in accordance with the provisions of this chapter. Meetings of the ZBA shall be held at the call of the chairman and at such times as the ZBA may determine. Such chairman, or in his absence the acting chairman, may administer oaths and compel the attendance of witnesses. All meetings of the ZBA shall be open to the public. The ZBA shall keep minutes of its proceedings, showing the vote of each member upon each question or, if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the ZBA and shall be a public record. The concurring vote of four members (or 75 percent) of the ZBA shall be necessary to reverse any order, requirement, decision, or determination of any such administrative official, or to

decide in favor of the applicant on any matter upon which it is required to pass under this chapter, or to effect any variation in this chapter.

2.2-3. *Variances.*

(a) *Authority.* The ZBA may authorize a variance from these regulations only upon finding:

(1) That there are special circumstances or conditions affecting the land involved such that the strict application of the provisions of this chapter would deprive the applicant of the reasonable use of land;

(2) That the variance is necessary for the preservation and enjoyment of a substantial property right of the applicant;

(3) That the granting of the variance will not be detrimental to the public health, safety or welfare, or injurious to other property within the area;

(4) That the granting of the variance will not have the effect of preventing the orderly use of other land within the area in accordance with the provisions of this chapter;

(5) That an undue hardship exists; and

(6) That the granting of a variance will be in harmony with the spirit and purpose of these regulations.

A variance shall not be granted to relieve a self-created or personal hardship, nor shall it be based solely upon economic gain or loss, nor shall it permit any person the privilege in developing a parcel of land not permitted by this chapter to other parcels of land in the particular zoning district. No variance may be granted which results in undue hardship upon another parcel of land.

(b) *Procedures for variance.*

(1) Application for variance shall be made by the owner of real property (or authorized agent) to the planning department on forms provided by the planning department.

(2) Fee and sign. The fee for variances shall be $200.00 plus $50.00 for each standard of the Code a variance is sought, plus $15.00 per sign. (See section 144-2.2-5.)

(3) No variance shall be granted without first having given public notice and having held a public hearing on the variance request in accordance with section 144-2.2-5. The deliberations and determinations of the ZBA, together with the specific facts upon which such determinations are based, shall be incorporated into the official minutes of the ZBA meeting at which the variance application is decided.

2.2-4. *Special exceptions.*

(a) *Authority and procedures.* The ZBA may grant the following special exceptions to these regulations, upon written request of the property owner, subject to the standards applicable to each exception hereinafter set forth. An application for a special exception shall be decided in accordance with the procedures applicable to a variance, as set forth in section 144-2.2-5.

(b) *Off-site parking.* The ZBA may grant a special exception to requiring that all required parking must be on the same lot or parcel as the structures they are intended to serve if it finds all of the following:

(1) The applicant has submitted an access plan which shows that the off-site parking spaces area is reasonably and safely accessible by the public by foot;

(2) The nearest edge of the first parking space of the off-site parking area is no further than 400 feet from the lot or parcel of the premise using the off-site parking;

(3) The off-site parking spaces are not shared with any other off-premise use and are not required parking for any other premise;

(4) The off-site parking spaces shall be paved and striped to city code prior to a certificate of occupancy being granted to the premise using the off-site parking, unless a variance is granted by the ZBA;

(5) An off-site parking agreement between the off-site parking property owner and the property owner of the premise using the off-site parking, on a form approved by the city attorney, is approved by the board. The term of the agreement shall be no less than ten years. The agreement shall bind future owners or assigns. The agreement shall state that, if for any reason the agreement is not followed, the owner of the premise using the off-site parking shall acknowledge that the premise is in violation of this chapter and that the certificate of occupancy may be voided by the city. The agreement shall state that it cannot be done away with unless by written agreement from the city, is replaced with on-site parking to code, or is replaced with another off-site parking agreement.

If the ZBA approves the off-site parking agreement, the city shall cause such agreement to be recorded in the appropriate county deed records.

If any of the above conditions or other conditions of the special exception approved by the ZBA are not followed, the special exception shall become void; and

(6) Directional signage shall be provided as follows:

(a)

At the entrance to the off-site parking. There shall be no more than one such directional sign, it shall be no larger than four square feet per face, and state parking for the establishment using the off-site parking.

(b) In the on-site parking area of the establishment using the off-site parking, stating and/or showing where the off-site parking is located. There shall be no more than one such sign that shall be no larger than four square feet per face.

(c) *Nonconforming uses and structures.* The ZBA may grant special exceptions to the provisions of this chapter pertaining to non-conforming status, limited to the following, and in accordance with the following standards. In granting special exceptions under this subsection, the ZBA may impose such conditions as are necessary to protect adjacent property owners and to ensure the public health, safety and general 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 this chapter.

(1) Expansion of the land area of a nonconforming use, up to a maximum of 30 percent;

(2) Expansion of the gross floor area of a nonconforming structure, up to a maximum of 30 percent, provided that such expansion does not decrease any existing setback and does not encroach onto adjacent property, and such expansion will bring the structure closer into compliance with this chapter, or if it will otherwise improve or enhance public health, safety or welfare; or

(3) Change from one nonconforming use to another, re-construction of a nonconforming structure that has been totally destroyed, or resumption of a nonconforming use previously abandoned, only upon finding that the failure to grant the special exception deprives the property owner of substantially all use or economic value of the land.

(4) Reconstruction and occupancy of a nonconforming structure, or a structure containing a nonconforming use and/or the restoration of a building site that is nonconforming as to development standards (including, but not limited to, parking arrangement, landscaping, etc.), when a structure has been damaged by fire, flood or other calamity to the extent of more than 75 percent of the replacement cost of the building or structure at the time such damage. Such action by the ZBA shall have due regard for the property rights of the person or persons affected, and shall be considered in regard to the public welfare, character of the area surrounding such structure, and the conservation, preservation and protection of property.

(d) *Semipublic parking areas in residential districts.* To permit in residential districts semipublic parking areas for occupants of apartment houses, multiple dwellings, hotels, apartment hotels, fraternity or sorority houses, lodging houses, members of clubs, and visitors to or patrons of hospitals, institutions, or places of public assembly, provided that such parking areas are located not more than 400 feet therefrom, and provided that such parking areas be improved as required in this chapter.

2.2-5. *Variance and special exception notice.*

(a) *Notice and public hearing.* The ZBA shall hold a public hearing for consideration of the variance or special exception request no later than 45 calendar days after the date the application for action is filed. Written notice of the public hearing for a variance or special exception shall be provided to all property owners, via U.S. mail, within 200 feet of the affected property at least ten calendar days prior to the public hearing. The applicant may appear at the hearing in person or by agent or attorney.

(b) *Sign.* In addition to the mailed notification, a variance or special exception sign shall be placed adjacent to each public street or right-of-way, abutting the subject property, or if the property does not front a public street or right -of-way, to the closest public street or right-of-way, located in the middle of the frontage, and within three feet of the curb or the pavement, or as prescribed by the planning department at the time of application. One sign shall be required for the first 100 feet of frontage of the tract, and, thereafter, one additional sign for every 200 feet of frontage, or fraction thereof, except that no more than three signs shall be required on each roadway frontage. If the tract has less than 200 feet of frontage per roadway, then only one sign is required per road. All signs shall be clearly visible to the public from the adjacent public streets. The applicant shall post the sign(s) at least 15 days prior to the ZBA meeting and maintain said sign(s) in good condition and in place until final action. If the sign(s) is not posted 15 days prior to the ZBA meeting, the applicant's case shall be withdrawn and rescheduled. In the event that a sign(s) is removed from the property or damaged, the applicant shall be responsible for purchasing a replacement sign(s) and installing it immediately. The sign(s) shall be furnished by the city and fee of $15.00 per sign shall be charged the applicant.

2.2-6. *Appeals.* Appeals to the ZBA may be taken by any person aggrieved, or by any officer, department, board or bureau of the city affected by any decision of the building official or other administrative officer concerning the interpretation or implementation of this chapter.

(a) *Stays of proceedings.* An appeal stays all proceedings in furtherance of the action appealed from, unless the officer from whom the appeal is taken certifies to the ZBA, after the notice of appeal shall have been filed with

him, that by reason of facts stated in the certificate a stay would, in his opinion, cause imminent peril to life or property. In such case proceedings shall not be stayed otherwise than by a restraining order which may be granted by the board or by a court of record on application on notice to the officer from whom the appeal is taken and due cause shown.

(b) *Procedure for appeal.* The appellant must file with the planning department a written notice of appeal specifying the grounds for the appeal and pay a fee of $250.00. The notice of appeal shall be filed within 45 calendar days after the decision has been rendered. Upon receiving the notice, the official from whom the appeal is taken shall immediately transmit to the ZBA all papers constituting the record of action that is appealed. The chair of the ZBA or any two members may call a special meeting to consider appeals.

(c) *Action by the ZBA.* The ZBA shall decide the appeal within 30 calendar days after the written request (i.e., notice of appeal) was received. The ZBA may reverse or affirm, in whole or in part, or modify the administrative official's order, requirement, decision or determination from which an appeal is taken, and may make the correct order, requirement, decision or determination, and for that purpose the ZBA has the same authority as the administrative official.

2.2-7. *Burden of proof.* The applicant bears the burden of proof in establishing the facts that may justify a variance, a special exception, an appeal, or any other action in his/her favor by the ZBA.

2.2-8. *Waiting period.* No application to the ZBA for the same or a related variance, or special exception, or appeal on the same piece of property shall be allowed for a waiting period of 180 calendar days following denial of an application by the ZBA unless other property in the immediate vicinity has, within the 180-day waiting period, been changed or acted upon by the ZBA or the city council so as to alter the facts and conditions upon which the previous denial was based. Such changes of circumstances shall permit the re-hearing of a variance, or special exception, or appeal request by the ZBA, but such circumstances shall in no way have any force in law to compel the ZBA, after a hearing on the matter, to grant a subsequent variance, or special exception or appeal request. Any subsequent variance, or special exception or appeal request shall be considered entirely on its own merits and on the specific circumstances related to the subject property.

2.2-9. *Petition to a court of record.* Any person or persons jointly or severally aggrieved by any decision of the ZBA, or any taxpayer, or any officer, department, board, or bureau of the municipality, may present to a court of record a petition, duly verified, setting forth that such decision is unlawful, in whole or in part, specifying the unlawful grounds. Such petition shall be presented to the court within ten days after the filing of the decision in the office of the ZBA.

(a) *Writ of certiorari.* Upon the presentation of such petition the court may allow a writ of certiorari directed to the ZBA to review such decision of the ZBA and shall prescribe therein the time within which a return thereto must be made and served upon the petitioner's attorney, which shall not be less than ten days and may be extended by the court. The allowance of the writ shall not stay proceedings upon the decision appealed from but the court may, on application, on notice to the board and on due cause shown, grant a restraining order.

(b) *Certified or sworn copies.* The ZBA shall not be required to return the original papers acted upon by it, but it shall be sufficient to return certified or sworn copies thereof or of such portions thereof as may be called for by such writ. The return shall concisely set forth such other facts as may be pertinent and material to show the grounds of the decision appealed from and shall be verified.

(c) *Testimony.* If, upon the hearing, it shall appear to the court that testimony is necessary for the proper disposition of the matter, it may take evidence or appoint a referee to take such evidence as it may direct and report the same to the court with his findings of fact and conclusions of law, which shall constitute a part of the proceedings upon which the determination of the court shall be made. The court may reverse or affirm, wholly or partly, or may modify, the decision brought up for review.

(d) *Costs.* Costs shall not be allowed against the ZBA unless it shall appear to the court that it acted with gross negligence, or in bad faith, or with malice in making the decision appealed from.

(e) *Preference.* All issues in any proceedings under this section shall have preference over all other civil actions and proceedings.

(Ord No. 2012-49, § 1(Exh. A), 9-10-12)

Sec. 144-2.3. - Nonconforming uses and structures.

The lawful use of any building, structure or land existing at the time of the enactment of this chapter may be continued although such use does not conform with the provisions of this chapter. The right to continue such nonconforming uses shall be subject to regulations prohibiting the creation of a nuisance and shall terminate when inappropriate use of the premises produces a condition which constitutes a nuisance. The right of nonconforming uses to continue shall be subject to such regulations as to the maintenance of the premises and conditions of operations and shall be subject to the specific regulations herein contained.

(a) *Nonconforming buildings.*

(1) A nonconforming building or structure may be occupied except as herein otherwise provided.

(2) Repairs and alterations may be made to a nonconforming building or structure, provided that no structural alteration shall be made except those required by law or this chapter, and further provided these regulations shall never be construed to allow an addition to a nonconforming building.

(3) A nonconforming building or structure shall not be added to or enlarged in any manner unless such addition and enlargements are made to conform to all the requirements of the district in which such building or structure is located.

(4) No nonconforming building or structure shall be moved in whole or in part to any other location on the lot, or on any other lot, unless every portion of such building or structure is made to conform to all the regulations of the district.

(5) A nonconforming building or structure which is damaged or partially destroyed by fire, flood, wind, explosion, earthquake, or other calamity or act of God shall not be again restored or used for such purpose if the expense of such restoration exceeds 75 percent of the replacement cost of the building or structure at the time such damage occurred. Any nonconforming building or structure partially destroyed may be restored provided restoration is started within 12 months of the date of partial destruction and is diligently prosecuted to completion. Whenever a nonconforming building or structure is damaged in excess of 75 percent of its replacement cost at that time, the repair or reconstruction of such building or structure shall conform to all the regulations of the district in which it is located, and it shall be treated as a new building.

(b) *Nonconforming uses of buildings.*

(1) Except as otherwise provided in this chapter, the nonconforming use of the building or structure lawfully existing at the time of the effective date of this chapter may be continued.

(2) The use of a nonconforming building or structure may be changed to a use of the same or more restricted classification, but where the use of a nonconforming building or structure is hereafter changed to a use of a more restricted classification, it shall not thereafter be changed to a use of less restricted classification.

(3) A vacant, nonconforming building or structure lawfully constructed may be occupied by use for which the building or structure was designated or intended, if so occupied within a period of one year after the effective date of this chapter, and the use of a nonconforming building or structure lawfully constructed which becomes vacant after the effective date of this chapter may also be occupied by the use for which the building or structure was designated or intended, if so occupied within a period of one year after the building becomes vacant.

(c) *Nonconforming use of land.* Continuation of use. The nonconforming use of land existing at the time of the effective date of this chapter may be continued, provided that no such nonconforming use of land shall in any way be expanded or extended either on the same or adjoining property, and provided that if such nonconforming use of land or any portion thereof is discontinued or changed, any future use of land or portion thereof shall be in conformity with the provisions of this chapter.

(d) *Abandonment.* A nonconforming use of any building, structure or land which has been abandoned shall not thereafter be returned to such nonconforming use. A nonconforming use shall be considered abandoned:

(1) When the intention of the owner to discontinue the use is apparent;

(2) When the characteristic equipment and furnishings of the nonconforming use have been removed from the premises and have not been replaced by similar equipment within one year;

(3) When a nonconforming building, structure or land or portion thereof which is or hereafter becomes vacant and remains unoccupied or out of use for a continuous period of one year; or

(4) When it has been replaced by a conforming use.

(Ord. No. 2012-49, § 1(Exh. A), 9-10-12)

Sec. 144-2.4. - Enforcement and administration.

2.4-1. *Planning director.* Except as otherwise provided in this chapter, the planning director or designee shall administer and enforce this chapter, including the receiving of applications, the inspection of premises and the issuing of building permits and certificates of occupancy. No building permit or certificate of occupancy shall be issued except if the provisions of this chapter have been complied with.

2.4-2. *Building permit.* No person shall erect or construct or proceed with the erection or construction of any building or structure, nor add to, enlarge, move, improve, alter, repair, convert, extend or demolish any building or structure or cause the same to be done in any zoned district in the city without first applying for and obtaining a building permit therefore from the building official. All applications for such permits shall be in accordance with the requirements of this chapter and the building code for the city unless upon written order of the ZBA. No such building permit or certificate of occupancy shall be issued for

any building where such construction, addition, alteration or use thereof would be in violation of any of the provisions of this chapter.

2.4-3. *Powers and duties of the building official.*

(a) *Cessation and revocation.* Whenever any building work is being done contrary to the provisions of this chapter, the building official may order the work stopped and also revoke the building permit theretofore issued by notice in writing served on any person owning such property or their agent or on any person engaged in the doing or causing of such work to be done. Such person shall forthwith stop and cause to be stopped such work until authorized by the building official to recommence and proceed with the work or upon issuance of a building permit in those cases in which the building permit has been revoked. Such stop work order and revocation of permit shall be posted on work being done in violation of this chapter.

(b) *Discontinuing a use or occupancy.* Whenever any building or portion thereof is being used or occupied contrary to the provisions of this chapter, the building official, code enforcement officer, or the planning director or designee may order such use or occupancy discontinued and the building or portion thereof vacated by notice served on any person using or causing such use or occupancy to be continued. Such person shall vacate such building or portion thereof within ten days after receipt of such notice, or make the building or portion thereof comply with the requirements of this chapter.

2.4-4. *Certificate of occupancy.*

(a) *Compliance.* No vacant land shall be occupied or used except for agricultural purposes unless otherwise authorized by this chapter. No building hereafter erected or structurally altered shall be used or occupied until a certificate of occupancy shall have been issued by the building official stating that the building or proposed use thereof complies with the provisions of this chapter and all other existing building and sanitation ordinances.

(b) *Nonconforming use.* No nonconforming use shall be maintained, renewed, changed or extended without a certificate of occupancy having first been issued by the building official.

(c) *Application in writing.* Application for a certificate of occupancy shall be made in writing coincident with the application for a building permit, or may be directly applied for where no building permit is necessary and shall be issued or refused in writing within five days after the building official has been notified that the building or premises is ready for occupancy.

(d) *Record.* The building official shall maintain a record of all certificates and copies shall be furnished upon request to any person having a proprietary or tenancy interest in the building affected.

(e) *Connections.* No permanent water, sewer, electrical or gas utility connections shall be made to the land, building, or structure until and after a certificate of occupancy has been issued by the building official.

(f) *Temporary certificate of occupancy.* Upon request of the owner or authorized representative, the building official may issue a temporary certificate of occupancy for the temporary use and occupancy of all of a building or a portion of a building prior to the completion and occupancy of the building, provided such temporary occupancy or use will not in any way or manner jeopardize life or property. Such temporary certificate may be issued for a period not exceeding six months. Such temporary certificate shall not be construed as in any way altering the respective rights, duties or obligations of the owners relating to the use or occupancy of the premises, or in any other matter covered by this chapter, and such temporary certificate shall not be issued except under such restrictions and provisions.

(Ord. No. 2012-49, § 1(Exh. A), 9-10-12)

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ARTICLE III. - ZONING DISTRICTS

Sec. 144-3.1. - Creation of districts.
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Sec. 144-3.7. - Overlay zoning districts.
Sec. 144-3.8. - Special districts.

Sec. 144-3.1. - Creation of districts.

3.1-1. *Zoning districts created prior to June 22, 1987.* For the purpose of regulating and restricting the use of land and the erection, construction, and alteration of buildings or structures, the city is hereby divided into 12 districts as follows:

(a) "R-1" single-family district.
(b) "R-2" single-family and two-family district.
(c) "R-3" multifamily district.
(d) "B-1" conventional and mobile home district.
(e) "TH" townhouse district.
(f) "ZH" zero lot line home district.
(g) "C-1" local business district.
(h) "C-2" general business district.
(i) "C-3" commercial district.
(j) "C-4" resort commercial district.
(k) "M-1" light industrial district.
(l) "M-2" heavy industrial district.

3.1-2. *Zoning districts created subsequent to June 22, 1987.* For the purpose of regulating and restricting the use of land and the erection, construction, alteration of and use of buildings or structures, the following additional zoning districts are hereby created subsequent to June 22, 1987:

(a) "APD" agricultural/pre-development district.
(b) "R-1A-43.5" single-family district.
(c) "R-1A-12" single-family district.
(d) "R-1A-8" single-family district.
(e) "R-1A-6.6" single-family district.
(f) "R-2A" single-family and two-family district.
(g) "R-3L" multifamily low density district.
(h) "R-3H" multifamily high density district.
(i) "B-1A" conventional and mobile home district.
(j) "B-1B" mobile home park district.
(k) "TH-A" townhouse residential district.
(l) "ZH-A" zero lot line home district.
(m) "MU-A" low intensity mixed use district.
(n) "MU-B" high intensity mixed use district.
(o) "C-1A" neighborhood business district.
(p) "C-1B" general business district.
(q) "C-2A" central business district.
(r) "C-4A" resort commercial district.
(s) "C-4B" resort facilities district.
(t) "C-O" commercial office district.
(u) "M-1A" light industrial district.
(v) "M-2A" heavy industrial district.
(w) "SD" Special districts and planned development districts as defined by ordinance.

All applications for the rezoning of property shall be to one of the zoning districts created subsequent to June 22, 1987, with the exception of "C-4B resort facilities district."

(Ord. No. 2012-49, § 1(Exh. A), 9-10-12)

Sec. 144-3.2. - Regulations for all districts.

Except as provided in sections 144-2.2 and 144-2.3, the following shall apply:

3.2-1. *Use.* No building or structure shall be erected, constructed, reconstructed or altered, nor shall any building, structure or land be used for any purpose other than is permitted in the district in which such building, structure or land is situated.

3.2-2. *Height.* No building or structure shall be erected, constructed, reconstructed or altered to exceed the height limit herein established for the district in which such building or structure is located.

3.2-3. *Area.* No lot area shall be reduced or diminished so that the building setbacks or other open spaces shall be less than prescribed by this chapter, nor shall the density of dwelling units be increased in any manner, except in conformity with the area regulations established herein. No parking area, parking space, or loading space which existed at the time this chapter became effective and as amended thereafter shall thereafter be relinquished or reduced in any manner below the requirements established by this chapter. Every building hereafter erected shall be located on a lot as herein described. Buildings shall not cross lot lines.

3.2-4. *Number of buildings on a lot or parcel.* More than one main building is allowed on a lot or parcel in duplex, multifamily, commercial, industrial, mixed use, resort commercial and commercial office districts. See section 144-5.4 for accessory building standards.

(Ord. No. 2012-49, § 1(Exh. A), 9-10-12)

Sec. 144-3.3. - Zoning districts and regulations for property zoned prior to June 22, 1987.

3.3-1. *"R-1" single-family district.* The following regulations shall apply in all "R-1" districts:

(a) *Authorized uses.* Uses permitted by right shall be those set forth in the land use matrix in section 144-4.2. The allowed uses in the district, which are intended to be identical with those listed in the land use matrix, are as follows:

(1) *Uses permitted by right.*

Residential uses:

Accessory building/structure.

Accessory dwelling (one accessory dwelling per lot, no kitchen).

Community home (see definition).

Family home adult care.

Family home child care.

Home occupation (see section 144-5.5).

One-family dwelling, detached.

Single-family industrialized home (see section 144-5.8).

Non-residential uses:

Barns and farm equipment storage (related to agricultural uses).

Cemetery and/or mausoleum.

Church/place of religious assembly.

Community building (associated with residential uses).

Contractor's temporary on-site construction office (only with permit from building official; see section 144-5.10).

Country club (private).

Farms, general (crops) (see chapter 6 and section 144-5.9).

Farms, general (livestock/ranch) (see chapter 6 and section 144-5.9).

Golf course, public and private.

Governmental building or use with no outside storage.

Park and/or playground (private and public).

Plant nursery (growing for commercial purposes but no retail sales on site).

Public recreation/services building for public park/playground areas.

Recreation buildings (public).

School, K-12 (public or private).

Stables (as a business) (see chapter 6).

Stables (private, accessory use) (see chapter 6).

Water storage (surface, underground or overhead), water wells and pumping stations that are part of a public or municipal system.

(2) *Conflict.* In the event of conflict between the uses listed in the land use matrix and those listed in subsection (1), the uses listed in this subsection shall be deemed those authorized in the district.

(b) *Maximum height, minimum area and setback requirements.*

(1) *Residential uses.*

(i) *Height.* 35 feet.

(ii) *Front building setback.* 25 feet.

(iii) *Side building setback.* There shall be a side building setback on each side of a building not less than five feet in width. Buildings on corner lots shall have 15-foot side building setbacks adjacent to the street where the rear lot lines of the corner lots coincide with the rear lot lines of the adjacent lots. Buildings on corner lots shall have 25-foot side building setbacks adjacent to the street where the rear lot lines of the corner lots coincide with the side lot lines of the adjacent lots.

(iv) *Garage setback.* Where a driveway is located in front of a garage, the garage shall be set back at least 20 feet from the right-of-way or the driveway to the garage shall be at least 20 feet long to provide enough space for a vehicle to park without overhanging into the right-of-way, if the garage door is closed. (See Illustration 8 in section 144-5.1-1.)

(v) *Rear building setback.* 20 feet.

(vi) *Width of lot.* Interior lots 60 feet. Corner lots 70 feet. Where a lot has less width than herein required, and such lot was in separate ownership prior to September 25, 1967, this requirement will not prohibit the erection of a one-family dwelling.

(vii) *Lot area per family.* Every single-family dwelling hereafter erected or altered shall provide a lot area of not less than 6,600 square feet per dwelling for interior lots, and 7,000 square feet per dwelling for corner lots, provided that where a lot has less area than herein required and such lot was in separate ownership prior to September 25, 1967, this requirement will not prohibit the erection of a one-family dwelling. Where public or community sewer is not available and in use, for the disposal of all sanitary sewage, each lot shall provide not less than one-half acre per single -family residence or one acre on the Edwards Aquifer Recharge Zone.

(viii) *Lot depth.* 100 feet.

(ix) *Parking.* Two off-street parking spaces shall be provided for each one-family detached dwelling. See section 144-5.1 for other permitted uses' parking.

(2) *Non-residential uses.*

(i) *Height.* 35 feet.

(ii) *Front building setback.* 25 feet.

(iii) *Side building setback.* There shall be a side building setback on each side of a building not less than five feet in width. Where any building abuts a property with a one- or two-family use, the setback from the one- or two-family property line shall be at least 20 feet plus one foot for each foot of building height over 20 feet.

(iv) *Corner lots.* Buildings on corner lots shall have 15-foot side building setbacks adjacent to the street where the rear lot lines of the corner lots coincide with the rear lot lines of the adjacent lots. Buildings on corner lots shall have 25-foot side building setbacks adjacent to the street where the rear lines of the corner lots coincide with the side lot lines of the adjacent lots. Where a minimum 25-foot setback is required, a canopy at least eight feet in height, attached to the main building, may be built within 15 feet of the property line so long as such construction will not obstruct the vision of vehicular or pedestrian traffic.

(v) *Garage setback.* Where a driveway is located in front of a garage, the garage shall be setback 20 feet from the right-of-way or the driveway to the garage shall be at least 20 feet long to provide enough space for a vehicle to park without overhanging into the right-of-way, if the garage door is closed. (See Illustration 8 in section 144-5.1-1.)

(vi) *Rear building setback.* 20 feet.

(vii) *Width of lot.* 60 feet.

(viii) *Lot depth.* 100 feet.

(ix) *Parking.* See section 144-5.1 for permitted uses' parking.

3.3-2. *"R-2" single-family and two-family district.* The following regulations shall apply in all "R-2" districts:

(a) *Authorized uses.* Uses permitted by right shall be those set forth in the land use matrix in section 144-4.2. The allowed uses in the district, which are intended to be identical with those listed in the land use matrix, are as follows:

(1) *Uses permitted by right.*

Residential uses:

Accessory dwelling (one accessory dwelling per lot, no kitchen).

Accessory building/structure.

Community home (see definition).

Duplex/two-family/duplex condominium.

Family home adult care.

Family home child care.

Home occupation (see section 144-5.5).

One-family dwelling, detached.

Single-family industrialized home (see section 144-5.8).

Non-residential uses:

Barns and farm equipment storage (related to agricultural uses).

Cemetery and/or mausoleum.

Church/place of religious assembly.

Community building (associated with residential uses).

Contractor's temporary on-site construction office (only with permit from building official; see section 144-5.10).

Country club (private).

Farms, general (crops) (see chapter 6 and section 144-5.9).

Farms, general (livestock/ranch) (see chapter 6 and section 144-5.9).

Golf course, public and private.

Governmental building or use with no outside storage.

Park and/or playground (private and public).

Plant nursery (growing for commercial purposes but no retail sales on site).

Public recreation/services building for public park/playground areas.

Recreation buildings (public).

School, K-12 (public or private).

Water storage (surface, underground or overhead), water wells and pumping stations that are part of a public or municipal system.

(2) *Conflict.* In the event of conflict between the uses listed in the land use matrix and those listed in subsection (1), the uses listed in this subsection shall be deemed those authorized in the district.

(b) *Maximum height, minimum area and setback requirements.*

(1) *One-family dwellings.*

(i) *Height.* 35 feet.

(ii) *Front building setback.* 25 feet.

(iii) *Side building setback.* There shall be a side building setback on each side of a building not less than five feet in width. Buildings on corner lots shall have 15-foot side building setbacks adjacent to the street where the rear lot lines of the corner lots coincide with the rear lot lines of the adjacent lots. Buildings on corner lots shall have 25-foot side building setbacks adjacent to the street where the rear lot lines of the corner lots coincide with the side lot lines of the adjacent lots.

(iv) *Garage setback.* Where a driveway is located in front of a garage, the garage shall be setback 20 feet from the right-of-way or the driveway to the garage shall be at least 20 feet long to provide enough space for a vehicle to park without overhanging into the right-of-way, if the garage door is closed. (See Illustration 8 in section 144-5.1-1.)

(v) *Rear building setback.* 20 feet.

(vi) *Width of lot.* The minimum width of an interior lot shall be 60 feet and the minimum width of a corner lot shall be 70 feet, provided that where a lot has less width than herein required, and such lot was in separate ownership prior to September 25, 1967, this requirement will not prohibit the erection of a one-family dwelling.

(vii) *Lot area per family.* Every single-family dwelling hereafter erected or altered shall have a lot area of not less than 6,600 square feet per family for interior lots, and 7,000 square feet per family for corner lots. Where a lot was legally under separate ownership prior to September 25, 1967, but has an area less than the minimum required in this provision, this regulation shall not prohibit the erection of a one-family residence. Where a public or community sewer is not available and in use for the disposal of all sanitary sewage, each lot shall provide not less than one-half acre or one acre on the Edwards Aquifer Recharge Zone.

(viii) *Lot depth.* 100 feet.

(ix) *Parking.* Two off-street parking spaces shall be provided for each one-family detached dwelling unit. See section 144-5.1 for other permitted uses' parking.

(2) *Duplexes.*

(i) *Height.* 35 feet.

(ii) *Front building setback.* 25 feet.

(iii)

Side building setback. There shall be a side building setback on each side of a building not less than five feet in width. Buildings on corner lots shall have 15-foot side building setbacks adjacent to the street where the rear lot lines of the corner lots coincide with the rear lot lines of the adjacent lots. Buildings on corner lots shall have 25-foot side building setbacks adjacent to the street where the rear lot lines of the corner lots coincide with the side lot lines of the adjacent lots.

(iv) *Garage setback.* Where a driveway is located in front of a garage, the garage shall be setback 20 feet from the right-of-way or the driveway to the garage shall be at least 20 feet long to provide enough space for a vehicle to park without overhanging into the right-of-way, if the garage door is closed. (See Illustration 8 in section 144-5.1-1.)

(v) *Rear building setback.* 20 feet.

(vi) *Width of lot.* The minimum width of an interior lot shall be 60 feet and the minimum width of a corner lot shall be 70 feet.

(vii) *Lot area per family.* Duplexes hereafter erected or altered shall have a lot area of not less than 8,000 square feet for an interior lot and 8,500 square feet for a corner lot. Where a lot was legally under separate ownership prior to September 25, 1967, but has an area less than the minimum required in this provision, this regulation shall prohibit the erection of a two-family residence. Where a public or community sewer is not available and in use for the disposal of all sanitary sewage, each lot shall provide not less than one acre and approved by the city sanitarian.

(viii) *Lot depth.* 100 feet.

(ix) *Parking.* Two off-street parking spaces shall be provided for each two-family dwelling unit. See section 144-5.1 for other permitted uses' parking.

(3) *Non-residential uses.*

(i) *Height.* 35 feet.

(ii) *Front building setback.* 25 feet.

(iii) *Side building setback.* There shall be a side building setback on each side of a building not less than five feet in width. Where any building abuts a property with a one- or two-family use, the setback from the one- or two-family property line shall be at least 20 feet plus one foot for each foot of building height over 20 feet.

(iv) *Corner lots.* Buildings on corner lots shall have 15-foot side building setbacks adjacent to the street where the rear lot lines of the corner lots coincide with the rear lot lines of the adjacent lots. Buildings on corner lots shall have 25-foot side building setbacks adjacent to the street where the rear lines of the corner lots coincide with the side lot lines of the adjacent lots. Where a minimum 25-foot setback is required, a canopy at least eight feet in height, attached to the main building, may be built within 15 feet of the property line so long as such construction will not obstruct the vision of vehicular or pedestrian traffic.

(v) *Garage setback.* Where a driveway is located in front of a garage, the garage shall be setback 20 feet from the right-of-way or the driveway to the garage shall be at least 20 feet long to provide enough space for a vehicle to park without overhanging into the right-of-way, if the garage door is closed. (See Illustration 8 in section 144-5.1-1.)

(vi) *Rear building setback.* 20 feet.

(vii) *Width of lot.* 60 feet.

(viii) *Lot depth.* 100 feet.

(ix) *Parking.* See section 144-5.1 for permitted uses' parking.

3.3-3. *"R-3" multifamily district.* The following regulations shall apply in all "R-3" districts:

(a) *Authorized uses.* Uses permitted by right shall be those set forth in the land use matrix in section 144-4.2. The allowed uses in the district, which are intended to be identical with those listed in the land use matrix, are as follows:

(1) *Uses permitted by right.*

Residential uses:

Accessory building/structure.

Accessory dwelling (one accessory dwelling per lot, no kitchen).

Boardinghouse/lodging house.

Community home (see definition).

Duplex/two-family/duplex condominiums.

Family home adult care.

Family home child care.

Home occupation (see section 144-5.5).

Hospice.

Multi-family (apartments/condominiums).

One-family dwelling, detached.

Rental or occupancy for less than one month (see section 144-5.17).

Single-family or two-family industrialized home (see section 144-5.8).

Non-residential uses:

Adult daycare (with overnight stay).

Assisted living facility/retirement home.

Barns and farm equipment storage (related to agricultural uses).

Cemetery and/or mausoleum.

Church/place of religious assembly.

Community building (associated with residential uses).

Contractor's temporary on-site construction office (only with permit from building official; see section 144-5.10).

Country club (private).

Electrical substation.

Farms, general (crops) (see chapter 6 and section 144-5.9).

Farms, general (livestock/ranch) (see chapter 6 and section 144-5.9).

Fraternal organization/civic club (private club).

Golf course, public or private.

Governmental building or use with no outside storage.

Museum.

Nursing/convalescent home/sanitarium.

Park and/or playground (public or private).

Plant nursery (growing for commercial purposes but no retail sales on site).

Public recreation/services building for public park/playground areas.

Recreation buildings (private or public).

Retirement home/home for the aged—Public.

School, K-12 (public or private).

Telephone exchange buildings (office only).

University or college (public or private).

Water storage (surface, underground or overhead), water wells and pumping stations that are part of a public or municipal system.

(2) *Conflict.* In the event of conflict between the uses listed in the land use matrix and those listed in subsection (1), the uses listed in this subsection shall be deemed those authorized in the district.

(b) *Maximum height, minimum area and setback requirements.*

(1) *One-family dwellings.*

(i) *Height.* 35 feet.

(ii) *Front building setback.* 25 feet.

(iii) *Side building setback.* There shall be a side building setback on each side of a building not less than five feet in width. Buildings on corner lots shall have 15-foot side building setbacks adjacent to the street where the rear lot lines of the corner lots coincide with the rear lot lines of the adjacent lots. Buildings on corner lots shall have 25-foot side building setbacks adjacent to the street where the rear lot lines of the corner lots coincide with the side lot lines of the adjacent lots.

(iv) *Garage setback.* Where a driveway is located in front of a garage, the garage shall be setback 20 feet from the right-of-way or the driveway to the garage shall be at least 20 feet long to provide enough space for a vehicle to park without overhanging into the right-of-way, if the garage door is closed. (See Illustration 8 in section 144-5.1-1.)

(v) *Rear building setback.* 20 feet.

(vi) *Width of lot.* Interior lots 60 feet. Corner lots 70 feet. Where a lot has less width than herein required, and such lot was in separate ownership prior to September 25, 1967, this requirement will not prohibit the erection of a one-family dwelling.

(vii) *Lot area per family.* Every single-family dwelling hereafter erected or altered shall provide a lot area of not less than 6,600 square feet per dwelling for interior lots, and 7,000 square feet per

dwelling for corner lots, provided that where a lot has less area than herein required and such lot was in separate ownership prior to September 25, 1967, this requirement will not prohibit the erection of a one-family dwelling. Where public or community sewer is not available and in use, for the disposal of all sanitary sewage, each lot shall provide not less than one-half acre and one acre on the Edwards Aquifer Recharge Zone.

(viii) *Lot depth.* 100 feet.

(ix) *Parking.* Two off-street parking spaces shall be provided for each one-family detached dwelling. See section 144-5.1 for other permitted uses' parking.

(2) *Duplexes.*

(i) *Height.* 35 feet.

(ii) *Front building setback.* 25 feet.

(iii) *Side building setback.* There shall be a side building setback on each side of a building not less than five feet in width. Buildings on corner lots shall have 15-foot side building setbacks adjacent to the street where the rear lot lines of the corner lots coincide with the rear lot lines of the adjacent lots. Buildings on corner lots shall have 25-foot side building setbacks adjacent to the street where the rear lot lines of the corner lots coincide with the side lot lines of the adjacent lots.

(iv) *Garage setback.* Where a driveway is located in front of a garage, the garage shall be setback 20 feet from the right-of-way or the driveway to the garage shall be at least 20 feet long to provide enough space for a vehicle to park without overhanging into the right-of-way, if the garage door is closed. (See Illustration 8 in section 144-5.1-1.)

(v) *Rear building setback.* 20 feet.

(vi) *Width of lot.* The minimum width of an interior lot shall be 60 feet and the minimum width of a corner lot shall be 70 feet, provided that where a lot has less width than herein required, and such lot was in separate ownership prior to September 25, 1967, this requirement will not prohibit the erection of a one-family dwelling.

(vii) *Lot area per family.* Duplexes hereafter erected or altered shall have a lot area of not less than 8,000 square feet for an interior lot and 8,500 square feet for a corner lot. Where a lot was legally under separate ownership prior to September 25, 1967, but has an area less than the minimum required in this provision, this regulation shall not prohibit the erection of a one-family residence, but shall prohibit the erection of a two-family residence. Where a public or community sewer is not available and in use for the disposal of all sanitary sewage, each lot shall provide not less than one acre and approved by the city sanitarian.

(viii) *Lot depth.* 100 feet.

(ix) *Parking.* Two off-street parking spaces shall be provided for each two-family dwelling unit. See section 144-5.1 for other permitted uses' parking.

(3) *Multifamily dwellings.*

(i) *Height.* 45 feet, 60 feet when a pitched roof is used (minimum 4:12 pitch).

(ii) *Front building setback.* 25 feet.

(iii) *Rear building setback.* 25 feet.

(iv) *Side building setback.* There shall be a side building setback on each side of a building not less than five feet in width. Buildings on corner lots shall have 15-foot side building setbacks adjacent to the street where the rear lot lines of the corner lots coincide with the rear lot lines of the adjacent lots. Buildings on corner lots shall have 25-foot side building setbacks adjacent to the street where the rear lot lines of the corner lots coincide with the side lot lines of the adjacent lots.

(v) *Garage setback.* Where a driveway is located in front of a garage, the garage shall be setback 20 feet from the right-of-way or the driveway to the garage shall be at least 20 feet long to provide enough space for a vehicle to park without overhanging into the right-of-way, if the garage door is closed. (See Illustration 8 in section 144-5.1-1).

(vi) *Residential setback.* Effective November 8, 2006, where a multifamily dwelling abuts a one- or two-family use or zoning district, the setback from the one- or two-family property line shall be at least 20 feet plus one foot for each foot of building height over 20 feet.

(vii) *Width of lot.* The minimum width of an interior lot shall be 60 feet and the minimum width of a corner lot shall be 70 feet, provided that where a lot has less width than herein required, and such lot was in separate ownership prior to September 25, 1967, this requirement will not prohibit the erection of a one-family dwelling.

(viii) *Lot area.* The minimum lot area for a multifamily dwelling shall be 15,000 square feet; for each unit over ten an additional 1,500 square feet of lot area shall be required. Where public or

community sewer is not available and in use, for the disposal of all sanitary sewage, multifamily developments shall be approved by the city sanitarian.

(ix) *Lot coverage.* The combined area of all yards shall be at least 55 percent of the total lot or tract; provided, however, that in the event enclosed parking is provided the minimum total yard area requirement shall be 40 percent of the total lot or tract.

(x) *Distance between structures.* For multifamily structures, there shall be a minimum of ten feet between structures side by side; a minimum of 20 feet between structures side by front or rear; a minimum of 40 feet between structures front to front; and a minimum of ten feet between structures backing rear to rear, and a minimum of 20 feet front to rear. (See Illustration 1.)

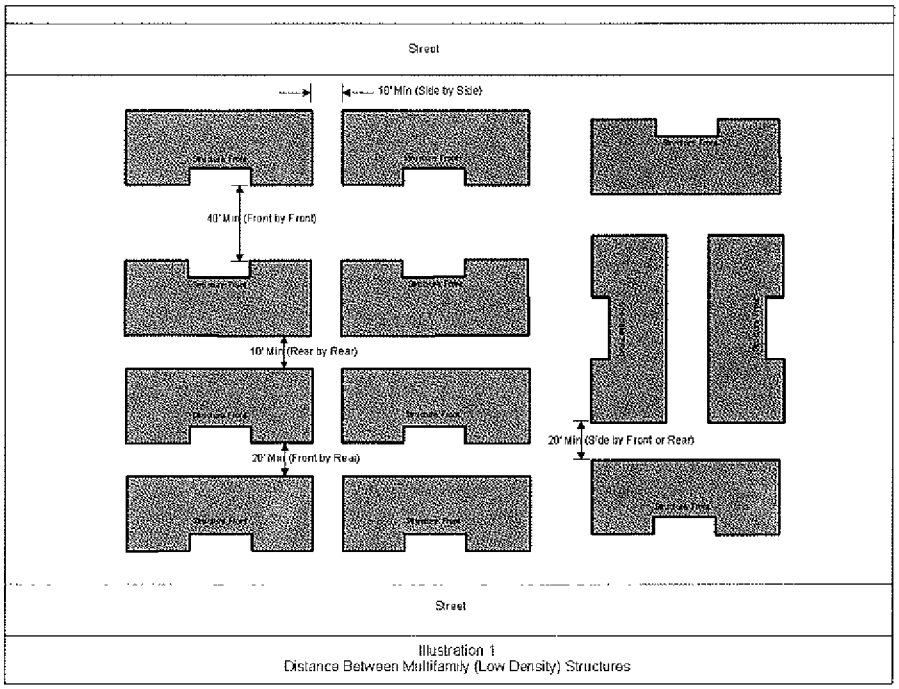


Illustration 1
Distance Between Multifamily (Low Density) Structures

(x) *Lot depth.* 100 feet.

(xi) *Parking.* For apartments, apartment hotel units and other multifamily dwellings, off-street parking spaces shall be provided in accord with the following schedule:

1. One-bedroom apartment or unit: One and one-half spaces.
2. Two-bedroom apartment or unit: Two spaces.
3. Each additional bedroom: One-half space.
4. Each dwelling unit provided exclusively for low income elderly occupancy: Three-fourths space ("low income elderly" is defined as any person 55 years of age or older with low or moderate income, according to HUD standards.)

(4) *Non-residential uses.*

(i) *Height.* 45 feet.

(ii) *Front building setback.* 25 feet.

(iii) *Side building setback.* There shall be a side building setback on each side of a building not less than five feet in width. Where any building abuts a property with a one- or two-family use, the setback from the one- or two-family property line shall be at least 20 feet plus one foot for each foot of building height over 20 feet.

(iv) *Corner lots.* Buildings on corner lots shall have 15-foot side building setbacks adjacent to the street where the rear lot lines of the corner lots coincide with the rear lot lines of the adjacent lots. Buildings on corner lots shall have 25-foot side building setbacks adjacent to the street where the rear lines of the corner lots coincide with the side lot lines of the adjacent lots. Where a minimum 25-foot setback is required, a canopy at least eight feet in height, attached to the main building, may be built within 15 feet of the property line so long as such construction will not obstruct the vision of vehicular or pedestrian traffic.

(v) *Garage setback.* Where a driveway is located in front of a garage, the garage shall be setback 20 feet from the right-of-way or the driveway to the garage shall be at least 20 feet long to provide

enough space for a vehicle to park without overhanging into the right-of-way, if the garage door is closed. (See Illustration 8 in section 144-5.1-1.)

(vi) *Rear building setback.* 20 feet.

(vii) *Width of lot.* 60 feet.

(viii) *Lot depth.* 100 feet.

(ix) *Parking.* See section 144-5.1 for permitted uses' parking.

3.3-4. *"B-1" conventional and mobile home district.* The following regulations shall apply in all "B-1" districts:

(a) *Authorized uses.* Uses permitted by right shall be those set forth in the land use matrix in section 144-4.2. The allowed uses in the district, which are intended to be identical with those listed in the land use matrix, are as follows:

(1) *Uses permitted by right.*

Residential uses:

Accessory building/structure.

Boardinghouse/lodging house.

Community home (see definition).

Duplex/two-family/duplex condominiums.

Family home adult care.

Family home child care.

Home occupation (see section 144-5.5).

HUD-Code manufactured home/mobile homes, after a permit is obtained from the building inspector to permit removal of wheels or transporting device and attaching the home to a permanent foundation on the ground, which home shall thereafter be regarded as a permanent structure and shall meet all applicable codes and chapters.

Multifamily (apartments/condominiums).

One-family dwelling, detached.

Single-family industrialized home (section 144-5.8 does not apply).

Non-residential uses:

Barns and farm equipment storage (related to agricultural uses).

Cemetery and/or mausoleum.

Church/place of religious assembly.

Community building (associated with residential uses).

Contractor's temporary on-site construction office (only with permit from building official; see section 144-5.10).

Country club (private).

Electrical substation.

Farms, general (crops) (see chapter 6 and section 144-5.9).

Farms, general (livestock/ranch) (see chapter 6 and section 144-5.9).

Fraternal organization/civic club (private club).

Golf course, public and private.

Governmental building or use with no outside storage.

Museum.

Nursing/convalescent home/sanitarium.

Park and/or playground (public or private).

Plant nursery (growing for commercial purposes but no retail sales on site).

Public recreation/services building for public park/playground areas.

Recreation buildings (public).

Retirement home/home for the aged—Public.

School, K-12 (public or private).

Telephone exchange buildings (office only).

University or college (public or private).

Water storage (surface, underground or overhead), water wells and pumping stations that are part of a public or municipal system.

(2) *Conflict.* In the event of conflict between the uses listed in the land use matrix and those listed in subsection (1), the uses listed in this subsection shall be deemed those authorized in the district.

(b) *Maximum height, minimum area and setback requirements.*

(1) *One-family dwelling.*

(i) *Height.* 35 feet.

(ii) *Front building setback.* 25 feet.

(iii) *Side building setback.* There shall be a side building setback on each side of a building not less than five feet in width. Buildings on corner lots shall have 15-foot side building setbacks adjacent to the street where the rear lot lines of the corner lots coincide with the rear lot lines of the adjacent lots. Buildings on corner lots shall have 25-foot side building setbacks adjacent to the street where the rear lot lines of the corner lots coincide with the side lot lines of the adjacent lots.

(iv) *Garage setback.* Where a driveway is located in front of a garage, the garage shall be setback 20 feet from the right-of-way or the driveway to the garage shall be at least 20 feet long to provide enough space for a vehicle to park without overhanging into the right-of-way, if the garage door is closed. (See Illustration 8 in section 144-5.1-1.)

(v) *Rear building setback.* 20 feet.

(vi) *Width of lot.* Interior lots 60 feet. Corner lots 70 feet. Where a lot has less width than herein required, and such lot was in separate ownership prior to September 25, 1967, this requirement will not prohibit the erection of a one-family dwelling.

(vii) *Lot area per family.* Every single-family dwelling hereafter erected or altered shall provide a lot area of not less than 6,600 square feet per dwelling for interior lots, and 7,000 square feet per dwelling for corner lots, provided that where a lot has less area than herein required and such lot was in separate ownership prior to September 25, 1967, this requirement will not prohibit the erection of a one-family dwelling. Where public or community sewer is not available and in use, for the disposal of all sanitary sewage, each lot shall provide not less than one-half acre and one acre on the Edwards Aquifer Recharge Zone.

(viii) *Lot depth.* 100 feet.

(ix) *Parking.* Two off-street parking spaces shall be provided for each one-family detached dwelling. See section 144-5.1 for other permitted uses' parking.

(2) *Duplexes.*

(i) *Height.* 35 feet.

(ii) *Front building setback.* 25 feet.

(iii) *Side building setback.* There shall be a side building setback on each side of a building not less than five feet in width. Buildings on corner lots shall have 15-foot side building setbacks adjacent to the street where the rear lot lines of the corner lots coincide with the rear lot lines of the adjacent lots. Buildings on corner lots shall have 25-foot side building setbacks adjacent to the street where the rear lot lines of the corner lots coincide with the side lot lines of the adjacent lots.

(iv) *Garage setback.* Where a driveway is located in front of a garage, the garage shall be setback 20 feet from the right-of-way or the driveway to the garage shall be at least 20 feet long to provide enough space for a vehicle to park without overhanging into the right-of-way, if the garage door is closed. (See Illustration 8 in Section 144-5.1-1.)

(v) *Rear building setback.* 20 feet.

(vi) *Width of lot.* The minimum width of an interior lot shall be 60 feet and the minimum width of a corner lot shall be 70 feet, provided that where a lot has less width than herein required, and such lot was in separate ownership prior to September 25, 1967, this requirement will not prohibit the erection of a one-family dwelling.

(vii) *Lot area per family.* Two-family dwellings (duplexes) hereafter erected or altered shall have a lot area of not less than 8,000 square feet for an interior lot and 8,500 square feet for a corner lot. Where a lot was legally under separate ownership prior to September 25, 1967, but has an area less than the minimum required in this provision, this regulation shall prohibit the erection of a two -family residence. Where a public or community sewer is not available and in use for the disposal of all sanitary sewage, each lot shall provide not less than one acre and approved by the city sanitarian.

(viii) *Lot depth.* 100 feet.

(ix) *Parking.* Two off-street parking spaces shall be provided for each two-family dwelling unit. See section 144-5.1 for other permitted uses' parking.

(3) *Multifamily dwellings.*

(i) *Height.* 45 feet, 60 feet when a pitched roof is used (minimum 4:12).

(ii) *Front building setback.* 25 feet.

(iii) *Rear building setback.* 25 feet.

(iv) *Side building setback.* There shall be a side building setback on each side of a building not less than five feet in width. Buildings on corner lots shall have 15-foot side building setbacks adjacent to the street where the rear lot lines of the corner lots coincide with the rear lot lines of the adjacent lots. Buildings on corner lots shall have 25-foot side building setbacks adjacent to the street where the rear lot lines of the corner lots coincide with the side lot lines of the adjacent lots.

(v) *Garage setback.* Where a driveway is located in front of a garage, the garage shall be setback 20 feet from the right-of-way or the driveway to the garage shall be at least 20 feet long to provide enough space for a vehicle to park without overhanging into the right-of-way, if the garage door is closed. (See Illustration 8 in section 144-5.1-1.)

(vi) *Residential setback.* Effective November 8, 2006, where a multifamily dwelling abuts a one- or two-family use or zoning district, the setback from the one- or two-family property line shall be at least 20 feet plus one foot for each foot of building height over 20 feet.

(vii) *Width of lot.* The minimum width of an interior lot shall be 60 feet and the minimum width of a corner lot shall be 70 feet, provided that where a lot has less width than herein required, and such lot was in separate ownership prior to September 25, 1967, this requirement will not prohibit the erection of a one-family dwelling.

(viii) *Lot area.* The minimum lot area for a multifamily dwelling shall be 15,000 square feet; for each unit over ten an additional 1,500 square feet of lot area shall be required. Where public or community sewer is not available and in use, for the disposal of all sanitary sewage, multifamily developments shall be approved by the city sanitarian.

(ix) *Lot coverage.* The combined area of all yards shall be at least 55 percent of the total lot or tract; provided, however, that in the event enclosed parking is provided the minimum total yard area requirement shall be 40 percent of the total lot or tract.

(x) *Distance between structures.* For multifamily structures, there shall be a minimum of ten feet between structures side by side; a minimum of 20 feet between structures side by front or rear; a minimum of 40 feet between structures front to front; and a minimum of ten feet between structures backing rear to rear, and a minimum of 20 feet front to rear. (See Illustration 1.)

(xi) *Lot depth.* 100 feet.

(xii) *Parking.* For apartments, apartment hotel units and other multifamily dwellings, off-street parking spaces shall be provided in accord with the following schedule:

1. One-bedroom apartment or unit: One and one-half spaces.
2. Two-bedroom apartment or unit: Two spaces.
3. Each additional bedroom: One-half space.
4. Each dwelling unit provided exclusively for low income elderly occupancy: Three-fourths space ("low income elderly" is defined as any person 55 years of age or older with low or moderate income, according to HUD standards.)

3.3-5. *"TH" townhouse residential district.* The following regulations shall apply in all "TH" districts:

(a) *Authorized uses.* Uses permitted by right shall be those set forth in the land use matrix in section 144-4.2. The allowed uses in the district, which are intended to be identical with those listed in the land use matrix, are as follows:

(1) *Uses permitted by right.*

Residential uses:

Accessory building/structure.

Community home (see definition).

Family home adult care.

Family home child care.

Home occupation (see section 144-5.5).

Townhouse (attached).

Non-residential uses:

Barns and farm equipment storage (related to agricultural uses).

Church/place of religious assembly.

Community building (associated with residential uses).

Contractor's temporary on-site construction office (only with permit from building official; see section 144-5.10).

Farms, general (crops) (see chapter 6 and section 144-5.9).

Farms, general (livestock/ranch) (see chapter 6 and section 144-5.9).

Golf course, public or private.

Governmental building or use with no outside storage.

Park and/or playground (private or public).

Recreation buildings (public).

School, K-12 (public or private).

Water storage (surface, underground or overhead), water wells and pumping stations that are part of a public or municipal system.

(2) *Conflict.* In the event of conflict between the uses listed in the land use matrix and those listed in subsection (1), the uses listed in this subsection shall be deemed those authorized in the district.

(b) *Maximum height, minimum area and setback requirements.*

(1) *Height.* 35 feet.

(2) *Front building setback.* Ten feet. If front entry garages/carports are provided, a minimum front yard of 20 feet shall be provided to the garage/carport.

(3) *Side building setback.* No side building setbacks are required for interior lots except the minimum distance between two building groups shall be 20 feet and the minimum distance between a building group and any abutting subdivision boundary or zoning district boundary line shall be 20 feet. Buildings on corner lots shall have 15-foot side building setbacks adjacent to the street, except where the rear lot line of a corner lot coincides with a side lot line of an adjacent lot, then 25-foot minimum side yards adjacent to the street shall be provided.

(4) *Garage setback.* Where a driveway is located in front of a garage, the garage shall be setback 20 feet from the right-of-way or the driveway to the garage shall be at least 20 feet long to provide enough space for a vehicle to park without overhanging into the right-of-way, if the garage door is closed. (See Illustration 8 in section 144-5.1-1.)

(5) *Rear building setback.* No building shall be constructed closer than ten feet from the rear property line. If the rear of the lots abut any other residential zoning district, the rear building setback shall have a minimum depth of 20 feet.

(6) *Width of lot.* Interior lots shall have a minimum width of 25 feet. Corner lots shall have a minimum width of 40 feet except where the rear lot line of a corner lot coincides with a side lot line of an adjacent lot, then the corner lot shall have a minimum width of 50 feet.

(7) *Lot depth.* 100 feet.

(8) *Lot area per family.* 2,500 square feet.

(9) *Common open space.* A minimum of 250 square feet of common open space per lot shall be provided within the townhouse project. In computing the required common open space, individually owned townhouse lots, required front, rear, or side setbacks, streets, alleys, or public rights-of-way of any kind, vehicular drives, parking areas, service drives, or utility easements containing or permitting overhead pole carried service shall not be included. Drainage easements and detention ponds may be used in computing common open space.

(c) *Other requirements.*

(1) *Building group.* There shall be no less than two nor more than eight individual dwelling units in each building or dwelling group. Each building group shall be at least 20 feet from any other building group, measured from the nearest points of their foundations. Each building or building group shall be at least 20 feet from any subdivision or zoning district boundary line.

(2) *Accessory buildings.* Any detached accessory buildings permitted, except carports open on at least two sides, shall be set at least three feet away from the side lot line unless their walls are equal in fire resistance to the common walls of the main structure. Detached carports, open on at least two sides, may be built to the property line with no common wall required. Rear building setback for an accessory building shall be three feet. Any accessory building permitted in district "R-1" shall be permitted in district "TH."

(3) *Parking.* There shall be at least two off-street parking spaces for each townhouse. See section 144-5.1 for other permitted uses' parking.

3.3-6. *"ZH" zero lot line home district.* The following regulations shall apply in all "ZH" districts:

(a) *Authorized uses.* Uses permitted by right shall be those set forth in the land use matrix in section 144-4.2. The allowed uses in the district, which are intended to be identical with those listed in the land use matrix, are as follows:

(1) *Uses permitted by right.*

Residential uses:

Accessory building/structure.

Accessory dwelling (one accessory dwelling per lot, no kitchen).

Community home (see definition).

Family home adult care.

Family home child care.

Home occupation (see section 144-5.5).

Single-family industrialized home (see section 144-5.8).

Zero lot line/patio homes.

Non-residential uses:

Barns and farm equipment storage (related to agricultural uses).

Church/place of religious assembly.

Community building (associated with residential uses).

Contractor's temporary on-site construction office (only with permit from building official; see section 144-5.10).

Farms, general (crops) (see chapter 6 and section 144-5.9).

Farms, general (livestock/ranch) (see chapter 6 and section 144-5.9).

Golf course, public and private.

Governmental building or use with no outside storage.

Park and/or playground (private or public).

Recreation buildings (public).

School, K-12 (public or private).

Water storage (surface, underground or overhead), water wells and pumping stations that are part of a public or municipal system.

(2) *Conflict.* In the event of conflict between the uses listed in the land use matrix and those listed in subsection (1), the uses listed in this subsection shall be deemed those authorized in the district.

(b) *Maximum height, minimum area and setback requirements.*

(1) *Height.* 35 feet.

(2) *Front building setback.* Ten feet. If front entry garages/carports are provided, a minimum front yard of 20 feet shall be provided to the garage/carport.

(3) *Side building setback.* There shall be no side building setback required on one side of the lot and a minimum of ten feet in the opposite side yard. If the side of the lot abuts any other residential zoning district, that side building setback shall have a minimum of ten feet. The dwelling on the "no side building setback required" side may be off-set from the property line by no more than one foot. However, a provision can be made for five-foot setbacks on both sides if it meets all applicable building codes.

(4) *Corner lots.* Buildings on corner lots shall provide a minimum exterior side building setback of ten feet. If entry to a garage/carport is provided on the exterior side, a minimum yard of 20 feet shall be provided to the garage/carport.

(5) *Rear building setback.* If rear entry garages/carports are provided from an alley, the rear building setback shall have a minimum depth of 20 feet. If no alley is provided and garage/carport entries are from the front, the rear building setback shall have a minimum depth of ten feet. If the rear of the lots abut any other residential zoning district, the rear building setback shall have a minimum depth of 20 feet.

(6) *Width of lot.* 40 feet.

(7) *Lot area.* 4,000 square feet.

(8) *Lot depth.* 100 feet.

(c) *Other requirements.*

(1) *Minimum area zoned.* Not less than three lots with common side lot lines will be zoned for zero lot line homes. When facing on the same street within the same block, mixing of ZH structures and other residential structures will not be allowed. However, this does not preclude other residential uses on one side of a street with ZH uses on the opposite side of the street within the same block or different blocks.

(2) *Zero lot line wall.* No door or window openings shall be built into the side wall facing the zero lot line except those that are more than three feet from the property line and screened by a masonry wall at least eight feet in height so that the opening(s) is not visible from the adjoining property. (See Illustration 3, "ZH-A" district.)

(3) *Maintenance, drainage and overhang easement.* A maintenance, drainage and overhang easement of five feet shall be provided on each lot that is adjacent to a lot with a zero setback allowance. This easement shall be for the purpose of maintaining the wall and foundation that is adjacent to one side property line to provide for proper maintenance and drainage.

(4) *Overhang.* Eaves and gutters may overhang the zero lot line side of the lot by no more than 18 inches. If there is an overhang over the lot line, a gutter is required such that roof runoff shall not be deposited over the lot line onto adjoining property.

(5) *Parking.* There shall be at least two off-street parking spaces for each zero lot line home. See section 144-5.1 for other permitted uses' parking.

3.3-7. *"C-1" local business district.* The following regulations shall apply in all "C-1" districts:

(a) *Authorized uses.* Uses permitted by right shall be those set forth in the land use matrix in section 144-4.2. The allowed uses in the district, which are intended to be identical with those listed in the land use matrix, are as follows:

(1) *Uses permitted by right.*

Residential uses:

Accessory building/structure.
Accessory dwelling (one accessory dwelling per lot, no kitchen).
Assisted living facility/retirement home.
Boardinghouse/lodging house.
Community home (see definition).
Duplex/two-family/duplex condominiums.
Family home adult care.
Family home child care.
Home occupation (see section 144-5.5).
Multifamily (apartments/condominiums).
One-family dwelling, detached.
Rental or occupancy for less than one month (see section 144-5.17).
Residential use in buildings with the following non-residential uses.
Single- or two-family industrialized home (see section 144-5.8).

Non-residential uses:

Accounting, auditing, bookkeeping, and tax preparations.
Adult day care (no overnight stay).
Adult day care with overnight stay.
Ambulance service (private).
Animal grooming shop.
Answering and message services.
Antique shop.
Appliance repair.
Armed services recruiting center.
Art dealer/gallery.
Artist or artisan's studio.
Automobile driving school (including defensive driving).
Bakery (retail).
Bank, savings and loan, or credit union.
Bar/tavern (no outdoor music).
Barber/beauty college (barber or cosmetology school or college).
Barber/beauty shop, haircutting (non-college).
Barns and farm equipment storage (related to agricultural uses).
Battery charging station.
Bicycle sales and/or repair.
Book binding.
Book store.
Cafeteria/cafe/delicatessen.
Campers' supplies.
Cemetery and/or mausoleum.
Check cashing service.
Child day care/children's nursery (business).

Church/place of religious assembly.
Cleaning, pressing and dyeing (non-explosive fluids used).
Clinic (dental).
Clinic (medical).
Clinic (emergency care).
Club (private).
Coffee shop.
Communication equipment (installation and/or repair).
Community building (associated with residential uses).
Computer and electronic sales.
Computer repair.
Consignment shop.
Contractor's temporary on-site construction office (only with permit from building official; see section 144-5.10).
Convenience store with or without fuel sales.
Country club (private).
Credit agency.
Curio shops.
Custom work shops.
Day camp.
Department store.
Drapery shop/blind shop.
Drug sales/pharmacy.
Electrical repair shop.
Electrical substation.
Exterminator service.
Farmers market (produce market—wholesale).
Farms, general (crops) (see chapter 6 and section 144-5.9).
Farms, general (livestock/ranch) (see chapter 6 and section 144-5.9).
Filling station (fuel tanks must be below the ground).
Florist.
Food or grocery store with or without fuel sales.
Fraternal organization/civic club (private club).
Frozen food storage for individual or family use.
Funeral home/mortuary.
Furniture sales (indoor).
Garden shops and greenhouses.
Golf course (miniature).
Golf course, public or private.
Governmental building or use with no outside storage.
Greenhouse (commercial).
Handicraft shop.
Hardware store.
Health club (physical fitness; indoors only).
Hospice.
Hospital, general (acute care/chronic care).
Hospital, rehabilitation.
Hotel/motel.
Hotels/motels—Extended stay (residence hotels).
Ice delivery stations (for storage and sale of ice at retail only).
Kiosk (providing a retail service).
Laundromat and laundry pickup stations.
Laundry/dry cleaning (drop off/pick up).

Laundry/washateria (self serve).
Lawnmower sales and/or repair.
Locksmith.
Martial arts school.
Medical supplies and equipment.
Mini-warehouse/self storage units (no boat/RV storage permitted; no outside storage).
Motion picture studio, commercial film.
Motion picture theater (indoors).
Museum.
Needlework shop.
Nursing/convalescent home/sanitarium.
Offices, brokerage services.
Offices, business or professional.
Offices, computer programming and data processing.
Offices, consulting.
Offices, engineering, architecture, surveying or similar.
Offices, health services.
Offices, insurance agency.
Offices, legal services, including court reporting.
Offices, medical offices.
Offices, real estate.
Offices, security/commodity brokers, dealers, exchanges and financial services.
Park and/or playground (public or private).
Parking lots (for passenger car only) (not as incidental to the main use).
Pawn shop.
Pet shop/supplies (10,000 square feet or less).
Photographic printing/duplicating/copy shop or printing shop.
Photographic studio (no sale of cameras or supplies).
Photographic supply.
Plant nursery (growing for commercial purposes with retail sales on site).
Plant nursery (retail sales/outdoor storage).
Plumbing shop.
Public recreation/services building for public park/playground areas.
Radio/television shop, electronics, computer repair.
Recreation buildings (public).
Refreshment/beverage stand.
Restaurant/prepared food sales.
Restaurant with drive-through service.
Retail store and shopping center with drive-through service (50,000 square feet building or less).
Retirement home/home for the aged.
School, K-12 (public or private).
School, vocational (business/commercial trade).
Security monitoring company telemarketing agency.
Shoe repair shops.
Studios (art, dance, music, drama, reducing, photo, interior decorating, etc.).
Studio for radio or television (without tower).
Tailor shop (see home occupation).
Telecommunications towers/antennas (see section 144-5.7).
Telemarketing agency.
Telephone exchange buildings (office only).
Theater (non-motion picture; live drama).
Tool rental.
Travel agency.

University or college (public or private).

Upholstery shop (non-auto).

Vacuum cleaner sales and repair.

Video rental/sales.

Water storage (surface, underground or overhead), water wells and pumping stations that are part of a public or municipal system.

Woodworking shop (ornamental).

Any comparable business or use not included in or excluded from any other district described herein.

(2) *Conflict.* In the event of conflict between the uses listed in the land use matrix and those listed in subsection (1), the uses listed in this subsection shall be deemed those authorized in the district.

(b) *Maximum height, minimum area and setback requirements.*

(1) *Non-residential uses.*

(i) *Height.* 35 feet.

(ii) *Front building setback.* 25 feet.

(iii) *Side building setback.* No side building setback is required except that where a side line of a lot in this district abuts upon the side line of a lot in a "R" or "B-1" zone, a side building setback of not less than six feet shall be provided.

(iv) *Rear building setback.* 20 feet.

(v) *Residential setback.* Effective November 8, 2006, where a non-residential building abuts a one- or two-family use or zoning district, the setback from the one- or two-family property line shall be at least 20 feet plus one foot for each foot of building height over 20 feet.

(vi) *Width of lot.* The minimum width of a lot shall be 40 feet, provided that where a lot has less width than required and such lot was in separate ownership prior to February 4, 1984, this requirement will not prohibit the construction of a use enumerated in this district.

(vii) *Corner lots.* A minimum 25-foot front yard and side building setback adjacent to streets shall be required on all corner lots. A canopy at least six feet in height, attached to the main building, may be built within 15 feet of the street line so long as such construction is not supported by columns which will obstruct the vision of vehicles driving upon adjacent streets.

(viii) *Parking.* See section 144-5.1 for permitted uses' parking.

(2) *One-family dwellings.*

(i) *Height.* 35 feet.

(ii) *Front building setback.* 25 feet.

(iii) *Rear building setback.* 20 feet.

(iv) *Side building setback.* There shall be a side building setback on each side of a building not less than five feet in width. Buildings on corner lots shall have 15-foot side building setbacks adjacent to the street where the rear lot lines of the corner lots coincide with the rear lot lines of the adjacent lots. Buildings on corner lots shall have 25-foot side building setbacks adjacent to the street where the rear lot lines of the corner lots coincide with the side lot lines of the adjacent lots.

(v) *Garage setback.* Where a driveway is located in front of a garage, the garage shall be setback 20 feet from the right-of-way or the driveway to the garage shall be at least 20 feet long to provide enough space for a vehicle to park without overhanging into the right-of-way, if the garage door is closed. (See Illustration 8 in section 144-5.1-1.)

(vi) *Width of lot.* The minimum width of an interior lot shall be 60 feet and the minimum width of a corner lot shall be 70 feet, provided that where a lot has less width than herein required, and such lot was in separate ownership prior to September 25, 1967, this requirement will not prohibit the erection of a one-family dwelling.

(vii) *Lot area.* 6,600 square feet per family for interior lots, and 7,000 square feet per family for corner lots. Where a lot was legally under separate ownership prior to September 25, 1967, but has an area less than the minimum required in this provision, this regulation shall not prohibit the erection of a one-family residence. Where a public or community sewer is not available and in use for the disposal of all sanitary sewage, each lot shall provide not less than one-half acre and one acre on the Edwards Aquifer Recharge Zone.

(viii) *Lot depth.* 100 feet.

(ix) *Parking.* Two off-street parking spaces shall be provided for each one-family detached dwelling. See section 144-5.1 for other permitted uses' parking.

(3) *Duplexes.*

(i) *Height.* 35 feet.

(ii) *Front building setback.* 25 feet.

(iii) *Rear building setback.* 20 feet.

(iv) *Side building setback.* There shall be a side building setback on each side of a building not less than five feet in width. Buildings on corner lots shall have 15-foot side building setbacks adjacent to the street where the rear lot lines of the corner lots coincide with the rear lot lines of the adjacent lots. Buildings on corner lots shall have 25-foot side building setbacks adjacent to the street where the rear lot lines of the corner lots coincide with the side lot lines of the adjacent lots.

(v) *Garage setback.* Where a driveway is located in front of a garage, the garage shall be setback 20 feet from the right-of-way or the driveway to the garage shall be at least 20 feet long to provide enough space for a vehicle to park without overhanging into the right-of-way, if the garage door is closed. (See Illustration 8 in section 144-5.1-1.)

(vi) *Width of lot.* The minimum width of an interior lot shall be 60 feet and the minimum width of a corner lot shall be 70 feet.

(vii) *Lot area.* Duplexes hereafter erected or altered shall have a lot area of not less than 8,000 square feet for an interior lot and 8,500 square feet for a corner lot. Where a lot was legally under separate ownership prior to September 25, 1967, but has an area less than the minimum required in this provision, this regulation shall prohibit the erection of a two-family residence. Where a public or community sewer is not available and in use for the disposal of all sanitary sewage, each lot shall provide not less than one acre and approved by the city sanitarian.

(viii) *Lot depth.* 100 feet.

(ix) *Parking.* Two off-street parking spaces shall be provided for each two-family dwelling unit. See section 144-5.1 for other permitted uses' parking.

(4) *Multifamily dwellings.*

(i) *Height.* 35 feet; 50 feet when a pitched roof is used (minimum 4:12 slope).

(ii) *Front building setback.* 25 feet.

(iii) *Rear building setback.* 25 feet.

(iv) *Side building setback.* There shall be a side building setback on each side of a building not less than five feet in width. Buildings on corner lots shall have 15-foot side building setbacks adjacent to the street where the rear lot lines of the corner lots coincide with the rear lot lines of the adjacent lots. Buildings on corner lots shall have 25-foot side building setbacks adjacent to the street where the rear lot lines of the corner lots coincide with the side lot lines of the adjacent lots.

(v) *Garage setback.* Where a driveway is located in front of a garage, the garage shall be setback 20 feet from the right-of-way or the driveway to the garage shall be at least 20 feet long to provide enough space for a vehicle to park without overhanging into the right-of-way, if the garage door is closed. (See Illustration 8 in section 144-5.1-1.)

(vi) *Residential setback.* Effective November 8, 2006, where a multifamily dwelling abuts a one- or two-family use or zoning district, the setback from the one- or two-family property line shall be at least 20 feet plus one foot for each foot of building height over 20 feet.

(vii) *Width of lot.* The minimum width of an interior lot shall be 60 feet and the minimum width of a corner lot shall be 70 feet, provided that where a lot has less width than herein required, and such lot was in separate ownership prior to September 25, 1967, this requirement will not prohibit the erection of a one-family dwelling.

(viii) *Lot area.* The minimum lot area for a multifamily dwelling shall be 15,000 square feet; for each unit over ten an additional 1,500 square feet of lot area shall be required. Where public or community sewer is not available and in use, for the disposal of all sanitary sewage, multifamily developments shall be approved by the city sanitarian.

(ix) *Lot coverage.* For multifamily structures, the combined area of all yards shall be at least 55 percent of the total lot or tract; provided, however, that in the event enclosed parking is provided the minimum total yard area requirement shall be 40 percent of the total lot or tract.

(x) *Distance between structures.* For multifamily structures, there shall be a minimum of ten feet between structures side by side; a minimum of 20 feet between structures side by front or rear; a minimum of 40 feet between structures front to front; and a minimum of ten feet between structures backing rear to rear, and a minimum of 20 feet front to rear. (See Illustration 1.)

(xi) *Lot depth.* 100 feet.

(xii) *Parking.* For apartments, apartment hotel units and other multifamily dwellings, off-street parking spaces shall be provided in accord with the following schedule:

1. One-bedroom apartment or unit: One and one-half spaces.
2. Two-bedroom apartment or unit: Two spaces.

3. Each additional bedroom: One-half space.
4. Each dwelling unit provided exclusively for low income elderly occupancy: Three-fourths space ("low income elderly" is defined as any person 55 years of age or older with low or moderate income, according to HUD standards).

See section 144-5.1 for other permitted uses' parking.

3.3-8. *"C-2" general business district.* The following regulations shall apply in all "C-2" districts:

(a) *Authorized uses.* Uses permitted by right shall be those set forth in the land use matrix in section 144-4.2. The allowed uses in the district, which are intended to be identical with those listed in the land use matrix, are as follows:

(1) *Uses permitted by right.*

Residential uses:

Accessory building/structure.
Accessory dwelling (one accessory dwelling per lot, no kitchen).
Assisted living facility/retirement home.
Bed and breakfast inn (see section 144-5.6).
Boardinghouse/lodging house.
Community home (see definition).
Duplex/two-family/duplex condominiums.
Family home adult care.
Family home child care.
Home occupation (see section 144-5.5).
Multifamily (apartments/condominiums).
One-family dwelling, detached.
Rental or occupancy for less than one month (see section 144-5.17).
Residential use in buildings with the following non-residential uses.
Single-family industrialized home (see section 144-5.8).

Non-residential uses:

Accounting, auditing, bookkeeping, and tax preparations.
Adult day care (no overnight stay).
Adult day care (with overnight stay).
All terrain vehicle (ATV) dealer/sales.
Ambulance service (private).
Amphitheater.
Amusement devices/arcade (four or more devices).
Amusement services or venues (indoors) (see section 144-5.13).
Animal grooming shop.
Answering and message services.
Antique shop.
Appliance repair.
Art dealer/gallery.
Artist or artisan's studio.
Armed services recruiting center.
Assembly/exhibition hall or areas.
Athletic fields.
Auction sales (non-vehicle).
Auto body repair, garages (see section 144-5.11).
Auto leasing.
Auto glass repair/tinting.
Auto interior shop/upholstery.
Auto muffler shop.
Auto or trailer sales rooms or yards.
Auto or truck sales rooms or yards—Primarily new.
Auto paint shop.

Auto repair garage (general).
Auto repair as an accessory use to retail sales.
Auto supply store for new and factory rebuilt parts.
Auto tire repair/sales (indoor).
Automobile driving school (including defensive driving).
Bakery (retail).
Bank, savings and loan, or credit union.
Bar/tavern.
Barber/beauty college (barber or cosmetology school or college).
Barber/beauty shop, haircutting (non-college).
Barns and farm equipment storage (related to agricultural uses).
Battery charging station.
Bicycle sales and/or repair.
Billiard/pool facility.
Bingo facility.
Bio-medical facilities.
Book binding.
Book store.
Bowling alley/center (see section 144-5.13).
Broadcast station (with tower) (see section 144-5.7).
Bus passenger stations.
Cafeteria/cafe/delicatessen.
Campers' supplies.
Car wash, full service (detail shop).
Car wash (self service; automated).
Caterer.
Cemetery and/or mausoleum.
Check cashing service.
Child day care/children's nursery (business).
Church/place of religious assembly.
Civic/conference center and facilities.
Cleaning, pressing and dyeing (non-explosive fluids used).
Clinic (dental).
Clinic (emergency care).
Clinic (medical).
Club (private).
Coffee shop.
Commercial amusement concessions and facilities.
Communication equipment (installation and/or repair).
Community building (associated with residential uses).
Computer and electronic sales.
Computer repair.
Confectionery store (retail).
Consignment shop.
Contractor's temporary on-site construction office (only with permit from building official; see section 144-5.10).
Convenience store with or without fuel sales.
Convenience store with fuel sales.
Country club (private).
Credit agency.
Curio shops.
Custom work shops.
Dance hall/dancing facility (see section 144-5.13).

Day camp.
Department store.
Drapery shop/blind shop.
Drug sales/pharmacy.
Electrical repair shop.
Electrical substation.
Exterminator service.
Farmers market (produce market—wholesale).
Farms, general (crops) (see chapter 6 and section 144-5.9).
Farms, general (livestock/ranch) (see chapter 6 and section 144-5.9).
Feed and grain store.
Filling station (fuel tanks must be below the ground).
Florist.
Food or grocery store with or without fuel sales.
Fraternal organization/civic club (private club).
Frozen food storage for individual or family use.
Funeral home/mortuary.
Furniture sales (indoor).
Garden shops and greenhouses.
Golf course (miniature).
Golf course, public or private.
Governmental building or use.
Greenhouse (commercial).
Handicraft shop.
Hardware store.
Health club (physical fitness; indoors only).
Heating and air-conditioning sales/services.
Hospice.
Hospital, general (acute care/chronic care).
Hospital, rehabilitation.
Hotel/motel.
Hotels/motels—Extended stay (residence hotels).
Ice delivery stations (for storage and sale of ice at retail only).
Kiosk (providing a retail service).
Laundromat and laundry pickup stations.
Laundry, commercial (without self serve).
Laundry/dry cleaning (drop off/pick up).
Laundry/washateria (self serve).
Lawnmower sales and/or repair.
Limousine/taxi service.
Locksmith.
Martial arts school.
Medical supplies and equipment.
Micro brewery (onsite manufacturing and/or sales).
Mini-warehouse/self storage units (no boat/RV storage permitted).
Motion picture studio, commercial film.
Motion picture theater (indoors).
Motorcycle dealer (primarily new/repair).
Museum.
Needlework shop.
Nursing/convalescent home/sanitarium.
Offices, brokerage services.
Offices, business or professional.

Offices, computer programming and data processing.
Offices, consulting.
Offices, engineering, architecture, surveying or similar.
Offices, health services.
Offices, insurance agency.
Offices, legal services, including court reporting.
Offices, medical offices.
Offices, real estate.
Offices, security/commodity brokers, dealers, exchanges and financial services.
Park and/or playground (private or public).
Parking lots (for passenger car only) (not as incidental to the main use).
Parking structure/public garage.
Pawn shop.
Personal watercraft sales (primarily new/repair).
Pet shop/supplies (than 10,000 square feet or less).
Photographic printing/duplicating/copy shop or printing shop.
Photographic studio (no sale of cameras or supplies).
Photographic supply.
Plant nursery.
Plant nursery, with retail sales.
Plumbing shop (no outside storage).
Public recreation/services building for public park/playground areas.
Publishing/printing company (e.g., newspaper).
Quick lube/oil change/minor inspection.
Radio/television shop, electronics, computer repair.
Recreation buildings (private or public).
Recreation buildings (public).
Recycling kiosk.
Refreshment/beverage stand.
Restaurant/prepared food sales.
Restaurant with drive-through.
Retail store and shopping center (misc.).
Retirement home/home for the aged (public).
RV/travel trailer sales.
School, K-12 (public or private).
School, vocational (business/commercial trade).
Security monitoring company.
Security systems installation company (with outside storage).
Shoe repair shops.
Storage in bulk.
Studios (art, dance, music, drama, reducing, photo, interior decorating, etc.).
Studio for radio or television (without tower).
Tailor shop.
Telecommunications towers/antennas (see section 144-5.7).
Telemarketing agency.
Telephone exchange buildings (office only).
Tennis court (commercial).
Theater (non-motion picture; live drama).
Tire sales (outdoors).
Tool rental.
Travel agency.
University or college (public or private).
Upholstery shop (non-auto).

Used or second hand merchandise/furniture store.

Vacuum cleaner sales and repair.

Video rental/sales.

Warehouse/office and storage/distribution center.

Waterfront amusement facilities—Berthing facilities sales and rentals.

Waterfront amusement facilities—Boat fuel storage/dispensing facilities.

Waterfront amusement facilities—Boat landing piers/launching ramps.

Waterfront amusement facilities—Swimming/wading pools/bathhouses.

Water storage (surface, underground or overhead), water wells and pumping stations that are part of a public or municipal system.

Wholesale sales offices and sample rooms.

Woodworking shop (ornamental).

Any comparable use not included in or excluded from any other district described herein.

(2) *Conflict.* In the event of conflict between the uses listed in the land use matrix and those listed in subsection (1), the uses listed in this subsection shall be deemed those authorized in the district.

(b) *Maximum height, minimum area and setback requirements.*

(1) *Non-residential uses.*

(i) *Height.* 75 feet.

(ii) *Front building setback.* No building setback required.

(iii) *Width of lot.* 60 feet. Where a lot has less width than required and such lot was in separate ownership prior to February 4, 1984, this requirement will not prohibit the construction of a use enumerated in this district.

(iv) *Corner lots.* No setback from a street is required.

(v) *Side building setback.* No side building setback is required except that where a side lot line of a lot in this district abuts upon the side line of a lot in a "R" or "B-1" zone, a side building setback of not less than six feet shall be provided.

(vi) *Rear building setback.* 20 feet.

(vii) *Residential setback.* Effective November 8, 2006, where a non-residential building abuts a one- or two-family use or zoning district, the setback from the one- or two-family property line shall be at least 20 feet plus one foot for each foot of building height over 20 feet.

(viii) *Lot depth.* 100 feet.

(ix) *Parking.* See section 144-5.1 for other permitted uses' parking.

(2) *One-family dwellings.*

(i) *Height.* 45 feet.

(ii) *Front building setback.* 25 feet.

(iii) *Rear building setback.* 20 feet.

(iv) *Side building setback.* There shall be a side building setback on each side of a building not less than five feet in width. Buildings on corner lots shall have 15-foot side building setbacks adjacent to the street where the rear lot lines of the corner lots coincide with the rear lot lines of the adjacent lots. Buildings on corner lots shall have 25-foot side building setbacks adjacent to the street where the rear lot lines of the corner lots coincide with the side lot lines of the adjacent lots.

(v) *Garage setback.* Where a driveway is located in front of a garage, the garage shall be setback 20 feet from the right-of-way or the driveway to the garage shall be at least 20 feet long to provide enough space for a vehicle to park without overhanging into the right-of-way, if the garage door is closed. (See Illustration 8 in section 144-5.1-1.)

(vi) *Width of lot.* The minimum width of an interior lot shall be 60 feet and the minimum width of a corner lot shall be 70 feet, provided that where a lot has less width than herein required, and such lot was in separate ownership prior to September 25, 1967, this requirement will not prohibit the erection of a one-family dwelling.

(vii) *Lot area.* Every single-family dwelling hereafter erected or altered shall have a lot area of not less than 6,600 square feet for interior lots, and 7,000 square feet for corner lots. Where a lot was legally under separate ownership prior to September 25, 1967, but has an area less than the minimum required in this provision, this regulation shall not prohibit the erection of a one-family residence. Where a public or community sewer is not available and in use for the disposal of all sanitary sewage, each lot shall provide not less one-half acre and one acre on the Edwards Aquifer Recharge Zone.

(viii)

Lot depth. 100 feet.

(ix) *Parking.* Two off-street parking spaces shall be provided for each one-family detached dwelling. See section 144-5.1 for other permitted uses' parking.

(3) *Duplexes.*

(i) *Height.* 45 feet.

(ii) *Front building setback.* 25 feet.

(iii) *Rear building setback.* 20 feet.

(iv) *Side building setback.* There shall be a side building setback on each side of a building not less than five feet in width. Buildings on corner lots shall have 15-foot side building setbacks adjacent to the street where the rear lot lines of the corner lots coincide with the rear lot lines of the adjacent lots. Buildings on corner lots shall have 25-foot side building setbacks adjacent to the street where the rear lot lines of the corner lots coincide with the side lot lines of the adjacent lots.

(v) *Garage setback.* Where a driveway is located in front of a garage, the garage shall be setback 20 feet from the right-of-way or the driveway to the garage shall be at least 20 feet long to provide enough space for a vehicle to park without overhanging into the right-of-way, if the garage door is closed. (See Illustration 8 in section 144-5.1-1.)

(vi) *Width of lot.* The minimum width of an interior lot shall be 60 feet and the minimum width of a corner lot shall be 70 feet, provided that where a lot has less width than herein required, and such lot was in separate ownership prior to September 25, 1967, this requirement will not prohibit the erection of a one-family dwelling.

(vii) *Lot area.* Duplexes hereafter erected or altered shall have a lot area of not less than 8,000 square feet for an interior lot and 8,500 square feet for a corner lot. Where a lot was legally under separate ownership prior to September 25, 1967, but has an area less than the minimum required in this provision, this regulation shall prohibit the erection of a two-family residence. Where a public or community sewer is not available and in use for the disposal of all sanitary sewage, each lot shall provide not less than one acre and approved by the city sanitarian.

(viii) *Lot depth.* 100 feet.

(ix) *Parking.* Two off-street parking spaces shall be provided for each two-family dwelling unit. See section 144-5.1 for other permitted uses' parking.

(4) *Multifamily dwellings.*

(i) *Height.* 45 feet; 60 feet when a pitched roof is used (minimum 4:12 slope).

(ii) *Front building setback.* 25 feet.

(iii) *Rear building setback.* 25 feet.

(iv) *Side building setback.* There shall be a side building setback on each side of a building not less than five feet in width. Buildings on corner lots shall have 15-foot side building setbacks adjacent to the street where the rear lot lines of the corner lots coincide with the rear lot lines of the adjacent lots. Buildings on corner lots shall have 25-foot side building setbacks adjacent to the street where the rear lot lines of the corner lots coincide with the side lot lines of the adjacent lots.

(v) *Garage setback.* Where a driveway is located in front of a garage, the garage shall be setback 20 feet from the right-of-way or the driveway to the garage shall be at least 20 feet long to provide enough space for a vehicle to park without overhanging into the right-of-way, if the garage door is closed. (See Illustration 8 in section 144-5.1-1.)

(vi) *Width of lot.* The minimum width of an interior lot shall be 60 feet and the minimum width of a corner lot shall be 70 feet, provided that where a lot has less width than herein required, and such lot was in separate ownership prior to September 25, 1967, this requirement will not prohibit the erection of a one-family dwelling.

(vii) *Lot area.* The minimum lot area for a multifamily dwelling shall be 15,000 square feet; for each unit over ten an additional 1,500 square feet of lot area shall be required. Where public or community sewer is not available and in use, for the disposal of all sanitary sewage, multifamily developments shall be approved by the city sanitarian.

(viii) *Residential setback.* Effective November 8, 2006, where a multifamily dwelling abuts a one- or two-family use or zoning district, the setback from the one- or two-family property line shall be at least 20 feet plus one foot for each foot of building height over 20 feet.

(ix) *Lot coverage.* For multifamily structures, the combined area of all yards shall be at least 55 percent of the total lot or tract; provided, however, that in the event enclosed parking is provided the minimum total yard area requirement shall be 40 percent of the total lot or tract.

(x) *Distance between structures.* For multifamily structures, there shall be a minimum of ten feet between structures side by side; a minimum of 20 feet between structures side by front or rear; a

minimum of 40 feet between structures front to front; and a minimum of ten feet between structures backing rear to rear, and a minimum of 20 feet front to rear. (See Illustration 1 in section 144-3.3-3.)

(xi) *Lot depth.* 100 feet.

(xii) *Parking.* For apartments, apartment hotel units and other multifamily dwellings, off-street parking spaces shall be provided in accord with the following schedule:

1. One-bedroom apartment or unit: One and one-half spaces.
2. Two-bedroom apartment or unit: Two spaces.
3. Each additional bedroom: One-half space.
4. Each dwelling unit provided exclusively for low income elderly occupancy: Three-fourths space ("low income elderly" is defined as any person 55 years of age or older with low or moderate income, according to HUD standards).

3.3-9. *"C-3" commercial district.* The following regulations shall apply in all "C-3" districts:

(a) *Authorized uses.* Uses permitted by right shall be those set forth in the land use matrix in section 144-4.2. The allowed uses in the district, which are intended to be identical with those listed in the land use matrix, are as follows:

(1) *Uses permitted by right.*

Residential uses:

Accessory building/structure.
Accessory dwelling (one accessory dwelling per lot, no kitchen).
Bed and breakfast inn (see section 144-5.6).
Boardinghouse/lodging house.
Community home (see definition).
Duplex/two-family/duplex condominiums.
Family home adult care.
Family home child care.
Home occupation (see section 144-5.5).
Multifamily (apartments/condominiums).
One-family dwelling, detached.
Rental or occupancy for less than one month (see section 144-5.17).
Residential use in buildings with the following non-residential uses.
Single-family industrialized home (see section 144-5.8).

Non-residential uses:

Accounting, auditing, bookkeeping, and tax preparations.
Adult day care (no overnight stay).
Adult day care (with overnight stay).
Aircraft support and related services.
All terrain vehicle (ATV) dealer/sales.
Ambulance service (private).
Amphitheater.
Amusement devices/arcade (four or more devices).
Amusement services or venues (indoors) (see section 144-5.13).
Amusement services or venues (outdoors).
Animal grooming shop.
Answering and message services.
Antique shop.
Appliance repair.
Armed services recruiting center.
Art dealer/gallery.
Artist or artisan's studio.
Assembly/exhibition hall or areas.
Athletic fields.
Auction sales (non-vehicle).
Auto body repair, garages (see section 144-5.11).

Auto glass repair/tinting (see section 144-5.11).
Auto interior shop/upholstery (see section 144-5.11).
Auto leasing.
Auto muffler shop (see section 144-5.11).
Auto or trailer sales rooms or yards (see section 144-5.12).
Auto or truck sales rooms or yards—Primarily new (see section 144-5.11).
Auto paint shop.
Auto repair as an accessory use to retail sales (see section 144-5.11).
Auto repair garage (general) (see section 144-5.11).
Auto supply store for new and factory rebuilt parts.
Auto tire repair/sales (indoor).
Automobile driving school (including defensive driving).
Bakery (retail).
Bank, savings and loan, or credit.
Bar/tavern.
Barber/beauty college (barber or cosmetology school or college).
Barber/beauty shop, haircutting (non-college).
Barns and farm equipment storage (related to agricultural uses).
Battery charging station.
Bicycle sales and/or repair.
Billiard/pool facility.
Bingo facility.
Bio-medical facilities.
Book binding.
Book store.
Bottling or distribution plants (milk).
Bottling works.
Bowling alley/center (see section 144-5.13).
Broadcast station (with tower) (see section 144-5.7).
Bus barns or lots.
Bus passenger stations.
Cafeteria/cafe/delicatessen.
Campers' supplies.
Car wash (self service; automated).
Car wash, full service (detail shop).
Carpet cleaning establishments.
Caterer.
Cemetery and/or mausoleum.
Check cashing service.
Chemical laboratories (not producing noxious fumes or odors).
Child day care/children's nursery (business).
Church/place of religious assembly.
Civic/conference center and facilities.
Cleaning, pressing and dyeing (non-explosive fluids used).
Clinic (dental).
Clinic (emergency care).
Clinic (medical).
Club (private).
Coffee shop.
Commercial amusement concessions and facilities.
Communication equipment installation and/or repair.
Community building (associated with residential uses).
Computer and electronic sales.

Computer repair.
Confectionery store (retail).
Consignment shop.
Contractor's office/sales, with outside storage including vehicles.
Contractor's temporary on-site construction office (only with permit from building official; see section 144-5.10).
Convenience store with or without fuel sales.
Country club (private).
Credit agency.
Curio shops.
Custom work shops.
Dance hall/dancing facility (see section 144-5.13).
Day camp.
Department store.
Drapery shop/blind shop.
Drug sales/pharmacy.
Electrical repair shop.
Electrical substation.
Exterminator service.
Farmers market (produce market—wholesale).
Farms, general (crops) (see chapter 6 and section 144-5.9).
Farms, general (livestock/ranch) (see chapter 6 and section 144-5.9).
Feed and grain store.
Filling station (fuel tanks must be below the ground).
Florist.
Food or grocery store with or without fuel sales.
Fraternal organization/civic club (private club).
Freight terminal, truck (all storage of freight in an enclosed building).
Frozen food storage for individual or family use.
Funeral home/mortuary.
Furniture manufacture.
Furniture sales (indoor).
Garden shops and greenhouses.
Golf course (miniature).
Golf course, public or private.
Governmental building or use.
Greenhouse (commercial).
Handicraft shop.
Hardware store.
Health club (physical fitness; indoors only).
Heating and air-conditioning sales/services.
Heavy load (farm) vehicle sales/repair (see section 144-5.14).
Home repair and yard equipment retail and rental outlets (no outside storage).
Hospice.
Hospital, general (acute care/chronic care).
Hospital, rehabilitation.
Hotel/motel.
Hotels/motels—Extended stay (residence hotels).
Ice delivery stations (for storage and sale of ice at retail only).
Kiosk (providing a retail service).
Laundromat and laundry pickup stations.
Laundry, commercial (without self serve).
Laundry/dry cleaning (drop off/pick up).

Laundry/washateria (self serve).
Lawnmower sales and/or repair.
Limousine/taxi service.
Locksmith.
Lumberyard (see section 144-5.15).
Lumberyard or building material sales (see section 144-5.15).
Maintenance/janitorial service.
Major appliance sales (indoor).
Market (public, flea).
Martial arts school.
Medical supplies and equipment.
Metal fabrication shop.
Micro brewery (onsite manufacturing and/or sales).
Mini-warehouse/self storage units with outside boat and RV storage.
Mini-warehouse/self storage units (no outside boat/RV storage permitted).
Motion picture studio, commercial film.
Motion picture theater (indoors).
Motion picture theater (outdoors, drive-in).
Motorcycle dealer (primarily new/repair).
Moving storage company.
Moving, transfer, or storage plant.
Museum.
Needlework shop.
Non-bulk storage of fuel, petroleum products and liquefied petroleum.
Nursing/convalescent home/sanitarium.
Offices, brokerage services.
Offices, business or professional.
Offices, computer programming and data processing.
Offices, consulting.
Offices, engineering, architecture, surveying or similar.
Offices, health services.
Offices, insurance agency.
Offices, legal services, including court reporting.
Offices, medical offices.
Offices, real estate.
Offices, security/commodity brokers, dealers, exchanges and financial services.
Park and/or playground (private or public).
Parking lots (for passenger car only) (not as incidental to the main use).
Parking structure/public garage.
Pawn shop.
Personal watercraft sales (primarily new/repair).
Pet shop/supplies (10,000 square feet or less).
Pet store (more than 10,000 square feet).
Photo engraving plant.
Photographic printing/duplicating/copy shop or printing shop.
Photographic studio (no sale of cameras or supplies).
Photographic supply.
Plant nursery.
Plant nursery, with retail sales.
Plumbing shop.
Portable building sales.
Propane sales (retail).
Public recreation/services building for public park/playground areas.

Publishing/printing company (e.g., newspaper).

Quick lube/oil change/minor inspection.

Radio/television shop, electronics, computer repair.

Recreation buildings (private or public).

Recycling kiosk.

Refreshment/beverage stand.

Research lab (non-hazardous).

Restaurant with drive-through.

Restaurant/prepared food sales.

Retail store and shopping center.

Retirement home/home for the aged (public).

RV park.

RV/travel trailer sales.

School, K-12 (public or private).

School, vocational (business/commercial trade).

Security monitoring company.

Security systems installation company.

Shoe repair shops.

Sign manufacturing/painting plant.

Storage—Exterior storage for boats and recreational vehicles.

Storage in bulk.

Studio for radio or television (without tower).

Studios (art, dance, music, drama, reducing, photo, interior decorating, etc.).

Tailor shop.

Tattoo and body piercing studio.

Taxidermist.

Telemarketing agency.

Telephone exchange buildings (office only).

Tennis court (commercial).

Theater (non-motion picture; live drama).

Tire sales (outdoors).

Tool rental.

Transfer station (refuse/pick-up).

Travel agency.

Truck stop.

University or college (public or private).

Upholstery shop (non-auto).

Used or second hand merchandise/furniture store.

Vacuum cleaner sales and repair.

Veterinary hospital (with or without outside animal runs or kennels) with the exception that outdoor kennels may not be used between the hours of 9:00 p.m. and 7:00 a.m. and are prohibited adjacent to residential.

Video rental/sales.

Warehouse/office and storage/distribution center.

Waterfront amusement facilities—Berthing facilities sales and rentals.

Waterfront amusement facilities—Boat fuel storage/dispensing facilities.

Waterfront amusement facilities—Boat landing piers/launching ramps.

Waterfront amusement facilities—Swimming/wading pools/bathhouses.

Water storage (surface, underground or overhead), water wells and pumping stations that are part of a public or municipal system.

Welding shop.

Wholesale sales offices and sample rooms.

Woodworking shop (ornamental).

Any comparable business or use not included in or excluded from any other district described herein.

(2) *Conflict.* In the event of conflict between the uses listed in the land use matrix and those listed in subsection (1), the uses listed in this subsection shall be deemed those authorized in the district.

(b) *Maximum height, minimum area and setback requirements.*

(1) *Non-residential uses.*

(i) *Height.* 120 feet.

(ii) *Front building setback.* No building setback required.

(iii) *Side building setback.* No side building setback is required except that where a side line of a lot in this district abuts upon the side line of a lot in a "R" or "B-1" zone, a side building setback of not less than five feet shall be provided.

(iv) *Rear building setback.* 20 feet.

(v) *Residential setback.* Effective November 8, 2006, where a non-residential building abuts a one- or two-family use or zoning district, the setback from the one- or two-family property line shall be at least 20 feet plus one foot for each foot of building height over 20 feet.

(vi) *Width of lot.* The minimum width of a lot shall be 60 feet, provided that where a lot has less width than required and such lot was in separate ownership prior to February 4, 1984, this requirements will not prohibit the construction of a use enumerated in this district.

(vii) *Lot depth.* 100 feet.

(viii) *Parking.* See section 144-5.1 for permitted uses' parking.

(2) *One-family dwellings.*

(i) *Height.* 45 feet.

(ii) *Front building setback.* 25 feet.

(iii) *Rear building setback.* 20 feet.

(iv) *Side building setback.* There shall be a side building setback on each side of a building not less than five feet in width. Buildings on corner lots shall have 15-foot side building setbacks adjacent to the street where the rear lot lines of the corner lots coincide with the rear lot lines of the adjacent lots. Buildings on corner lots shall have 25-foot side building setbacks adjacent to the street where the rear lot lines of the corner lots coincide with the side lot lines of the adjacent lots.

(v) *Garage setback.* Where a driveway is located in front of a garage, the garage shall be setback 20 feet from the right-of-way or the driveway to the garage shall be at least 20 feet long to provide enough space for a vehicle to park without overhanging into the right-of-way, if the garage door is closed. (See Illustration 8 in section 144-5.1-1.)

(vi) *Width of lot.* The minimum width of an interior lot shall be 60 feet and the minimum width of a corner lot shall be 70 feet, provided that where a lot has less width than herein required, and such lot was in separate ownership prior to September 25, 1967, this requirement will not prohibit the erection of a one-family dwelling.

(vii) *Lot area.* Every single-family dwelling hereafter erected or altered shall have a lot area of not less than 6,600 square feet per family for interior lots, and 7,000 square feet per family for corner lots. Where a lot was legally under separate ownership prior to September 25, 1967, but has an area less than the minimum required in this provision, this regulation shall not prohibit the erection of a one-family residence. Where a public or community sewer is not available and in use for the disposal of all sanitary sewage, each lot shall provide not less than one-half acre and one acre on the Edwards Aquifer Recharge Zone.

(viii) *Lot depth.* 100 feet.

(ix) *Parking.* Two off-street parking spaces shall be provided for each one-family detached dwelling. See section 144-5.1 for other permitted uses' parking.

(3) *Duplexes.*

(i) *Height.* 45 feet.

(ii) *Front building setback.* 25 feet.

(iii) *Rear building setback.* 20 feet.

(iv) *Side building setbacks.* There shall be a side building setback on each side of a building not less than five feet in width. Buildings on corner lots shall have 15-foot side building setbacks adjacent to the street where the rear lot lines of the corner lots coincide with the rear lot lines of the adjacent lots. Buildings on corner lots shall have 25-foot side building setbacks adjacent to the street where the rear lot lines of the corner lots coincide with the side lot lines of the adjacent lots.

(v) *Garage setback.* Where a driveway is located in front of a garage, the garage shall be setback 20 feet from the right-of-way or the driveway to the garage shall be at least 20 feet long to provide

enough space for a vehicle to park without overhanging into the right-of-way, if the garage door is closed. (See Illustration 8 in section 144-5.1-1.)

(vi) *Width of lot.* The minimum width of an interior lot shall be 60 feet and the minimum width of a corner lot shall be 70 feet.

(vii) *Lot area.* Duplexes hereafter erected or altered shall have a lot area of not less than 8,000 square feet for an interior lot and 8,500 square feet for a corner lot. Where a lot was legally under separate ownership prior to September 25, 1967, but has an area less than the minimum required in this provision, this regulation shall prohibit the erection of a two-family residence. Where a public or community sewer is not available and in use for the disposal of all sanitary sewage, each lot shall provide not less than one acre and approved by the city sanitarian.

(viii) *Lot depth.* 100 feet.

(ix) *Parking.* Two off-street parking spaces shall be provided for each two-family dwelling unit. See section 144-5.1 for other permitted uses' parking.

(4) *Multifamily dwellings.*

(i) *Height.* 45 feet; 60 feet when a pitched roof is used (minimum 4:12 slope).

(ii) *Front building setback.* 25 feet.

(iii) *Rear building setback.* 25 feet.

(iv) *Side building setback.* There shall be a side building setback on each side of a building not less than five feet in width. Buildings on corner lots shall have 15-foot side building setbacks adjacent to the street where the rear lot lines of the corner lots coincide with the rear lot lines of the adjacent lots. Buildings on corner lots shall have 25-foot side building setbacks adjacent to the street where the rear lot lines of the corner lots coincide with the side lot lines of the adjacent lots.

(v) *Garage setback.* Where a driveway is located in front of a garage, the garage shall be setback 20 feet from the right-of-way or the driveway to the garage shall be at least 20 feet long to provide enough space for a vehicle to park without overhanging into the right-of-way, if the garage door is closed. (See Illustration 8 in section 144-5.1-1.)

(vi) *Residential setback.* Effective November 8, 2006, where a multifamily dwelling abuts a one- or two-family use or zoning district, the setback from the one- or two-family property line shall be at least 20 feet plus one foot for each foot of building height over 20 feet.

(vii) *Width of lot.* The minimum width of an interior lot shall be 60 feet and the minimum width of a corner lot shall be 70 feet, provided that where a lot has less width than herein required, and such lot was in separate ownership prior to September 25, 1967, this requirement will not prohibit the erection of a one-family dwelling.

(viii) *Lot area.* The minimum lot area for a multifamily dwelling shall be 15,000 square feet; for each unit over ten an additional 1,500 square feet of lot area shall be required. Where public or community sewer is not available and in use, for the disposal of all sanitary sewage, multifamily developments shall be approved by the city sanitarian.

(ix) *Lot coverage.* For multifamily structures, the combined area of all yards shall be at least 55 percent of the total lot or tract; provided, however, that in the event enclosed parking is provided the minimum total yard area requirement shall be 40 percent of the total lot or tract.

(x) *Distance between structures.* For multifamily structures, there shall be a minimum of ten feet between structures side by side; a minimum of 20 feet between structures side by front or rear; a minimum of 40 feet between structures front to front; and a minimum of ten feet between structures backing rear to rear, and a minimum of 20 feet front to rear. (See Illustration 1 in section 144-3.3-3.)

(xi) *Lot depth.* 100 feet.

(xii) *Parking.* For apartments, apartment hotel units and other multifamily dwellings, off-street parking spaces shall be provided in accord with the following schedule:

1. One-bedroom apartment or unit: One and one-half spaces.
2. Two-bedroom apartment or unit: Two spaces.
3. Each additional bedroom: One-half space.
4. Each dwelling unit provided exclusively for low income elderly occupancy: Three-fourths space ("low income elderly" is defined as any person 55 years of age or older with low or moderate income, according to HUD standards).

3.3-10. *"C-4" resort commercial district.* The following regulations shall apply in all "C-4" districts:

(a)

Authorized uses. Uses permitted by right shall be those set forth in the land use matrix in section 144-4.2. The allowed uses in the district, which are intended to be identical with those listed in the land use matrix, are as follows:

(1) *Uses permitted by right.*

Residential uses:

Accessory building/structure.

Accessory dwelling (one accessory dwelling per lot, no kitchen).

Bed and breakfast inn (see section 144-5.6).

Boardinghouse/lodging house.

Cabin or cottage, either separate or connected, for rental to tourists or vacationers, but shall not include mobile homes, or mobile home communities (parks).

Campgrounds.

Community home (see definition).

Dormitory (in which individual rooms are for rental).

Duplex/two-family/duplex condominiums.

Family home adult care.

Family home child care.

Home occupation (see section 144-5.5).

Multifamily (apartments/condominiums—for three or more families).

One-family dwelling, detached.

Rental or occupancy for less than one month (see section 144-5.17).

Residential use in buildings with the following non-residential uses.

Single-family industrialized home (see section 144-5.8).

Non-residential uses:

Accounting, auditing, bookkeeping, and tax preparations.

Adult day care (no overnight stay).

Adult day care (with overnight stay).

Amphitheater.

Amusement devices/arcade (four or more devices).

Amusement services or venues (indoors) (see section 144-5.13).

Amusement services or venues (outdoors).

Answering and message services.

Archery range.

Armed services recruiting center.

Art dealer/gallery.

Artist or artisan's studio.

Assembly/exhibition hall or areas.

Bakery (retail).

Bank, savings and loan, or credit union.

Bar/tavern.

Barns and farm equipment storage (related to agricultural uses).

Bicycle sales and/or repair.

Billiard/pool facility.

Bingo facility.

Book store.

Bowling alley/center (see section 144-5.13).

Cafeteria/cafe/delicatessen.

Campers' supplies.

Car wash (self service; automated).

Car wash, full service (detail shop).

Caterer.

Check cashing service.

Child day care/children's nursery (business).

Church/place of religious assembly.

Civic/conference center and facilities.
Club (private).
Coffee shop.
Commercial amusement concessions and facilities.
Community building (associated with residential uses).
Confectionery store (retail).
Contractor's temporary on-site construction office (only with permit from building official; see section 144-5.10).
Convenience store, with or without fuel sales.
Country club (private).
Credit agency.
Curio shops.
Day camp.
Driving range.
Drug sales/pharmacy.
Electrical substation.
Farmers market (produce market—wholesale).
Farms, general (crops) (see chapter 6 and section 144-5.9).
Farms, general (livestock/ranch) (see chapter 6 and section 144-5.9).
Feed and grain store.
Filling station (fuel tanks must be below the ground).
Florist.
Food or grocery store with or without fuel sales.
Fraternal organization/civic club (private club).
Golf course (miniature).
Golf course, public or private.
Governmental building or use.
Handicraft shop.
Health club (physical fitness; indoors only).
Hospital, general (acute care/chronic care).
Hospital, rehabilitation.
Hotel/motel.
Hotels/motels—Extended stay (residence hotels).
Kiosk (providing a retail service).
Laundromat and laundry pickup stations.
Limousine/taxi service.
Micro brewery (onsite manufacturing and/or sales).
Motion picture studio, commercial film.
Motion picture theater (indoors).
Motion picture theater (outdoors, drive-in).
Museum.
Nursing/convalescent home/sanitarium.
Offices, brokerage services.
Offices, business or professional.
Offices, computer programming and data processing.
Offices, consulting.
Offices, engineering, architecture, surveying or similar.
Offices, health services.
Offices, insurance agency.
Offices, legal services, including court reporting.
Offices, medical offices.
Offices, real estate.
Offices, security/commodity brokers, dealers, exchanges and financial services.

Park and/or playground (public or private).
Parking lots (for passenger car only) (not as incidental to the main use).
Parking structure/public garage.
Photographic studio (no sale of cameras or supplies).
Plant nursery (no retail sales on site).
Public recreation/services building for public park/playground areas.
Quick lube/oil change/minor inspection.
Rappelling facilities.
Recreation buildings (public and private).
Refreshment/beverage stand.
Restaurant with drive-through.
Restaurant/prepared food sales.
Retirement home/home for the aged—Public.
Rodeo grounds.
RV park.
RV/travel trailer sales.
School, K-12 (public or private).
Security monitoring company (no outside storage or installation).
Specialty shops in support of project guests and tourists.
Tattoo or body piercing studio.
Telemarketing agency.
Telephone exchange buildings (office only).
Tennis court (commercial).
Theater (non-motion picture; live drama).
Travel agency.
University or college (public or private).
Video rental/sales.
Waterfront amusement facilities—Berthing facilities sales and rentals.
Waterfront amusement facilities—Boat fuel storage/dispensing facilities.
Waterfront amusement facilities—Boat landing piers/launching ramps.
Waterfront amusement facilities—Swimming/wading pools/bathhouses.
Water storage (surface, underground or overhead), water wells and pumping stations that are part of a public or municipal system.
Woodworking shop (ornamental).
Any comparable business or use not included in or excluded from any other district described herein.

(2) *Conflict.* In the event of conflict between the uses listed in the land use matrix and those listed in subsection (1), the uses listed in this subsection shall be deemed those authorized in the district.

(b) *Maximum height, minimum area and setback requirements.*

(1) *Commercial rental living units (short term).*

(i) *Height.* 75 feet.

(ii) *Front building setback.* 25 feet.

(iii) *Rear building setback.* 20 feet.

(iv) *Side building setbacks.* There shall be a side building setback on each side of a building not less than five feet in width. Buildings on corner lots shall have 15-foot side building setbacks adjacent to the street where the rear lot lines of the corner lots coincide with the rear lot lines of the adjacent lots. Buildings on corner lots shall have 25-foot side building setbacks adjacent to the street where the rear lot lines of the corner lots coincide with the side lot lines of the adjacent lots.

(v) *Residential setback.* Effective November 8, 2006, where a multifamily dwelling abuts a one- or two-family use or zoning district, the setback from the one- or two-family property line shall be at least 20 feet plus one foot for each foot of building height over 20 feet.

(vi) *Width of lot.* The minimum width of an interior lot shall be 60 feet and the minimum width of a corner lot shall be 70 feet, provided that where a lot has less width than herein required, and such lot was in separate ownership prior to September 25, 1967, this requirement will not prohibit the erection of a one-family dwelling.

(vii)

Sanitary facilities. Each rental unit shall be provided with an individual enclosed space for sanitation, accessible from within the living unit, in which shall be located a water closet furnished with cold water, and a lavatory and bathtub or shower furnished with hot and cold water.

(viii) *Lot depth.* 100 feet.

(ix) *Parking.* See section 144-5.1 for permitted uses parking.

(2) *Non-residential.*

(i) *Height.* 75 feet.

(ii) *Front building setback.* 25 feet.

(iii) *Rear building setback.* 20 feet.

(iv) *Side building setback.* No side building setback is required except that where a side line of a lot in this district abuts upon the side line of a lot in a "R" or "B-1" zone, a side building setback of not less than five feet shall be provided.

(v) *Residential setback.* Effective November 8, 2006, where a non-residential building abuts a one- or two-family use or zoning district, the setback from the one- or two-family property line shall be at least 20 feet plus one foot for each foot of building height over 20 feet.

(vi) *Width of lot.* The minimum width of an interior lot shall be 60 feet and the minimum width of a corner lot shall be 70 feet.

(vii) *Corner lots.* A minimum 25-foot front yard and side building setback adjacent to streets shall be required on all corner lots. A canopy at least six feet in height, attached to the main building, may be built within 15 feet of the street line so long as such construction is not supported by columns which will obstruct the vision of vehicles driving upon adjacent streets.

(viii) *Lot depth.* 100 feet.

(ix) *Parking.* See section 144-5.1 for other permitted uses' parking.

(3) *Non-commercial rental living units (not short term).* Buildings hereinafter erected, constructed, reconstructed or altered in district "C-4," that are not for commercial or commercial-residential use but are for private residences, duplexes, or apartments, or for any use also permitted in the "R" districts, shall be subject to the following:

(a) *One-family dwellings.*

(i) *Height.* 45 feet.

(ii) *Front building setback.* 25 feet.

(iii) *Rear building setback.* 20 feet.

(iv) *Side building setback.* There shall be a side building setback on each side of a building not less than five feet in width. Buildings on corner lots shall have 15-foot side building setbacks adjacent to the street where the rear lot lines of the corner lots coincide with the rear lot lines of the adjacent lots. Buildings on corner lots shall have 25-foot side building setbacks adjacent to the street where the rear lot lines of the corner lots coincide with the side lot lines of the adjacent lots.

(v) *Garage setback.* Where a driveway is located in front of a garage, the garage shall be setback 20 feet from the right-of-way or the driveway to the garage shall be at least 20 feet long to provide enough space for a vehicle to park without overhanging into the right-of-way, if the garage door is closed. (See Illustration 8 in section 144-5.1-1.)

(vi) *Residential setback.* Effective November 8, 2006, where a multifamily dwelling abuts a one - or two-family use or zoning district, the setback from the one- or two-family property line shall be at least 20 feet plus one foot for each foot of building height over 20 feet.

(vii) *Width of lot.* The minimum width of an interior lot shall be 60 feet and the minimum width of a corner lot shall be 70 feet, provided that where a lot has less width than herein required, and such lot was in separate ownership prior to September 25, 1967, this requirement will not prohibit the erection of a one-family dwelling.

(viii) *Lot area.* Every one-family dwelling hereafter erected or altered shall have a lot area of not less than 6,600 square feet per family for interior lots, and 7,000 square feet per family for corner lots. Where a lot was legally under separate ownership prior to September 25, 1967, but has an area less than the minimum required in this provision, this regulation shall not prohibit the erection of a one-family residence. Where a public or community sewer is not available and in use for the disposal of all sanitary sewage, each lot shall provide not less than one-half acre and one acre on the Edwards Aquifer Recharge Zone.

(ix) *Lot depth.* 100 feet.

(x) *Parking.* Two off-street parking spaces shall be provided for each one-family detached dwelling. See section 144-5.1 for other permitted uses' parking.

(b) *Duplexes.*

(i) *Height.* 45 feet.

(ii) *Front building setback.* 25 feet.

(iii) *Rear building setback.* 20 feet.

(iv) *Side building setbacks.* There shall be a side building setback on each side of a building not less than five feet in width. Buildings on corner lots shall have 15-foot side building setbacks adjacent to the street where the rear lot lines of the corner lots coincide with the rear lot lines of the adjacent lots. Buildings on corner lots shall have 25-foot side building setbacks adjacent to the street where the rear lot lines of the corner lots coincide with the side lot lines of the adjacent lots.

(v) *Garage setback.* Where a driveway is located in front of a garage, the garage shall be setback 20 feet from the right-of-way or the driveway to the garage shall be at least 20 feet long to provide enough space for a vehicle to park without overhanging into the right-of-way, if the garage door is closed. (See Illustration 8 in section 144-5.1-1.)

(vi) *Width of lot.* The minimum width of an interior lot shall be 60 feet and the minimum width of a corner lot shall be 70 feet.

(vii) *Lot area.* Duplexes hereafter erected or altered shall have a lot area of not less than 8,000 square feet for an interior lot and 8,500 square feet for a corner lot. Where a lot was legally under separate ownership prior to September 25, 1967, but has an area less than the minimum required in this provision, this regulation shall prohibit the erection of a two-family residence. Where a public or community sewer is not available and in use for the disposal of all sanitary sewage, each lot shall provide not less than one acre and approved by the city sanitarian.

(viii) *Lot depth.* 100 feet.

(ix) *Parking.* Two off-street parking spaces shall be provided for each two-family dwelling unit. See section 144-5.1 for other permitted uses' parking.

(c) *Multifamily dwellings.*

(i) *Height.* 45 feet; 60 feet when a pitched roof is used (minimum 4:12 slope).

(ii) *Front building setback.* 25 feet.

(iii) *Rear building setback.* 25 feet.

(iv) *Side building setback.* There shall be a side building setback on each side of a building not less than five feet in width. Buildings on corner lots shall have 15-foot side building setbacks adjacent to the street where the rear lot lines of the corner lots coincide with the rear lot lines of the adjacent lots. Buildings on corner lots shall have 25-foot side building setbacks adjacent to the street where the rear lot lines of the corner lots coincide with the side lot lines of the adjacent lots.

(v) *Garage setback.* Where a driveway is located in front of a garage, the garage shall be setback 20 feet from the right-of-way or the driveway to the garage shall be at least 20 feet long to provide enough space for a vehicle to park without overhanging into the right-of-way, if the garage door is closed. (See Illustration 8 in section 144-5.1-1.)

(vi) *Residential setback.* Effective November 8, 2006, where a multifamily dwelling abuts a one - or two-family use or zoning district, the setback from the one- or two-family property line shall be at least 20 feet plus one foot for each foot of building height over 20 feet.

(vii) *Width of lot.* The minimum width of an interior lot shall be 60 feet and the minimum width of a corner lot shall be 70 feet, provided that where a lot has less width than herein required, and such lot was in separate ownership prior to September 25, 1967, this requirement will not prohibit the erection of a one-family dwelling.

(viii) *Lot area.* The minimum lot area for a multifamily dwelling shall be 15,000 square feet; for each unit over ten an additional 1,500 square feet of lot area shall be required. Where public or community sewer is not available and in use, for the disposal of all sanitary sewage, multifamily developments shall be approved by the planning commission upon recommendation of the city sanitarian.

(ix) *Lot coverage.* For multifamily structures, the combined area of all yards shall be at least 55 percent of the total lot or tract; provided, however, that in the event enclosed parking is provided the minimum total yard area requirement shall be 40 percent of the total lot or tract.

(x) *Distance between structures.* For multifamily structures, there shall be a minimum of ten feet between structures side by side; a minimum of 20 feet between structures side by front

or rear; a minimum of 40 feet between structures front to front; and a minimum of ten feet between structures backing rear to rear, and a minimum of 20 feet front to rear. (See Illustration 1 in section 144-3.3-3.)

(xi) *Lot depth.* 100 feet.

(xii) *Parking.* For apartments, apartment hotel units and other multifamily dwellings, off-street parking spaces shall be provided in accord with the following schedule:

1. One-bedroom apartment or unit: One and one-half spaces.
2. Two-bedroom apartment or unit: Two spaces.
3. Each additional bedroom: One-half space.
4. Each dwelling unit provided exclusively for low income elderly occupancy: Three-fourths space ("low income elderly" is defined as any person 55 years of age or older with low or moderate income, according to HUD standards).

3.3-11. *"M-1" light industrial district.* The following regulations shall apply in all "M-1" districts:

(a) *Authorized uses.* Uses permitted by right shall be those set forth in the land use matrix in section 144-4.2. The allowed uses in the district, which are intended to be identical with those listed in the land use matrix, are as follows:

(1) *Uses permitted by right.*

Residential uses:

Accessory building/structure.
Accessory dwelling (one accessory dwelling per lot, no kitchen).
Bed and breakfast inn.
Boardinghouse/lodging house.
Cabin or cottage (rental for more than 30 days).
Community home (see definition).
Dormitory (in which individual rooms are for rental).
Duplex/two-family/duplex condominiums.
Home occupation (see section 144-5.5).
Multifamily (apartments/condominiums).
One-family dwelling, detached.
Rental or occupancy for less than one month (see section 144-5.17).
Residential use in buildings with the following non-residential uses.
Single-family industrialized home (see section 144-5.8).
Townhouse (attached).

Non-residential uses:

Accounting, auditing, bookkeeping, and tax preparations.
Adult day care (no overnight stay).
Adult day care (with overnight stay).
Aircraft support and related services.
Airport.
All terrain vehicle (ATV) dealer/sales.
Ambulance service (private).
Amphitheater.
Amusement devices/arcade (four or more devices).
Amusement services or venues (indoors) (see section 144-5.13).
Amusement services or venues (outdoors).
Animal grooming shop.
Answering and message services.
Antique shop.
Appliance repair.
Archery range.
Armed services recruiting center.
Art dealer/gallery.
Artist or artisan's studio.
Assembly/exhibition hall or areas.

Athletic fields.
Auction sales (non-vehicle).
Auto body repair, garages (see section 144-5.11).
Auto glass repair/tinting (see section 144-5.11).
Auto interior shop/upholstery (see section 144-5.11).
Auto leasing.
Auto muffler shop.
Auto or trailer sales rooms or yards (see section 144-5.12).
Auto or truck sales rooms or yards—Primarily new (see section 144-5.11).
Auto paint shop (see section 144-5.11).
Auto repair as an accessory use to retail sales (see section 144-5.11).
Auto repair garage (general) (see section 144-5.11).
Auto supply store for new and factory rebuilt parts.
Auto tire repair/sales (indoor).
Automobile driving school (including defensive driving).
Bakery (retail).
Bank, savings and loan, or credit union.
Bar/tavern.
Barber/beauty college (barber or cosmetology school or college).
Barber/beauty shop, haircutting (non-college).
Barns and farm equipment storage (related to agricultural uses).
Battery charging station.
Bicycle sales and/or repair.
Billiard/pool facility.
Bingo facility.
Bio-medical facilities.
Blacksmith or wagon shops.
Book binding.
Book store.
Bottling or distribution plants (milk).
Bottling works.
Bowling alley/center (see section 144-5.13).
Broadcast station (with tower) (see section 144-5.7).
Bus barns or lots.
Bus passenger stations.
Cafeteria/cafe/delicatessen.
Campers' supplies.
Car wash (self service; automated).
Car wash, full service (detail shop).
Carpenter, cabinet, or pattern shops.
Carpet cleaning establishments.
Caterer.
Cemetery and/or mausoleum.
Check cashing service.
Chemical laboratories (not producing noxious fumes or odors).
Child day care/children's nursery (business).
Church/place of religious assembly.
Civic/conference center and facilities.
Cleaning, pressing and dyeing (non-explosive fluids used).
Clinic (dental).
Clinic (emergency care).
Clinic (medical).
Club (private).

Coffee shop.
Cold storage plant.
Commercial amusement concessions and facilities.
Communication equipment (installation and/or repair).
Community building (associated with residential uses).
Computer and electronic sales.
Computer repair.
Confectionery store (retail).
Consignment shop.
Contractor's office/sales, with outside storage including vehicles.
Contractor's temporary on-site construction office (only with permit from building official; see section 144-5.10).
Convenience store with or without fuel sales.
Country club (private).
Credit agency.
Curio shops.
Custom work shops.
Dance hall/dancing facility.
Day camp.
Department store.
Drapery shop/blind shop.
Driving range.
Drug sales/pharmacy.
Electrical repair shop.
Electrical substation.
Electronic assembly/high tech manufacturing.
Electroplating works.
Engine repair/motor manufacturing re-manufacturing and/or repair.
Exterminator service (with outside storage).
Fair ground.
Farmers market (produce market—wholesale).
Farms, general (crops) (see chapter 6).
Farms, general (livestock/ranch) (see chapter 6).
Feed and grain store.
Filling station (fuel tanks must be below the ground).
Florist.
Flour mills, feed mills, and grain processing.
Food or grocery store with or without fuel sales.
Food processing (no outside public consumption).
Forge (hand).
Forge (power).
Fraternal organization/civic club (private club).
Freight terminal, rail/truck (when any storage of freight is wholly outside an enclosed building).
Freight terminal, truck (all storage of freight in an enclosed building).
Frozen food storage for individual or family use.
Funeral home/mortuary.
Furniture manufacture.
Furniture sales (indoor).
Galvanizing works.
Garden shops and greenhouses.
Golf course (miniature).
Golf course, public or private.
Grain elevator.

Greenhouse (commercial).
Handicraft shop.
Hardware store.
Health club (physical fitness; indoors only).
Heating and air-conditioning sales/services.
Heavy load (farm) vehicle sales/repair (see section 144-5.14).
Heliport.
Home repair and yard equipment retail and rental outlets.
Hospital, general (acute care/chronic care).
Hospital, rehabilitation.
Hotel/motel.
Hotels/motels—Extended stay (residence hotels).
Ice delivery stations (for storage and sale of ice at retail only).
Ice plants.
Industrial laundries.
Kiosk (providing a retail service).
Laboratory equipment manufacturing.
Laundromat and laundry pickup stations.
Laundry, commercial (without self serve).
Laundry/dry cleaning (drop off/pick up).
Laundry/washateria (self serve).
Lawnmower sales and/or repair.
Leather products manufacturing.
Light manufacturing.
Limousine/taxi service.
Locksmith.
Lumberyard (see section 144-5.15).
Lumberyard or building material sales (see section 144-5.15).
Machine shop.
Maintenance/janitorial service.
Major appliance sales (indoor).
Manufactured home sales.
Manufacturing and processes.
Market (public, flea).
Martial arts school.
Medical supplies and equipment.
Metal fabrication shop.
Micro brewery (on-site manufacturing and/or sales).
Mini-warehouse/self storage units (no outside boat and RV storage permitted).
Mini-warehouse/self-storage units (with outside boat and RV storage permitted).
Motion picture studio, commercial film.
Motion picture theater (indoors).
Motion picture theater (outdoors, drive-in).
Motorcycle dealer (primarily new/repair).
Moving storage company.
Moving, transfer, or storage plant.
Museum.
Needlework shop.
Non-bulk storage of fuel, petroleum products and liquefied petroleum.
Nursing/convalescent home/sanitarium.
Offices, brokerage services.
Offices, business or professional.
Offices, computer programming and data processing.

Offices, consulting.
Offices, engineering, architecture, surveying or similar.
Offices, health services.
Offices, insurance agency.
Offices, legal services, including court reporting.
Offices, medical offices.
Offices, real estate.
Offices, security/commodity brokers, dealers, exchanges and financial services.
Outside storage (as primary use).
Park and/or playground (public or private).
Parking lots (for passenger car only) (not as incidental to the main use).
Parking structure/public garage.
Pawn shop.
Personal watercraft sales (primarily new/repair).
Pet shop/supplies (10,000 square feet or less).
Pet store (more than 10,000 square feet).
Photo engraving plant.
Photographic printing/duplicating/copy shop or printing shop.
Photographic studio (no sale of cameras or supplies).
Photographic supply.
Plant nursery (no retail sales on site).
Plant nursery (growing for commercial purposes with retail sales on site).
Plastic products molding/reshaping.
Plumbing shop.
Portable building sales.
Poultry killing or dressing for commercial purposes.
Propane sales (retail).
Public recreation/services building for public park/playground areas.
Publishing/printing company (e.g., newspaper).
Quick lube/oil change/minor inspection.
Radio/television shop, electronics, computer repair.
Recreation buildings (public or private).
Recycling kiosk.
Refreshment/beverage stand.
Research lab (non-hazardous).
Restaurant with drive-through service.
Restaurant/prepared food sales.
Retail store and shopping center.
Retirement home/home for the aged—Public.
Rodeo grounds.
RV park.
RV/Travel trailer sales.
School, K-12 (public or private).
School, vocational (business/commercial trade).
Security monitoring company (no outside storage or installation).
Security systems installation company (with outside storage).
Sheet metal shop.
Shoe repair shops.
Shooting gallery—Indoor (see section 144-5.13).
Sign manufacturing/painting plant.
Stone/clay/glass manufacturing.
Storage—Exterior storage for boats and recreational vehicles.
Storage in bulk.

Studio for radio or television (with tower) (see section 144-5.7).

Studios (art, dance, music, drama, reducing, photo, interior decorating, etc.).

Tailor shop.

Tattoo or body piercing studio.

Taxidermist.

Telemarketing agency.

Telephone exchange buildings (office only).

Tennis court (commercial).

Theater (non-motion picture; live drama).

Tire sales (outdoors).

Tool rental.

Transfer station (refuse/pick-up).

Travel agency.

Truck or transit terminal.

Truck stop.

University or college (public or private).

Upholstery shop (non-auto).

Used or second hand merchandise/furniture store.

Vacuum cleaner sales and repair.

Veterinary hospital (with or without outside animal runs or kennels) with the exception that outdoor kennels may not be used between the hours of 9:00 p.m. and 7:00 a.m. and are prohibited adjacent to residential.

Video rental/sales.

Warehouse/office and storage/distribution center.

Waterfront amusement facilities—Berthing facilities sales and rentals.

Waterfront amusement facilities—Boat fuel storage/dispensing facilities.

Waterfront amusement facilities—Boat landing piers/launching ramps.

Waterfront amusement facilities—Swimming/wading pools/bathhouses.

Water storage (surface, underground or overhead), water wells and pumping stations that are part of a public or municipal system.

Welding shop.

Wholesale sales offices and sample rooms.

Woodworking shop (ornamental).

Any comparable business or use not included in or excluded from any other district described herein, provided that such use is not noxious or offensive by reason of vibration, noise, odor, dust, smoke or gas.

(2) *Conflict.* In the event of conflict between the uses listed in the land use matrix and those listed in subsection (1), the uses listed in this subsection shall be deemed those authorized in the district.

(b) *Maximum height, minimum area and setback requirements.*

(1) *Non-residential.*

(i) *Height.* 120 feet.

(ii) *Front building setback.* 25 feet.

(iii) *Side building setback.* No side building setback is required except that where a side line of a lot in this district abuts upon the side line of a lot in a "R" or "B-1" zone, a side building setback of not less than six feet shall be provided.

(iv) *Rear building setback.* 20 feet.

(v) *Residential setback.* Effective November 8, 2006, where a non-residential building abuts a one- or two-family use or zoning district, the setback from the one- or two-family property line shall be at least 20 feet plus one foot for each foot of building height over 20 feet.

(vi) *Width of lot.* The minimum width of a lot shall be 60 feet, provided that where a lot has less width than required and such lot was in separate ownership prior to February 4, 1984, this requirement will not prohibit the construction of a use enumerated in this district.

(vii) *Corner lots.* A minimum 25-foot front yard setback and side building setback adjacent to streets shall be required on all corner lots. A canopy at least six feet in height, attached to the main

building, may be built within 15 feet of the street line so long as such construction is not supported by columns which will obstruct the vision of vehicles driving upon adjacent streets.

(viii) *Lot depth.* 100 feet.

(2) *One-family dwellings.*

(i) *Height.* 45 feet.

(ii) *Front building setback.* 25 feet.

(iii) *Rear building setback.* 20 feet.

(iv) *Side building setback.* There shall be a side building setback on each side of a building not less than five feet in width. Buildings on corner lots shall have 15-foot side building setbacks adjacent to the street where the rear lot lines of the corner lots coincide with the rear lot lines of the adjacent lots. Buildings on corner lots shall have 25-foot side building setbacks adjacent to the street where the rear lot lines of the corner lots coincide with the side lot lines of the adjacent lots.

(v) *Garage setback.* Where a driveway is located in front of a garage, the garage shall be setback 20 feet from the right-of-way or the driveway to the garage shall be at least 20 feet long to provide enough space for a vehicle to park without overhanging into the right-of-way, if the garage door is closed. (See Illustration 8 in section 144-5.1-1.)

(vi) *Width of lot.* The minimum width of an interior lot shall be 60 feet and the minimum width of a corner lot shall be 70 feet, provided that where a lot has less width than herein required, and such lot was in separate ownership prior to September 25, 1967, this requirement will not prohibit the erection of a one-family dwelling.

(vii) *Lot area.* Every single-family dwelling hereafter erected or altered shall have a lot area of not less than 6,600 square feet per family for interior lots, and 7,000 square feet per family for corner lots. Where a lot was legally under separate ownership prior to September 25, 1967, but has an area less than the minimum required in this provision, this regulation shall not prohibit the erection of a one-family residence. Where a public or community sewer is not available and in use for the disposal of all sanitary sewage, each lot shall provide not less than one-half acre and one acre on the Edwards Aquifer Recharge Zone.

(viii) *Lot depth.* 100 feet.

(ix) *Parking.* Two off-street parking spaces shall be provided for each one-family detached dwelling. See section 144-5.1 for other permitted uses' parking.

(3) *Duplexes.*

(i) *Height.* 45 feet.

(ii) *Front building setback.* 25 feet.

(iii) *Rear building setback.* 20 feet.

(iv) *Side building setback.* There shall be a side building setback on each side of a building not less than five feet in width. Buildings on corner lots shall have 15-foot side building setbacks adjacent to the street where the rear lot lines of the corner lots coincide with the rear lot lines of the adjacent lots. Buildings on corner lots shall have 25-foot side building setbacks adjacent to the street where the rear lot lines of the corner lots coincide with the side lot lines of the adjacent lots.

(v) *Garage setback.* Where a driveway is located in front of a garage, the garage shall be setback 20 feet from the right-of-way or the driveway to the garage shall be at least 20 feet long to provide enough space for a vehicle to park without overhanging into the right-of-way, if the garage door is closed. (See Illustration 8 in section 144-5.1-1.)

(vi) *Width of lot.* The minimum width of an interior lot shall be 60 feet and the minimum width of a corner lot shall be 70 feet.

(vii) *Lot area.* Duplexes hereafter erected or altered shall have a lot area of not less than 8,000 square feet for an interior lot and 8,500 square feet for a corner lot. Where a lot was legally under separate ownership prior to September 25, 1967, but has an area less than the minimum required in this provision, this regulation shall prohibit the erection of a two-family residence. Where a public or community sewer is not available and in use for the disposal of all sanitary sewage, each lot shall provide not less than one acre and approved by the city sanitarian.

(viii) *Lot depth.* 100 feet.

(viii) *Parking.* Two off-street parking spaces shall be provided for each two-family dwelling unit. See section 144-5.1 for other permitted uses' parking.

(4) *Multifamily dwellings.*

(i) *Height.* 45 feet; 60 feet when a pitched roof is used (minimum 4:12 slope).

(ii) *Front building setback.* 25 feet.

(iii) *Rear building setback.* 25 feet.

(iv) *Side building setback.* There shall be a side building setback on each side of a building not less than five feet in width. Buildings on corner lots shall have 15-foot side building setbacks adjacent to the street where the rear lot lines of the corner lots coincide with the rear lot lines of the adjacent lots. Buildings on corner lots shall have 25-foot side building setbacks adjacent to the street where the rear lot lines of the corner lots coincide with the side lot lines of the adjacent lots.

(v) *Garage setback.* Where a driveway is located in front of a garage, the garage shall be setback 20 feet from the right-of-way or the driveway to the garage shall be at least 20 feet long to provide enough space for a vehicle to park without overhanging into the right-of-way, if the garage door is closed. (See Illustration 8 in section 144-5.1-1.)

(vi) *Residential setback.* Effective November 8, 2006, where a multifamily dwelling abuts a one- or two-family use or zoning district, the setback from the one- or two-family property line shall be at least 20 feet plus one foot for each foot of building height over 20 feet.

(vii) *Width of lot.* The minimum width of an interior lot shall be 60 feet and the minimum width of a corner lot shall be 70 feet, provided that where a lot has less width than herein required, and such lot was in separate ownership prior to September 25, 1967, this requirement will not prohibit the erection of a one-family dwelling.

(viii) *Lot area.* The minimum lot area for a multifamily dwelling shall be 15,000 square feet; for each unit over ten an additional 1,500 square feet of lot area shall be required. Where public or community sewer is not available and in use, for the disposal of all sanitary sewage, multifamily developments shall be approved by the city sanitarian.

(ix) *Lot coverage.* For multifamily structures, the combined area of all yards shall be at least 55 percent of the total lot or tract; provided, however, that in the event enclosed parking is provided the minimum total yard area requirement shall be 40 percent of the total lot or tract.

(x) *Distance between structures.* For multifamily structures, there shall be a minimum of ten feet between structures side by side; a minimum of 20 feet between structures side by front or rear; a minimum of 40 feet between structures front to front; and a minimum of ten feet between structures backing rear to rear, and a minimum of 20 feet front to rear. (See Illustration 1 in section 144-3.3-3.)

(xi) *Lot depth.* 100 feet.

(xii) *Parking.* For apartments, apartment hotel units and other multifamily dwellings, off-street parking spaces shall be provided in accord with the following schedule:

1. One-bedroom apartment or unit: One and one-half spaces.
2. Two-bedroom apartment or unit: Two spaces.
3. Each additional bedroom: One-half space.
4. Each dwelling unit provided exclusively for low income elderly occupancy: Three-fourths space ("low income elderly" is defined as any person 55 years of age or older with low or moderate income, according to HUD standards).

3.3-12. *"M-2" heavy industrial district.* The following regulations shall apply in all "M-2" districts:

(a) *Authorized uses.* Uses permitted by right shall be those set forth in the land use matrix in section 144-4.2. The allowed uses in the district, which are intended to be identical with those listed in the land use matrix, are as follows:

(1) *Uses permitted by right.*

Residential uses:

Accessory building/structure.

Accessory dwelling (one accessory dwelling per lot, no kitchen.

Bed and breakfast inn (see section 144-5.6).

Boardinghouse/lodging house.

Cabin or cottage (rental for more than 30 days).

Community home (see definition).

Dormitory (in which individual rooms are for rental).

Duplex/two-family/duplex condominiums.

Home occupation (see section 144-5.5).

Multifamily (apartments/condominiums).

One-family dwelling, detached.

Rental or occupancy for less than one month (see section 144-5.17).

Residential use in buildings with the following non-residential uses.

Single-family industrialized home (see section 144-5.8).
Townhouse (attached).

Non-residential uses:

Accounting, auditing, bookkeeping, and tax preparations.
Adult day care (no overnight stay).
Adult day care (with overnight stay).
Aircraft support and related services.
Airport.
All terrain vehicle (ATV) dealer/sales.
Ambulance service (private).
Amphitheater.
Amusement devices/arcade (four or more devices).
Amusement services or venues (indoors) (see section 144-5.13).
Amusement services or venues (outdoors).
Animal grooming shop.
Answering and message services.
Antique shop.
Appliance repair.
Archery range.
Armed services recruiting center.
Art dealer/gallery.
Artist or artisan's studio.
Assembly/exhibition hall or areas.
Athletic fields.
Auction sales (non-vehicle).
Auto body repair, garages (see section 144-5.11).
Auto glass repair/tinting (see section 144-5.11).
Auto interior shop/upholstery (see section 144-5.11).
Auto leasing.
Auto muffler shop (see section 144-5.11).
Auto or trailer sales rooms or yards (see section 144-5.11).
Auto or truck sales rooms or yards—Primarily new (see section 144-5.11).
Auto paint shop (see section 144-5.11).
Auto repair as an accessory use to retail sales (see section 144-5.11).
Auto repair garage (general) (see section 144-5.11).
Auto supply store for new and factory rebuilt parts.
Auto tire repair/sales (indoor).
Automobile driving school (including defensive driving).
Bakery (retail).
Bank, savings and loan, or credit union.
Bar/tavern.
Barber/beauty college (barber or cosmetology school or college).
Barber/beauty shop, haircutting (non-college).
Barns and farm equipment storage (related to agricultural uses).
Battery charging station.
Bicycle sales and/or repair.
Billiard/pool facility.
Bingo facility.
Bio-medical facilities.
Blacksmith or wagon shops.
Blooming or rolling mills.
Book binding.
Book store.

Bottling or distribution plants (milk).
Bottling works.
Bowling alley/center (see section 144-5.13).
Breweries/distilleries and manufacture of alcohol and alcoholic beverages.
Broadcast station (with tower) (see section 144-5.7).
Bus barns or lots.
Bus passenger stations.
Cafeteria/cafe/delicatessen.
Campers' supplies.
Canning/preserving factories.
Car wash (self service; automated).
Car wash, full service (detail shop).
Carpenter, cabinet, or pattern shops.
Carpet cleaning establishments.
Caterer.
Cemetery and/or mausoleum.
Check cashing service.
Chemical laboratories (e.g., ammonia, bleaching powder).
Chemical laboratories (not producing noxious fumes or odors).
Child day care/children's nursery (business).
Church/place of religious assembly.
Cider mills.
Civic/conference center and facilities.
Cleaning, pressing and dyeing (non-explosive fluids used).
Clinic (dental).
Clinic (emergency care).
Clinic (medical).
Club (private).
Coffee shop.
Cold storage plant.
Commercial amusement concessions and facilities.
Communication equipment (installation and/or repair).
Community building (associated with residential uses).
Computer and electronic sales.
Computer repair.
Concrete or asphalt mixing plants—Permanent.
Concrete or asphalt mixing plants—Temporary.
Confectionery store (retail).
Consignment shop.
Contractor's office/sales, with outside storage including vehicles.
Contractor's temporary on-site construction office (only with permit from building official; see section 144-5.10).
Convenience store with or without fuel sales.
Cotton ginning or baling works.
Country club (private).
Credit agency.
Curio shops.
Custom work shops.
Dance hall/dancing facility.
Day camp.
Department store.
Drapery shop/blind shop.
Driving range.

Drug sales/pharmacy.
Electrical generating plant.
Electrical repair shop.
Electrical substation.
Electronic assembly/high tech manufacturing.
Electroplating works.
Enameling works.
Engine repair/motor manufacturing re-manufacturing and/or repair.
Exterminator service.
Fair ground.
Farmers market (produce market—wholesale).
Farms, general (crops) (see chapter 6).
Farms, general (livestock/ranch) (see chapter 6).
Feed and grain store.
Filling station (fuel tanks must be below the ground).
Florist.
Flour mills, feed mills, and grain processing.
Food or grocery store with or without fuel sales.
Food processing (no outside public consumption).
Forge (hand).
Forge (power).
Fraternal organization/civic club (private club).
Freight terminal, rail/truck (when any storage of freight is outside an enclosed building).
Freight terminal, truck (all storage of freight in an enclosed building).
Frozen food storage for individual or family use.
Funeral home/mortuary.
Furniture manufacture.
Furniture sales (indoor).
Galvanizing works.
Garden shops and greenhouses.
Golf course (miniature).
Golf course, public or private.
Governmental building or use.
Grain elevator.
Greenhouse (commercial).
Handicraft shop.
Hardware store.
Health club (physical fitness; indoors only).
Heating and air-conditioning sales/services.
Heavy load (farm) vehicle sales/repair (see section 144-5.14).
Heavy manufacturing.
Heliport.
Hides/skins (tanning).
Home repair and yard equipment retail and rental outlets.
Hospital, general (acute care/chronic care).
Hospital, rehabilitation.
Hotel/motel.
Hotels/motels—Extended stay (residence hotels).
Ice delivery stations (for storage and sale of ice at retail only).
Ice plants.
Industrial laundries.
Kiosk (providing a retail service).
Laboratory equipment manufacturing.

Laundromat and laundry pickup stations.
Laundry, commercial (without self serve).
Laundry/dry cleaning (drop off/pick up).
Laundry/washateria (self serve).
Lawnmower sales and/or repair.
Leather products manufacturing.
Light manufacturing.
Limousine/taxi service.
Livestock sale and auction.
Locksmith.
Lumber mill.
Lumberyard (see section 144-5.15).
Lumberyard or building material sales.
Machine shop.
Maintenance/janitorial service.
Major appliance sales (indoor).
Manufactured home sales.
Manufacturing and processes.
Market (public, flea).
Martial arts school.
Meat or fish packing/storage plants.
Medical supplies and equipment.
Metal fabrication shop.
Micro brewery (onsite manufacturing and/or sales).
Mini-warehouse/self storage units (no outside boat and RV storage permitted).
Mini-warehouse/self storage units (with outside storage permitted).
Motion picture studio, commercial film.
Motion picture theater (indoors).
Motion picture theatre (outdoors, drive-in).
Motorcycle dealer (primarily new/repair)
Moving storage company.
Moving, transfer, or storage plant.
Museum.
Needlework shop.
Non-bulk storage of fuel, petroleum products and liquefied petroleum.
Nursing/convalescent home/sanitarium.
Offices, brokerage services.
Offices, business or professional.
Offices, computer programming and data processing.
Offices, consulting.
Offices, engineering, architecture, surveying or similar.
Offices, health services.
Offices, insurance agency.
Offices, legal services, including court reporting.
Offices, medical offices.
Offices, real estate.
Offices, security/commodity brokers, dealers, exchanges and financial services.
Outside storage (as primary use).
Paint manufacturing.
Park and/or playground (private or public).
Parking lots (for passenger car only) (not as incidental to the main use).
Parking structure/public garage.
Pawn shop.

Personal watercraft sales (primarily new/repair).
Pet shop/supplies (10,000 square feet or less).
Pet store (more than 10,000 square feet).
Photo engraving plant.
Photographic printing/duplicating/copy shop or printing shop.
Photographic studio (no sale of cameras or supplies).
Photographic supply.
Plant nursery (growing for commercial purposes but no retail sales on site).
Plant nursery (retail sales/outdoor storage).
Plastic products molding/reshaping.
Plumbing shop.
Portable building sales.
Poultry killing or dressing for commercial purposes.
Propane sales (retail).
Public recreation/services building for public park/playground areas.
Publishing/printing company (e.g., newspaper).
Quick lube/oil change/minor inspection.
Radio/television shop, electronics, computer repair.
Recreation buildings (public or private).
Recycling kiosk.
Refreshment/beverage stand.
Research lab (non-hazardous).
Restaurant with drive-through.
Restaurant/prepared food sales.
Retail store and shopping center.
Retirement home/home for the aged—Public.
Rodeo grounds.
RV park.
RV/travel trailer sales.
Sand/gravel sales (storage or sales).
School, K-12 (public or private).
School, vocational (business/commercial trade).
Security monitoring company.
Security systems installation company (with outside storage).
Sheet metal shop.
Shoe repair shops.
Shooting gallery—Indoor (see section 144-5.13).
Sign manufacturing/painting plant.
Stone/clay/glass manufacturing.
Storage—Exterior storage for boats and recreational vehicles.
Storage in bulk.
Studio for radio or television (without tower).
Studios (art, dance, music, drama, reducing, photo, interior decorating, etc.).
Tailor shop.
Tattoo or body piercing studio.
Taxidermist.
Telemarketing agency.
Telephone exchange buildings (office only).
Tennis court (commercial).
Theater (non-motion picture; live drama).
Tire sales (outdoors).
Tool rental.
Transfer station (refuse/pick-up).

Travel agency.

Truck or transit terminal.

Truck stop.

University or college (public or private).

Upholstery shop (non-auto).

Used or second hand merchandise/furniture store.

Vacuum cleaner sales and repair.

Veterinary hospital (with or without outside animal runs or kennels) with the exception that outdoor kennels may not be used between the hours of 9:00 p.m. and 7:00 a.m. and are prohibited adjacent to residential.

Video rental/sales.

Warehouse/office and storage/distribution center.

Waterfront amusement facilities—Berthing facilities sales and rentals.

Waterfront amusement facilities—Boat fuel storage/dispensing facilities.

Waterfront amusement facilities—Boat landing piers/launching ramps.

Waterfront amusement facilities—Swimming/wading pools/bathhouses.

Water storage (surface, underground or overhead), water wells and pumping stations that are part of a public or municipal system.

Welding shop.

Wholesale sales offices and sample rooms.

Woodworking shop (ornamental).

Any comparable business or use not included in or excluded from any other district described herein.

(2) Any other uses not now or hereinafter prohibited by ordinance of the city regulating nuisances, except that the following uses will be permitted only by approval of the city council after report from the health department, fire department, and the planning commission:

Acid manufacture.

Auto wrecking yards.

Bulk storage of fuel, liquefied petroleum and flammable liquids.

Cement, lime, gypsum or plaster of Paris manufacture.

Distillation of bones.

Explosives manufacture or storage.

Fertilizer manufacture and storage.

Garbage, offal or dead animal reduction or dumping.

Gas manufacture.

Iron and steel manufacture.

Junkyards, including storage, sorting, baling or processing of rags.

Manufacture of carbon batteries.

Manufacture of paint, lacquer, oil, turpentine, varnish, enamel, etc.

Manufacture of rubber, glucose, or dextrin.

Monument or marble works.

Oil compounding and barreling plants.

Paper or pulp manufacture.

Petroleum or its products (refining of).

Railroad roundhouses or shops.

Rock crushers.

Smelting of tin, copper, zinc or iron ores.

Steel furnaces.

Stockyards or slaughtering.

Structural iron or pipe works.

Sugar refineries.

Tar distillation or manufacture.

Tar products.

Wire or rod mills.

Wood distillation plants (charcoal, tar, turpentine, etc.).

Wool scouring.

(3) *Conflict.* In the event of conflict between the uses listed in the land use matrix and those listed in subsection (1), the uses listed in this subsection shall be deemed those authorized in the district.

(b) *Maximum height, minimum area and setback requirements.*

(1) *Non-residential uses.*

(i) *Height.* 120 feet.

(ii) *Front building setback.* 25 feet.

(iii) *Side building setbacks.* No side building setback is required except that where a side line of a lot in this district abuts upon the side line of a lot in a "R" or "B-1" zone, a side building setback of not less than six feet shall be provided.

(iv) *Rear building setback.* 20 feet.

(v) *Residential setback.* Effective November 8, 2006, where a non-residential building abuts a one- or two-family use or zoning district, the setback from the one- or two-family property line shall be at least 20 feet plus one foot for each foot of building height over 20 feet.

(vi) *Width of lot.* The minimum width of a lot shall be 60 feet, provided that where a lot has less width than required and such lot was in separate ownership prior to February 4, 1984, this requirement will not prohibit the construction of a use enumerated in this district.

(vii) *Corner lots.* A minimum 25-foot front yard setback and side building setback adjacent to streets shall be required on all corner lots. A canopy at least six feet in height, attached to the main building, may be built within 15 feet of the street line so long as such construction is not supported by columns which will obstruct the vision of vehicles driving upon adjacent streets.

(viii) *Lot depth.* The depth of the lot shall be at least 100 feet.

(ix) *Parking.* See section 144-5.1 for permitted uses parking.

(2) *One-family dwellings.*

(i) *Height.* 45 feet.

(ii) *Front building setback.* 25 feet.

(iii) *Rear building setback.* 20 feet.

(iv) *Side building setback.* There shall be a side building setback on each side of a building not less than five feet in width. Buildings on corner lots shall have 15-foot side building setbacks adjacent to the street where the rear lot lines of the corner lots coincide with the rear lot lines of the adjacent lots. Buildings on corner lots shall have 25-foot side building setbacks adjacent to the street where the rear lot lines of the corner lots coincide with the side lot lines of the adjacent lots.

(v) *Garage setback.* Where a driveway is located in front of a garage, the garage shall be setback 20 feet from the right-of-way or the driveway to the garage shall be at least 20 feet long to provide enough space for a vehicle to park without overhanging into the right-of-way, if the garage door is closed. (See Illustration 8 in section 144-5.1-1.)

(vi) *Width of lot.* The minimum width of an interior lot shall be 60 feet and the minimum width of a corner lot shall be 70 feet, provided that where a lot has less width than herein required, and such lot was in separate ownership prior to September 25, 1967, this requirement will not prohibit the erection of a one-family dwelling.

(vii) *Lot area.* Every single-family dwelling hereafter erected or altered shall have a lot area of not less than 6,600 square feet per family for interior lots, and 7,000 square feet per family for corner lots. Where a lot was legally under separate ownership prior to September 25, 1967, but has an area less than the minimum required in this provision, this regulation shall not prohibit the erection of a one-family residence. Where a public or community sewer is not available and in use for the disposal of all sanitary sewage, each lot shall provide not less than one-half acre and one acre on the Edwards Aquifer Recharge Zone.

(viii) *Lot depth.* 100 feet.

(ix) *Parking.* Two off-street parking spaces shall be provided for each one-family detached dwelling unit. See section 144-5.1 for other permitted uses' parking.

(3) *Duplexes.*

(i) *Height.* 45 feet.

(ii) *Front building setback.* 25 feet.

(iii) *Rear building setback.* 20 feet.

(iv) *Side building setbacks.* There shall be a side building setback on each side of a building not less than five feet in width. Buildings on corner lots shall have 15-foot side building setbacks adjacent to the street where the rear lot lines of the corner lots coincide with the rear lot lines of the

adjacent lots. Buildings on corner lots shall have 25-foot side building setbacks adjacent to the street where the rear lot lines of the corner lots coincide with the side lot lines of the adjacent lots.

(v) *Garage setback.* Where a driveway is located in front of a garage, the garage shall be setback 20 feet from the right-of-way or the driveway to the garage shall be at least 20 feet long to provide enough space for a vehicle to park without overhanging into the right-of-way, if the garage door is closed. (See Illustration 8 in section 144-5.1-1.)

(vi) *Width of lot.* The minimum width of an interior lot shall be 60 feet and the minimum width of a corner lot shall be 70 feet.

(vii) *Lot area.* Duplexes hereafter erected or altered shall have a lot area of not less than 8,000 square feet for an interior lot and 8,500 square feet for a corner lot. Where a lot was legally under separate ownership prior to September 25, 1967, but has an area less than the minimum required in this provision, this regulation shall prohibit the erection of a two-family residence. Where a public or community sewer is not available and in use for the disposal of all sanitary sewage, each lot shall provide not less than one acre and approved by the city sanitarian.

(viii) *Lot depth.* 100 feet.

(ix) *Parking.* Two off-street parking spaces shall be provided for each two-family dwelling unit. See section 144-5.1 for other permitted uses' parking.

(4) *Multifamily dwellings.*

(i) *Height.* 45 feet; 60 feet when a pitched roof is used (minimum 4:12 slope).

(ii) *Front building setback.* 25 feet.

(iii) *Rear building setback.* 25 feet.

(iv) *Side building setback.* There shall be a side building setback on each side of a building not less than five feet in width. Buildings on corner lots shall have 15-foot side building setbacks adjacent to the street where the rear lot lines of the corner lots coincide with the rear lot lines of the adjacent lots. Buildings on corner lots shall have 25-foot side building setbacks adjacent to the street where the rear lot lines of the corner lots coincide with the side lot lines of the adjacent lots.

(v) *Garage setback.* Where a driveway is located in front of a garage, the garage shall be setback 20 feet from the right-of-way or the driveway to the garage shall be at least 20 feet long to provide enough space for a vehicle to park without overhanging into the right-of-way, if the garage door is closed. (See Illustration 8 in section 144-5.1-1.)

(vi) *Residential setback.* Effective November 8, 2006, where a multifamily dwelling abuts a one- or two-family use or zoning district, the setback from the one- or two-family property line shall be at least 20 feet plus one foot for each foot of building height over 20 feet.

(vii) *Width of lot.* The minimum width of an interior lot shall be 60 feet and the minimum width of a corner lot shall be 70 feet.

(viii) *Lot area.* The minimum lot area for a multifamily dwelling shall be 15,000 square feet; for each unit over ten an additional 1,500 square feet of lot area shall be required. Where public or community sewer is not available and in use, for the disposal of all sanitary sewage, multifamily developments shall be approved by the city sanitarian.

(ix) *Lot coverage.* For multifamily structures, the combined area of all yards shall be at least 55 percent of the total lot or tract; provided, however, that in the event enclosed parking is provided the minimum total yard area requirement shall be 40 percent of the total lot or tract.

(x) *Distance between structures.* For multifamily structures, there shall be a minimum of ten feet between structures side by side; a minimum of 20 feet between structures side by front or rear; a minimum of 40 feet between structures front to front; and a minimum of ten feet between structures backing rear to rear, and a minimum of 20 feet front to rear. (See Illustration 1 in section 144-3.3-3.)

(xi) *Lot depth.* 100 feet.

(xii) *Parking.* For apartments, apartment hotel units and other multifamily dwellings, off-street parking spaces shall be provided in accord with the following schedule:

1. One-bedroom apartment or unit: One and one-half spaces.
2. Two-bedroom apartment or unit: Two spaces.
3. Each additional bedroom: One-half space.
4. Each dwelling unit provided exclusively for low income elderly occupancy: Three-fourths space ("low income elderly" is defined as any person 55 years of age or older with low or moderate income, according to HUD standards).

(5) *Townhouses.*

(i) *Height.* 35 feet.

(ii) *Front building setback.* Ten feet. If front entry garages/carports are provided, a minimum front yard of 20 feet shall be provided to the garage/carport.

(iii) *Side building setback.* No side building setbacks are required for interior lots except the minimum distance between two building groups shall be 20 feet and the minimum distance between a building group and any abutting subdivision boundary or zoning district boundary line shall be 20 feet. Buildings on corner lots shall have 15-foot side building setbacks adjacent to the street, except where the rear lot line of a corner lot coincides with a side lot line of an adjacent lot, then 25-foot minimum side yards adjacent to the street shall be provided.

(iv) *Garage setback.* Where a driveway is located in front of a garage, the garage shall be setback 20 feet from the right-of-way or the driveway to the garage shall be at least 20 feet long to provide enough space for a vehicle to park without overhanging into the right-of-way, if the garage door is closed. (See Illustration 8 in section 144-5.1-1.)

(v) *Rear building setback.* No building shall be constructed closer than ten feet from the rear property line. If the rear of the lots abut any other residential zoning district, the rear building setback shall have a minimum depth of 20 feet.

(vi) *Width of lot.* Interior lots shall have a minimum width of 25 feet. Corner lots shall have a minimum width of 40 feet except where the rear lot line of a corner lot coincides with a side lot line of an adjacent lot, then the corner lot shall have a minimum width of 50 feet.

(vii) *Lot depth.* 100 feet.

(viii) *Lot area per family.* 2,500 square feet.

(ix) *Common open space.* A minimum of 250 square feet of common open space per lot shall be provided within the townhouse project. In computing the required common open space, individually owned townhouse lots, required front, rear, or side setbacks, streets, alleys, or public rights-of-way of any kind, vehicular drives, parking areas, service drives, or utility easements containing or permitting overhead pole carried service shall not be included. Drainage easements and detention ponds may be used in computing common open space.

(x) *Other requirements:*

1. *Building group.* There shall be no less than two nor more than eight individual dwelling units in each building or dwelling group. Each building group shall be at least 20 feet from any other building group, measured from the nearest points of their foundations. Each building or building group shall be at least 20 feet from any subdivision or zoning district boundary line.
2. *Accessory buildings.* Any detached accessory buildings permitted, except carports open on at least two sides, shall be set at least three feet away from the side lot line unless their walls are equal in fire resistance to the common walls of the main structure. Detached carports, open on at least two sides, may be built to the property line with no common wall required. Rear building setback for an accessory building shall be three feet. Any accessory building permitted in district "R-1" shall be permitted in district "TH."
3. *Parking.* There shall be at least two off-street parking spaces for each townhouse. See section 144-5.1 for other permitted uses' parking.

(Ord. No. 2012-49, § 1(Exh. A), 9-10-12)

Sec. 144-3.4. - Zoning districts and regulations for property zoned subsequent to June 22, 1987.

3.4-1. *"APD" agricultural/pre-development district.*

Purpose. This district is designed for newly annexed areas, agricultural uses, and for areas where development is premature because of a lack of utilities, capacity, or service, or where the ultimate use has not been determined. The following regulations shall apply in all "APD" districts:

(a) *Authorized uses.* Uses permitted by right shall be those set forth in the land use matrix in section 144-4.2. The allowed uses in the district, which are intended to be identical with those listed in the land use matrix, are as follows

(1) *Uses permitted by right.*

Residential uses:

Accessory building/structure.

Accessory dwelling (one accessory dwelling per lot, no kitchen).

Community home (see definition).

Family home adult care.

Family home child care.

Home occupation (see section 144-5.5).

One-family, dwelling, detached.

Single-family industrialized home (see section 144-5.8).

Non-residential uses:

Barns and farm equipment storage (related to agricultural uses).

Cemetery and/or mausoleum.

Church/place of religious assembly.

Contractor's temporary on-site construction office (only with permit from building official; see section 144-5.10).

Country club (private).

Farmers market (produce market—wholesale).

Farms, general (crops) (see chapter 6) (section 144-5.9 is not applicable).

Farms, general (livestock/ranch) (see chapter 6) (section 144-5.9 is not applicable).

Flour mills, feed mills, and grain processing.

Golf course, public or private.

Governmental building or use with no outside storage.

Grain elevator.

Hay, grain, and/or feed sales (wholesale).

Livestock sales/auction.

Park and/or playground (public).

Plant nursery (growing for commercial purposes but no retail sales on site).

Recreation buildings (public).

Rodeo grounds.

School, K-12 (public or private).

Stables (as a business) (see chapter 6).

Stables (private, accessory use) (see chapter 6).

Water storage (surface, underground or overhead), water wells and pumping stations that are part of a public or municipal system.

Any comparable use not included in or excluded from any other district described herein.

(2) *Conflict.* In the event of conflict between the uses listed in the land use matrix and those listed in subsection (1), the uses listed in this subsection shall be deemed those authorized in the district.

(b) *Maximum height, minimum area and setback requirements.*

(1) *Height.* 35 feet.

(2) *Front yards.* 25 feet.

(3) *Side building setbacks.* There shall be a side building setback on each side of a building not less than ten feet in width. Buildings on corner lots shall have 15-foot side building setbacks adjacent to the street where the rear lot lines of the corner lots coincide with the rear lot lines of the adjacent lots. Buildings on corner lots shall have 25-foot side building setbacks adjacent to the street where the rear lines of the corner lots coincide with the side lot lines of the adjacent lots.

(4) *Garage setback.* Where a driveway is located in front of a garage, the garage shall be setback 20 feet from the right-of-way or the driveway to the garage shall be at least 20 feet long to provide enough space for a vehicle to park without overhanging into the right-of-way, if the garage door is closed. (See Illustration 8 in section 144-5.1-1.)

(5) *Rear building setbacks.* 30 feet.

(6) *Width of lot.* 100 feet.

(7) *Lot area per family.* Every single-family dwelling hereafter erected or altered shall provide a lot area of not less than 15,000 square feet per dwelling, provided that where a lot has less area than herein required and such lot was in separate ownership prior to September 25, 1967, this requirement will not prohibit the erection of a one-family dwelling. Where public or community sewer is not available and in use, for the disposal of all sanitary sewage, each lot shall provide not less than one-half acre and one acre on the Edwards Aquifer Recharge Zone.

(8) *Lot depth.* 100 feet.

(9) *Parking.* See section 144-5.1 for other permitted uses' parking.

3.4-2. *"R-1A-43.5" single-family district.*

Purpose. The R-1A-43.5 single-family district is intended for development of primarily detached, single-family residences and customary accessory uses on lots of at least 43,560 square feet (one acre) in size. The following regulations shall apply in all "R-1A-43.5" districts:

(a) *Authorized uses.* Uses permitted by right shall be those set forth in the land use matrix in section 144-4.2. The allowed uses in the district, which are intended to be identical with those listed in the land use matrix, are as follows:

(1) *Uses permitted by right:*

Residential uses:

Accessory building/structure.

Accessory dwelling (one accessory dwelling per lot, no kitchen).

Community home (see definition).

Family home adult care.

Family home child care.

Home occupation (see section 144-5.5).

One-family dwelling, detached.

Single-family industrialized home (see section 144-5.8).

Non-residential uses:

Barns and farm equipment storage (related to agricultural uses).

Church/place of religious assembly.

Contractor's temporary on-site construction office (only with permit from building official; see section 144-5.10).

Community building (associated with residential uses).

Farms, general (crops) (see chapter 6 and section 144-5.9).

Farms, general (livestock/ranch) (see chapter 6 and section 144-5.9).

Golf course, public or private.

Governmental building or use with no outside storage.

Park and/or playground (public).

Public recreation/services building for public park/playground areas.

Recreation buildings (public).

School, K-12 (public or private).

Water storage (surface, underground or overhead), water wells and pumping stations that are part of a public or municipal system.

(2) *Conflict.* In the event of conflict between the uses listed in the land use matrix and those listed in subsection (1), the uses listed in this subsection shall be deemed those authorized in the district.

(b) *Maximum height, minimum area and setback requirements.*

(1) *Residential uses.*

(i) *Height.* 35 feet.

(ii) *Front yards.* 25 feet.

(iii) *Side building setback.* There shall be a side building setback on each side of a building not less than ten feet in width. Buildings on corner lots shall have 15-foot side building setbacks adjacent to the street where the rear lot lines of the corner lots coincide with the rear lot lines of the adjacent lots. Buildings on corner lots shall have 25-foot side building setbacks adjacent to the street where the rear lines of the corner lots coincide with the side lot lines of the adjacent lots.

(iv) *Garage setback.* Where a driveway is located in front of a garage, the garage shall be setback 20 feet from the right-of-way or the driveway to the garage shall be at least 20 feet long to provide enough space for a vehicle to park without overhanging into the right-of-way, if the garage door is closed. (See Illustration 8 in section 144-5.1-1.)

(v) *Rear building setback.* 20 feet.

(vi) *Width of lot.* 100 feet.

(vii) *Lot area per family.* Every single-family dwelling hereafter erected or altered shall provide a lot area of not less than 43,560 square feet per dwelling provided that where a lot has less area than herein required and such lot was in separate ownership prior to September 25, 1967, this requirement will not prohibit the erection of a one-family dwelling.

(viii) *Lot depth.* 100 feet.

(ix)

Parking. Two off-street parking spaces shall be provided for each one-family detached dwelling. See section 144-5.1 for other permitted uses' parking.

(2) *Non residential uses.*

(i) *Height.* 35 feet.

(ii) *Front building setback.* 25 feet.

(iii) *Side building setback.* There shall be a side building setback on each side of a building not less than five feet in width. Where any building abuts a property with a one- or two-family use, the setback from the one- or two-family property line shall be at least 20 feet plus one foot for each foot of building height over 20 feet.

(iv) *Corner lots.* Buildings on corner lots shall have 15-foot side building setbacks adjacent to the street where the rear lot lines of the corner lots coincide with the rear lot lines of the adjacent lots. Buildings on corner lots shall have 25-foot side building setbacks adjacent to the street where the rear lines of the corner lots coincide with the side lot lines of the adjacent lots. Where a minimum 25-foot setback is required, a canopy at least eight feet in height, attached to the main building, may be built within 15 feet of the property line so long as such construction will not obstruct the vision of vehicular or pedestrian traffic.

(v) *Garage setback.* Where a driveway is located in front of a garage, the garage shall be setback 20 feet from the right-of-way or the driveway to the garage shall be at least 20 feet long to provide enough space for a vehicle to park without overhanging into the right-of-way, if the garage door is closed. (See Illustration 8 in section 144-5.1-1.)

(vi) *Rear building setback.* 20 feet.

(vii) *Width of lot.* 100 feet.

(viii) *Lot depth.* 100 feet.

(ix) *Parking.* See section 144-5.1 for permitted uses' parking.

3.4-2. *"R-1A-12" single-family district.*

Purpose. The R-1A-12 single-family district is intended for development of primarily detached, single-family residences and customary accessory uses on lots of at least 12,000 square feet in size. The following regulations shall apply in all "R-1A -12" districts:

(a) *Authorized uses.* Uses permitted by right shall be those set forth in the land use matrix in section 144-4.2. The allowed uses in the district, which are intended to be identical with those listed in the land use matrix, are as follows:

(1) *Uses permitted by right.*

Residential uses:

Accessory building/structure.

Accessory dwelling (one accessory dwelling per lot, no kitchen).

Community home (see definition).

Family home adult care.

Family home child care.

Home occupation (see section 144-5.5).

One-family dwelling, detached.

Single-family industrialized home (see section 144-5.8).

Non-residential uses:

Barns and farm equipment storage (related to agricultural uses).

Church/place of religious assembly.

Community building (associated with residential uses).

Contractor's temporary on-site construction office (only with permit from building official; see section 144-5.10).

Farms, general (crops) (see chapter 6 and section 144-5.9).

Farms, general (livestock/ranch) (see chapter 6 and section 144-5.9).

Golf course, public or private.

Governmental building or use with no outside storage.

Park and/or playground (public).

Public recreation/services building for public park/playground areas.

Recreation buildings (public).

School, K-12 (public or private).

Water storage (surface, underground or overhead), water wells and pumping stations that are part of a public or municipal system.

(2) *Conflict.* In the event of conflict between the uses listed in the land use matrix and those listed in subsection (1), the uses listed in this subsection shall be deemed those authorized in the district.

(b) *Height and area requirements.*

(1) *Residential uses.*

(i) *Height.* 35 feet.

(ii) *Front building setback.* 25 feet.

(iii) *Side building setbacks.* There shall be a side building setback on each side of a building not less than ten feet in width. Buildings on corner lots shall have 15-foot side building setbacks adjacent to the street where the rear lot lines of the corner lots coincide with the rear lot lines of the adjacent lots. Buildings on corner lots shall have 25-foot side building setbacks adjacent to the street where the rear lines of the corner lots coincide with the side lot lines of the adjacent lots.

(iv) *Garage setback.* Where a driveway is located in front of a garage, the garage shall be setback 20 feet from the right-of-way or the driveway to the garage shall be at least 20 feet long to provide enough space for a vehicle to park without overhanging into the right-of-way, if the garage door is closed. (See Illustration 8 in section 144-5.1-1.)

(v) *Rear building setback.* 20 feet.

(vi) *Width of lot.* The minimum width of an interior lot shall be 80 feet and the minimum width of a corner lot shall be 85 feet.

(vii) *Lot area per family.* Every single-family dwelling hereafter erected or altered shall provide a lot area of not less than 12,000 square feet per dwelling, provided that where a lot has less area than herein required and such lot was in separate ownership prior to September 25, 1967, this requirement will not prohibit the erection of a one-family dwelling. Where public or community sewer is not available and in use, for the disposal of all sanitary sewage, each lot shall provide not less than one-half acre per dwelling unit not located over the recharge zone and one acre per dwelling unit located over the recharge zone.

(viii) *Lot depth.* 100 feet.

(ix) *Parking.* Two off-street parking spaces shall be provided for each one-family detached dwelling. See section 144-5.1 for other permitted uses' parking.

(2) *Non-residential uses.*

(i) *Height.* 35 feet.

(ii) *Front building setback.* 25 feet.

(iii) *Side building setback.* There shall be a side building setback on each side of a building not less than five feet in width. Where any building abuts a property with a one- or two-family use, the setback from the one- or two-family property line shall be at least 20 feet plus one foot for each foot of building height over 20 feet.

(iv) *Corner lots.* Buildings on corner lots shall have 15-foot side building setbacks adjacent to the street where the rear lot lines of the corner lots coincide with the rear lot lines of the adjacent lots. Buildings on corner lots shall have 25-foot side building setbacks adjacent to the street where the rear lines of the corner lots coincide with the side lot lines of the adjacent lots. Where a minimum 25-foot setback is required, a canopy at least eight feet in height, attached to the main building, may be built within 15 feet of the property line so long as such construction will not obstruct the vision of vehicular or pedestrian traffic.

(v) *Garage setback.* Where a driveway is located in front of a garage, the garage shall be setback 20 feet from the right-of-way or the driveway to the garage shall be at least 20 feet long to provide enough space for a vehicle to park without overhanging into the right-of-way, if the garage door is closed. (See Illustration 8 in section 144-5.1-1.)

(vi) *Rear building setback.* 20 feet.

(vii) *Width of lot.* 60 feet.

(viii) *Lot depth.* 100 feet.

(ix) *Parking.* See section 144-5.1 for permitted uses' parking.

3.4-2. *"R-1A-8" single-family district.*

Purpose. The R-1A-8 single-family district is intended for development of primarily detached, single-family residences and customary accessory uses on lots of at least 8,000 square feet in size. The following regulations shall apply in all "R-1A-8" districts:

(a) *Authorized uses.* Uses permitted by right shall be those set forth in the land use matrix in section 144-4.2. The allowed uses in the district, which are intended to be identical with those listed in the land use matrix, are as follows:

(1) *Uses permitted by right.*

Residential uses:

Accessory building/structure.

Accessory dwelling (one accessory dwelling per lot, no kitchen).

Community home (see definition).

Family home adult care.

Family home child care.

Home occupation (see section 144-5.5).

One-family dwelling, detached.

Single-family industrialized home (see section 144-5.8).

Non-residential uses:

Barns and farm equipment storage (related to agricultural uses).

Church/place of religious assembly.

Community building (associated with residential uses).

Contractor's temporary on-site construction office (only with permit from building official; see section 144-5.10).

Farms, general (crops) (see chapter 6 and section 144-5.9).

Farms, general (livestock/ranch) (see chapter 6 and section 144-5.9).

Golf course, public and private.

Governmental building or use with no outside storage.

Park and/or playground (public).

Public recreation/services building for public park/playground areas.

Recreation buildings (public).

School, K-12 (public or private).

Water storage (surface, underground or overhead), water wells and pumping stations that are part of a public or municipal system.

(2) *Conflict.* In the event of conflict between the uses listed in the land use matrix and those listed in subsection (1), the uses listed in this subsection shall be deemed those authorized in the district.

(b) *Maximum height, minimum area and setback requirements.*

(1) *Residential uses.*

(i) *Height.* 35 feet.

(ii) *Front building setback.* 25 feet.

(iii) *Side building setbacks.* There shall be a side building setback on each side of a building not less than ten feet in width. Buildings on corner lots shall have 15-foot side building setbacks adjacent to the street where the rear lot lines of the corner lots coincide with the rear lot lines of the adjacent lots. Buildings on corner lots shall have 25-foot side building setbacks adjacent to the street where the rear lines of the corner lots coincide with the side lot lines of the adjacent lots.

(iv) *Garage setback.* Where a driveway is located in front of a garage, the garage shall be setback 20 feet from the right-of-way or the driveway to the garage shall be at least 20 feet long to provide enough space for a vehicle to park without overhanging into the right-of-way, if the garage door is closed. (See Illustration 8 in section 144-5.1-1.)

(v) *Rear building setback.* 20 feet.

(vi) *Width of lot.* The minimum width of an interior lot shall be 80 feet and the minimum width of a corner lot shall be 85 feet.

(vii) *Lot area per family.* Every single-family dwelling hereafter erected or altered shall provide a lot area of not less than 8,000 square feet per dwelling, provided that where a lot has less area than herein required and such lot was in separate ownership prior to September 25, 1967, this requirement will not prohibit the erection of a one-family dwelling. Where public or community sewer is not available and in use, for the disposal of all sanitary sewage, each lot shall provide not less than one-half acre per dwelling unit not located over the recharge zone and one acre per dwelling unit located over the recharge zone.

(viii) *Lot depth.* 100 feet.

(ix)

Parking. Two off-street parking spaces shall be provided for each one-family detached dwelling. See section 144-5.1 for other permitted uses' parking.

(2) *Non-residential uses.*

(i) *Height.* 35 feet.

(ii) *Front building setback.* 25 feet.

(iii) *Side building setback.* There shall be a side building setback on each side of a building not less than five feet in width. Where any building abuts a property with a one- or two-family use, the setback from the one- or two-family property line shall be at least 20 feet plus one foot for each foot of building height over 20 feet.

(iv) *Corner lots.* Buildings on corner lots shall have 15-foot side building setbacks adjacent to the street where the rear lot lines of the corner lots coincide with the rear lot lines of the adjacent lots. Buildings on corner lots shall have 25-foot side building setbacks adjacent to the street where the rear lines of the corner lots coincide with the side lot lines of the adjacent lots. Where a minimum 25-foot setback is required, a canopy at least eight feet in height, attached to the main building, may be built within 15 feet of the property line so long as such construction will not obstruct the vision of vehicular or pedestrian traffic.

(v) *Garage setback.* Where a driveway is located in front of a garage, the garage shall be setback 20 feet from the right-of-way or the driveway to the garage shall be at least 20 feet long to provide enough space for a vehicle to park without overhanging into the right-of-way, if the garage door is closed. (See Illustration 8 in section 144-5.1-1.)

(vi) *Rear building setback.* 20 feet.

(vii) *Width of lot.* 60 feet.

(viii) *Lot depth.* 100 feet.

(ix) *Parking.* See section 144-5.1 for permitted uses' parking.

3.4-2. *"R-1A-6.6" single-family district.*

Purpose. The R-1A-6.6 single-family district is intended for development of primarily detached, single-family residences and customary accessory uses on lots of at least 6,600 square feet in size. The following regulations shall apply in all "R-1A-6.6" districts:

"R-1A" district. The district called "R-1A" shall be renamed and shown on the zoning map as "R-1A-6.6".

(a) *Authorized uses.* Uses permitted by right shall be those set forth in the land use matrix in section 144-4.2. The allowed uses in the district, which are intended to be identical with those listed in the land use matrix, are as follows:

(1) *Uses permitted by right.*

Residential uses:

Accessory building/structure.

Accessory dwelling (one accessory dwelling per lot, no kitchen).

Community home (see definition).

Family home adult care.

Family home child care.

Home occupation (see section 144-5.5).

One-family dwelling, detached.

Single-family industrialized home (see section 144-5.8).

Non-residential uses:

Barns and farm equipment storage (related to agricultural uses).

Church/place of religious assembly.

Community building (associated with residential uses).

Contractor's temporary on-site construction office (only with permit from building official; see section 144-5.10).

Farms, general (crops) (see chapter 6 and section 144-5.9).

Farms, general (livestock/ranch) (see chapter 6 and section 144-5.9).

Golf course, public or private.

Governmental building or use with no outside storage.

Park and/or playground (public).

Public recreation/services building for public park/playground areas.

Recreation buildings (public).

School, K-12 (public or private).

Water storage (surface, underground or overhead), water wells and pumping stations that are part of a public or municipal system.

(2) *Conflict.* In the event of conflict between the uses listed in the land use matrix and those listed in subsection (1), the uses listed in this subsection shall be deemed those authorized in the district.

(b) *Height and area requirements.*

(1) *Residential uses.*

(i) *Height.* 35 feet.

(ii) *Front building setback.* 25 feet.

(iii) *Side building setbacks.* There shall be a side building setback on each side of a building not less than five feet in width. Buildings on corner lots shall have 15-foot side building setbacks adjacent to the street where the rear lot lines of the corner lots coincide with the rear lot lines of the adjacent lots. Buildings on corner lots shall have 25-foot side building setbacks adjacent to the street where the rear lines of the corner lots coincide with the side lot lines of the adjacent lots.

(iv) *Garage setback.* Where a driveway is located in front of a garage, the garage shall be setback 20 feet from the right-of-way or the driveway to the garage shall be at least 20 feet long to provide enough space for a vehicle to park without overhanging into the right-of-way, if the garage door is closed. (See Illustration 8 in section 144-5.1-1.)

(v) *Rear building setback.* 20 feet.

(vi) *Width of lot.* The minimum width of an interior lot shall be 60 feet and the minimum width of a corner lot shall be 70 feet.

(vii) *Lot area per family.* Every single-family dwelling hereafter erected or altered shall provide a lot area of not less than 6,600 square feet per dwelling for interior lots, and 7,000 square feet per dwelling for corner lots, provided that where a lot has less area than herein required and such lot was in separate ownership prior to September 25, 1967, this requirement will not prohibit the erection of a one-family dwelling. Where public or community sewer is not available and in use, for the disposal of all sanitary sewage, each lot shall provide not less than one-half acre per dwelling unit not located over the recharge zone and one acre per dwelling unit located over the recharge zone.

(viii) *Lot depth.* 100 feet.

(ix) *Parking.* Two off-street parking spaces shall be provided for each one-family detached dwelling. See section 144-5.1 for other permitted uses' parking.

(2) *Non-residential uses.*

(i) *Height.* 35 feet.

(ii) *Front building setback.* 25 feet.

(iii) *Side building setback.* There shall be a side building setback on each side of a building not less than five feet in width. Where any building abuts a property with a one- or two-family use, the setback from the one- or two-family property line shall be at least 20 feet plus one foot for each foot of building height over 20 feet.

(iv) *Corner lots.* Buildings on corner lots shall have 15-foot side building setbacks adjacent to the street where the rear lot lines of the corner lots coincide with the rear lot lines of the adjacent lots. Buildings on corner lots shall have 25-foot side building setbacks adjacent to the street where the rear lines of the corner lots coincide with the side lot lines of the adjacent lots. Where a minimum 25-foot setback is required, a canopy at least eight feet in height, attached to the main building, may be built within 15 feet of the property line so long as such construction will not obstruct the vision of vehicular or pedestrian traffic.

(v) *Garage setback.* Where a driveway is located in front of a garage, the garage shall be setback 20 feet from the right-of-way or the driveway to the garage shall be at least 20 feet long to provide enough space for a vehicle to park without overhanging into the right-of-way, if the garage door is closed. (See Illustration 8 in section 144-5.1-1.)

(vi) *Rear building setback.* 20 feet.

(vii) *Width of lot.* 60 feet.

(viii) *Lot depth.* 100 feet.

(ix) *Parking.* See section 144-5.1 for permitted uses' parking.

3.4-3. *"R-2A" single-family and two-family district.*

Purpose. The R-2A single-family and two-family districts intended for development of single-family residences and associated uses as well as for development on larger parcels of land of low density two-family duplex units. The following regulations shall apply in all "R-2A" districts:

(a) *Authorized uses.* Uses permitted by right and by special use permit shall be those set forth in the land use matrix in section 144-4.2. The allowed uses in the district, which are intended to be identical with those listed in the land use matrix, are as follows:

(1) *Uses permitted by right.*

Residential uses:

Accessory building/structure.

Accessory dwelling (one accessory dwelling per lot, no kitchen).

Community home (see definition).

Duplex/two-family/duplex condominiums.

Family home adult care.

Family home child care.

Home occupation (see section 144-5.5).

One-family dwelling, detached.

Single- or two-family industrialized home (see section 144-5.8).

Non-residential uses:

Barns and farm equipment storage (related to agricultural uses).

Cemetery and/or mausoleum.

Church/place of religious assembly.

Community building (associated with residential uses).

Contractor's temporary on-site construction office (only with permit from building official; see section 144-5.10).

Farms, general (crops) (see chapter 6 and section 144-5.9).

Farms, general (live stock/ranch) (see chapter 6 and section 144-5.9).

Golf course, public or private.

Governmental building or use with no outside storage.

Park and/or playground (public or private).

Public recreation/services building for public park/playground areas.

Recreation buildings (public).

School, K-12 (public or private).

Water storage (surface, underground or overhead), water wells and pumping stations that are part of a public or municipal system.

(2) *Conflict.* In the event of conflict between the uses listed in the land use matrix and those listed in subsection (1), the uses listed in this subsection shall be deemed those authorized in the district.

(b) *Maximum height, minimum area and setback requirements.*

(1) *One-family dwellings.*

(i) *Height.* 35 feet.

(ii) *Front building setback.* 25 feet.

(iii) *Side building setback.* There shall be a side building setback on each side of a building not less than five feet in width. Buildings on corner lots shall have 15-foot side building setbacks adjacent to the street where the rear lot lines of the corner lots coincide with the rear lot lines of the adjacent lots. Buildings on corner lots shall have 25-foot side building setbacks adjacent to the street where the rear lines of the corner lots coincide with the side lot lines of the adjacent lots.

(iv) *Garage setback.* Where a driveway is located in front of a garage, the garage shall be setback 20 feet from the right-of-way or the driveway to the garage shall be at least 20 feet long to provide enough space for a vehicle to park without overhanging into the right-of-way, if the garage door is closed. (See Illustration 8 in section 144-5.1-1.)

(v) *Rear building setback.* 20 feet.

(vi) *Width of lot.* The minimum width of an interior lot shall be 60 feet and the minimum width of a corner lot shall be 70 feet.

(vii) *Lot area per family.* Every single-family dwelling hereafter erected or altered shall have a lot area of not less than 6,600 square feet per family for interior lots, and 7,000 square feet per family for corner lots, provided that where a lot has less area than herein required and such lot was in

separate ownership prior to September 25, 1967, this requirement will not prohibit the erection of a one-family dwelling. Where a public or community sewer is not available and in use for the disposal of all sanitary sewage, each lot shall provide not less than one-half acre and one acre on the Edwards Aquifer Recharge Zone.

(viii) *Lot depth.* 100 feet.

(ix) *Parking.* Two off-street parking spaces shall be provided for each one-family detached dwelling unit. See section 144-5.1 for other permitted uses' parking.

(2) *Duplexes.*

(i) *Height.* 35 feet.

(ii) *Front building setback.* 25 feet.

(iii) *Side building setback.* There shall be a side building setback on each side of a building not less than five feet in width. Buildings on corner lots shall have 15-foot side building setbacks adjacent to the street where the rear lot lines of the corner lots coincide with the rear lot lines of the adjacent lots. Buildings on corner lots shall have 25-foot side building setbacks adjacent to the street where the rear lines of the corner lots coincide with the side lot lines of the adjacent lots.

(iv) *Garage setback.* Where a driveway is located in front of a garage, the garage shall be setback 20 feet from the right-of-way or the driveway to the garage shall be at least 20 feet long to provide enough space for a vehicle to park without overhanging into the right-of-way, if the garage door is closed. (See Illustration 8 in section 144-5.1-1.)

(v) *Rear building setback.* 20 feet.

(vi) *Width of lot.* The minimum width of an interior lot shall be 60 feet and the minimum width of a corner lot shall be 70 feet.

(vii) *Lot area per family.* Two-family dwellings (duplexes) hereafter erected or altered shall have a lot area of not less than 8,000 square feet for an interior lot and 8,500 square feet for a corner lot. Where a public or community sewer is not available and in use for the disposal of all sanitary sewage, each lot shall provide not less than one acre and approved by the city sanitarian.

(viii) *Lot depth.* 100 feet.

(ix) *Parking.* Two off-street parking spaces shall be provided for each two-family dwelling unit. See section 144-5.1 for other permitted uses' parking.

(3) *Non-residential uses.*

(i) *Height.* 35 feet.

(ii) *Front building setback.* 25 feet.

(iii) *Side building setback.* There shall be a side building setback on each side of a building not less than five feet in width. Where any building abuts a property with a one- or two-family use, the setback from the one- or two-family property line shall be at least 20 feet plus one foot for each foot of building height over 20 feet.

(iv) *Corner lots.* Buildings on corner lots shall have 15-foot side building setbacks adjacent to the street where the rear lot lines of the corner lots coincide with the rear lot lines of the adjacent lots. Buildings on corner lots shall have 25-foot side building setbacks adjacent to the street where the rear lines of the corner lots coincide with the side lot lines of the adjacent lots. Where a minimum 25-foot setback is required, a canopy at least eight feet in height, attached to the main building, may be built within 15 feet of the property line so long as such construction will not obstruct the vision of vehicular or pedestrian traffic.

(v) *Garage setback.* Where a driveway is located in front of a garage, the garage shall be setback 20 feet from the right-of-way or the driveway to the garage shall be at least 20 feet long to provide enough space for a vehicle to park without overhanging into the right-of-way, if the garage door is closed. (See Illustration 8 in section 144-5.1-1.)

(vi) *Rear building setback.* 20 feet.

(vii) *Width of lot.* 60 feet.

(viii) *Lot depth.* 100 feet.

(ix) *Parking.* See section 144-5.1 for permitted uses' parking.

3.4-4. *"R-3L" multifamily low density district.*

Purpose. The R-3L multifamily low density district is intended for development of multiple-family, Apartment residences at not more than 12 units per acre. The following regulations shall apply in all "R-3L" districts:

(a)

Authorized uses. Uses permitted by right shall be those set forth in the land use matrix in section 144-4.2. The allowed uses in the district, which are intended to be identical with those listed in the land use matrix, are as follows:

(1) *Uses permitted by right.*

Residential uses:

Accessory building/structure.

Bed and breakfast inn (see section 144-5.6).

Boardinghouse/lodging house.

Community home (see definition).

Dormitory (in which individual rooms are for rental).

Family home adult care.

Family home child care.

Hospice.

Multifamily (apartments/condominiums).

Rental or occupancy for less than one month (see section 144-5.17).

Non-residential uses:

Adult day care (no overnight stay).

Barns and farm equipment storage (related to agricultural uses).

Cemetery and/or mausoleum.

Church/place of religious assembly.

Community building (associated with residential uses).

Contractor's temporary on-site construction office (only with permit from building official).

Electrical substation.

Farms, general (crops) (see chapter 6 and section 144-5.9).

Farms, general (livestock/ranch) (see chapter 6 and section 144-5.9).

Golf course, public or private.

Governmental building or use with no outside storage.

Park and/or playground (public or private).

Public recreation/services building for public park/playground areas.

Recreation buildings (public).

Retirement home/home for the aged—Public.

School, K-12 (public or private).

Telephone exchange buildings (office only).

University or college (public or private).

Water storage (surface, underground or overhead), water wells and pumping stations that are part of a public or municipal system.

(2) *Conflict.* In the event of conflict between the uses listed in the land use matrix and those listed in subsection (1), the uses listed in this subsection shall be deemed those authorized in the district.

(b) *Maximum height, minimum area and setback requirements.*

(1) *Residential uses.*

(i) *Height.* 35 feet or 50 feet when a pitched roof is used (minimum 4:12 pitch).

(ii) *Front building setback.* 25 feet.

(iii) *Side building setback.* A side building setback of 20 feet shall be provided adjacent to residentially zoned property. A side building setback of only six feet shall be provided adjacent to multifamily, commercially and industrially zoned property. Buildings on corner lots shall have 15-foot side building setbacks adjacent to the street where the rear lot lines of the corner lots coincide with the rear lot lines of the adjacent lots. Buildings on corner lots shall have 25-foot side building setbacks adjacent to the street where the rear lines of the corner lots coincide with the side lot lines of the adjacent lots.

(iv) *Garage setback.* Where a driveway is located in front of a garage, the garage shall be setback 20 feet from the right-of-way or the driveway to the garage shall be at least 20 feet long to provide enough space for a vehicle to park without overhanging into the right-of-way, if the garage door is closed. (See Illustration 8 in section 144-5.1-1.)

(v) *Rear building setback.* 25 feet.

(vi)

Residential setback. Effective November 8, 2006, where a multifamily dwelling abuts a one- or two-family use or zoning district, the setback from the one- or two-family property line shall be at least 20 feet plus one foot for each foot of building height over 20 feet.

(vii) *Accessory uses.* Accessory uses such as swimming pools, tennis courts and playgrounds will not be permitted within any required yard.

(viii) *Width of lot.* The minimum width of an interior lot shall be 60 feet and the minimum width of a corner lot shall be 70 feet.

(ix) *Density.* 12 units per acre.

(x) *Lot area.* 15,000 square feet.

(xi) *Lot coverage.* The combined area of all yards shall not be less than 50 percent of the total lot or tract; provided however, that in the event enclosed or covered parking is provided, the minimum total yard area requirement shall be 40 percent of the total lot or tract.

(xii) *Distance between structures.* There shall be a minimum of 12 feet between structures side by side; a minimum of 30 feet between structures side by front or rear; a minimum of 50 feet between structures front to front; and a minimum of 20 feet between structures backing rear to rear; and a minimum of 20 feet between structures front to rear. The following illustration (Illustration 2) is a visual depiction of the distances between multifamily structures.

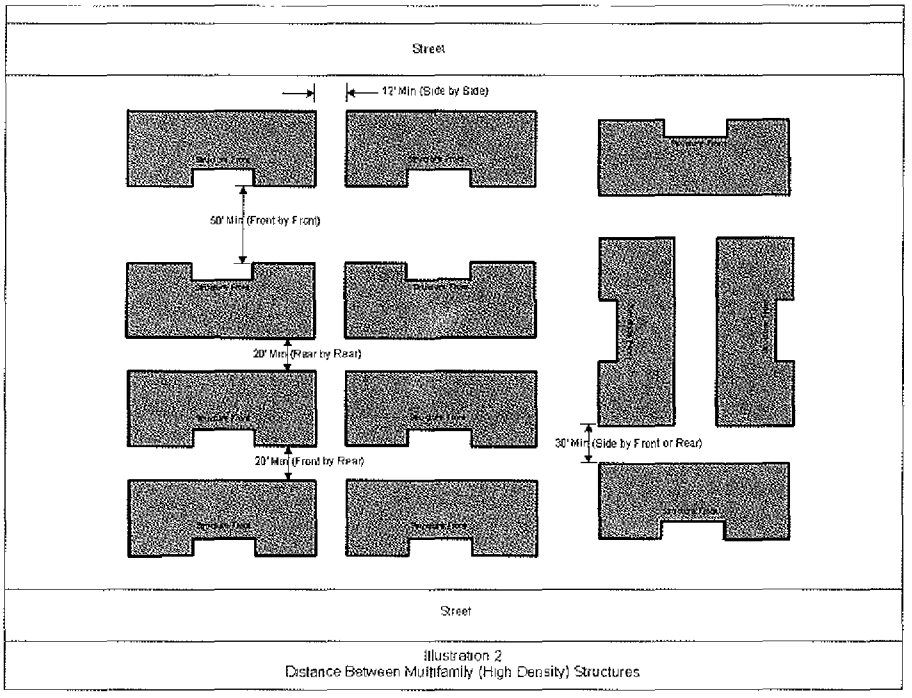


illustration 2
Distance Between Multifamily (High Density) Structures

(xiii) *Lot depth.* 100 feet.

(xiv) *Parking.* For apartments, apartment hotel units and other multifamily dwellings, off-street parking spaces shall be provided in accord with the following schedule:

1. One-bedroom apartment or unit: One and one-half spaces.
2. Two-bedroom apartment or unit: Two spaces.
3. Each additional bedroom: One-half space.
4. Each dwelling unit provided exclusively for low income elderly occupancy: Three-fourths space ("low income elderly" is defined as any person 55 years of age or older with low or moderate income, according to HUD standards).

See section 144-5.1 for other permitted uses' parking.

(2) *Non-residential uses.*

(i) *Height.* 35 feet.

(ii) *Front building setback.* 25 feet.

(iii) *Side building setback.* There shall be a side building setback on each side of a building not less than five feet in width. Where any building abuts a property with a one- or two-family use, the setback from the one- or two-family property line shall be at least 20 feet plus one foot for each foot of building height over 20 feet.

(iv) *Corner lots.* Buildings on corner lots shall have 15-foot side building setbacks adjacent to the street where the rear lot lines of the corner lots coincide with the rear lot lines of the adjacent lots. Buildings on corner lots shall have 25-foot side building setbacks adjacent to the street where the rear lines of the corner lots coincide with the side lot lines of the adjacent lots. Where a minimum 25-foot setback is required, a canopy at least eight feet in height, attached to the main building, may be built within 15 feet of the property line so long as such construction will not obstruct the vision of vehicular or pedestrian traffic.

(v) *Garage setback.* Where a driveway is located in front of a garage, the garage shall be setback 20 feet from the right-of-way or the driveway to the garage shall be at least 20 feet long to provide enough space for a vehicle to park without overhanging into the right-of-way, if the garage door is closed. (See Illustration 8 in section 144-5.1-1.)

(vi) *Rear building setback.* 20 feet.

(vii) *Width of lot.* 60 feet.

(viii) *Lot depth.* 100 feet.

(ix) *Parking.* See section 144-5.1 for permitted uses' parking.

3.4-5. *"R-3H" multifamily high density.*

Purpose. The R-3H multifamily high density district is intended for development of multiple-family residences at not more than 24 units per acre. "R-3H" uses should be located on arterials and state roads and not be accessed through single-family and duplex areas. The following regulations shall apply in all "R-3H" districts:

(a) *Authorized uses.* Uses permitted by right shall be those set forth in the land use matrix in section 144-4.2. The allowed uses in the district, which are intended to be identical with those listed in the land use matrix, are as follows:

(1) *Uses permitted by right.*

Residential uses:

Accessory building/structure.

Bed and breakfast inn (see section 144-5.6).

Boardinghouse/lodging house.

Community home (see definition).

Dormitory (in which individual rooms are for rental).

Family home adult care.

Family home child care.

Hospice.

Multifamily (apartments/condominiums).

Rental or occupancy for less than one month (see section 144-5.17).

Residential use in buildings with the following non-residential uses.

Non-residential uses:

Adult day care (no overnight stay).

Art dealer/gallery.

Barns and farm equipment storage (related to agricultural uses).

Cemetery and/or mausoleum.

Church/place of religious assembly.

Community building (associated with residential uses).

Contractor's temporary on-site construction office (only with permit from building official; see section 144-5.10).

Electrical substation.

Farms, general (crops) (see chapter 6 and section 144-5.9).

Farms, general (livestock/ranch) (see chapter 6 and section 144-5.9).

Golf course, public or private.

Governmental building or use with no outside storage.

Museum.

Nursing/convalescent home/sanitarium.

Park and/or playground (public or private).

Public recreation/services building for public park/playground areas.

Recreation buildings (public).

Retirement home/home for the aged—Public.

School, K-12 (public or private).

Telephone exchange buildings (office only).

University or college (public or private).

Water storage (surface, underground or overhead), water wells and pumping stations that are part of a public or municipal system.

(2) *Conflict.* In the event of conflict between the uses listed in the land use matrix and those listed in subsection (1), the uses listed in this subsection shall be deemed those authorized in the district.

(b) *Maximum height, minimum area and setback requirements.*

(1) *Residential uses.*

(i) *Height.* 45 feet or 60 feet when a pitched roof is used (minimum 4:12).

(ii) *Front building setbacks.* 25 feet.

(iii) *Rear building setback.* 25 feet.

(iv) *Side building setback.* A side building setback of 20 feet shall be provided. Buildings on corner lots shall have 15-foot side building setbacks adjacent to the street where the rear lot lines of the corner lots coincide with the rear lot lines of the adjacent lots. Buildings on corner lots shall have 25-foot side building setbacks adjacent to the street where the rear lines of the corner lots coincide with the side lot lines of the adjacent lots.

(v) *Garage setback.* Where a driveway is located in front of a garage, the garage shall be setback 20 feet from the right-of-way or the driveway to the garage shall be at least 20 feet long to provide enough space for a vehicle to park without overhanging into the right-of-way, if the garage door is closed. (See Illustration 8 in section 144-5.1-1.)

(vi) *Residential setback.* Effective November 8, 2006, where a multifamily dwelling abuts a one- or two-family use or zoning district, the setback from the one- or two-family property line shall be at least 20 feet plus one foot for each foot of building height over 20 feet.

(vii) *Parking and accessory uses.* Parking may encroach into the interior side and rear building setback as long as a solid screening fence or wall of six to eight feet in height is erected along the interior side and rear property lines. Accessory uses such as swimming pools, tennis courts and playgrounds will not be permitted within any required yard.

(viii) *Width of lot.* The minimum width of an interior lot shall be 60 feet and the minimum width of a corner lot shall be 72 feet.

(ix) *Density.* 24 units per acre.

(x) *Lot area.* 20,000 square feet.

(xi) *Lot coverage.* The combined area of all yards shall be at least 50 percent of the total lot or tract; provided however, that in the event enclosed or covered parking is provided, the minimum total yard area requirement shall be 40 percent of the total lot or tract.

(xii) *Distance between structures.* There shall be a minimum of ten feet between structures side by side; a minimum of 20 feet between structures side by front or rear; a minimum of 40 feet between structures front to front; a minimum of 20 feet between structures backing rear to rear, and a minimum of 20 feet between structures front to rear. (See Illustration 1.)

(xiii) *Access to an arterial roadway or state highway required.* developments in this district must have direct access to either an arterial roadway or state highway.

(xiv) *Lot depth.* 100 feet.

(xv) *Parking.* For apartments, apartment hotel units and other multifamily dwellings, off-street parking spaces shall be provided in accord with the following schedule:

1. One-bedroom apartment or unit: One and one-half spaces.
2. Two-bedroom apartment or unit: Two spaces.
3. Each additional bedroom: One-half space.
4. Each dwelling unit provided exclusively for low income elderly occupancy: Three-fourths space ("low income elderly" is defined as any person 55 years of age or older with low or moderate income, according to HUD standards).

See section 144-5.1 for other permitted uses' parking.

(2) *Non-residential uses.*

(i) *Height.* 45 feet.

(ii) *Front building setback.* 25 feet.

(iii) *Side building setback.* There shall be a side building setback on each side of a building not less than five feet in width. Where any building abuts a property with a one- or two-family use, the

setback from the one- or two-family property line shall be at least 20 feet plus one foot for each foot of building height over 20 feet.

(iv) *Corner lots.* Buildings on corner lots shall have 15-foot side building setbacks adjacent to the street where the rear lot lines of the corner lots coincide with the rear lot lines of the adjacent lots. Buildings on corner lots shall have 25-foot side building setbacks adjacent to the street where the rear lines of the corner lots coincide with the side lot lines of the adjacent lots. Where a minimum 25-foot setback is required, a canopy at least eight feet in height, attached to the main building, may be built within 15 feet of the property line so long as such construction will not obstruct the vision of vehicular or pedestrian traffic.

(v) *Garage setback.* Where a driveway is located in front of a garage, the garage shall be setback 20 feet from the right-of-way or the driveway to the garage shall be at least 20 feet long to provide enough space for a vehicle to park without overhanging into the right-of-way, if the garage door is closed. (See Illustration 8 in section 144-5.1-1.)

(vi) *Rear building setback.* 20 feet.

(vii) *Width of lot.* 60 feet.

(viii) *Lot depth.* 100 feet.

(ix) *Parking.* See section 144-5.1 for permitted uses' parking.

3.4-6. *"B-1A" conventional and manufactured home district.*

Purpose. This district is to recognize that certain areas of the city are suitable for a mixture of single-family dwelling units, manufactured homes, and mobile homes, and to provide adequate space and site diversification for residential purposes designed to accommodate the peculiarities and design criteria of manufactured homes, along with single-family residences. The following regulations shall apply in all "B-1A" districts:

(a) *Authorized uses.* Uses permitted by right shall be those set forth in the land use matrix in section 144-4.2. The allowed uses in the district, which are intended to be identical with those listed in the land use matrix, are as follows:

(1) *Uses permitted by right.*

Residential uses:

Accessory building/structure.

Community home (see definition).

Duplex/two-family/duplex condominiums.

Home occupation (see section 144-5.5).

HUD-Code manufactured home/mobile homes, after a permit is obtained from the building inspector to permit removal of wheels or transporting device and attaching the home to a permanent foundation on the ground, which home shall thereafter be regarded as a permanent structure and shall meet all applicable codes and chapters.

HUD-Code manufactured home subdivision.

One-family dwelling, detached.

Single-family industrialized home (section 144-5.8 does not apply).

Non-residential uses:

Barns and farm equipment storage (related to agricultural uses).

Church/place of religious assembly.

Community building (associated with residential uses).

Contractor's temporary on-site construction office (only with permit from building official; see section 144-5.10).

Farms, general (crops) (see chapter 6 and section 144-5.9).

Farms, general (livestock/ranch) (see chapter 6 and section 144-5.9).

Golf course (public or private).

Governmental building or use with no outside storage.

Park and/or playground (public or private).

Public recreation/services building for public park/playground areas.

Recreation buildings (public).

Recycling kiosk.

Retirement home/home for the aged.

School, K-12 (public or private).

Water storage (surface, underground or overhead), water wells and pumping stations that are part of a public or municipal system.

(2) *Conflict.* In the event of conflict between the uses listed in the land use matrix and those listed in subsection (1), the uses listed in this subsection shall be deemed those authorized in the district.

(b) *Maximum height, minimum area and setback requirements.*

(1) *Height.* 35 feet.

(2) *Front building setback.* 25 feet.

(3) *Side building setback.* There shall be a side building setback on each side of a building not less than five feet in width. Buildings on corner lots shall have 15-foot side building setbacks adjacent to the street where the rear lot lines of the corner lots coincide with the rear lot lines of the adjacent lots. Buildings on corner lots shall have 25-foot side building setbacks adjacent to the street where the rear lines of the corner lots coincide with the side lot lines of the adjacent lots.

(4) *Garage setback.* Where a driveway is located in front of a garage, the garage shall be setback 20 feet from the right-of-way or the driveway to the garage shall be at least 20 feet long to provide enough space for a vehicle to park without overhanging into the right-of-way, if the garage door is closed. (See Illustration 8 in section 144-5.1-1.)

(5) *Rear building setback.* 20 feet.

(6) *Width of lot.* The minimum width of an interior lot shall be 60 feet and the minimum width of a corner lot shall be 70 feet.

(7) *Lot area per family.* Every single-family dwelling hereafter erected or altered shall have a lot area of not less than 6,600 square feet per family for interior lots, and 7,000 square feet per family for corner lots. Two-family dwellings (duplexes) hereafter erected or altered shall have a lot area of not less than 8,000 square feet for an interior lot and 8,500 square feet for a corner lot. Where a public or community sewer is not available and in use for the disposal of all sanitary sewage, each lot shall provide not less than one -half acre and one acre on the Edwards Aquifer Recharge Zone.

(8) *Parking.* See section 144-5.1 for other permitted uses' parking.

3.4-7. *"B-1B" manufactured home park district.*

Purpose. This district is to recognize that certain areas of the city are suitable for manufactured home parks located on a single tract of land under one ownership wherein spaces are leased for the placement of manufactured homes. On-site amenities such as recreation and green areas, vehicle parking, and storage areas should be provided. The following regulations shall apply in all "B-1B" districts:

(a) *Authorized uses.* Uses permitted by right shall be those set forth in the land use matrix in section 144-4.2. The allowed uses in the district, which are intended to be identical with those listed in the land use matrix, are as follows:

(1) *Uses permitted by right:*

Residential uses:

Accessory building/structure.

Community home (see definition).

Home occupation (see section 144-5.5).

HUD-Code manufactured home.

Manufactured or mobile home parks located on a single tract of land under one ownership wherein spaces are leased for placement of a mobile home or manufactured or industrialized housing in accordance with Appendix B of this Code.

Single-family industrialized home (section 144-5.8 does not apply).

Non-residential uses:

Barns and farm equipment storage (related to agricultural uses).

Church/place of religious assembly.

Community building (associated with residential uses).

Contractor's temporary on-site construction office (only with permit from building official; see section 144-5.10).

Farms, general (crops) (see chapter 6 and section 144-5.9).

Farms, general (livestock/ranch) (see chapter 6 and section 144-5.9).

Golf course (public or private).

Governmental building or use with no outside storage.

Park and/or playground (public or private).

Recreation buildings (public).

School, K-12 (public or private).

Water storage (surface, underground or overhead), water wells and pumping stations that are part of a public or municipal system.

(2) *Conflict.* In the event of conflict between the uses listed in the land use matrix and those listed in subsection (1), the uses listed in this subsection shall be deemed those authorized in the district.

(b) *Height and area requirements.* All mobile home parks shall comply with those regulations set forth in Appendix B of this Code.

(c) *Other requirements.*

Parking. See section 144-5.1 for other permitted uses' parking.

3.4-8. *"TH-A" townhouse residential district.*

Purpose. The TH-A townhouse residential district is intended for development of single-family residential townhomes and associated uses. The following regulations shall apply in all "TH-A" districts:

(a) *Authorized uses.* Uses permitted by right shall be those set forth in the land use matrix in section 144-4.2. The allowed uses in the district, which are intended to be identical with those listed in the land use matrix, are as follows:

(1) *Uses permitted by right.*

Residential uses:

Accessory building/structure.

Community home (see definition).

Family home adult care.

Family home child care.

Home occupation (see section 144-5.5).

Townhouse (attached).

Non-residential uses:

Barns and farm equipment storage (related to agricultural uses).

Church/place of religious assembly.

Community building (associated with residential uses).

Contractor's temporary on-site construction office (only with permit from building official; see section 144-5.10).

Farms, general (crops) (see chapter 6 and section 144-5.9).

Farms, general (livestock/ranch) (see chapter 6 and section 144-5.9).

Golf course, public or private.

Governmental building or use with no outside storage.

Park and/or playground (public or private).

Recreation buildings (public).

School, K-12 (public or private).

Water storage (surface, underground or overhead), water wells and pumping stations that are part of a public or municipal system.

(2) *Conflict.* In the event of conflict between the uses listed in the land use matrix and those listed in subsection (1), the uses listed in this subsection shall be deemed those authorized in the district.

(b) *Maximum height, minimum area and setback requirements.*

(1) *Height.* 35 feet.

(2) *Front building setback.* A minimum front yard of ten feet shall be provided to the front of the house. If front entry garages/carports are provided, a minimum front yard of 20 feet shall be provided to the garage/carport.

(3) *Side building setback.* No side building setbacks are required for interior lots except the minimum distance between two building groups shall be 20 feet and the minimum distance between a building group and any abutting subdivision boundary or zoning district boundary line shall be 20 feet. Buildings on corner lots shall have 15-foot side building setbacks adjacent to the street, except where the rear lot line of a corner lot coincides with a side lot line of an adjacent lot, then 25-foot minimum side building setbacks adjacent to the street shall be provided.

(4) *Garage setback.* Where a driveway is located in front of a garage, the garage shall be setback 20 feet from the right-of-way or the driveway to the garage shall be at least 20 feet long to provide enough space

for a vehicle to park without overhanging into the right-of-way, if the garage door is closed. (See Illustration 8 in section 144-5.1-1.)

(5) *Rear building setback.* No building shall be constructed closer than ten feet from the rear property line. If the rear of the lots abut any other residential zoning district, the rear building setback shall have a minimum depth of 20 feet.

(6) *Width of lot.* Interior lots shall have a minimum width of 25 feet. Corner lots shall have a minimum width of 40 feet except where the rear lot line of a corner lot coincides with a side lot line of an adjacent lot, then the corner lot shall have a minimum width of 50 feet.

(7) *Lot area per family.* 2,500 square feet.

(8) *Lot depth.* 100 feet.

(c) *Other requirements.*

(1) *Common open space.* A minimum of 250 square feet of common open space per lot shall be provided within the townhouse project. In computing the required common open space, individually owned townhouse lots, required front, rear, or side setbacks, streets, alleys, or public rights-of-way of any kind, vehicular drives, parking areas, service drives, or utility easements shall not be included. Drainage easements and detention ponds may be used in computing common open space.

(2) *Building group.* There shall be no less than two nor more than eight individual dwelling units in each building or dwelling group. Each building group shall be at least 20 feet from any other building group, measured from the nearest points of their foundations. Each building or building group shall be at least 20 feet from any subdivision or zoning district boundary line.

(3) *Accessory buildings.* Any detached accessory buildings permitted, except carports open on at least two sides, shall be set at least three feet away from the side lot line unless their walls are equal in fire resistance to the common walls of the main structure. Detached carports, open on at least two sides, may be built to the property line with no common wall required. Rear building setbacks for an accessory building shall be three feet. Any accessory building permitted in a "R-1A-43.5," "R-1A-12," "R-1A-8," or "R-1A-6.6" district shall be permitted in district "TH-A."

(4) *Parking.* There shall be at least two off-street parking spaces for each townhouse. See section 144-5.1 for other permitted uses' parking.

3.4-9. *"ZH-A" zero lot line home district.*

Purpose. The ZH-A zero lot line home district is intended for development of detached single-family residences on compact lots having one side building setback reduced to zero feet, also commonly referred to as "zero lot line," and having a minimum lot size of 4,000 square feet. The following regulations shall apply in all "ZH-A" districts:

(a) *Authorized uses.* Uses permitted by right shall be those set forth in the land use matrix in section 144-4.2. The allowed uses in the district, which are intended to be identical with those listed in the land use matrix, are as follows:

(1) *Uses permitted by right.*

Residential uses:

Accessory building/structure.

Accessory dwelling (one accessory dwelling per lot, no kitchen).

Community home (see definition).

Family home adult care.

Family home child care.

Home occupation (see section 144-5.5).

Single-family industrialized housing (see section 144-5.8).

Zero lot line/patio homes.

Non-residential uses:

Barns and farm equipment storage (related to agricultural uses).

Church/place of religious assembly.

Community building (associated with residential uses).

Contractor's temporary on-site construction office (only with permit from building official; see section 144-5.10).

Farms, general (crops) (see chapter 6 and section 144-5.9).

Farms, general (livestock/ranch) (see chapter 6 and section 144-5.9).

Golf course, public or private.

Governmental building or use with no outside storage.

Park and/or playground (public or private).

Recreation buildings (public).

School, K-12 (public or private).

Water storage (surface, underground or overhead), water wells and pumping stations that are part of a public or municipal system.

(2) *Conflict.* In the event of conflict between the uses listed in the land use matrix and those listed in subsection (1), the uses listed in this subsection shall be deemed those authorized in the district.

(b) *Maximum height, minimum area and setback requirements.*

(1) *Height.* 35 feet.

(2) *Front building setback.* A minimum front yard of ten feet shall be provided to the front of the house. If front entry garages/carports are provided, a minimum front yard of 20 feet shall be provided to the garage/carport.

(3) *Side building setback.* There shall be no side building setback required on one side of the lot and a minimum of ten feet in the opposite side yard. If the side of the lot abuts any other residential zoning district, that side building setback shall have a minimum depth of ten feet. The dwelling on the "no side building setback required" side may be off-set from the property line by no more than one foot. However, a provision can be made for five-foot setbacks on both sides if it meets all applicable building codes.

(4) *Corner lots.* Buildings on corner lots shall provide a minimum exterior side building setback of ten feet. If entry to a garage/carport is provided on the exterior side a minimum yard of 20 feet shall be provided to the garage/carport.

(5) *Rear building setbacks.* If rear entry garages/carports are provided from an alley, the rear building setback shall have a minimum depth of 20 feet. If no alley is provided and garage/carport entries are from the front, the rear building setback shall have a minimum depth of ten feet. If the rear of the lots abut any other residential zoning district, the rear building setback shall have a minimum depth of 20 feet.

(6) *Width of lot.* 40 feet.

(7) *Lot area.* 4,000 square feet.

(8) *Lot depth.* 100 feet.

(c) *Other requirements.*

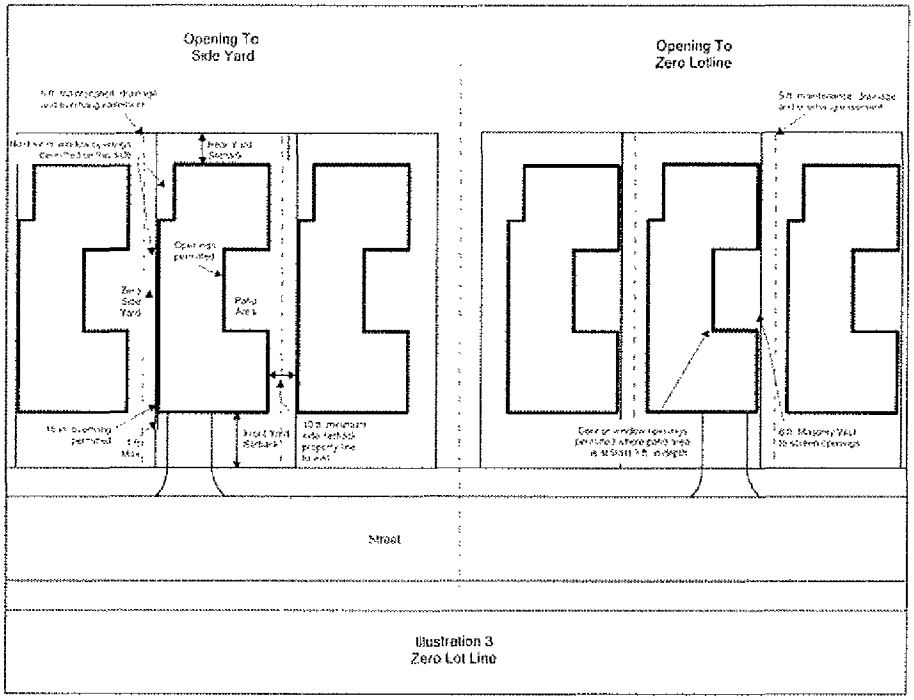
(1) *Minimum area zoned.* Not less than three lots with common side lot lines will be zoned for zero lot line homes. When facing on the same street within the same block, mixing of ZH structures and other residential structures will not be allowed. However, this does not preclude other residential uses on one side of a street with ZH uses on the opposite side of the street within the same block or different blocks.

(2) *Zero lot line wall.* No door or window openings shall be built into the side wall facing the zero lot line except those that are more than three feet from the property line and screened by a masonry wall at least eight feet in height so that the opening(s) is not visible from the adjoining property. (See Illustration 3, "ZH-A" district.)

(3) *Overhang.* Eaves and gutters may overhang the zero lot line side of the lot by no more than 18 inches. If there is an overhang over the lot line, a gutter is required such that roof runoff shall not be deposited over the lot line onto adjoining property.

(4) *Maintenance, drainage and overhang easement.* A maintenance, drainage and overhang easement of five feet shall be provided on each lot that is adjacent to a lot with a zero setback allowance. This easement shall be for the purpose of maintaining the wall and foundation that is adjacent to one side property line to provide for proper maintenance and drainage.

(5) *Parking.* There shall be at least two off-street parking spaces for each zero lot line home. See section 144-5.1 for other permitted uses' parking.



3.4-10. *"MU-A" low intensity mixed use district.*

Purpose. The MU-A low intensity mixed use district is intended to provide for a mixture of retail, office, and residential uses in close proximity to enable people to live, work and shop in a single location. Bed-and-breakfast establishments could also be located in this district. Pedestrian walkways and open areas are desired in order to promote a pedestrian-friendly environment.

(a) *Authorized uses.* Uses permitted by right shall be those set forth in the land use matrix in section 144-4.2. The allowed uses in the district, which are intended to be identical with those listed in the land use matrix, are as follows:

(1) *Uses permitted by right.*

Residential uses:

Accessory building/structure.
Accessory dwelling (one accessory dwelling per lot, no kitchen).
Bed and breakfast inn (see section 144-5.6).
Community home (see definition).
Duplex/two-family dwelling/duplex condominiums.
Family home adult care.
Family home child care.
Home occupation (see section 144-5.5).
Hospice.
Multifamily (apartments/condominiums).
One-family dwelling, detached.
Residential use in buildings with the following non-residential uses.
Single-family industrialized housing (see section 144-5.8).
Townhouse (attached).
Zero lot line/patio homes.

Non-residential uses:

Accounting, auditing, bookkeeping, and tax preparations.
Adult day care (no overnight stay).
Adult day care (with overnight stay).
Amusement devices/arcade (four or more devices).
Animal grooming shop.

Answering and message services.
Antique shop.
Appliance repair.
Armed services recruiting center.
Art dealer/gallery.
Artist or artisan's studio.
Assisted living facility/retirement home.
Auto leasing.
Auto supply store for new and factory rebuilt parts.
Auto tire repair/sales (indoor).
Bakery (retail).
Bank, savings and loan, or credit union.
Bar/tavern.
Barber/beauty shop, haircutting (non-college).
Barns and farm equipment storage (related to agricultural uses).
Battery charging station.
Bicycle sales and/or repair.
Bingo facility.
Book binding.
Book store.
Cafeteria/cafe/delicatessen.
Campers' supplies.
Caterer.
Cemetery and/or mausoleum.
Check cashing service.
Child day care/children's nursery (business).
Church/place of religious assembly.
Cleaning, pressing and dyeing (non-explosive fluids used).
Clinic (dental).
Clinic (emergency care).
Clinic (medical).
Coffee shop.
Communication equipment—Installation and/or repair.
Community building (associated with residential uses).
Computer and electronic sales.
Computer repair.
Confectionery store (retail).
Consignment shop.
Contractor's temporary on-site construction office (only with permit from building official; see section 144-5.10).
Convenience store without fuel sales.
Credit agency.
Curio shops.
Custom work shops.
Department store.
Drapery shop/blind shop.
Drug sales/pharmacy.
Electrical repair shop.
Electrical substation.
Farms, general (crops) (see chapter 6 and section 144-5.9).
Farms, general (livestock/ranch) (see chapter 6 and section 144-5.9).
Florist.
Food or grocery store without fuel sales (100,000 square feet or less).

Frozen food storage for individual or family use.
Garden shops and greenhouses.
Golf course.
Governmental building or use with no outside storage.
Greenhouse (commercial).
Handicraft shop.
Hardware store.
Health club (physical fitness; indoors only).
Heating and air-conditioning sales/services.
Hospital, rehabilitation.
Kiosk (providing a retail service).
Laundromat and laundry pickup stations.
Laundry/dry cleaning (drop off/pick up).
Laundry/washateria (self serve).
Lawnmower sales and/or repair.
Locksmith.
Martial arts school.
Museum.
Needlework shop.
Nursing/convalescent home/sanitarium.
Offices, brokerage services.
Offices, business or professional.
Offices, computer programming and data processing.
Offices, consulting.
Offices, engineering, architecture, surveying or similar.
Offices, health services.
Offices, insurance agency.
Offices, legal services, including court reporting.
Offices, medical offices.
Offices, real estate.
Offices, security/commodity brokers, dealers, exchanges and financial services.
Park and/or playground (private).
Park and/or playground (public).
Parking lots (for passenger car only) (not as incidental to the main use).
Parking structure/public garage.
Pawn shop.
Pet shop/supplies (10,000 square feet or less).
Photographic printing/duplicating/copy shop or printing shop.
Photographic studio (no sale of cameras or supplies).
Photographic supply.
Plant nursery (no retail sales on site).
Plant nursery (retail sales/outdoor storage).
Public recreation/services building for public park/playground areas.
Quick lube/oil change/minor inspection.
Radio/television shop, electronics, computer repair.
Recreation buildings (private).
Recreation buildings (public).
Recycling kiosk.
Refreshment/beverage stand.
Restaurant with drive-through service.
Restaurant/prepared food sales.
Retail store and shopping center with drive-through service (50,000 square foot building or less).
Retirement home/home for the aged.

School, K-12 (public or private).

School, vocational (business/commercial trade).

Security monitoring company.

Security systems installation company.

Shoe repair shops.

Shopping center.

Specialty shops in support of project guests and tourists.

Studios (art, dance, music, drama, reducing, photo, interior decorating, etc.).

Tailor shop.

Tattoo or body piercing studio.

Telemarketing agency.

Telephone exchange buildings (office only).

Theater (non-motion picture; live drama).

Tool rental.

Travel agency.

University or college (public or private).

Vacuum cleaner sales and repair.

Veterinary hospital (no outside animal runs or kennels).

Video rental/sales.

Water storage (surface, underground or overhead), water wells and pumping stations that are part of a public or municipal system.

Woodworking shop (ornamental).

Any comparable business or use not included in or excluded from any other district described herein.

(2) *Conflict.* In the event of conflict between the uses listed in the land use matrix and those listed in subsection (1), the uses listed in this subsection shall be deemed those authorized in the district.

(b) *Maximum height, minimum area and setback requirements.*

(1) *Non-residential uses.*

(i) *Height.* Buildings and structures shall not exceed 35 feet in height; however buildings and structures higher than 35 feet may be approved by SUP.

(ii) *Front building setback.* No building setback required.

(iii) *Side building setback.* No side building setback is required.

(iv) *Rear building setback.* Five feet minimum with an additional two feet required for each story above 24 feet, up to a maximum setback of 25 feet; there shall be no encroachment or overhangs into this required rear building setback.

(v) *Residential setback.* Where a non-residential use or a multifamily development of more than three units abuts a one- or two-family use or zoning district, the setback from the residential property line shall be at least 20 feet plus one foot for each foot of building height over 20 feet.

(vi) *Minimum lot area.* The minimum internal lot area shall be 6,000 square feet or 7,000 square feet for a corner lot.

(vii) *Minimum lot frontage.* 60 feet.

(viii) *Lot depth.* 100 feet.

(ix) *Parking.* See section 144-5.1 for permitted uses' parking.

(2) *One-family dwellings.*

(i) *Height.* 35 feet.

(ii) *Front building setback.* 25 feet.

(iii) *Side building setback.* There shall be a side building setback on each side of a building not less than five feet in width. Buildings on corner lots shall have 15-foot side building setbacks adjacent to the street where the rear lot lines of the corner lots coincide with the rear lot lines of the adjacent lots. Buildings on corner lots shall have 25-foot side building setbacks adjacent to the street where the rear lot lines of the corner lots coincide with the side lot lines of the adjacent lots.

(iv) *Garage setback.* Where a driveway is located in front of a garage, the garage shall be setback 20 feet from the right-of-way or the driveway to the garage shall be at least 20 feet long to provide enough space for a vehicle to park without overhanging into the right-of-way, if the garage door is closed. (See Illustration 8 in section 144-5.1-1.)

(v) *Rear building setback.* 20 feet.

(vi) *Width of lot.* Interior lots 60 feet. Corner lots 70 feet. Where a lot has less width than herein required, and such lot was in separate ownership prior to September 25, 1967, this requirement will not prohibit the erection of a one-family dwelling.

(vii) *Lot area per family.* Every single-family dwelling hereafter erected or altered shall provide a lot area of not less than 6,600 square feet per dwelling for interior lots, and 7,000 square feet per dwelling for corner lots, provided that where a lot has less area than herein required and such lot was in separate ownership prior to September 25, 1967, this requirement will not prohibit the erection of a one-family dwelling. Where public or community sewer is not available and in use for the disposal of all sanitary sewage, each lot shall provide not less than one-half acre and one acre on the Edwards Aquifer Recharge Zone.

(viii) *Lot depth.* 100 feet.

(ix) *Parking.* Two off-street parking spaces shall be provided for each one-family detached dwelling. See section 144-5.1 for other permitted uses' parking.

(3) *Duplexes.*

(i) *Height.* 35 feet.

(ii) *Front building setback.* 25 feet.

(iii) *Side building setback.* There shall be a side building setback on each side of a building not less than five feet in width. Buildings on corner lots shall have 15-foot side building setbacks adjacent to the street where the rear lot lines of the corner lots coincide with the rear lot lines of the adjacent lots. Buildings on corner lots shall have 25-foot side building setbacks adjacent to the street where the rear lot lines of the corner lots coincide with the side lot lines of the adjacent lots.

(iv) *Garage setback.* Where a driveway is located in front of a garage, the garage shall be setback 20 feet from the right-of-way or the driveway to the garage shall be at least 20 feet long to provide enough space for a vehicle to park without overhanging into the right-of-way, if the garage door is closed. (See Illustration 8 in section 144-5.1-1.)

(v) *Rear building setback.* 20 feet.

(vi) *Width of lot.* The minimum width of an interior lot shall be 60 feet and the minimum width of a corner lot shall be 70 feet, provided that where a lot has less width than herein required, and such lot was in separate ownership prior to September 25, 1967, this requirement will not prohibit the erection of a one-family dwelling.

(vii) *Lot area per family.* Two-family dwellings (duplexes) hereafter erected or altered shall have a lot area of not less than 8,000 square feet for an interior lot and 8,500 square feet for a corner lot. Where a lot was legally under separate ownership prior to September 25, 1967, but has an area less than the minimum required in this provision, this regulation shall not prohibit the erection of a one-family residence, but shall prohibit the erection of a two-family residence. Where a public or community sewer is not available and in use for the disposal of all sanitary sewage, each lot shall provide not less than one acre and approved by the city sanitarian.

(viii) *Lot depth.* 100 feet.

(ix) *Parking.* Two off-street parking spaces shall be provided for each two-family dwelling unit. See section 144-5.1 for other permitted uses' parking.

(4) *Multifamily dwelling.*

(i) *Height.* 35 feet; 50 feet when a pitched roof is used (minimum 4:12 slope).

(ii) *Front building setback.* 25 feet.

(iii) *Side building setback.* A side building setback of 20 feet shall be provided adjacent to property zoned "R-1," "R-1A-43.5," "R-1A-12," "R-1A-8," "R-1A-6.6," "R-2," "R-2A," "TH," "TH-A," "ZH," "ZH-A," "MU-A," "B-1," "B-1A" and "B-1B". A side building setback of only six feet shall be provided adjacent to multifamily, commercially and industrially zoned property. Buildings on corner lots shall have 15-foot side building setbacks adjacent to the street where the rear lot lines of the corner lots coincide with the rear lot lines of the adjacent lots. Buildings on corner lots shall have 25-foot side building setbacks adjacent to the street where the rear lines of the corner lots coincide with the side lot lines of the adjacent lots.

(iv) *Garage setback.* Where a driveway is located in front of a garage, the garage shall be setback 20 feet from the right-of-way or the driveway to the garage shall be at least 20 feet long to provide enough space for a vehicle to park without overhanging into the right-of-way, if the garage door is closed. (See Illustration 8 in section 144-5.1-1.)

(v) *Rear building setback.* The depth of the rear building setback shall be at least 25 percent of the depth of the lot, but such depth need not be more than 25 feet.

(vi)

Accessory uses. Accessory uses such as swimming pools, tennis courts and playgrounds will not be permitted within any required yard.

(vii) *Width of lot.* The minimum width of an interior lot shall be 60 feet and the minimum width of a corner lot shall be 70 feet.

(viii) *Density.* 12 units per acre.

(ix) *Lot area.* 15,000 square feet.

(x) *Lot coverage.* The combined area of all yards shall not be less than 50 percent of the total lot or tract; provided however, that in the event enclosed or covered parking is provided, the minimum total yard area requirement shall be 40 percent of the total lot or tract.

(xi) *Distance between structures.* There shall be a minimum of 12 feet between structures side by side; a minimum of 30 feet between structures side by front or rear; a minimum of 50 feet between structures front to front; and a minimum of 20 feet between structures backing rear to rear; and a minimum of 20 feet between structures front to rear. (See Illustration 2.)

(xii) *Lot depth.* 100 feet.

(xiii) *Parking.* For apartments, apartment hotel units and other multifamily dwellings, off-street parking spaces shall be provided in accord with the following schedule:

1. One-bedroom apartment or unit: One and one-half spaces.
2. Two-bedroom apartment or unit: Two spaces.
3. Each additional bedroom: One-half space.
4. Each dwelling unit provided exclusively for low income elderly occupancy: Three-fourths space ("low income elderly" is defined as any person 55 years of age or older with low or moderate income, according to HUD standards).

See section 144-5.1 for other permitted uses' parking.

(5) *Townhouses.*

(i) *Height.* 35 feet.

(ii) *Front building setback.* Ten feet. If front entry garages/carports are provided, a minimum front yard of 20 feet shall be provided to the garage/carport.

(iii) *Side building setback.* No side building setbacks are required for interior lots except the minimum distance between two building groups shall be 20 feet and the minimum distance between a building group and any abutting subdivision boundary or zoning district boundary line shall be 20 feet. Buildings on corner lots shall have 15-foot side building setbacks adjacent to the street, except where the rear lot line of a corner lot coincides with a side lot line of an adjacent lot, then 25-foot minimum side yards adjacent to the street shall be provided.

(iv) *Garage setback.* Where a driveway is located in front of a garage, the garage shall be setback 20 feet from the right-of-way or the driveway to the garage shall be at least 20 feet long to provide enough space for a vehicle to park without overhanging into the right-of-way, if the garage door is closed. (See Illustration 8 in section 144-5.1-1.)

(v) *Rear building setback.* No building shall be constructed closer than ten feet from the rear property line. If the rear of the lots abut any other residential zoning district, the rear building setback shall have a minimum depth of 20 feet.

(vi) *Width of lot.* Interior lots shall have a minimum width of 25 feet. Corner lots shall have a minimum width of 40 feet except where the rear lot line of a corner lot coincides with a side lot line of an adjacent lot, then the corner lot shall have a minimum width of 50 feet.

(vii) *Lot depth.* 100 feet.

(viii) *Lot area per family.* 2,500 square feet.

(ix) *Common open space.* A minimum of 250 square feet of common open space per lot shall be provided within the townhouse project. In computing the required common open space, individually owned townhouse lots, required front, rear, or side setbacks, streets, alleys, or public rights-of-way of any kind, vehicular drives, parking areas, service drives, or utility easements containing or permitting overhead pole carried service shall not be included. Drainage easements and detention ponds may be used in computing common open space.

(x) *Building group.* There shall be no less than two nor more than eight individual dwelling units in each building or dwelling group. Each building group shall be at least 20 feet from any other building group, measured from the nearest points of their foundations. Each building or building group shall be at least 20 feet from any subdivision or zoning district boundary line.

(xi) *Accessory buildings.* Any detached accessory buildings permitted, except carports open on at least two sides, shall be set at least three feet away from the side lot line unless their walls are equal in fire resistance to the common walls of the main structure. Detached carports, open on at

least two sides, may be built to the property line with no common wall required. Rear building setback for an accessory building shall be three feet. Any accessory building permitted in district "R-1" shall be permitted in district "TH."

(xii) *Parking.* There shall be at least two off-street parking spaces for each townhouse. See section 144-5.1 for other permitted uses' parking.

(6) *Zero lot line/patio homes.*

(i) *Height.* 35 feet.

(ii) *Front building setback.* Ten feet. If front entry garages/carports are provided, a minimum front yard of 20 feet shall be provided to the garage/carport.

(iii) *Side building setback.* There shall be no side building setback required on one side of the lot and a minimum of ten feet in the opposite side yard. If the side of the lot abuts any other residential zoning district, that side building setback shall have a minimum of ten feet. The dwelling on the "no side building setback required" side may be off-set from the property line by no more than one foot.

(iv) *Corner lots.* Buildings on corner lots shall provide a minimum exterior side building setback of ten feet. If entry to a garage/carport is provided on the exterior side, a minimum yard of 20 feet shall be provided to the garage/carport.

(v) *Rear building setback.* If rear entry garages/carports are provided from an alley, the rear building setback shall have a minimum depth of 20 feet. If no alley is provided and garage/carport entries are from the front, the rear building setback shall have a minimum depth of ten feet. If the rear of the lots abut any other residential zoning district, the rear building setback shall have a minimum depth of 20 feet.

(vi) *Width of lot.* 40 feet.

(vii) *Lot area.* 4,000 square feet.

(viii) *Lot depth.* 100 feet.

(ix) *Minimum area zoned.* Not less than three lots with common side lot lines will be zoned for zero lot line homes. When facing on the same street within the same block, mixing of ZH structures and other residential structures will not be allowed. However, this does not preclude other residential uses on one side of a street with ZH uses on the opposite side of the street within the same block or different blocks.

(x) *Zero lot line wall.* No door or window openings shall be built into the side wall facing the zero lot line except those that are more than three feet from the property line and screened by a masonry wall at least eight feet in height so that the opening(s) is not visible from the adjoining property. (See Illustration 3, "ZH-A" district.)

(xi) *Maintenance, drainage and overhang easement.* A maintenance, drainage and overhang easement of five feet shall be provided on each lot that is adjacent to a lot with a zero setback allowance. This easement shall be for the purpose of maintaining the wall and foundation that is adjacent to one side property line to provide for proper maintenance and drainage.

(xii) *Overhang.* Eaves and gutters may overhang the zero lot line side of the lot by no more than 18 inches. If there is an overhang over the lot line, a gutter is required such that roof runoff shall not be deposited over the lot line onto adjoining property.

(xiii) *Parking.* There shall be at least two off-street parking spaces for each zero lot line home. See section 144-5.1 for other permitted uses' parking.

3.4-11. *"MU-B" high intensity mixed use district.*

Purpose. The MU-B high intensity mixed use district is intended to provide for a mixture of more intense retail, office, and industrial uses in close proximity to enable people to live, work and shop in a single location. Bed-and-breakfast establishments could also be located in this district. Pedestrian walkways and open areas are desired in order to promote a pedestrian-friendly environment.

(a) *Authorized uses.* Uses permitted by right shall be those set forth in the land use matrix in section 144-4.2. The allowed uses in the district, which are intended to be identical with those listed in the land use matrix, are as follows:

(1) *Uses permitted by right.*

Residential uses:

Accessory building/structure.

Bed and breakfast inn (see section 144-5.6).

Boardinghouse/lodging house.

Community home (see definition).
Dormitory (in which individual rooms are for rental).
Hospice.
Multifamily (apartments/condominiums—at least five units).
Rental or occupancy for less than one month (see section 144-5.17).
Residential use in buildings with the following non-residential uses.
Townhouse (at least five lots).

Non-residential uses:

Accounting, auditing, bookkeeping, and tax preparations.
Adult day care (no overnight stay).
Adult day care (with overnight stay).
Aircraft support and related services.
Airport.
All terrain vehicle (ATV) dealer/sales.
Ambulance service (private).
Amphitheater.
Amusement devices/arcade (four or more devices).
Amusement services or venues (indoors) (see section 144-5.13).
Amusement services or venues (outdoors).
Animal grooming shop.
Answering and message services.
Antique shop.
Appliance repair.
Archery range.
Armed services recruiting center.
Art dealer/gallery.
Artist or artisan's studio.
Assembly/exhibition hall or areas.
Assisted living facility/retirement home.
Athletic fields.
Auction sales (non-vehicle).
Auto body repair, garages (see section 144-5.11).
Auto glass repair/tinting (see section 144-5.11).
Auto interior shop/upholstery (see section 144-5.11).
Auto leasing.
Auto muffler shop (see section 144-5.11).
Auto or trailer sales rooms or yards (see section 144-5.12).
Auto or truck sales rooms or yards—Primarily new (see section 144-5.11).
Auto paint shop.
Auto repair as an accessory use to retail sales.
Auto repair garage (general) (see section 144-5.11).
Auto supply store for new and factory rebuilt parts.
Auto tire repair/sales (indoor).
Automobile driving school (including defensive driving).
Bakery (retail).
Bank, savings and loan, or credit union.
Bar/tavern.
Barber/beauty college (barber or cosmetology school or college).
Barber/beauty shop, haircutting (non-college).
Barns and farm equipment storage (related to agricultural uses).
Battery charging station.
Bicycle sales and/or repair.
Billiard/pool facility.

Bingo facility.
Bio-medical facilities.
Blacksmith or wagon shops.
Book binding.
Book store.
Bottling or distribution plants (milk).
Bottling works.
Bowling alley/center (see section 144-5.13).
Broadcast station (with tower) (see section 144-5.6).
Bus barns or lots.
Bus passenger stations.
Cafeteria/cafe/delicatessen.
Campers' supplies.
Car wash (self service; automated).
Car wash, full service (detail shop).
Carpenter, cabinet, or pattern shops.
Carpet cleaning establishments.
Caterer.
Cemetery and/or mausoleum.
Check cashing service.
Chemical laboratories (not producing noxious fumes or odors).
Child day care/children's nursery (business).
Church/place of religious assembly.
Civic/conference center and facilities.
Cleaning, pressing and dyeing (non-explosive fluids used).
Clinic (dental).
Clinic (emergency care).
Clinic (medical).
Club (private).
Coffee shop.
Cold storage plant.
Commercial amusement concessions and facilities.
Communication equipment—Installation and/or repair.
Computer and electronic sales.
Computer repair.
Confectionery store (retail).
Consignment shop.
Contractor's office/sales, with outside storage including vehicles.
Contractor's temporary on-site construction office (only with permit from building official; see section 144-5.10).
Convenience store with or without fuel sales.
Country club (private).
Credit agency.
Curio shops.
Custom work shops.
Dance hall/dancing facility (see section 144-5.13).
Day camp.
Department store.
Drapery shop/blind shop.
Driving range.
Drug sales/pharmacy.
Electrical repair shop.
Electrical substation.

Electronic assembly/high tech manufacturing.
Electroplating works.
Engine repair/motor manufacturing re-manufacturing and/or repair.
Exterminator service.
Fair ground.
Farmers market (produce market—wholesale).
Farms, general (crops) (see chapter 6 and section 144-5.9).
Farms, general (livestock/ranch) (see chapter 6 and section 144-5.9).
Feed and grain store.
Filling station (fuel tanks must be below the ground).
Florist.
Food or grocery store with or without fuel sales.
Food processing (no outside public consumption).
Forge (hand).
Forge (power).
Fraternal organization/civic club (private club).
Freight terminal, rail/truck (when any storage of freight is outside an enclosed building).
Freight terminal, truck (all storage of freight in an enclosed building).
Frozen food storage for individual or family use.
Funeral home/mortuary.
Furniture manufacture.
Furniture sales (indoor).
Galvanizing works.
Garden shops and greenhouses.
Golf course (public or private).
Golf course (miniature).
Governmental building or use with no outside storage.
Greenhouse (commercial).
Handicraft shop.
Hardware store.
Health club (physical fitness; indoors only).
Heating and air-conditioning sales/services.
Heavy load (farm) vehicle sales/repair (see section 144-5.14).
Heliport.
Home repair and yard equipment retail and rental outlets.
Hospital, general (acute care/chronic care).
Hospital, rehabilitation.
Hotel/motel.
Hotels/motels—Extended stay (residence hotels).
Ice delivery stations (for storage and sale of ice at retail only).
Ice plants.
Industrial laundries.
Kiosk (providing a retail service).
Laboratory equipment manufacturing.
Laundromat and laundry pickup stations.
Laundry, commercial (without self serve).
Laundry/dry cleaning (drop off/pick up).
Laundry/washateria (self serve).
Lawnmower sales and/or repair.
Leather products manufacturing.
Light manufacturing.
Limousine/taxi service.
Locksmith.

Lumberyard (see section 144-5.15).
Lumberyard or building material sales (see section 144-5.15).
Machine shop.
Maintenance/janitorial service.
Major appliance sales (indoor).
Manufactured home sales.
Manufacturing and processes.
Market (public, flea).
Martial arts school.
Medical supplies and equipment.
Metal fabrication shop.
Micro brewery (onsite manufacturing and sales).
Mini-warehouse/self storage units (no outside boat and RV storage permitted).
Motion picture studio, commercial film.
Motion picture theater (indoors).
Motion picture theater (outdoors, drive-in).
Motorcycle dealer (primarily new/repair).
Moving storage company.
Moving, transfer, or storage plant.
Museum.
Needlework shop.
Non-bulk storage of fuel, petroleum products and liquefied petroleum.
Nursing/convalescent home/sanitarium.
Offices, brokerage services.
Offices, business or professional.
Offices, computer programming and data processing.
Offices, consulting.
Offices, engineering, architecture, surveying or similar.
Offices, health services.
Offices, insurance agency.
Offices, legal services, including court reporting.
Offices, medical offices.
Offices, real estate.
Offices, security/commodity brokers, dealers, exchanges and financial services.
Outside storage (as primary use).
Park and/or playground (private or public).
Parking lots (for passenger car only) (not as incidental to the main use).
Parking structure/public garage.
Pawn shop.
Personal watercraft sales (primarily new/repair).
Pet shop/supplies (10,000 square feet or less).
Pet store (more than 10,000 square feet).
Photo engraving plant.
Photographic printing/duplicating/copy shop or printing shop.
Photographic studio (no sale of cameras or supplies).
Photographic supply.
Plant nursery.
Plant nursery (growing for commercial purposes with retail sales on site).
Plastic products molding/reshaping.
Plumbing shop.
Portable building sales.
Propane sales (retail).
Public recreation/services building for public park/playground areas.

Publishing/printing company (e.g., newspaper).
Quick lube/oil change/minor inspection.
Radio/television shop, electronics, computer repair.
Rappelling facilities.
Recreation buildings (public or private).
Recycling kiosk.
Refreshment/beverage stand.
Research lab (non-hazardous).
Restaurant with drive-through.
Restaurant/prepared food sales.
Retail store and shopping center.
Retirement home/home for the aged.
Rodeo grounds.
RV park.
RV/travel trailer sales.
School, K-12 (public or private).
School, vocational (business/commercial trade).
Security monitoring company.
Security systems installation company.
Sheet metal shop.
Shoe repair shops.
Shooting gallery—Indoor (see section 144-5.13).
Shopping center.
Sign manufacturing/painting plant.
Specialty shops in support of project guests and tourists.
Storage—Exterior storage for boats and recreational vehicles.
Storage in bulk.
Studio for radio or television (with tower) (see section 144-5.7).
Studios (art, dance, music, drama, reducing, photo, interior decorating, etc.).
Tailor shop.
Tattoo or body piercing studio.
Taxidermist.
Telemarketing agency.
Telephone exchange (office and other structures).
Tennis court (commercial).
Theater (non-motion picture; live drama).
Tire sales (outdoors).
Tool rental.
Transfer station (refuse/pick-up).
Travel agency.
Truck or transit terminal (with outside storage).
Truck stop.
University or college (public or private).
Upholstery shop (non-auto).
Used or second hand merchandise/furniture store.
Vacuum cleaner sales and repair.
Veterinary hospital with or without outside animal runs or kennels) with the exception that outdoor kennels may not be used between the hours of 9:00 p.m. and 7:00 a.m. and are prohibited adjacent to residential.
Video rental/sales.
Warehouse/office and storage/distribution center.
Waterfront amusement facilities—Berthing facilities sales and rentals.
Waterfront amusement facilities—Boat fuel storage/dispensing facilities.
Waterfront amusement facilities—Boat landing piers/launching ramps.

Waterfront amusement facilities—Swimming/wading pools/bathhouses.

Water storage (surface, underground or overhead), water wells and pumping stations that are part of a public or municipal system.

Welding shop.

Wholesale sales offices and sample rooms.

Woodworking shop (ornamental).

Any comparable business or use not included in or excluded from any other district described herein.

(2) *Conflict.* In the event of conflict between the uses listed in the land use matrix and those listed in subsection (1), the uses listed in this subsection shall be deemed those authorized in the district.

(b) *Maximum height, minimum area and setback requirements.*

(1) *Non-residential uses.*

(i) *Height.* 120 feet.

(ii) *Front building setback.* No front building setback required.

(iii) *Side building setback.* No side building setback is required.

(iv) *Rear building setback.* Five feet minimum with an additional two feet required for each story above 24 feet, up to a maximum setback of 25 feet; there shall be no encroachment or overhangs into this required rear building setback.

(v) *Residential setback.* Where a non-residential building or a multifamily development of more than three units abuts a one- or two-family use or zoning district, the setback from the residential property line shall be at least 20 feet plus one foot for each foot of building height over 20 feet.

(vi) *Minimum lot area.* The minimum internal lot area shall be 6,000 square feet or 7,000 square feet for a corner lot.

(vii) *Reserved.*

(viii) *Minimum lot frontage.* 60 feet.

(ix) *Lot depth.* 100 feet.

(x) *Parking.* See section 144-5.1 for other permitted uses' parking.

(2) *Multifamily dwellings.*

(i) *Height.* 120 feet.

(ii) *Front building setbacks.* 25 feet.

(iii) *Rear building setback.* 25 feet.

(iv) *Side building setback.* A side building setback of 20 feet shall be provided. Buildings on corner lots shall have 15-foot side building setbacks adjacent to the street where the rear lot lines of the corner lots coincide with the rear lot lines of the adjacent lots. Buildings on corner lots shall have 25-foot side building setbacks adjacent to the street where the rear lines of the corner lots coincide with the side lot lines of the adjacent lots.

(v) *Garage setback.* Where a driveway is located in front of a garage, the garage shall be setback 20 feet from the right-of-way or the driveway to the garage shall be at least 20 feet long to provide enough space for a vehicle to park without overhanging into the right-of-way, if the garage door is closed. (See Illustration 8 in section 144-5.1-1.)

(vi) *Parking and accessory uses.* Parking may encroach into the interior side and rear building setback as long as a solid screening fence or wall of six to eight feet in height is erected along the interior side and rear property lines. Accessory uses such as swimming pools, tennis courts and playgrounds will not be permitted within any required yard.

(vii) *Width of lot.* The minimum width of an interior lot shall be 60 feet and the minimum width of a corner lot shall be 70 feet.

(viii) *Density.* No maximum.

(ix) *Lot area.* 20,000 square feet.

(x) *Lot coverage.* The combined area of all yards shall not be less than 50 percent of the total lot or tract; provided however, that in the event enclosed or covered parking is provided, the minimum total yard area requirement shall be 40 percent of the total lot or tract.

(xi) *Distance between structures.* There shall be a minimum of ten feet between structures side by side; a minimum of 20 feet between structures side by front or rear; a minimum of 40 feet between structures front to front; a minimum of 20 feet between structures backing rear to rear, and a minimum of 20 feet between structures front to rear. (See Illustration 1.)

(xii) *Access to an arterial roadway or state highway required.* Developments in this district must have direct access to either an arterial roadway or state highway.

(xiii) *Lot depth.* 100 feet.

(xiv) *Parking.* For apartments, apartment hotel units and other multifamily dwellings, off-street parking spaces shall be provided in accord with the following schedule:

1. One-bedroom apartment or unit: One and one-half spaces.
2. Two-bedroom apartment or unit: Two spaces.
3. Each additional bedroom: One-half space.
4. Each dwelling unit provided exclusively for low income elderly occupancy: Three-fourths space ("low income elderly" is defined as any person 55 years of age or older with low or moderate income, according to HUD standards).

See section 144-5.1 for other permitted uses' parking.

(3) *Townhouses.*

(i) *Height.* 35 feet.

(ii) *Front building setback.* Ten feet. If front entry garages/carports are provided, a minimum front yard of 20 feet shall be provided to the garage/carport.

(iii) *Side building setback.* No side building setbacks are required for interior lots except the minimum distance between two building groups shall be 20 feet and the minimum distance between a building group and any abutting subdivision boundary or zoning district boundary line shall be 20 feet. Buildings on corner lots shall have 15-foot side building setbacks adjacent to the street, except where the rear lot line of a corner lot coincides with a side lot line of an adjacent lot, then 25-foot minimum side yards adjacent to the street shall be provided.

(iv) *Garage setback.* Where a driveway is located in front of a garage, the garage shall be setback 20 feet from the right-of-way or the driveway to the garage shall be at least 20 feet long to provide enough space for a vehicle to park without overhanging into the right-of-way, if the garage door is closed. (See Illustration 8 in section 144-5.1-1.)

(v) *Rear building setback.* No building shall be constructed closer than ten feet from the rear property line. If the rear of the lots abut any other residential zoning district, the rear building setback shall have a minimum depth of 20 feet.

(vi) *Width of lot.* Interior lots shall have a minimum width of 25 feet. Corner lots shall have a minimum width of 40 feet except where the rear lot line of a corner lot coincides with a side lot line of an adjacent lot, then the corner lot shall have a minimum width of 50 feet.

(vii) *Lot depth.* 100 feet.

(viii) *Lot area per family.* 2,500 square feet.

(ix) *Common open space.* A minimum of 250 square feet of common open space per lot shall be provided within the townhouse project. In computing the required common open space, individually owned townhouse lots, required front, rear, or side setbacks, streets, alleys, or public rights-of-way of any kind, vehicular drives, parking areas, service drives, or utility easements containing or permitting overhead pole carried service shall not be included. Drainage easements and detention ponds may be used in computing common open space.

(x) *Building group.* There shall be no less than five lots. There shall be no less than two nor more than eight individual dwelling units in each building or dwelling group. Each building group shall be at least 20 feet from any other building group, measured from the nearest points of their foundations. Each building or building group shall be at least 20 feet from any subdivision or zoning district boundary line.

(xi) *Accessory buildings.* Any detached accessory buildings permitted, except carports open on at least two sides, shall be set at least three feet away from the side lot line unless their walls are equal in fire resistance to the common walls of the main structure. Detached carports, open on at least two sides, may be built to the property line with no common wall required. Rear building setback for an accessory building shall be three feet. Any accessory building permitted in district "R-1" shall be permitted in district "TH."

(xii) *Parking.* There shall be at least two off-street parking spaces for each townhouse. See section 144-5.1 for other permitted uses' parking.

3.4-12. *"C-1A" neighborhood business district.*

Purpose. This district is established to provide office, business and professional services, and light retail and commercial uses to serve adjacent neighborhoods. The uses found in the neighborhood business district are generally clustered at major intersections of collector streets near the perimeters of residential neighborhoods. No major shopping or office centers are included in this district. No use that is noxious or offensive by reason of vibration, noise, odor, dust, smoke or gas shall be included in this district. The following regulations shall apply in all "C-1A" districts:

(a) *Authorized uses.* Uses permitted by right shall be those set forth in the land use matrix in section 144-4.2. The allowed uses in the district, which are intended to be identical with those listed in the land use matrix, are as follows:

(1) *Uses permitted by right.*

Residential uses:

Accessory building/structure.
Assisted living facility/retirement home.
Bed and breakfast inn (see section 144-5.6).
Community home (see definition).
Hospice.

Non-residential uses:

Accounting, auditing, bookkeeping, and tax preparations.
Adult day care (no overnight stay).
Adult day care (with overnight stay).
Amusement devices/arcade (four or more devices).
Animal grooming shop.
Answering and message services.
Antique shop.
Appliance repair.
Armed services recruiting center.
Art dealer/gallery.
Artist or artisan's studio.
Auto leasing.
Auto supply store for new and factory rebuilt parts.
Auto tire repair/sales (indoor).
Bakery (retail).
Bank, savings and loan, or credit union.
Bars and taverns (no outdoor music).
Barber/beauty shop, haircutting (non-college).
Barns and farm equipment storage (related to agricultural uses).
Battery charging station.
Bicycle sales and/or repair.
Bingo facility.
Book binding.
Book store.
Cafeteria/cafe/delicatessen.
Campers' supplies.
Caterer.
Cemetery and/or mausoleum.
Check cashing service.
Child day care/children's nursery (business).
Church/place of religious assembly.
Cleaning, pressing and dyeing (non-explosive fluids used).
Clinic (dental).
Clinic (emergency care).
Clinic (medical).
Coffee shop.
Communication equipment—Installation and/or repair.
Computer and electronic sales.
Computer repair.
Confectionery store (retail).
Consignment shop.
Contractor's temporary on-site construction office (only with permit from building official; see section 144-5.10).

Convenience store without fuel sales.
Credit agency.
Curio shops.
Custom work shops.
Department store.
Drapery shop/blind shop.
Drug sales/pharmacy.
Electrical repair shop.
Electrical substation.
Farms, general (crops) (see chapter 6 and section 144-5.9).
Farms, general (livestock/ranch) (see chapter 6 and section 144-5.9).
Florist.
Food or grocery store without fuel sales (50,000 square feet or less).
Frozen food storage for individual or family use.
Garden shops and greenhouses.
Golf course (public or private).
Governmental building or use.
Greenhouse (commercial).
Handicraft shop.
Hardware store.
Health club (physical fitness; indoors only).
Heating and air-conditioning sales/services.
Hospital, rehabilitation.
Kiosk (providing a retail service).
Laundromat and laundry pickup stations.
Laundry/dry cleaning (drop off/pick up).
Laundry/washateria (self serve).
Lawnmower sales and/or repair.
Locksmith.
Martial arts school.
Museum.
Needlework shop.
Nursing/convalescent home/sanitarium.
Offices, brokerage services.
Offices, business or professional.
Offices, computer programming and data processing.
Offices, consulting.
Offices, engineering, architecture, surveying or similar.
Offices, health services.
Offices, insurance agency.
Offices, legal services, including court reporting.
Offices, medical offices.
Offices, real estate.
Offices, security/commodity brokers, dealers, exchanges and financial services.
Park and/or playground (private or public).
Parking lots (for passenger car only) (not as incidental to the main use).
Parking structure/public garage.
Pawn shop.
Pet shop/supplies (10,000 square feet or less).
Photographic printing/duplicating/copy shop or printing shop.
Photographic studio (no sale of cameras or supplies).
Photographic supply.
Plant nursery.

Plant nursery (retail sales/outdoor storage).

Public recreation/services building for public park/playground areas.

Quick lube/oil change/minor inspection.

Radio/television shop, electronics, computer repair.

Recreation buildings (private or public).

Recycling kiosk.

Refreshment/beverage stand.

Restaurant.

Restaurant/prepared food sales with drive-throughs.

Retail store and shopping center with drive-through service (50,000 square foot building or less).

Retirement home/home for the aged.

School, K-12 (public or private).

School, vocational (business/commercial trade).

Security monitoring company.

Security systems installation company.

Shoe repair shops.

Shopping center.

Specialty shops in support of project guests and tourists.

Studios (art, dance, music, drama, reducing, photo, interior decorating, etc.).

Tailor shop.

Telemarketing agency.

Telephone exchange buildings (office only).

Theater (non-motion picture; live drama).

Tool rental.

Travel agency.

University or college (public or private).

Vacuum cleaner sales and repair.

Veterinary hospital (no outside animal runs or kennels).

Video rental/sales.

Water storage (surface, underground or overhead), water wells and pumping stations that are part of a public or municipal system.

Woodworking shop (ornamental).

Any comparable business or use not included in or excluded from any other district described herein.

(2) *Conflict.* In the event of conflict between the uses listed in the land use matrix and those listed in subsection (1), the uses listed in this subsection shall be deemed those authorized in the district.

(b) *Maximum height, minimum area and setback requirements.*

(1) *Height.* 35 feet.

(2) *Front building setback.* 25 feet.

(3) *Side building setback.* No side building setback is required except that where a side line of a lot in this district abuts upon the side line of a lot in any residential zone, a side building setback of not less than six feet shall be provided.

(4) *Residential/non-residential garage setback.* Where a driveway is located in front of a garage, the garage shall be setback 20 feet from the right-of-way or the driveway to the garage shall be at least 20 feet long to provide enough space for a vehicle to park without overhanging into the right-of-way, if the garage door is closed. (See illustration 8 in section 144-5.1-1.)

(5) *Rear building setback.* 20 feet.

(6) *Residential setback.* Effective November 8, 2006, where any building abuts a one- or two-family use or zoning district, the setback from the one- or two-family property line shall be at least 20 feet plus one foot for each foot of building height over 20 feet.

(7) *Width of lot.* 60 feet.

(8) *Corner lots.* Buildings on corner lots shall have 15-foot side building setbacks adjacent to the street where the rear lot lines of the corner lots coincide with the rear lot lines of the adjacent lots. Buildings on corner lots shall have 25-foot side building setbacks adjacent to the street where the rear lines of the corner lots coincide with the side lot lines of the adjacent lots. Where a minimum 25-foot setback is required, a canopy at least eight feet in height, attached to the main building, may be built within 15 feet

of the property line so long as such construction will not obstruct the vision of vehicular or pedestrian traffic.

(9) *Lot depth.* 100 feet.

(10) *Parking.* See section 144-5.1 for permitted uses' parking.

(11) *Size.* Any building on a lot shall be 50,000 square feet or less in size.

3.4-13. *"C-1B" general business district.*

Purpose. The general business district is established to provide areas for a broad range of office and retail uses. This district should generally consist of retail nodes located along or at the intersection of major collectors or thoroughfares to accommodate high traffic volumes generated by general retail uses. The following regulations shall apply in all "C-1B" districts:

(a) *Authorized uses.* Uses permitted by right shall be those set forth in the land use matrix in section 144-4.2. The allowed uses in the district, which are intended to be identical with those listed in the land use matrix, are as follows:

(1) *Uses permitted by right.*

Residential uses:

Accessory building/structure.
Assisted living facility/retirement home.
Bed and breakfast inn (see section 144-5.6).
Community home (see definition).
Hospice.

Non-residential uses:

Accounting, auditing, bookkeeping, and tax preparations.
Adult day care (no overnight stay).
Adult day care (with overnight stay).
All terrain vehicle (ATV) dealer/sales.
Ambulance service (private).
Amphitheater.
Amusement devices/arcade (four or more devices).
Amusement services or venues (indoors).
Amusement services or venues (outdoors).
Animal grooming shop.
Answering and message services.
Antique shop.
Appliance repair.
Armed services recruiting center.
Art dealer/gallery.
Artist or artisan's studio.
Assembly/exhibition hall or areas.
Athletic fields.
Auction sales (non-vehicle).
Auto body repair, garages (see section 144-5.11).
Auto glass repair/tinting (see section 144-5.11).
Auto interior shop/upholstery (see section 144-5.11).
Auto leasing.
Auto muffler shop (see section 144-5.11).
Auto or trailer sales rooms or yards (see section 144-5.11).
Auto or truck sales rooms or yards—Primarily new (see section 144-5.11).
Auto paint shop (see section 144-5.11).
Auto repair as an accessory use to retail sales (see section 144-5.11).
Auto repair garage (general) (see section 144-5.11).
Auto supply store for new and factory rebuilt parts.
Auto tire repair/sales (indoor).
Automobile driving school (including defensive driving).

Bakery (retail).
Bank, savings and loan, or credit.
Bar/tavern.
Barber/beauty college (barber or cosmetology school or college).
Barber/beauty shop, haircutting (non-college).
Barns and farm equipment storage (related to agricultural uses).
Battery charging station.
Bicycle sales and/or repair.
Billiard/pool facility.
Bingo facility.
Bio-medical facilities.
Book binding.
Book store.
Bowling alley/center (see section 144-5.13).
Broadcast station (with tower) (see section 144-5.7).
Bus barns or lots.
Bus passenger stations.
Cafeteria/cafe/delicatessen.
Campers' supplies.
Car wash (self service; automated).
Car wash, full service (detail shop).
Carpenter, cabinet, or pattern shops.
Carpet cleaning establishments.
Caterer.
Cemetery and/or mausoleum.
Check cashing service.
Child day care/children's nursery (business).
Church/place of religious assembly.
Civic/conference center and facilities.
Cleaning, pressing and dyeing (non-explosive fluids used).
Clinic (dental).
Clinic (emergency care).
Clinic (medical).
Club (private).
Coffee shop.
Commercial amusement concessions and facilities.
Communication equipment—Installation and/or repair.
Computer and electronic sales.
Computer repair.
Confectionery store (retail).
Consignment shop.
Contractor's temporary on-site construction office (only with permit from building official; see section 144-5.10).
Convenience store with or without fuel sales.
Country club (private).
Credit agency.
Curio shops.
Custom work shops.
Dance hall/dancing facility (see section 144-5.13).
Day camp.
Department store.
Drapery shop/blind shop.
Driving range.

Drug sales/pharmacy.
Electrical repair shop.
Electrical substation.
Exterminator service.
Farmers market (produce market—wholesale).
Farms, general (crops) (see chapter 6 and section 144-5.9).
Farms, general (livestock/ranch) (see chapter 6 and section 144-5.9).
Feed and grain store.
Filling station (fuel tanks must be below the ground).
Florist.
Food or grocery store with or without fuel sales.
Fraternal organization/civic club (private club).
Frozen food storage for individual or family use.
Funeral home/mortuary.
Furniture sales (indoor).
Garden shops and greenhouses.
Golf course (public or private).
Golf course (miniature).
Greenhouse.
Handicraft shop.
Hardware store.
Health club (physical fitness; indoors only).
Heavy load (farm) vehicle sales/repair (see section 144-5.14).
Home repair and yard equipment retail and rental outlets.
Hospital, general (acute care/chronic care).
Hospital, rehabilitation.
Hotel/motel.
Hotels/motels—Extended stay (residence hotels).
Ice delivery stations (for storage and sale of ice at retail only).
Kiosk (providing a retail service).
Laundromat and laundry pickup stations.
Laundry, commercial (without self serve).
Laundry/dry cleaning (drop off/pick up).
Laundry/washateria (self serve).
Lawnmower sales and/or repair.
Limousine/taxi service.
Locksmith.
Maintenance/janitorial service.
Major appliance sales (indoor).
Martial arts school.
Medical supplies and equipment.
Micro brewery (onsite manufacturing and/or sales).
Mini-warehouse/self storage units with outside boat and RV storage.
Mini-warehouse/self storage units (no outside boat and RV storage permitted).
Motion picture studio, commercial film.
Motion picture theater (indoors).
Motion picture theater (outdoors, drive-in).
Motorcycle dealer (primarily new/repair).
Moving storage company.
Museum.
Needlework shop.
Nursing/convalescent home/sanitarium.
Offices, brokerage services.

Offices, business or professional.
Offices, computer programming and data processing.
Offices, consulting.
Offices, engineering, architecture, surveying or similar.
Offices, health services.
Offices, insurance agency.
Offices, legal services, including court reporting.
Offices, medical offices.
Offices, real estate.
Offices, security/commodity brokers, dealers, exchanges and financial services.
Park and/or playground (public or private).
Parking lots (for passenger car only) (not as incidental to the main use).
Parking structure/public garage.
Pawn shop.
Personal watercraft sales (primarily new/repair).
Pet shop/supplies (10,000 square feet or less).
Pet store (more than 10,000 square feet).
Photographic printing/duplicating/copy shop or printing shop.
Photographic studio (no sale of cameras or supplies).
Photographic supply.
Plant nursery.
Plant nursery (retail sales/outdoor storage).
Plumbing shop.
Portable building sales.
Public recreation/services building for public park/playground areas.
Publishing/printing company (e.g., newspaper).
Quick lube/oil change/minor Inspection.
Radio/television shop, electronics, computer repair.
Recreation buildings (private).
Recreation buildings (public).
Recycling kiosk.
Refreshment/beverage stand.
Research lab (non-hazardous).
Restaurant.
Restaurant/prepared food sales.
Retail store and shopping center.
Retirement home/home for the aged.
RV park.
RV/travel trailer sales.
School, K-12 (public or private).
School, vocational (business/commercial trade).
Security monitoring company.
Security systems installation company (with outside storage).
Shoe repair shops.
Shooting gallery—Indoor (see section 144-5.13).
Shopping center.
Sign manufacturing/painting plant.
Specialty shops in support of project guests and tourists.
Storage—Exterior storage for boats and recreational vehicles.
Studio for radio or television (without tower).
Studios (art, dance, music, drama, reducing, photo, interior decorating, etc.).
Tailor shop.
Tattoo or body piercing studio.

Taxidermist.

Telemarketing agency.

Telephone exchange buildings (office only).

Tennis court (commercial).

Theater (non-motion picture; live drama).

Tire sales (outdoors).

Tool rental.

Travel agency.

University or college (public or private).

Upholstery shop (non-auto).

Used or second hand merchandise/furniture store.

Vacuum cleaner sales and repair.

Vehicle storage facility.

Veterinary hospital (no outside animal runs or kennels).

Video rental/sales.

Waterfront amusement facilities---Swimming/wading pools/bathhouses.

Water storage (surface, underground or overhead), water wells and pumping stations that are part of a public or municipal system.

Wholesale sales offices and sample rooms.

Woodworking shop (ornamental).

Any comparable business or use not included in or excluded from any other district described herein.

(2) *Conflict.* In the event of conflict between the uses listed in the land use matrix and those listed in subsection (1), the uses listed in this subsection shall be deemed those authorized in the district.

(b) *Maximum height, minimum area and setback requirements.*

(1) *Height.* 75 feet.

(2) *Front building setback.* 25 feet.

(3) *Side building setback.* No side building setback is required except that where a side line of a lot in this district abuts upon the side line of a lot in any residential zone, a side building setback of not less than six feet shall be provided.

(4) *Corner lots.* Buildings on corner lots shall have 15-foot side building setbacks adjacent to the street where the rear lot lines of the corner lots coincide with the rear lot lines of the adjacent lots. Buildings on corner lots shall have 25-foot side building setbacks adjacent to the street where the rear lines of the corner lots coincide with the side lot lines of the adjacent lots. Where a minimum 25-foot setback is required, a canopy at least eight feet in height, attached to the main building, may be built within 15 feet of the property line so long as such construction will not obstruct the vision of vehicular or pedestrian traffic.

(5) *Garage setback.* Where a driveway is located in front of a garage, the garage shall be setback 20 feet from the right-of-way or the driveway to the garage shall be at least 20 feet long to provide enough space for a vehicle to park without overhanging into the right-of-way, if the garage door is closed. (See Illustration 8 in section 144-5.1-1.)

(6) *Residential setback.* Effective November 8, 2006, where any building abuts a one- or two-family use or zoning district, the setback from the one- or two-family property line shall be at least 20 feet plus one foot for each foot of building height over 20 feet.

(7) *Rear building setback.* 20 feet.

(8) *Width of lot.* 60 feet.

(9) *Lot depth.* 100 feet.

(10) *Parking.* See section 144-5.1 for permitted uses' parking.

3.4-14. *"C-2A" central business district.*

Purpose. This high density mixed use district is intended for central business district (CBD) uses. Any expansion of the existing "C-2" zoning would be limited to those changing areas that abut the core CBD. The following regulations shall apply in all "C-2A" districts:

(a) *Authorized uses.* Uses permitted by right shall be those set forth in the land use matrix in section 144-4.2. The allowed uses in the district, which are intended to be identical with those listed in the land use matrix, are as follows:

(1) *Uses permitted by right.*

Residential uses:

Accessory building/structure (see section 144-5.2).

Bed and breakfast inn (see section 144-5.6).

Boardinghouse/lodging house.

Cabin or cottage, either separate or connected, for rental to tourists or vacationers, but shall not include mobile homes, recreational vehicles or RV parks or mobile home communities (parks).

Community home (see definition).

Dormitory (in which individual rooms are for rental).

Duplex/two-family/duplex condominiums.

Hospice.

Multifamily (apartments/condominiums).

Rental or occupancy for less than one month (see section 144-5.17).

Residential use in buildings with the following non-residential uses.

Non-residential uses:

Accounting, auditing, bookkeeping, and tax preparations.

Adult day care (no overnight stay).

Adult day care (with overnight stay).

All terrain vehicle (ATV) dealer/sales.

Ambulance service (private).

Amphitheater.

Amusement devices/arcade (four or more devices).

Amusement services or venues (indoors) (see section 144-5.13).

Animal grooming shop.

Answering and message services.

Antique shop.

Appliance repair.

Armed services recruiting center.

Art dealer/gallery.

Artist or artisan's studio.

Assembly/exhibition hall or areas.

Auto body repair, garages (see section 144-5.11).

Auto leasing.

Auto or trailer sales rooms or yards (see section 144-5.12).

Auto or truck sales rooms or yards—Primarily new (see section 144-5.11).

Auto repair as an accessory use to retail sales (see section 144-5.11).

Auto repair garage (general) (see section 144-5.11).

Auto supply store for new and factory rebuilt parts.

Auto tire repair/sales (indoor).

Automobile driving school (including defensive driving).

Bakery (retail).

Bank, savings and loan, or credit union.

Bar/tavern.

Barber/beauty college (barber or cosmetology school or college).

Barber/beauty shop, haircutting (non-college).

Barns and farm equipment storage (related to agricultural uses).

Battery charging station.

Bicycle sales and/or repair.

Billiard/pool facility.

Bingo facility.

Bio-medical facilities.

Blacksmith or wagon shops.

Book binding.

Book store.

Bowling alley/center (see section 144-5.13).
Broadcast station (with tower) (see section 144-5.7).
Bus barns or lots.
Bus passenger stations.
Cafeteria/cafe/delicatessen.
Campers' supplies.
Car wash (self service; automated).
Car wash, full service (detail shop).
Carpenter, cabinet, or pattern shops.
Caterer.
Cemetery and/or mausoleum.
Check cashing service.
Child day care/children's nursery (business).
Church/place of religious assembly.
Civic/conference center and facilities.
Cleaning, pressing and dyeing (non-explosive fluids used).
Clinic (dental).
Clinic (emergency care).
Clinic (medical).
Club (private).
Coffee shop.
Commercial amusement concessions and facilities.
Communication equipment—Installation and/or repair.
Computer and electronic sales.
Computer repair.
Confectionery store (retail).
Consignment shop.
Contractor's office/sales, with outside storage including vehicles.
Contractor's temporary on-site construction office (only with permit from building official; see section 144-5.10).
Convenience store with or without fuel sales.
Credit agency.
Curio shops.
Custom work shops.
Dance hall/dancing facility (see section 144-5.13).
Day camp.
Department store.
Drapery shop/blind shop.
Drug sales/pharmacy.
Electrical repair shop.
Electrical substation.
Exterminator service.
Farmers market (produce market—wholesale).
Farms, general (crops) (see chapter 6 and section 144-5.9).
Farms, general (livestock/ranch) (see chapter 6 and section 144-5.9).
Feed and grain store.
Filling station (fuel tanks must be below the ground).
Florist.
Food or grocery store with or without fuel sales.
Fraternal organization/civic club (private club).
Frozen food storage for individual or family use.
Funeral home/mortuary.
Furniture sales (indoor).

Garden shops and greenhouses.
Golf course.
Golf course (miniature).
Governmental building or use.
Greenhouse (commercial).
Handicraft shop.
Hardware store.
Health club (physical fitness; indoors only).
Heating and air-conditioning sales/services.
Heavy load (farm) vehicle sales/repair (see section 144-5.14).
Heliport.
Home repair and yard equipment retail and rental outlets.
Hospital, general (acute care/chronic care).
Hospital, rehabilitation.
Hotel/motel.
Hotels/motels—Extended stay (residence hotels).
Ice delivery stations (for storage and sale of ice at retail only).
Kiosk (providing a retail service).
Laundromat and laundry pickup stations.
Laundry, commercial (without self serve).
Laundry/dry cleaning (drop off/pick up).
Laundry/washateria (self serve).
Lawnmower sales and/or repair.
Limousine/taxi service.
Locksmith.
Maintenance/janitorial service.
Major appliance sales (indoor).
Martial arts school.
Medical supplies and equipment.
Micro brewery (onsite manufacturing and/or sales).
Mini-warehouse/self storage units (no outside boat and RV storage permitted).
Motion picture studio, commercial film.
Motion picture theater (indoors).
Motorcycle dealer (primarily new/repair).
Moving storage company.
Museum.
Needlework shop.
Nursing/convalescent home/sanitarium.
Offices, brokerage services.
Offices, business or professional.
Offices, computer programming and data processing.
Offices, consulting.
Offices, engineering, architecture, surveying or similar.
Offices, health services.
Offices, insurance agency.
Offices, legal services, including court reporting.
Offices, medical offices.
Offices, real estate.
Offices, security/commodity brokers, dealers, exchanges and financial services.
Park and/or playground (public or private).
Parking lots (for passenger car only) (not as incidental to the main use).
Parking structure/public garage.
Pawn shop.

Pet shop/supplies (10,000 square feet or less).
Pet store (more than 10,000 square feet).
Photographic printing/duplicating/copy shop or printing shop.
Photographic studio (no sale of cameras or supplies).
Photographic supply.
Plant nursery.
Plant nursery (retail sales/outdoor storage).
Plumbing shop.
Propane sales (retail).
Public recreation/services building for public park/playground areas.
Publishing/printing company (e.g., newspaper).
Quick lube/oil change/minor inspection.
Radio/television shop, electronics, computer repair.
Recreation buildings (private).
Recreation buildings (public).
Refreshment/beverage stand.
Research lab (non-hazardous).
Restaurant.
Restaurant/prepared food sales.
Retail store and shopping center (50,000 square feet building or less).
Retirement home/home for the aged.
RV/travel trailer sales.
School, K-12 (public or private).
School, vocational (business/commercial trade).
Security monitoring company.
Security systems installation company.
Shoe repair shops.
Shopping center.
Specialty shops in support of project guests and tourists.
Storage in bulk.
Studio for radio or television (without tower).
Studios (art, dance, music, drama, reducing, photo, interior decorating, etc.).
Tailor shop.
Taxidermist.
Telemarketing agency.
Telephone exchange buildings (office only).
Tennis court (commercial).
Theater (non-motion picture; live drama).
Tire sales (outdoors).
Tool rental.
Travel agency.
Truck or transit terminal.
University or college (public and private).
Upholstery shop (non-auto).
Used or second hand merchandise/furniture store.
Vacuum cleaner sales and repair.
Veterinary hospital (no outside animal runs or kennels).
Video rental/sales.
Waterfront amusement facilities—Swimming/wading pools/bathhouses.
Water storage (surface, underground or overhead), water wells and pumping stations that are part of a public or municipal system.
Wholesale sales offices and sample rooms.
Woodworking shop (ornamental).

Any comparable business or use not included in or excluded from any other district described herein.

(2) *Conflict.* In the event of conflict between the uses listed in the land use matrix and those listed in subsection (1), the uses listed in this subsection shall be deemed those authorized in the district.

(b) *Maximum height, minimum area and setback requirements.*

(1) *Non-residential uses.*

(i) *Height.* 75 feet.

(ii) *Front building setback.* No building setback required.

(iii) *Corner lots.* Buildings on corner lots shall have 15-foot side building setbacks adjacent to the street where the rear lot lines of the corner lots coincide with the rear lot lines of the adjacent lots. Buildings on corner lots shall have 25-foot side building setbacks adjacent to the street where the rear lines of the corner lots coincide with the side lot lines of the adjacent lots. Where a minimum 25-foot setback is required, a canopy at least eight feet in height, attached to the main building, may be built within 15 feet of the property line so long as such construction will not obstruct the vision of vehicular or pedestrian traffic.

(iv) *Garage setback.* Where a driveway is located in front of a garage, the garage shall be setback 20 feet from the right-of-way or the driveway to the garage shall be at least 20 feet long to provide enough space for a vehicle to park without overhanging into the right-of-way, if the garage door is closed. (See Illustration 8 in section 144-5.1-1.)

(v) *Side building setback.* No side building setback is required except that where a side line of a lot in this district abuts upon the side line of a lot in any residential zone, a side building setback of not less than six feet shall be provided.

(vi) *Rear building setback.* 20 feet.

(vii) *Residential setback.* Effective November 8, 2006, where a non-residential building abuts a one- or two-family use or zoning district, the setback from the one- or two-family property line shall be at least 20 feet plus one foot for each foot of building height over 20 feet.

(viii) *Width of lot.* 60 feet.

(ix) *Lot depth.* 100 feet.

(x) *Parking.* See section 144-5.1

(2) *Duplexes.*

(i) *Height.* 35 feet.

(ii) *Front building setback.* 25 feet.

(iii) *Side building setback.* There shall be a side building setback on each side of a building not less than five feet in width. Buildings on corner lots shall have 15-foot side building setbacks adjacent to the street where the rear lot lines of the corner lots coincide with the rear lot lines of the adjacent lots. Buildings on corner lots shall have 25-foot side building setbacks adjacent to the street where the rear lines of the corner lots coincide with the side lot lines of the adjacent lots.

(iv) *Garage setback.* Where a driveway is located in front of a garage, the garage shall be setback 20 feet from the right-of-way or the driveway to the garage shall be at least 20 feet long to provide enough space for a vehicle to park without overhanging into the right-of-way, if the garage door is closed. (See Illustration 8 in section 144-5.1-1.)

(v) *Rear building setback.* 20 feet.

(vi) *Width of lot.* The minimum width of an interior lot shall be 60 feet and the minimum width of a corner lot shall be 70 feet.

(vii) *Lot area per family.* Duplexes hereafter erected or altered shall have a lot area of not less than 8,000 square feet for an interior lot and 8,500 square feet for a corner lot. Where public or community sewer is not available and in use for the disposal of all sanitary sewage, each lot shall provide not less than one acre and approved by the city sanitarian.

(viii) *Lot depth.* 100 feet.

(ix) *Parking.* Two off-street parking spaces shall be provided for each two-family dwelling unit. See section 144-5.1 for other permitted uses' parking.

(3) *Multifamily dwellings.*

(i) *Height.* 45 feet; 60 feet when a pitched roof is used (minimum 4:12 slope).

(ii) *Front building setback.* 25 feet.

(iii) *Rear building setback.* 25 feet.

(iv) *Side building setback.* A side building setback of 20 feet shall be provided. Buildings on corner lots shall have 15-foot side building setbacks adjacent to the street where the rear lot lines of the corner lots coincide with the rear lot lines of the adjacent lots. Buildings on corner lots shall have

25-foot side building setbacks adjacent to the street where the rear lines of the corner lots coincide with the side lot lines of the adjacent lots.

(v) *Garage setback.* Where a driveway is located in front of a garage, the garage shall be setback 20 feet from the right-of-way or the driveway to the garage shall be at least 20 feet long to provide enough space for a vehicle to park without overhanging into the right-of-way, if the garage door is closed. (See Illustration 8 in section 144-5.1-1.)

(vi) *Residential setback.* Effective November 8, 2006, where a multifamily dwelling abuts a one- or two-family use or zoning district, the setback from the one- or two-family property line shall be at least 20 feet plus one foot for each foot of building height over 20 feet.

(vii) *Parking and accessory uses.* Parking may encroach into the interior side and rear building setback as long as a solid screening fence or wall of six to eight feet in height is erected along the interior side and rear property lines. Accessory uses such as swimming pools, tennis courts and playgrounds will not be permitted within any required yard.

(viii) *Width of lot.* The minimum width of an interior lot shall be 60 feet and the minimum width of a corner lot shall be 70 feet.

(ix) *Density.* 24 units per acre.

(x) *Lot area.* 20,000 square feet.

(xi) *Lot coverage.* The combined area of all yards shall be at least 50 percent of the total lot or tract; provided however, that in the event enclosed or covered parking is provided, the minimum total yard area requirement shall be 40 percent of the total lot or tract.

(xii) *Distance between structures.* There shall be a minimum of ten feet between structures side by side; a minimum of 20 feet between structures side by front or rear; a minimum of 40 feet between structures front to front; a minimum of 20 feet between structures backing rear to rear, and a minimum of 20 feet between structures front to rear. (See Illustration 1.)

(xiii) *Access to an arterial roadway or state highway required.* developments in this district must have direct access to either an arterial roadway or state highway.

(xiv) *Lot depth.* 100 feet.

(xv) *Parking.* For apartments, apartment hotel units and other multifamily dwellings, off-street parking spaces shall be provided in accord with the following schedule:

1. One-bedroom apartment or unit: One and one-half spaces.
2. Two-bedroom apartment or unit: Two spaces.
3. Each additional bedroom: One-half space.
4. Each dwelling unit provided exclusively for low income elderly occupancy: Three-fourths space ("low income elderly" is defined as any person 55 years of age or older with low or moderate income, according to HUD standards).

See section 144-5.1 for other permitted uses' parking.

3.4-15. *"C-4A" resort commercial district.*

Purpose. This zoning classification is intended to be developed as resort commercial property with the purpose to serve tourists, vacationing public, conference center attendees, sports related programs and support service facilities including garden office, retail and specialty shops. The following regulations shall apply in all "C-4A" districts:

(a) *Authorized uses.* Uses permitted by right and by special use permit shall be those set forth in the land use matrix in section 144-4.2. The allowed uses in the district, which are intended to be identical with those listed in the land use matrix, are as follows:

(1) *Uses permitted by right.*

Residential uses:

Accessory building/structure.

Bed and breakfast inn (see section 144-5.6).

Boardinghouse/lodging house.

Cabin or cottage, either separate or connected, for rental to tourists or vacationers.

Campground.

Community home (see definition).

Dormitory (in which individual rooms are for rental).

Multifamily (apartments/condominiums).

Rental or occupancy for less than one month (see section 144-5.17).

Residential use in buildings with the following non-residential uses.

Non-residential uses:

Accounting, auditing, bookkeeping, and tax preparations.
Adult day care (no overnight stay).
Adult day care (with overnight stay).
All terrain vehicle (ATV) dealer/sales.
Amphitheater.
Amusement devices/arcade (four or more devices).
Amusement services or venues (indoors) (see section 144-5.13).
Amusement services or venues (outdoors).
Animal grooming shop.
Answering and message services.
Antique shop.
Archery range.
Armed services recruiting center.
Art dealer/gallery.
Artist or artisan's studio.
Assembly/exhibition hall or areas.
Athletic fields.
Bakery (retail).
Bank, savings and loan, or credit union.
Bar/tavern (with no outdoor music).
Barber/beauty shop, haircutting (non-college).
Barns and farm equipment storage (related to agricultural uses).
Bicycle sales and/or repair.
Billiard/pool facility.
Bingo facility.
Book store.
Bowling alley/center (see section 144-5.13).
Cafeteria/cafe/delicatessen.
Campers' supplies.
Car wash (self service; automated).
Car wash, full service (detail shop).
Caterer.
Check cashing service.
Church/place of religious assembly.
Civic/conference center and facilities.
Club (private).
Coffee shop.
Commercial amusement concessions and facilities.
Computer repair.
Confectionery store (retail).
Contractor's temporary on-site construction office (only with permit from building official; see section 144-5.10).
Convenience store with or without fuel sales.
Country club (private).
Credit agency.
Curio shops.
Dance hall/dancing facility.
Day camp.
Driving range.
Drug sales/pharmacy.
Electrical repair shop.
Fair ground.

Farms, general (crops) (see chapter 6 and section 144-5.9).
Farms, general (livestock/ranch) (see chapter 6 and section 144-5.9).
Filling station (fuel tanks must be below ground).
Florist.
Food or grocery store with or without fuel sales.
Fraternal organization/civic club (private club).
Garden shops and greenhouses.
Golf course.
Golf course (miniature).
Governmental building or use.
Greenhouse (commercial).
Handicraft shop.
Health club (physical fitness; indoors only).
Hotel/motel.
Hotels/motels—Extended stay (residence hotels).
Kiosk (providing a retail service).
Laundromat and laundry pickup stations.
Laundry/dry cleaning (drop off/pick up).
Laundry/washateria (self serve).
Limousine/taxi service.
Locksmith.
Martial arts school.
Micro brewery (onsite manufacturing and/or sales).
Motion picture studio, commercial film.
Motion picture theater (indoors).
Motion picture theater (outdoors, drive-in).
Museum.
Needlework shop.
Offices, brokerage services.
Offices, business or professional.
Offices, computer programming and data processing.
Offices, consulting.
Offices, engineering, architecture, surveying or similar.
Offices, health services.
Offices, insurance agency.
Offices, legal services, including court reporting.
Offices, medical offices.
Offices, real estate.
Offices, security/commodity brokers, dealers, exchanges and financial services.
Park and/or playground (private or public).
Parking lots (for passenger car only) (not as incidental to the main use).
Parking structure/public garage.
Pawn shop.
Personal watercraft sales (primarily new/repair).
Photographic studio (no sale of cameras or supplies).
Photographic supply.
Plant nursery (growing for commercial purposes with retail sales on site).
Public recreation/services building for public park/playground areas.
Quick lube/oil change/minor inspection.
Radio/television shop, electronics, computer repair.
Rappelling facilities.
Recreation buildings (private).
Recreation buildings (public).

Refreshment/beverage stand.

Restaurant.

Restaurant/prepared food sales.

Retail store and shopping center.

Rodeo grounds.

RV park.

RV/travel trailer sales.

School, K-12 (public or private).

Security monitoring company.

Shoe repair shops.

Specialty shops in support of project guests and tourists.

Studios (art, dance, music, drama, reducing, photo, interior decorating, etc.).

Tailor shop (see home occupation).

Tattoo or body piercing studio.

Telemarketing agency.

Tennis court (commercial).

Theater (non-motion picture; live drama).

Tool rental (indoor storage only).

Travel agency.

University or college (public or private).

Video rental/sales.

Waterfront amusement facilities—Berthing facilities sales and rentals.

Waterfront amusement facilities—Boat fuel storage/dispensing facilities.

Waterfront amusement facilities—Boat landing piers/launching ramps.

Waterfront amusement facilities—Swimming/wading pools/bathhouses.

Water storage (surface, underground or overhead), water wells and pumping stations that are part of a public or municipal system.

Any comparable business or use not included in or excluded from any other district described herein.

(2) *Conflict.* In the event of conflict between the uses listed in the land use matrix and those listed in subsection (1), the uses listed in this subsection shall be deemed those authorized in the district.

(b) *Maximum height, minimum area and setback requirements.*

(1) *Non-residential uses.*

(i) *Height.* 75 feet.

(ii) *Front building setback.* 25 feet.

(iii) *Side building setback.* No side building setback is required except that where a side line of a lot in this district abuts upon the side line of a lot in any residential zone, a side building setback of not less than six feet shall be provided.

(iv) *Rear building setback.* 20 feet.

(v) *Residential setback.* Effective November 8, 2006, where a non-residential building abuts a one- or two-family use or zoning district, the setback from the one- or two-family property line shall be at least 20 feet plus one foot for each foot of building height over 20 feet.

(vi) *Width of lot.* The minimum width of an interior lot shall be 60 feet and the minimum width of a corner lot shall be 72 feet.

(vii) *Lot depth.* 100 feet.

(viii) *Parking.* See section 144-5.1

(2) *Cabins and cottages (separate or connected).*

(i) *Height.* 75 feet.

(ii) *Front building setback.* 25 feet.

(iii) *Side building setback.* There shall be a side building setback on each side of a building not less than five feet in width. Buildings on corner lots shall have 15-foot side building setbacks adjacent to the street where the rear lot lines of the corner lots coincide with the rear lot lines of the adjacent lots. Buildings on corner lots shall have 25-foot side building setbacks adjacent to the street where the rear lines of the corner lots coincide with the side lot lines of the adjacent lots.

(iv) *Garage setback.* Where a driveway is located in front of a garage, the garage shall be setback 20 feet from the right-of-way or the driveway to the garage shall be at least 20 feet long to provide

enough space for a vehicle to park without overhanging into the right-of-way, if the garage door is closed. (See Illustration 8 in section 144-5.1-1.)

(v) *Rear building setback.* 20 feet.

(vi) *Width of lot.* The minimum width of an interior lot shall be 60 feet and the minimum width of a corner lot shall be 70 feet.

(vii) *Sanitary facilities.* Each rental unit shall be provided with an individual enclosed space for sanitation, accessible from within the living unit, in which shall be located a water closet furnished with cold water, and a lavatory and bathtub or shower furnished with hot and cold water.

(viii) *Lot depth.* 100 feet.

(ix) *Parking.*

1. One-bedroom unit: One and one-half spaces.
2. Two-bedroom unit: Two spaces.
3. Each additional bedroom: One-half space.

(3) *Multifamily dwellings.*

(i) *Height.* 45 feet; 60 feet when a pitched roof is used (minimum 4:12 slope).

(ii) *Front building setback.* 25 feet.

(iii) *Rear building setback.* 25 feet.

(iv) *Side building setback.* A side building setback of 20 feet shall be provided. Buildings on corner lots shall have 15-foot side building setbacks adjacent to the street where the rear lot lines of the corner lots coincide with the rear lot lines of the adjacent lots. Buildings on corner lots shall have 25-foot side building setbacks adjacent to the street where the rear lines of the corner lots coincide with the side lot lines of the adjacent lots.

(v) *Garage setback.* Where a driveway is located in front of a garage, the garage shall be setback 20 feet from the right-of-way or the driveway to the garage shall be at least 20 feet long to provide enough space for a vehicle to park without overhanging into the right-of-way, if the garage door is closed. (See Illustration 8 in section 144-5.1-1.)

(vi) *Residential setback.* Effective November 8, 2006, where a multifamily dwelling abuts a one- or two-family use or zoning district, the setback from the one- or two-family property line shall be at least 20 feet plus one foot for each foot of building height over 20 feet.

(vii) *Parking and accessory uses.* Parking may encroach into the interior side and rear building setback as long as a solid screening fence or wall of six to eight feet in height is erected along the interior side and rear property lines. Accessory uses such as swimming pools, tennis courts and playgrounds will not be permitted within any required yard.

(viii) *Width of lot.* The minimum width of an interior lot shall be 60 feet and the minimum width of a corner lot shall be 70 feet.

(ix) *Density.* 24 units per acre.

(x) *Lot area.* 20,000 square feet.

(xi) *Lot coverage.* The combined area of all yards shall not be less than 50 percent of the total lot or tract; provided however, that in the event enclosed or covered parking is provided, the minimum total yard area requirement shall be 40 percent of the total lot or tract.

(xii) *Distance between structures.* There shall be a minimum of ten feet between structures side by side; a minimum of 20 feet between structures side by front or rear; a minimum of 40 feet between structures front to front; a minimum of 20 feet between structures backing rear to rear, and a minimum of 20 feet between structures front to rear. (See Illustration 1.)

(xiii) *Access to an arterial roadway or state highway required.* Developments in this district must have direct access to either an arterial roadway or state highway.

(xiv) *Lot depth.* 100 feet.

(xv) *Parking.* For apartments, apartment hotel units and other multifamily dwellings, off-street parking spaces shall be provided in accord with the following schedule:

1. One-bedroom apartment or unit: One and one-half spaces.
2. Two-bedroom apartment or unit: Two spaces.
3. Each additional bedroom: One-half space.
4. Each dwelling unit provided exclusively for low income elderly occupancy: Three-fourths space ("low income elderly" is defined as any person 55 years of age or older with low or moderate income, according to HUD standards).

See section 144-5.1 for other permitted uses' parking.

3.4-16. *"C-4B" resort facilities district.*

Purpose. This zoning classification is applicable to land not fronting on, or having access to, rivers and streams such as the Comal River, Comal Springs, and Guadalupe River. It applies to land, ten acres and greater, developed as resort commercial property with the purpose to serve tourists, vacationing public, conference center attendees, sports related programs and support service facilities including garden office, retail and specialty shops. The primary reason for classification of these uses separately from standard commercial uses is to allow recognition of their individual characteristics and to call attention to their influence on the economic base of the community. The following regulations shall apply in all "C-4B" districts:

Rezoning to this district shall not be allowed after November 8, 2006.

(a) *Authorized uses.* Uses permitted are as follows:

Uses permitted by right:

Residential uses:

Cottages or cabins, either separate or connected for rental to tourists, vacationers, or attendees of conferences or planned programs, but shall not include mobile homes or mobile home communities (parks).

Dormitory (in which individual rooms are for rental).

Multifamily (apartments/condominiums).

Residential use in buildings with the following non-residential uses.

Non-residential uses:

Accounting, auditing, bookkeeping, and tax preparations.

All terrain vehicle (ATV) dealer/sales.

Amphitheaters (outdoor live performances).

Amusement devices/arcade (four or more devices).

Amusement services or venues (indoors) (see section 144-5.13).

Amusement services or venues (outdoors, excluding outdoor firearms ranges, car and motorbike tracks).

Animal grooming shop.

Answering and message services.

Antique shop.

Archery range.

Armed services recruiting center.

Art dealer/gallery.

Artist or artisans studio.

Assembly/exhibition hall or areas.

Athletic fields.

Bakery (retail).

Bank, savings and loan, or credit union.

Bar/tavern.

Barber/beauty shop, haircutting (non-college).

Barns and farm equipment storage (related to agricultural uses).

Bed and breakfast inn (see section 144-5.6).

Bicycle sales and/or repair.

Billiard/pool facility.

Bingo facility.

Boarding house/lodging house.

Book store.

Bowling alley/center (see section 144-5.13).

Cafeteria/cafe/delicatessen.

Campers' supplies.

Campground.

Caterer.

Check cashing service.

Church/place of religious assembly.

Civic/conference center and facilities.

Club (private).
Coffee shop.
Commercial amusement concessions and facilities.
Community home (see definition).
Computer repair.
Confectionery store (retail).
Contractor's temporary on-site construction office.
Convenience store with fuel sales.
Convenience store without fuel sales.
Country club (private).
Credit agency.
Curio shops.
Dance hall/dancing facility (see section 144-5.13).
Day camp.
Drug sales/pharmacy.
Electrical repair shop.
Farms, general (crops) (see chapter 6 and section 144-5.9).
Farms, general (livestock/ranch) (see chapter 6 and section 144-5.9).
Filling station (fuel tanks must be below ground).
Florist.
Food or grocery store with or without fuel sales.
Fraternal organization/civic club (private club).
Garden shops and greenhouses.
Golf course (public or private).
Governmental building or use.
Greenhouse (commercial).
Handicraft shop.
Health club (physical fitness; indoors only).
Hotel/motel.
Hotels/motels—Extended stay (residence hotels).
Indoor or covered sports facilities.
Kiosks (providing a retail service).
Laundromat and laundry pickup stations.
Laundry/dry cleaning (drop off/pick up).
Laundry/washateria (self serve).
Locksmith.
Martial arts school.
Micro brewery (onsite manufacturing and/or sales).
Motion picture studio, commercial film.
Motion picture theater (indoors).
Motion picture theater (outdoor, drive-in).
Museum.
Needlework shop.
Offices, brokerage services.
Offices, business or professional.
Offices, computer programming and data processing.
Offices, consulting.
Offices, engineering, architecture, surveying or similar.
Offices, health services.
Offices, insurance agency.
Offices, legal services, including court reporting.
Offices, medical offices.
Offices, real estate.

Offices, security/commodity brokers, dealers, exchanges and financial services.
Park and/or playground (private or public).
Parking lots (for passenger car only) (not as incidental to the main use).
Parking structure/public garage.
Pawn shop.
Personal watercraft sales (primarily new/repair).
Photographic studio (no sale of cameras or supplies).
Photographic supply.
Plant nursery (growing for commercial purposes with retail sales on site).
Public recreation/services building for public park/playground areas.
Quick lube/oil change/minor inspection.
Radio/television shop, electronics, computer repair.
Rappelling facilities.
Recreation buildings (public).
Refreshment/beverage stand.
Restaurant.
Restaurant/prepared food sales.
Retail store and shopping center.
RV park.
School, K-12, public or private.
Security monitoring company.
Shoe repair shops.
Specialty shops in support of project guests and tourists.
Studios (art, dance, music, drama, reducing, photo, interior decorating, etc.).
Tailor shop (see home occupation).
Tattoo or body piercing studio.
Telemarketing agency.
Tennis court (commercial).
Travel agency.
University or college (public or private).
Video rental/sales.
Waterfront amusement facilities—Swimming/wading pools/bathhouses.
Water storage (surface, underground or overhead), water wells and pumping stations that are part of a public or municipal system.
Any comparable business or use not included in or excluded from any other district described herein.

(b) *Maximum height, minimum area and setback requirements.*

(1) *Height.* 75 feet.

(2) *Front building setback.* 25 feet.

(3) *Side building setback.* There shall be a side building setback on each side of a building not less than five feet in width. Buildings on corner lots shall have 15-foot side building setbacks adjacent to the street where the rear lot lines of the corner lots coincide with the rear lot lines of the adjacent lots. Buildings on corner lots shall have 25-foot side building setbacks adjacent to the street where the rear lines of the corner lots coincide with the side lot lines of the adjacent lots.

(4) *Garage setback.* Where a driveway is located in front of a garage, the garage shall be setback 20 feet from the right-of-way or the driveway to the garage shall be at least 20 feet long to provide enough space for a vehicle to park without overhanging into the right-of-way, if the garage door is closed. (See Illustration 8 in section 144-5.1-1.)

(5) *Rear building setback.* 20 feet.

(6) *Width of lot.* The minimum width of an interior lot shall be 60 feet and the minimum width of a corner lot shall be 70 feet.

(7) *Sanitary facilities.* Each rental or permanent dwelling unit shall be provided with an individual enclosed space for sanitation, accessible from within the living unit, in which shall be located a water closet furnished with cold water, and a lavatory and bathtub or shower furnished with hot and cold water.

(8) *Commercial use structures not used for human habitation.*

a. *Front building setback.* 25 feet.

b. *Side building setback.* No side building setback is required except that where a side line of a lot in this district abuts upon the side line of a lot in any residential zone, a side building setback of not less than six feet shall be provided.

c. *Rear building setback.* 20 feet.

d. *Width of lot.* The minimum width of an interior lot shall be 60 feet and the minimum width of a corner lot shall be 72 feet.

(9) *Distance between structures.* There shall be a minimum of ten feet between structures side by side; a minimum of 20 feet between structures side by front or rear; a minimum of 40 feet between structures front to front; and a minimum of ten feet between structures backing rear to rear. (See Illustration 2.)

(10) *Residential setback.* Effective November 8, 2006, where any building abuts a one- or two-family use or zoning district, the setback from the one- or two-family property line shall be at least 20 feet plus one foot for each foot of building height over 20 feet.

(11) *Parking.* See section 144-5.1 for other permitted uses' parking.

3.4-17. *"C-O" commercial office district.*

Purpose. The commercial office district is established to create a mixed use district of professional offices and residential use. The regulations set forth in this article are intended to encourage adaptive reuse of buildings or new office developments of the highest character in areas that are compatible and sensitive to the surroundings and ensure historic integrity. Such uses should not generate excess additional traffic or access problems.

(a) *Authorized uses.* Uses permitted by right shall be those set forth in the land use matrix in section 144-4.2. The allowed uses in the district, which are intended to be identical with those listed in the land use matrix, are as follows:

(1) *Uses permitted by right.*

Residential uses:

Accessory building/structure.
Accessory dwelling (one accessory dwelling per lot, no kitchen).
Bed and breakfast inn (see section 144-5.6).
Boardinghouse/lodging house.
Community home (see definition).
Dormitory (in which individual rooms are for rental).
Duplex/two-family/duplex condominiums.
Hospice.
Multifamily (apartments/condominiums).
One-family dwelling, detached.
Residential use in buildings with the following non-residential uses.
Single-family industrialized home (see section 144-5.8).
Townhouse (attached).
Zero lot line/patio homes.

Non-residential uses:

Accounting, auditing, bookkeeping, and tax preparations.
Adult day care (no overnight stay).
Answering and message services.
Antique shop (household items).
Armed services recruiting center.
Art dealer/gallery.
Artist or artisan's studio.
Bakery (retail).
Bank, savings and loan, or credit union.
Barber/beauty shop, haircutting (non-college).
Barns and farm equipment storage (related to agricultural uses).
Book store.
Cemetery and/or mausoleum.
Check cashing service.
Church/place of religious assembly.
Clinic (dental).

Clinic (emergency care).
Clinic (medical).
Coffee shop.
Community building (associated with residential uses).
Confectionery store (retail).
Contractor's temporary on-site construction office (only with permit from building official).
Credit agency.
Electrical substation.
Farms, general (crops) (see chapter 6 and section 144-5.9).
Farms, general (livestock/ranch) (see chapter 6 and section 144-5.9).
Garden shops and greenhouses.
Golf course (public or private).
Governmental building or use.
Kiosk (providing a retail service).
Laundry/dry cleaning (drop off/pick up).
Locksmith.
Needlework shop.
Offices, brokerage services.
Offices, business or professional.
Offices, computer programming and data processing.
Offices, consulting.
Offices, engineering, architecture, surveying or similar.
Offices, health services.
Offices, insurance agency.
Offices, legal services, including court reporting.
Offices, medical offices.
Offices, real estate.
Offices, security/commodity brokers, dealers, exchanges and financial services.
Park and/or playground (private or public).
Photographic printing/duplicating/copy shop or printing shop.
Photographic studio (no sale of cameras or supplies).
Photographic supply.
Public recreation/services building for public park/playground areas.
Recreation buildings (public).
Research lab (non-hazardous).
Retirement home/home for the aged—Public.
School, K-12 (public or private).
School, vocational (business/commercial trade).
Security monitoring company (no outside storage or installation).
Shoe repair shops.
Telemarketing agency.
Telephone exchange buildings (office only).
Tennis court (commercial).
Travel agency.
University or college (public or private).
Water storage (surface, underground or overhead), water wells and pumping stations that are part of a public or municipal system.
Any comparable business or use not included in or excluded from any other district described herein.

(2) *Conflict.* In the event of conflict between the uses listed in the land use matrix and those listed in subsection (1), the uses listed in this subsection shall be deemed those authorized in the district.

(b) *Maximum height, minimum area and setback requirements.*

(1) *Non-residential uses.*

(i) *Height.* 35 feet.

(ii) *Front building setback.* 15 feet.

(iii) *Side building setback.* A side building setback of not less than five feet shall be provided for a single story building or structure in which there are no openings to the side yard. A minimum ten-foot side building setback shall be provided for a single story building or structure with openings to the side yard.

(iv) *Rear building setback.* 20 feet.

(v) *Residential setback.* Effective November 8, 2006, where a non-residential building abuts a one- or two-family use or zoning district, the setback from the one- or two-family property line shall be at least 20 feet plus one foot for each foot of building height over 20 feet.

(vi) *Width of lot.* 60 feet.

(vii) *Corner lots.* Buildings on corner lots shall have 15-foot side building setbacks adjacent to the street except when abutting any residential district where the side building setback shall than become a minimum of 25 feet.

(viii) *Garage setback.* Where a driveway is located in front of a garage, the garage shall be setback 20 feet from the right-of-way or the driveway to the garage shall be at least 20 feet long to provide enough space for a vehicle to park without overhanging into the right-of-way, if the garage door is closed. (See Illustration 8 in section 144-5.1-1.)

(ix) *Parking.* See section 144-5.1 for permitted uses' parking.

(2) *One-family dwellings.*

(i) *Height.* 35 feet.

(ii) *Front building setback.* 25 feet.

(iii) *Side building setback.* There shall be a side building setback on each side of a building not less than five feet in width. Buildings on corner lots shall have 15-foot side building setbacks adjacent to the street where the rear lot lines of the corner lots coincide with the rear lot lines of the adjacent lots. Buildings on corner lots shall have 25-foot side building setbacks adjacent to the street where the rear lines of the corner lots coincide with the side lot lines of the adjacent lots.

(iv) *Rear building setback.* 20 feet.

(v) *Width of lot.* The minimum width of an interior lot shall be 60 feet and the minimum width of a corner lot shall be 70 feet.

(vi) *Lot area per family.* Every single-family dwelling hereafter erected or altered shall provide a lot area of not less than 6,600 square feet per dwelling for interior lots, and 7,000 square feet per dwelling for corner lots, provided that where a lot has less area than herein required and such lot was in separate ownership prior to September 25, 1967, this requirement will not prohibit the erection of a one-family dwelling. Where public or community sewer is not available and in use for the disposal of all sanitary sewage, each lot shall provide not less than one-half acre not located over the recharge zone and one acre located over the recharge zone.

(vii) *Parking.* Two off-street parking spaces shall be provided for each one-family detached dwelling. See section 144-5.1 for other permitted uses' parking.

(3) *Duplexes.*

(i) *Height.* 35 feet.

(ii) *Front yards.* 25 feet.

(iii) *Side building setback.* There shall be a side building setback on each side of a building not less than five feet in width. Buildings on corner lots shall have 15-foot side building setbacks adjacent to the street where the rear lot lines of the corner lots coincide with the rear lot lines of the adjacent lots. Buildings on corner lots shall have 25-foot side building setbacks adjacent to the street where the rear lines of the corner lots coincide with the side lot lines of the adjacent lots.

(iv) *Garage setback.* Where a driveway is located in front of a garage, the garage shall be setback 20 feet from the right-of-way or the driveway to the garage shall be at least 20 feet long to provide enough space for a vehicle to park without overhanging into the right-of-way, if the garage door is closed. (See Illustration 8 in section 144-5.1-1.)

(v) *Rear building setback.* 20 feet.

(vi) *Width of lot.* The minimum width of an interior lot shall be 60 feet and the minimum width of a corner lot shall be 70 feet.

(vii) *Lot area per family.* Duplexes hereafter erected or altered shall have a lot area of not less than 8,000 square feet for an interior lot and 8,500 square feet for a corner lot. Where a public or community sewer is not available and in use for the disposal of all sanitary sewage, each lot shall provide not less than one acre and approved by the city sanitarian.

(viii) *Parking.* Two off-street parking spaces shall be provided for each two-family dwelling unit. See section 144-5.1 for other permitted uses' parking.

(4) *Multifamily dwellings.*

(i) *Height.* 45 feet; 60 feet when a pitched roof is used (minimum 4:12 slope).

(ii) *Front building setback.* 25 feet.

(iii) *Rear building setback.* 25 feet.

(iv) *Side building setback.* A side building setback of 20 feet shall be provided. Buildings on corner lots shall have 15-foot side building setbacks adjacent to the street where the rear lot lines of the corner lots coincide with the rear lot lines of the adjacent lots. Buildings on corner lots shall have 25-foot side building setbacks adjacent to the street where the rear lines of the corner lots coincide with the side lot lines of the adjacent lots.

(v) *Garage setback.* Where a driveway is located in front of a garage, the garage shall be setback 20 feet from the right-of-way or the driveway to the garage shall be at least 20 feet long to provide enough space for a vehicle to park without overhanging into the right-of-way, if the garage door is closed. (See Illustration 8 in section 144-5.1-1.)

(vi) *Residential setback.* Effective November 8, 2006, where a multifamily dwelling abuts a one- or two-family use or zoning district, the setback from the one- or two-family property line shall be at least 20 feet plus one foot for each foot of building height over 20 feet.

(vii) *Parking and accessory uses.* Parking may encroach into the interior side and rear building setback as long as a solid screening fence or wall of six to eight feet in height is erected along the interior side and rear property lines. Accessory uses such as swimming pools, tennis courts and playgrounds will not be permitted within any required yard.

(viii) *Width of lot.* The minimum width of an interior lot shall be 60 feet and the minimum width of a corner lot shall be 70 feet.

(ix) *Density.* 24 units per acre.

(x) *Lot area.* 20,000 square feet.

(xi) *Lot coverage.* The combined area of all yards shall not be less than 50 percent of the total lot or tract; provided however, that in the event enclosed or covered parking is provided, the minimum total yard area requirement shall be 40 percent of the total lot or tract.

(xii) *Distance between structures.* There shall be a minimum of ten feet between structures side by side; a minimum of 20 feet between structures side by front or rear; a minimum of 40 feet between structures front to front; and a minimum of 20 feet between structures backing rear to rear. (See Illustration 2.)

(xiii) *Parking.* For apartments, apartment hotel units and other multifamily dwellings, off-street parking spaces shall be provided in accord with the following schedule:

1. One-bedroom apartment or unit: One and one-half spaces.
2. Two-bedroom apartment or unit: Two spaces.
3. Each additional bedroom: One-half space.
4. Each dwelling unit provided exclusively for low income elderly occupancy: Three-fourths space ("low income elderly" is defined as any person 55 years of age or older with low or moderate income, according to HUD standards).

See section 144-5.1 for other permitted uses' parking.

(5) *Townhouses.*

(i) *Height.* 35 feet.

(ii) *Front building setback.* Ten feet. If front entry garages/carports are provided, a minimum front yard of 20 feet shall be provided to the garage/carport.

(iii) *Side building setback.* No side building setbacks are required for interior lots except the minimum distance between two building groups shall be 20 feet and the minimum distance between a building group and any abutting subdivision boundary or zoning district boundary line shall be 20 feet. Buildings on corner lots shall have 15-foot side building setbacks adjacent to the street, except where the rear lot line of a corner lot coincides with a side lot line of an adjacent lot, then 25-foot minimum side yards adjacent to the street shall be provided.

(iv) *Garage setback.* Where a driveway is located in front of a garage, the garage shall be setback 20 feet from the right-of-way or the driveway to the garage shall be at least 20 feet long to provide enough space for a vehicle to park without overhanging into the right-of-way, if the garage door is closed. (See Illustration 8 in section 144-5.1-1.)

(v) *Rear building setback.* No building shall be constructed closer than ten feet from the rear property line. If the rear of the lots abut any other residential zoning district, the rear building setback shall have a minimum depth of 20 feet.

(vi)

Width of lot. Interior lots shall have a minimum width of 25 feet. Corner lots shall have a minimum width of 40 feet except where the rear lot line of a corner lot coincides with a side lot line of an adjacent lot, then the corner lot shall have a minimum width of 50 feet.

(vii) *Lot depth.* 100 feet.

(viii) *Lot area per family.* 2,500 square feet.

(ix) *Common open space.* A minimum of 250 square feet of common open space per lot shall be provided within the townhouse project. In computing the required common open space, individually owned townhouse lots, required front, rear, or side setbacks, streets, alleys, or public rights-of-way of any kind, vehicular drives, parking areas, service drives, or utility easements containing or permitting overhead pole carried service shall not be included. Drainage easements and detention ponds may be used in computing common open space.

(x) *Building group.* There shall be no less than two nor more than eight individual dwelling units in each building or dwelling group. Each building group shall be at least 20 feet from any other building group, measured from the nearest points of their foundations. Each building or building group shall be at least 20 feet from any subdivision or zoning district boundary line.

(xi) *Accessory buildings.* Any detached accessory buildings permitted, except carports open on at least two sides, shall be set at least three feet away from the side lot line unless their walls are equal in fire resistance to the common walls of the main structure. Detached carports, open on at least two sides, may be built to the property line with no common wall required. Rear building setback for an accessory building shall be three feet. Any accessory building permitted in district "R-1" shall be permitted in district "TH."

(xii) *Parking.* There shall be at least two off-street parking spaces for each townhouse. See section 144-5.1 for other permitted uses' parking.

(6) *Zero lot line/patio homes.*

(i) *Height.* 35 feet.

(ii) *Front building setback.* Ten feet. If front entry garages/carports are provided, a minimum front yard of 20 feet shall be provided to the garage/carport.

(iii) *Side building setback.* There shall be no side building setback required on one side of the lot and a minimum of ten feet in the opposite side yard. If the side of the lot abuts any other residential zoning district, that side building setback shall have a minimum of ten feet. The dwelling on the "no side building setback required" side may be off-set from the property line by no more than one foot.

(iv) *Corner lots.* Buildings on corner lots shall provide a minimum exterior side building setback of ten feet. If entry to a garage/carport is provided on the exterior side, a minimum yard of 20 feet shall be provided to the garage/carport.

(v) *Rear building setback.* If rear entry garages/carports are provided from an alley, the rear building setback shall have a minimum depth of 20 feet. If no alley is provided and garage/carport entries are from the front, the rear building setback shall have a minimum depth of ten feet. If the rear of the lots abut any other residential zoning district, the rear building setback shall have a minimum depth of 20 feet.

(vi) *Width of lot.* 40 feet.

(vii) *Lot area.* 4,000 square feet.

(viii) *Lot depth.* 100 feet.

(ix) *Minimum area zoned.* Not less than three lots with common side lot lines will be zoned for zero lot line homes. When facing on the same street within the same block, mixing of ZH structures and other residential structures will not be allowed. However, this does not preclude other residential uses on one side of a street with ZH uses on the opposite side of the street within the same block or different blocks.

(x) *Zero lot line wall.* No door or window openings shall be built into the side wall facing the zero lot line except those that are more than three feet from the property line and screened by a masonry wall at least eight feet in height so that the opening(s) is not visible from the adjoining property. (See Illustration 3, "ZH-A" district.)

(xi) *Maintenance, drainage and overhang easement.* A maintenance, drainage and overhang easement of five feet shall be provided on each lot that is adjacent to a lot with a zero setback allowance. This easement shall be for the purpose of maintaining the wall and foundation that is adjacent to one side property line to provide for proper maintenance and drainage.

(xii)

Overhang. Eaves and gutters may overhang the zero lot line side of the lot by no more than 18 inches. If there is an overhang over the lot line, a gutter is required such that roof runoff shall not be deposited over the lot line onto adjoining property.

(xiii) *Parking.* There shall be at least two off-street parking spaces for each zero lot line home. See section 144-5.1 for other permitted uses' parking.

(c) *Parking and off-street loading requirements.* The parking requirements for the permitted uses described herein are outlined in section 144-5.1, in the case of mixed uses, i.e., residential and commercial, the parking requirements shall be additive.

3.4-18. *"M-1A" light industrial district.*

Purpose. The M-1A light industrial district is intended primarily for the conduct of light manufacturing, assembling and fabrication activities, distribution, and for warehousing, research and development, wholesaling and service operations that do not typically depend upon frequent customer or client visits. Such uses generally require accessibility to major thoroughfares, major highways, and/or other means of transportation. The following regulations shall apply in all "M-1A" districts:

(a) *Authorized uses.* Uses permitted by right shall be those set forth in the land use matrix in section 144-4.2. The allowed uses in the district, which are intended to be identical with those listed in the land use matrix, are as follows:

(1) *Uses permitted by right.*

Residential uses:

Accessory building/structure.
Bed and breakfast inn (see section 144-5.6).
Boardinghouse/lodging house.
Community home (see definition).
Dormitory (in which individual rooms are for rental).
Multifamily (apartments/condominiums—at least five units).
Residential use in buildings with the following non-residential uses.

Non-residential uses:

Accounting, auditing, bookkeeping, and tax preparations.
Adult day care (no overnight stay).
Adult day care (with overnight stay).
Aircraft support and related services.
Airport.
All terrain vehicle (ATV) dealer/sales.
Ambulance service (private).
Amphitheater.
Amusement devices/arcade (four or more devices).
Amusement services or venues (indoors) (see section 144-5.13).
Amusement services or venues (outdoors).
Animal grooming shop.
Answering and message services.
Antique shop.
Appliance repair.
Archery range.
Armed services recruiting center.
Art dealer/gallery.
Artist or artisan's studio.
Assembly/exhibition hall or areas.
Athletic fields.
Auction sales (non-vehicle).
Auto body repair, garages (see section 144-5.11).
Auto glass repair/tinting (see section 144-5.11).
Auto interior shop/upholstery (see section 144-5.11).
Auto leasing.
Auto muffler shop (see section 144-5.11).

Auto or trailer sales rooms or yards (see section 144-5.12).
Auto or truck sales rooms or yards—Primarily new (see section 144-5.11).
Auto paint shop.
Auto repair as an accessory use to retail sales.
Auto repair garage (general) (see section 144-5.11).
Auto supply store for new and factory rebuilt parts.
Auto tire repair/sales (indoor).
Automobile driving school (including defensive driving).
Bakery (retail).
Bank, savings and loan, or credit union.
Bar/tavern.
Barber/beauty college (barber or cosmetology school or college).
Barber/beauty shop, haircutting (non-college).
Barns and farm equipment storage (related to agricultural uses).
Battery charging station.
Bicycle sales and/or repair.
Billiard/pool facility.
Bio-medical facilities.
Blacksmith or wagon shops.
Book binding.
Book store.
Bottling or distribution plants (milk).
Bottling works.
Bowling alley/center (see section 144-5.13).
Broadcast station (with tower) (see section 144-5.7).
Bus barns or lots.
Bus passenger stations.
Cafeteria/cafe/delicatessen.
Campers' supplies.
Car wash (self service; automated).
Car wash, full service (detail shop).
Carpenter, cabinet, or pattern shops.
Carpet cleaning establishments.
Caterer.
Cemetery and/or mausoleum.
Check cashing service.
Chemical laboratories (not producing noxious fumes or odors).
Church/place of religious assembly.
Civic/conference center and facilities.
Cleaning, pressing and dyeing (non-explosive fluids used).
Clinic (dental).
Clinic (emergency care).
Clinic (medical).
Club (private).
Coffee shop.
Cold storage plant.
Commercial amusement concessions and facilities.
Communication equipment—Installation and/or repair.
Community building (associated with residential use).
Computer and electronic sales.
Computer repair.
Confectionery store (retail).
Consignment shop.

Contractor's office/sales, with outside storage including vehicles.

Contractor's temporary on-site construction office (only with permit from building official; see section 144-5.10).

Convenience store with or without fuel sales.

Credit agency.

Curio shops.

Custom work shops.

Dance hall/dancing facility (see section 144-5.13).

Day camp.

Department store.

Drapery shop/blind shop.

Driving range.

Drug sales/pharmacy.

Electrical repair shop.

Electrical substation.

Electronic assembly/high tech manufacturing.

Electroplating works.

Engine repair/motor manufacturing re-manufacturing and/or repair.

Exterminator service.

Fair ground.

Farmers market (produce market—wholesale).

Farms, general (crops) (see chapter 6 and section 144-5.9).

Farms, general (livestock/ranch) (see chapter 6 and section 144-5.9).

Feed and grain store.

Filling station (fuel tanks must be below the ground).

Florist.

Food or grocery store with or without fuel sales.

Food processing (no outside public consumption).

Forge (hand).

Forge (power).

Fraternal organization/civic club (private club).

Freight terminal, rail/truck (when any storage of freight is outside an enclosed building).

Freight terminal, truck (all storage of freight in an enclosed building).

Frozen food storage for individual or family use.

Funeral home/mortuary.

Furniture manufacture.

Furniture sales (indoor).

Galvanizing works.

Garden shops and greenhouses.

Golf course (public or private).

Golf course (miniature).

Governmental building or use.

Greenhouse (commercial).

Handicraft shop.

Hardware store.

Health club (physical fitness; indoors only).

Heating and air-conditioning sales/services.

Heavy load (farm) vehicle sales/repair (see section 144-5.14).

Heliport.

Home repair and yard equipment retail and rental outlets.

Hospital, general (acute care/chronic care).

Hospital, rehabilitation.

Hotel/motel.

Hotels/motels—Extended stay (residence hotels).
Ice delivery stations (for storage and sale of ice at retail only).
Ice plants.
Industrial laundries.
Kiosk (providing a retail service).
Laboratory equipment manufacturing.
Laundromat and laundry pickup stations.
Laundry, commercial (without self serve).
Laundry/dry cleaning (drop off/pick up).
Laundry/washateria (self serve).
Lawnmower sales and/or repair.
Leather products manufacturing.
Light manufacturing.
Limousine/taxi service.
Locksmith.
Lumberyard (see section 144-5.15).
Lumberyard or building material sales (see section 144-5.15).
Machine shop.
Maintenance/janitorial service.
Major appliance sales (indoor).
Manufactured home sales.
Manufacturing and processes.
Market (public, flea).
Martial arts school.
Medical supplies and equipment.
Metal fabrication shop.
Micro brewery (onsite manufacturing and/or sales).
Mini-warehouse/self storage units (with or without outside boat and RV storage).
Motion picture studio, commercial film.
Motion picture theater (indoors).
Motion picture theater (outdoors, drive-in).
Motorcycle dealer (primarily new/repair).
Moving storage company.
Moving, transfer, or storage plant.
Museum.
Needlework shop.
Non-bulk storage of fuel, petroleum products and liquefied petroleum.
Nursing/convalescent home/sanitarium.
Offices, brokerage services.
Offices, business or professional.
Offices, computer programming and data processing.
Offices, consulting.
Offices, engineering, architecture, surveying or similar.
Offices, health services.
Offices, insurance agency.
Offices, legal services, including court reporting.
Offices, medical offices.
Offices, real estate.
Offices, security/commodity brokers, dealers, exchanges and financial services.
Outside storage (as primary use).
Park and/or playground (private).
Park and/or playground (public).
Parking lots (for passenger car only) (not as incidental to the main use).

Parking structure/public garage.
Pawn shop.
Personal watercraft sales (primarily new/repair).
Pet shop/supplies (10,000 square feet or less).
Pet store (more than 10,000 square feet).
Photo engraving plant.
Photographic printing/duplicating/copy shop or printing shop.
Photographic studio (no sale of cameras or supplies).
Photographic supply.
Plant nursery.
Plant nursery (growing for commercial purposes with retail sales on site).
Plastic products molding/reshaping.
Plumbing shop.
Portable building sales.
Propane sales (retail).
Public recreation/services building for public park/playground areas.
Publishing/printing company (e.g., newspaper).
Quick lube/oil change/minor inspection.
Radio/television shop, electronics, computer repair.
Rappelling facilities.
Recreation buildings (private).
Recreation buildings (public).
Recycling kiosk.
Refreshment/beverage stand.
Research lab (non-hazardous).
Restaurant.
Restaurant/prepared food sales.
Retail store and shopping center.
Rodeo grounds.
RV park.
RV/travel trailer sales.
School, K-12 (public or private).
School, vocational (business/commercial trade).
Security monitoring company.
Security systems installation company.
Sheet metal shop.
Shoe repair shops.
Shooting gallery—Indoor (see section 144-5.13).
Shopping center.
Sign manufacturing/painting plant.
Specialty shops in support of project guests and tourists.
Storage—Exterior storage for boats and recreational vehicles.
Storage in bulk.
Studio for radio or television (with tower) (see section 144-5.7).
Studios (art, dance, music, drama, reducing, photo, interior decorating, etc.).
Tailor shop.
Tattoo or body piercing studio.
Taxidermist.
Telemarketing agency.
Telephone exchange (office and other structures).
Tennis court (commercial).
Theater (non-motion picture; live drama).
Tire sales (outdoor).

Tool rental.

Transfer station (refuse/pick-up).

Travel agency.

Truck or transit terminal (with outside storage).

Truck stop.

University or college (public or private).

Upholstery shop (non-auto).

Used or second hand merchandise/furniture store.

Vacuum cleaner sales and repair.

Veterinary hospital (with or without outside animal runs or kennels) with the exception that outdoor kennels may not be used between the hours of 9:00 p.m. and 7:00 a.m. and are prohibited adjacent to residential.

Video rental/sales.

Warehouse/office and storage/distribution center.

Waterfront amusement facilities—Berthing facilities sales and rentals.

Waterfront amusement facilities—Boat fuel storage/dispensing facilities.

Waterfront amusement facilities—Boat landing piers/launching ramps.

Waterfront amusement facilities—Swimming/wading pools/bathhouses.

Water storage (surface, underground or overhead), water wells and pumping stations that are part of a public or municipal system.

Welding shop.

Wholesale sales offices and sample rooms.

Woodworking shop (ornamental).

Any comparable business or use not included in or excluded from any other district described herein, provided that such use is not noxious or offensive by reason of vibration, noise, odor, dust, smoke or gas.

(2) Only the following manufacturing and processes are permitted when they meet the following requirements:

No use is permitted that would emit or cause radiation, dust, odor, smoke, gas or fumes objectionable to persons of ordinary sensitivity or reasonably hazardous to health, beyond the boundary property lines of the lot or tract upon which the use is located, and which do not generate noise or vibration at the boundary of the M-1A district which is generally perceptible in frequency or pressure above the ambient level of noise in the adjacent areas.

Assaying works.

Cooperage works.

Foundries (iron, brass, bronze, aluminum).

Hides and skins (storage and curing).

Manufacture of adding machines, cash registers, typewriters, basket material, boxes, electric lamps, clay, shale and glass products, cutlery tools, bicycles, electrical machinery, tools, fiberglass products, and piping subassemblies.

Metal stamping, shearing, punching, forming, cutting, cleaning, heat treating, etc.

Sheet metal shops.

Welding.

(3) *Conflict.* In the event of conflict between the uses listed in the land use matrix and those listed in subsection (1), the uses listed in this subsection shall be deemed those authorized in the district.

(b) *Maximum height, minimum area and setback requirements.*

(1) *Non-residential uses.*

(i) *Height.* 120 feet.

(ii) *Front building setback.* 25 feet.

(iii) *Side building setback.* No side building setback is required.

(iv) *Corner lots.* Buildings on corner lots shall have 15-foot side building setbacks adjacent to the street where the rear lot lines of the corner lots coincide with the rear lot lines of the adjacent lots. Buildings on corner lots shall have 25-foot side building setbacks adjacent to the street where the rear lines of the corner lots coincide with the side lot lines of the adjacent lots. Where a minimum 25-foot setback is required, a canopy at least eight feet in height, attached to the main building,

may be built within 15 feet of the property line so long as such construction will not obstruct the vision of vehicular or pedestrian traffic.

(v) *Garage setback.* Where a driveway is located in front of a garage, the garage shall be setback 20 feet from the right-of-way or the driveway to the garage shall be at least 20 feet long to provide enough space for a vehicle to park without overhanging into the right-of-way, if the garage door is closed. (See Illustration 8 in section 144-5.1-1.)

(vi) *Residential setback.* Where a non-residential building abuts a one- or two-family use or zoning district, the setback from the residential property line shall be at least 20 feet plus one foot for each foot of building height over 20 feet.

(vii) *Rear building setback.* 20 feet.

(viii) *Width of lot.* 60 feet.

(ix) *Lot depth.* 100 feet.

(x) *Parking.* See section 144-5.1 for permitted uses' parking.

(2) *Multifamily dwellings.*

(i) *Height.* 45 feet; 60 feet when a pitched roof is used (minimum 4:12 slope).

(ii) *Front building setback.* 25 feet.

(iii) *Side building setback.* A side building setback five feet shall be provided. Buildings on corner lots shall have 15-foot side building setbacks adjacent to the street where the rear lot lines of the corner lots coincide with the rear lot lines of the adjacent lots. Buildings on corner lots shall have 25-foot side building setbacks adjacent to the street where the rear lines of the corner lots coincide with the side lot lines of the adjacent lots.

(iv) *Garage setback.* Where a driveway is located in front of a garage, the garage shall be setback 20 feet from the right-of-way or the driveway to the garage shall be at least 20 feet long to provide enough space for a vehicle to park without overhanging into the right-of-way, if the garage door is closed. (See Illustration 8 in section 144-5.1-1.)

(v) *Rear building setback.* 25 feet.

(vi) *Residential setback.* Effective November 8, 2006, where a multifamily dwelling abuts a one- or two-family use or zoning district, the setback from the one- or two-family property line shall be at least 20 feet plus one foot for each foot of building height over 20 feet.

(vii) *Accessory uses.* Accessory uses such as swimming pools, tennis courts and playgrounds will not be permitted within any required yard.

(viii) *Width of lot.* The minimum width of an interior lot shall be 60 feet and the minimum width of a corner lot shall be 72 feet.

(ix) *Density.* 24 units per acre.

(x) *Lot area.* 20,000 square feet.

(xi) *Lot coverage.* The combined area of all yards shall be at least 50 percent of the total lot or tract; provided however, that in the event enclosed or covered parking is provided, the minimum total yard area requirement shall be 40 percent of the total lot or tract.

(xii) *Distance between structures.* There shall be a minimum of ten feet between structures side by side; a minimum of 20 feet between structures side by front or rear; a minimum of 40 feet between structures front to front; and a minimum of 20 feet between structures backing rear to rear, and a minimum of 20 feet between structures front to rear. (See Illustration 1.)

(xiii) *Minimum number of units.* Five.

(xiv) *Parking.* For apartments, apartment hotel units and other multifamily dwellings, off-street parking spaces shall be provided in accord with the following schedule:

1. One-bedroom apartment or unit: One and one-half spaces.
2. Two-bedroom apartment or unit: Two spaces.
3. Each additional bedroom: One-half space.
4. Each dwelling unit provided exclusively for low income elderly occupancy: Three-fourths space ("low income elderly" is defined as any person 55 years of age or older with low or moderate income, according to HUD standards).

See section 144-5.1 for other permitted uses' parking.

3.4-19. *"M-2A" heavy industrial district.*

Purpose. The M-2A heavy industrial district is intended primarily for the conduct of heavy manufacturing, assembling and fabrication activities that do not typically depend upon frequent customer or client visits. Such uses generally require

accessibility to major thoroughfares, major highways, and/or other means of transportation such as the railroad. The following regulations shall apply in all "M-2A" districts:

(a) *Authorized uses.* Uses permitted by right and by special use permit shall be those set forth in the land use matrix in section 144-4.2. The allowed uses in the district, which are intended to be identical with those listed in the land use matrix, are as follows:

(1) *Uses permitted by right.*

Residential uses:

Accessory building/structure.
Community home (see definition).
Multifamily (apartments/condominiums—at least five units).
Residential use in buildings with the following non-residential uses.

Non-residential uses:

Accounting, auditing, bookkeeping, and tax preparations.
Adult day care (no overnight stay).
Adult day care (with overnight stay).
Aircraft support and related services.
Airport.
All terrain vehicle (ATV) dealer/sales.
Ambulance service (private).
Amphitheater.
Amusement devices/arcade (four or more devices).
Amusement services or venues (indoors) (see section 144-5.13).
Amusement services or venues (outdoors).
Animal grooming shop.
Answering and message services.
Antique shop.
Appliance repair.
Archery range.
Armed services recruiting center.
Art dealer/gallery.
Artist or artisan's studio.
Assembly/exhibition hall or areas.
Athletic fields.
Auction sales (non-vehicle).
Auto body repair, garages (see section 144-5.11).
Auto glass repair/tinting (see section 144-5.11).
Auto interior shop/upholstery (see section 144-5.11).
Auto leasing.
Auto muffler shop (see section 144-5.11).
Auto or trailer sales rooms or yards (see section 144-5.11).
Auto or truck sales rooms or yards—Primarily new (see section 144-5.12).
Auto paint shop.
Auto repair as an accessory use to retail sales (see section 144-5.11).
Auto repair (general) (see section 144-5.11).
Auto supply store for new and factory rebuilt parts.
Auto tire repair/sales (indoor).
Automobile driving school (including defensive driving).
Bakery (retail).
Bank, savings and loan, or credit union.
Bar/tavern.
Barber/beauty college (barber or cosmetology school or college).
Barber/beauty shop, haircutting (non-college).
Barns and farm equipment storage (related to agricultural uses).

Battery charging station.
Bicycle sales and/or repair.
Billiard/pool facility.
Bio-medical facilities.
Blacksmith or wagon shops.
Blooming or rolling mills.
Book binding.
Book store.
Bottling or distribution plants (milk).
Bottling works.
Bowling alley/center (see section 144-5.13).
Breweries/distilleries and manufacture of alcohol and alcoholic beverages.
Broadcast station (with tower) (see section 144-5.7).
Bus barns or lots.
Bus passenger stations.
Cafeteria/cafe/delicatessen.
Campers' supplies.
Canning/preserving factories.
Car wash (self service; automated)
Car wash, full service (detail shop).
Carpenter, cabinet, or pattern shops.
Carpet cleaning establishments.
Caterer.
Cemetery and/or mausoleum.
Check cashing service.
Chemical laboratories (e.g., ammonia, bleaching powder).
Chemical laboratories (not producing noxious fumes or odors).
Church/place of religious assembly.
Cider mills.
Civic/conference center and facilities.
Cleaning, pressing and dyeing (non-explosive fluids used).
Club (private).
Coffee shop.
Cold storage plant.
Commercial amusement concessions and facilities.
Communication equipment—Installation and/or repair.
Community building (associated with residential uses).
Computer and electronic sales.
Computer repair.
Concrete or asphalt mixing plants—Permanent.
Concrete or asphalt mixing plants—Temporary.
Confectionery store (retail).
Consignment shop.
Contractor's office/sales, with outside storage including vehicles.
Contractor's temporary on-site construction office (only with permit from building official; see section 144-5.10).
Convenience store with or without fuel sales.
Cotton ginning or baling works.
Credit agency.
Curio shops.
Custom work shops.
Dance hall/dancing facility (see section 144-5.13).
Department store.

Drapery shop/blind shop.
Driving range.
Drug sales/pharmacy.
Electrical generating plant.
Electrical repair shop.
Electrical substation.
Electronic assembly/high tech manufacturing.
Electroplating works.
Enameling works.
Engine repair/motor manufacturing re-manufacturing and/or repair.
Exterminator service.
Fair ground.
Farms, general (crops) (see chapter 6 and section 144-5.9).
Farms, general (livestock/ranch) (see chapter 6 and section 144-5.9).
Feed and grain store.
Filling station (fuel tanks must be below the ground).
Florist.
Flour mills, feed mills, and grain processing.
Food or grocery store with or without fuel sales.
Food processing (no outside public consumption).
Forge (hand).
Forge (power).
Fraternal organization/civic club (private club).
Freight terminal, rail/truck (when any storage of freight is wholly outside an enclosed building).
Freight terminal, truck (all storage of freight in an enclosed building).
Frozen food storage for individual or family use.
Funeral home/mortuary.
Furniture manufacture.
Furniture sales (indoor).
Galvanizing works.
Garden shops and greenhouses.
Golf course.
Golf course (miniature).
Governmental building or use.
Grain elevator.
Greenhouse (commercial).
Handicraft shop.
Hardware store.
Health club (physical fitness; indoors only).
Heating and air-conditioning sales/services.
Heavy load (farm) vehicle sales/repair (see section 144-5.14).
Heavy manufacturing.
Heliport.
Hides/skins (tanning).
Home repair and yard equipment retail and rental outlets.
Hospital, general (acute care/chronic care).
Hospital, rehabilitation.
Hotel/motel.
Hotels/motels—Extended stay (residence hotels).
Ice delivery stations (for storage and sale of ice at retail only).
Ice plants.
Industrial laundries.
Kiosk (providing a retail service).

Laboratory equipment manufacturing.
Laundromat and laundry pickup stations.
Laundry, commercial (without self serve).
Laundry/dry cleaning (drop off/pick up).
Laundry/washateria (self serve).
Lawnmower sales and/or repair.
Leather products manufacturing.
Light manufacturing.
Limousine/taxi service.
Livestock sales/auction.
Locksmith.
Lumberyard (see section 144-5.15).
Lumberyard or building material sales (see section 144-5.15).
Machine shop.
Maintenance/janitorial service.
Major appliance sales (indoor).
Manufactured home sales.
Manufacturing and processes.
Market (public, flea).
Martial arts school.
Meat or fish packing/storage plants.
Medical supplies and equipment.
Metal fabrication shop.
Micro brewery (onsite manufacturing and/or sales).
Mini-warehouse/self storage units (no outside boat and RV storage permitted).
Mini-warehouse/self storage units with outside boat and RV storage.
Motion picture studio, commercial film.
Motion picture theater (indoors).
Motion picture theater (outdoors, drive-in).
Motorcycle dealer (primarily new/repair).
Moving storage company.
Moving, transfer, or storage plant.
Museum.
Needlework shop.
Non-bulk storage of fuel, petroleum products and liquefied petroleum.
Offices, brokerage services.
Offices, business or professional.
Offices, computer programming and data processing.
Offices, consulting.
Offices, engineering, architecture, surveying or similar.
Offices, health services.
Offices, insurance agency.
Offices, legal services, including court reporting.
Offices, medical offices.
Offices, real estate.
Offices, security/commodity brokers, dealers, exchanges and financial services.
Outside storage (as primary use).
Paint manufacturing.
Park and/or playground (private or public).
Parking lots (for passenger car only) (not as incidental to the main use).
Parking structure/public garage.
Pawn shop.
Personal watercraft sales (primarily new/repair).

Pet shop/supplies (10,000 square feet or less).
Pet store (more than 10,000 square feet).
Photo engraving plant.
Photographic printing/duplicating/copy shop or printing shop.
Photographic studio (no sale of cameras or supplies).
Photographic supply.
Plant nursery.
Plant nursery (growing for commercial purposes with retail sales on site).
Plastic products molding/reshaping.
Plumbing shop.
Portable building sales.
Poultry killing or dressing for commercial purposes.
Propane sales (retail).
Public recreation/services building for public park/playground areas.
Publishing/printing company (e.g., newspaper).
Quick lube/oil change/minor inspection.
Radio/television shop, electronics, computer repair.
Rappelling facilities.
Recreation buildings (private).
Recreation buildings (public).
Recycling kiosk.
Refreshment/beverage stand.
Research lab (non-hazardous).
Restaurant.
Restaurant/prepared food sales.
Retail store and shopping center.
Rodeo grounds.
RV park.
RV/travel trailer sales.
Sand/gravel sales (storage or sales).
School, K-12 (public or private).
School, vocational (business/commercial trade).
Security monitoring company.
Security systems installation company (with outside storage).
Sheet metal shop.
Shoe repair shops.
Shooting gallery—Indoor (see section 144-5.13).
Shopping center.
Sign manufacturing/painting plant.
Specialty shops in support of project guests and tourists.
Stone/clay/glass manufacturing.
Storage—Interior and exterior storage for boats and recreational vehicles.
Storage in bulk.
Studio for radio or television (with tower) (see section 144-5.7).
Studios (art, dance, music, drama, reducing, photo, interior decorating, etc.).
Tailor shop (see home occupation).
Tattoo or body piercing studio.
Taxidermist.
Telemarketing agency.
Telephone exchange buildings (office only).
Tennis court (commercial).
Theater (non-motion picture; live drama).
Tire sales (outdoors).

Tool rental.

Transfer station (refuse/pick-up).

Travel agency.

Truck or transit terminal (with outside storage).

Truck stop.

University or college (public or private).

Upholstery shop (non-auto).

Used or second hand merchandise/furniture store.

Vacuum cleaner sales and repair.

Veterinary hospital (with or without outside animal runs or kennels) with the exception that outdoor kennels may not be used between the hours of 9:00 p.m. and 7:00 a.m. and are prohibited adjacent to residential.

Video rental/sales.

Warehouse/office and storage/distribution center.

Waterfront amusement facilities—Berthing facilities sales and rentals.

Waterfront amusement facilities—Boat fuel storage/dispensing facilities.

Waterfront amusement facilities—Boat landing piers/launching ramps.

Waterfront amusement facilities—Swimming/wading pools/bathhouses.

Water storage (surface, underground or overhead), water wells and pumping stations that are part of a public or municipal system.

Welding shop.

Wholesale sales offices and sample rooms.

Woodworking shop (ornamental).

Any comparable business or use not included in or excluded from any other district described herein, provided that such use is not obnoxious or offensive by reason of vibration, noise, odor, dust, smoke or gas.

(2) Any other uses not now or hereinafter prohibited by ordinance of the city regulating nuisances, except that the following uses will be permitted only by approval of the city council after report from the health department, fire department, and planning commission:

Acid manufacture.

Auto wrecking yards.

Bulk storage of fuel, liquefied petroleum and flammable liquids.

Cement, lime, gypsum or plaster of Paris manufacture.

Distillation of bones.

Explosives manufacture or storage.

Fertilizer manufacture and storage.

Garbage, offal or dead animal reduction or dumping.

Gas manufacture.

Iron and steel manufacture.

Junkyards, including storage, sorting, baling or processing of rags.

Manufacture of carbon batteries.

Manufacture of paint, lacquer, oil, turpentine, varnish, enamel, etc.

Manufacture of rubber, glucose, or dextrin.

Monument or marble works.

Oil compounding and barreling plants.

Paper or pulp manufacture.

Petroleum or its products (refining of).

Railroad roundhouses or shops.

Rock crushers.

Smelting of tin, copper, zinc or iron ores.

Steel furnaces.

Stockyards or slaughtering.

Structural iron or pipe works.

Sugar refineries.

Tar distillation or manufacture.

Tar products.

Wire or rod mills.

Wood distillation plants (charcoal, tar, turpentine, etc.).

Wool scouring.

(3) *Conflict.* In the event of conflict between the uses listed in the land use matrix and those listed in subsection (1), the uses listed in this subsection shall be deemed those authorized in the district.

(b) *Maximum height, minimum area and setback requirements.*

(1) *Non-residential uses.*

(i) *Height.* 120 feet.

(ii) *Front building setback.* 25 feet.

(iii) *Side building setback.* No side building setback is required.

(iv) *Corner lots.* Buildings on corner lots shall have 15-foot side building setbacks adjacent to the street where the rear lot lines of the corner lots coincide with the rear lot lines of the adjacent lots. Buildings on corner lots shall have 25-foot side building setbacks adjacent to the street where the rear lines of the corner lots coincide with the side lot lines of the adjacent lots. Where a minimum 25-foot setback is required, a canopy at least eight feet in height, attached to the main building, may be built within 15 feet of the property line so long as such construction will not obstruct the vision of vehicular or pedestrian traffic.

(v) *Garage setback.* Where a driveway is located in front of a garage, the garage shall be setback 20 feet from the right-of-way or the driveway to the garage shall be at least 20 feet long to provide enough space for a vehicle to park without overhanging into the right-of-way, if the garage door is closed. (See Illustration 8 in section 144-5.1-1.)

(vi) *Residential setback.* Where a non-residential building abuts a one- or two-family use or zoning district, the setback from the residential property line shall be at least 20 feet plus one foot for each foot of building height over 20 feet.

(vii) *Rear building setback.* 20 feet.

(viii) *Width of lot.* 60 feet.

(ix) *Lot depth.* 100 feet.

(x) *Parking.* See section 144-5.1 for permitted uses' parking.

(2) *Residential.*

(i) *Height.* 45 feet, or 60 feet when a pitched roof is used (minimum 4:12 slope).

(ii) *Front building setback.* 25 feet.

(iii) *Side building setback.* A side building setback of five feet shall be provided. Buildings on corner lots shall have 15-foot building setbacks adjacent to the street where the rear lot lines of the corner lots coincide with the rear lot lines of the adjacent lots. Buildings on corner lots shall have 25-foot side building setbacks adjacent to the street where the rear lines of the corner lots coincide with the side lot lines of the adjacent lots.

(iv) *Garage setback.* Where a driveway is located in front of a garage, the garage shall be setback 20 feet from the right-of-way or the driveway to the garage shall be at least 20 feet long to provide enough space for a vehicle to park without overhanging into the right-of-way, if the garage door is closed. (See Illustration 8 in section 144-5.1-1.)

(v) *Rear building setback.* 25 feet.

(vi) *Residential setback.* Effective November 8, 2006, where a multifamily dwelling abuts a one- or two-family use or zoning district, the setback from the one- or two-family property line shall be at least 20 feet plus one foot for each foot of building height over 20 feet.

(vii) *Accessory uses.* Accessory uses such as swimming pools, tennis courts and playgrounds will not be permitted within any required yard.

(viii) *Width of lot.* The minimum width of an interior lot shall be 60 feet and the minimum width of a corner lot shall be 70 feet.

(ix) *Density.* 24 units per acre.

(x) *Lot area.* 20,000 square feet.

(xi) *Lot coverage.* The combined area of all yards shall be at least 50 percent of the total lot or tract; provided however, that in the event enclosed or covered parking is provided, the minimum total yard area requirement shall be 40 percent of the total lot or tract.

(xii) *Distance between structures.* There shall be a minimum of ten feet between structures side by side; a minimum of 20 feet between structures side by front or rear; a minimum of 40 feet between

structures front to front; and a minimum of 20 feet between structures backing rear to rear, and a minimum of 20 feet between structures front to rear. (See Illustration 1.)

(xiii) *Minimum number of units.* Five.

(xiv) *Parking.* For apartments, apartment hotel units and other multifamily dwellings, off-street parking spaces shall be provided in accord with the following schedule:

1. One-bedroom apartment or unit: One and one-half spaces.
2. Two-bedroom apartment or unit: Two spaces.
3. Each additional bedroom: One-half space.
4. Each dwelling unit provided exclusively for low income elderly occupancy: Three-fourths space ("low income elderly" is defined as any person 55 years of age or older with low or moderate income, according to HUD standards).

See section 144-5.1 for other permitted uses' parking.

(Ord. No. 2012-49, § 1(Exh. A), 9-10-12)

Sec. 144-3.5. - Planned development districts.

3.5-1. *Purpose.* The planned development district is a free-standing district designed to provide for the development of land as an integral unit for single or mixed uses in accordance with a plan that may vary from the established regulations of other zoning districts. It is the intent in such a district to insure compliance with good zoning practices while allowing certain desirable departures from the strict provisions of specific zoning classifications.

3.5-2. *Application.* An application for a planned development district shall be processed in accordance with this chapter. A pre-planning conference is required between the applicant and the planning director prior to the actual filing of the application.

3.5-3. *Base district.* A base zoning district shall be specified. The regulations in the base zoning district shall control unless specifically stated otherwise in the PD.

3.5-4. *District plans and requirements.* There are two types of plans that may be used in the planned development process. The general purpose and use of each plan is described as follows:

(a) *Concept plan.* This plan is intended to be used as the first step in the planned development process. It establishes the most general guidelines for the district by identifying the land use types, development standards, approximate road locations and project boundaries and illustrates the integration of these elements into a master plan for the whole district.

(b) *Detail plan.* The detail plan is the final step of the planned development process. It contains the details of development for the property. For smaller tracts or where final development plans are otherwise known, the detail plan may be used to establish the district and be the only required step in the planned development process.

3.5-5. *Concept plan requirements.* Said concept plan shall include the following:

(a) *Relation to the comprehensive plan.* A general statement setting forth how the proposed district will relate to the city's comprehensive plan and the degree to which it is or is not consistent with that plan and the proposed base zoning district.

(b) *Acreage.* The total acreage within the proposed district.

(c) *Survey.* An accurate survey of the boundaries of the district.

(d) *Land uses.* Proposed general land uses and the acreage for each use, including open space. For residential development, the total number of units and the number of units per acre.

(e) *General thoroughfare layout.* Proposed streets, as a minimum to arterial street level. (Showing collector and local streets is optional.)

(f) *Development standards.* Development standards, if different from the base zoning district, for each proposed land use, as follows:

(1) Minimum lot area.
(2) Minimum lot width and depth.
(3) Minimum front, side, and rear building setback areas.
(4) Maximum height of buildings.
(5) Maximum building coverage.
(6) Maximum floor to area ratios for non-residential uses.
(7) Minimum parking standards for each general land use.

(8) Other standards as deemed appropriate.

(g) *Existing conditions.* On a scaled map sufficient to determine detail, the following shall be shown for the area within the proposed district.

(1) Topographic contours of ten feet or less.

(2) Existing streets.

(3) Existing 100-year floodplain, floodway and major drainage ways.

(4) City limits and E.T.J. boundaries.

(5) Zoning districts within and adjacent to the proposed district.

(6) Land use.

(7) Utilities, including water, wastewater and electric lines.

3.5-6. *Detail plan requirements.* The application for a planned development district shall include a detail plan consistent with the concept plan. Said detail plan shall include the following:

(a) *Acreage.* The acreage in the plan as shown by a survey, certified by a registered surveyor.

(b) *Land uses.* Permitted uses, specified in detail, and the acreage for each use.

(c) *Off-site information.* Adjacent or surrounding land uses, zoning, streets, drainage facilities and other existing or proposed off-site improvements, as specified by the department, sufficient to demonstrate the relationship and compatibility of the district to the surrounding properties, uses, and facilities.

(d) *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 district; and the traffic generated by the proposed uses.

(e) *Buildings.* The locations, maximum height, maximum floor area and minimum setbacks for all non-residential buildings.

(f) *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).

(g) *Water and drainage.* The location of all creeks, ponds, lakes, floodplains or other water retention or major drainage facilities and improvements.

(h) *Utilities.* The location and route of all major sewer, water, or electrical lines and facilities necessary to serve the district.

(i) *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.

(j) *Sidewalks and bike paths.* Sidewalks or other improved ways for pedestrian or bicycle use.

(k) If multifamily or non-residential development, a landscape plan.

A detailed plan, with all of the information required of a concept plan, may be submitted in lieu of a concept plan.

3.5-7. *Phasing schedule.* PD districts larger than 350 acres shall provide a phasing schedule depicting the different construction phases.

3.5-8. *Approval of district.* The city council may, after receiving a recommendation from the planning commission, approve by ordinance the creation of a district based upon a concept plan or a detail plan. The approved plan shall be made part of the ordinance establishing the district. Upon approval said change shall be indicated on the zoning maps of the city.

The development standards and requirements including, but not limited to, maximum height, lot width, lot depth, floor area, lot area, setbacks and maximum off-street parking and loading requirements for uses proposed shall be established for each planned development district based upon the particular merits of the development design and layout. Such standards and requirements shall comply with or be more restrictive than the standards established in the base zoning district for the specific type uses allowed in the district, except that modifications in these regulations may be granted if it shall be found that such modifications are in the public interest, are in harmony with the purposes of this chapter and will not adversely affect nearby properties.

3.5-9. *Planning commission approval of detail plan.* The planning commission is authorized to approve a detail plan or the amendment of a detail plan for property for which a concept plan has been approved by the city council. If the city council initially approved a detail plan in establishing the district, the detail plan may only be amended by the city council. The approved detail plan shall be permanently filed in the planning department. The planning commission shall approve the detail plan if it finds that:

(a) *Compliance.* The plan complies with the concept plan approved for that property and the standards and conditions of the PD district;

(b) *Compatibility.* The plan provides for a compatible arrangement of buildings and land uses and would not adversely affect adjoining neighborhood or properties outside the plan; and

(c) *Circulation of vehicular traffic.* The plan provides for the adequate and safe circulation of vehicular traffic.

If no detail plan has been approved for the property within ten years of the date of approval of a concept plan, the detail plan must be approved by the city council, after receiving a recommendation from the planning commission, after notice and hearing.

3.5-10. *Expiration of detail plan.* A detail plan shall be valid for five years from the date of its approval. If a building permit has not been issued or construction begun on the detail plan within the five years, the detail plan shall automatically expire and no longer be valid. The planning commission may, prior to expiration of the detail plan, for good cause shown, extend for up to 24 months the time for which the detail plan is valid.

3.5-11. *Appeals from planning commission action.* If the planning commission disapproves a detail plan over which it has final approval authority, or imposes conditions, or refuses to grant an extension of time for which a detail plan is valid, the applicant may appeal the decision to the city council by filing a written request with the planning director within ten days of the decision.

3.5-12. *Changes in detail plan.* Changes in the detail plan shall be considered the same as changes in the zoning ordinance and shall be processed as required in section 144-2.3. 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 yards provided at the boundary of the site, as indicated on the approved detail plan, may be authorized by the planning director. Any applicant may appeal the decision of the planning director to the planning commission for review and decision as to whether an amendment to the planned development district ordinance shall be required.

3.5-13. *Minimum development size.* The total initial development of any planned development district shall not be less than two acres for non-residential developments and five acres for residential developments.

3.5-14. *Deviation from Code standards.* The city council may approve a PD concept plan with deviations from any provision in the Code of Ordinances. Such deviations shall be listed or shown as part of the ordinance that approves the concept plan.

(Ord. No. 2012-49, § 1(Exh. A), 9-10-12)

Sec. 144-3.6. - Special use permits.

3.6-1. *Compatible and orderly development.* A special use permit may be granted to allow compatible and orderly development which may be suitable only in certain locations and zoning districts if developed in a specific way or only for a limited period of time.

3.6-2. *Application processing.* Application for a special use permit shall be processed in accordance with section 144-2.1 and shall include the pertinent information as determined by the type of special use permit and additional information as determined by the planning director, the planning commission or the city council.

Types of special use permit:

Type 1. Regulates land use only; does not require specific site plan or schedule. Construction within a Type 1 special use permit will comply with all of the standard construction requirements for the approved use at the time of construction permit, including drainage plans, TIA, driveway location, and landscaping.

Type 2. Requires a site plan drawn to scale and shall show the arrangement of the project in detail, including parking facilities, locations of buildings, uses to be permitted, landscaping, and means of egress and ingress.

3.6-3. *Standards.* When considering applications for a special use permit, the planning commission in making its recommendation and the city council in rendering its decision on the application shall, on the basis of the site plan, if a Type 2, and other information submitted, evaluate the impact of the special use on, and the compatibility of the use with, surrounding properties and neighborhoods to ensure the appropriateness of the use at a particular location. The planning commission and the city council shall specifically consider the extent to which:

(a) *Comprehensive plan consistency.* The proposed use at the specified location is consistent with the goals, objectives and policies contained in the adopted comprehensive plan;

(b) *Zoning district consistency.* The proposed use is consistent with the general purpose and intent of the applicable zoning district regulations;

(c) *Supplemental standards.* The proposed use meets all supplemental standards specifically applicable to the use as set forth in this chapter;

(d) *Character and integrity.* The proposed use is compatible with and preserves the character and integrity of adjacent development and neighborhoods and, as required by the particular circumstances.

A Type 2 special use permit may include improvements or modifications either on-site or within the public rights -of-way to mitigate development-related adverse impacts, including but not limited to:

(1) Adequate ingress and egress to property and proposed structures thereon with particular reference to vehicular and pedestrian safety and convenience, and access in case of fire;

(2) Off-street parking and loading areas;

(3) Refuse and service areas;

(4) Utilities with reference to location, availability, and compatibility;

(5) Screening and buffering, features to minimize visual impacts, and/or set-backs from adjacent uses;

(6) Control of signs, if any, and proposed exterior lighting with reference to glare, traffic safety, economic effect, and compatibility and harmony with properties in the district;

(7) Required yards and open space;

(8) Height and bulk of structures;

(9) Hours of operation;

(10) Paving of streets, alleys, and sidewalks;

(11) Provisions for drainage;

(12) Exterior construction material and building design; and

(13) Roadway adjustments, traffic control devices or mechanisms, and access restrictions to control traffic flow or divert traffic as may be needed to reduce or eliminate development-generated traffic on neighborhood streets.

(e) *Public health, safety, convenience and welfare.* The proposed use is not materially detrimental to the public health, safety, convenience and welfare, or results in material damage or prejudice to other property in the vicinity.

3.6-4. *Procedures for special use permit (SUP).* Granting of an SUP is considered zoning and as such, all the procedures for changing a zoning district apply to an application for an SUP. After a public hearing and upon the recommendation of the planning commission, the city council may approve, deny or modify the site plan and issue a special use permit containing such requirements and safeguards as necessary to protect adjoining property, including conditions addressing the standards in subsection 144-3.6-3(d).

3.6-5. *Revocation.* The SUP for a Type 1 permit may be considered for revocation if a use other than the use approved in the SUP or in the underlying zoning district is developed or other stated requirements are not met. The SUP for a Type 2 permit may be considered for revocation for the following reasons:

(a) Construction is not begun within five years of the date of approval of the permit.

(b) Progress toward completion is not being made. Progress toward completion includes the following:

(1) An application for a final plat is submitted;

(2) A good faith effort is made to file with a regulatory agency an application for a permit necessary to begin or continue completion of the project;

(3) Costs have been incurred for developing the project including, without limitation, costs associated with roadway, utility, and other infrastructure facilities designed to serve in whole or in part, the project (but exclusive of land acquisition) in the aggregate amount of five percent of the most recent appraised market value of the real property on which the project is located;

(4) Security is posted with the city to ensure performance of an obligation required by the city; or

(5) Utility connection fees or impact fees for the project have been paid to the city or New Braunfels Utilities.

(c) Abandonment of the project. Abandonment includes development of the property in a way other than provided for by the SUP.

(d) Failure to satisfy the conditions of the SUP or follow the site plan made part of the SUP.

(e) Code violations. Revocation may be considered if there are three or more Code violations in a 720-day period.

(1) Notice to property owner. If the planning director finds no less than three violations of any Code of Ordinances on the property within a 360-day period, he shall advise the applicant of a revocation hearing. The planning director shall notify the property owner in writing of the violations and that an administrative hearing will be held concerning the violations. Such notice shall be given at least ten days prior to the hearing. The planning director shall take evidence and conduct an administrative hearing to determine if a revocation procedure should be initiated. Such a determination is not subject to appeal to the zoning board of adjustment.

(2) If the planning director finds that there is credible evidence that the Code of Ordinances has been violated, or there have been convictions or guilty pleas in any court of competent jurisdiction, on at least three separate occasions within a 720-day period, and after the administrative hearing, he shall initiate a SUP revocation process.

(3) Appeal to municipal court. Any Code violation may be appealed to, or considered by, the municipal court judge. The parties at interest in this appeal may cross examine witnesses.

(f) Revocation process. The revocation process shall be the same as for a zoning district change, with notice to property owners within 200 feet, public hearing and recommendation by the planning commission, and public hearing and ordinance consideration by the city council.

(g) The city council may deny the SUP revocation, approve the revocation, deny the revocation and add additional restrictions to the SUP, suspend the SUP for a period the council determines, or amend the SUP with probationary requirements and terms the council determines.

(h) Upon revocation of a special use permit the property subject to the special use permit may be used for any permitted use within the applicable base zoning district.

3.6-6. *Compliance with conditions.* Conditions which may have been imposed by the city council in granting such permit shall be complied with by the grantee before a certificate of occupancy may be issued by the building official for the use of the building on such property.

3.6-7. *Telecommunication towers and/or antennas.* See section 144-5.7.

3.6-8. *Deviation from Code.* The city council may approve a special use permit with deviations to any provision of the Code of Ordinances. Such deviations shall be listed or shown in or as part of the ordinance approving the special use permit.

(Ord. No. 2012-49, § 1(Exh. A), 9-10-12)

Sec. 144-3.7. - Overlay zoning districts.

3.7-1. *Definition.* The city is hereby authorized to create overlay zoning districts that implement policies or objectives in the comprehensive plan. An overlay zoning district is a set of zoning regulations that is described in the overlay zoning district ordinance, is mapped and requires standards or uses in addition to those of the underlying base zoning district. Developments within the overlay zone must conform to the requirements of both the base district and the overlay zone district or the more restrictive of the two.

3.7-2. *Regulations for an overlay zoning district.* The overlay zoning district can address specific issues for a geographic area, which may benefit from additional land management (zoning) practices.

3.7-3. *Process and requirements for creating overlay zones.* The process for creating an overlay zoning district shall follow the same zoning notification process as set forth in this chapter. Each application shall meet the following information requirements:

(a) *Area.* A description of the area to be covered by the proposed overlay district;

(b) *Purpose.* A description of the purpose of the district;

(c) *Development standards.* A list of the proposed development standards if different from the base district(s);

(d) *Uses.* A list of permitted uses or uses which are not allowed; and

(e) *Special requirements.* Any special requirements particular to the overlay zone.

3.7-4. *Approval of development as an overlay district.* Each overlay zoning district shall prescribe the types of review and approval of development or building permit application.

(Ord. No. 2012-49, § 1(Exh. A), 9-10-12)

Sec. 144-3.8. - Special districts.

3.8-1. *Definition.* The city is hereby authorized to create special zoning districts that implement policies or objectives in the comprehensive plan. A special zoning district is a set of zoning regulations that is described in the overlay zoning district ordinance and is mapped.

3.8-2. *Regulations for a special zoning district.* The special zoning district can address specific issues for a geographic area, which may benefit from additional land management (zoning) practices.

3.8-3. *Process and requirements for creating special zoning districts.* The process for creating a special zoning district shall follow the same zoning notification process as set forth in this chapter.

3.8-4. *Special Neighborhood District-1.*

Purpose. The "SND-1" district is intended for development of primarily detached, single-family residences, customary accessory uses, and accessory dwellings such as garage apartments. The following regulations shall apply to the "SND-1" district:

(a) *Authorized uses.*

(1) *Uses permitted by right.*

Residential uses:

Accessory building/structure.

Accessory dwelling (one accessory dwelling per lot, may include a kitchen).

Community home (see definition).

Family home adult care.

Family home child care.

Home occupation (see section 144-5.5).

One-family dwelling, detached.

Single-family industrialized home (see section 144-5.8).

Non-residential uses:

Barns and farm equipment storage (related to agricultural uses).

Church/place of religious assembly.

Community building (associated with residential uses).

Contractor's temporary on-site construction office (only with permit from building official; see section 144-5.10).

Farms, general (crops) (see chapter 6 and section 144-5.9).

Farms, general (livestock/ranch) (see chapter 6 and section 144-5.9).

Golf course, public or private.

Governmental building or use with no outdoor storage.

Museums.

Park and/or playground (public).

Public recreation/services building for public park/playground areas.

Recreation buildings (public).

School, K-12 (public or private).

Water storage (surface, underground or overhead), water wells and pumping stations that are part of a public or municipal system.

(b) *Height and area requirements.*

(1) *Height.* 35 feet. The height of the accessory building may not exceed that of the main dwelling.

(2) *Front building setback.* 25 feet.

(3) *Side building setback.* There shall be a side building setback on each side of a building not less than six feet in width. Buildings on corner lots shall have 15-foot side building setbacks adjacent to the street where the rear lot lines of the corner lots coincide with the rear lot lines of the adjacent lots. Buildings on corner lots shall have 25-foot side building setbacks adjacent to the street where the rear lines of the corner lots coincide with the side lot lines of the adjacent lots.

(4) *Garage setback.* Where a driveway is located in front of a garage, the garage shall be setback 20 feet from the right-of-way or the driveway to the garage shall be at least 20 feet long to provide enough space for a vehicle to park without overhanging into the right-of-way, if the garage door is closed. (See Illustration 8 in section 144-5.1-1.)

(5) *Rear building setback.* 20 feet for the main dwelling. Six feet for the accessory dwelling.

(6) *Width of lot.* The minimum width of an interior lot shall be 60 feet and the minimum width of a corner lot shall be 70 feet.

(7) *Lot area per family.* Every single-family dwelling hereafter erected or altered shall provide a lot area of not less than 6,600 square feet per dwelling for interior lots, and 7,000 square feet per dwelling for corner lots, provided that where a lot has less area than herein required and such lot was in separate ownership prior to September 25, 1967, this requirement will not prohibit the erection of a dwelling, including the accessory dwelling. A lot platted after January 1, 2007, on which there would be two dwelling units must be at least 8,000 square feet in size for an interior lot and at least 8,500 square feet for a corner lot.

(8) *Lot depth.* 100 feet.

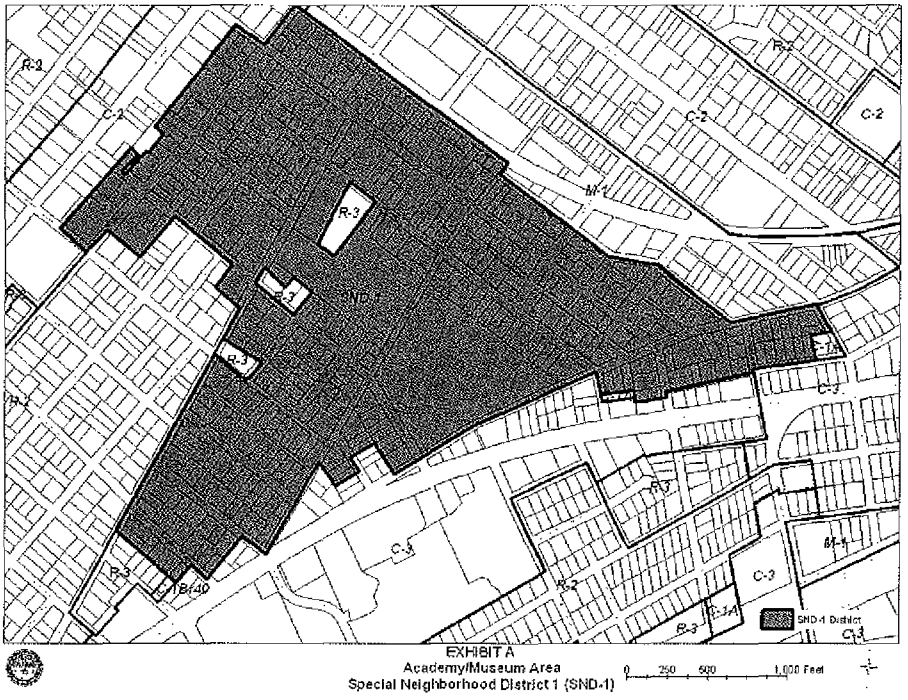
(9) *Parking.* Two off-street parking spaces shall be provided for each one-family detached dwelling, and two off-street parking spaces for an accessory dwelling. See section 144-5.1 for other permitted uses' parking.

(10)

Accessory building size. One story: 500 square feet. Two story: 1,000 square feet. The intent is to allow an accessory building over a garage or storage area and not to permit a two-story accessory dwelling or two accessory dwellings.

(11) *Term of occupancy.* Occupancy for less than one month is not permitted.

(c) *Area included in SND-1.* See Exhibit "A".



3.8-5. *Special District—Gruene Lake Village.*

Purpose. The "Gruene Lake Village" special district is intended for a broad range of office and retail uses for development of Lots 1, 2 and 3, Block 1, Cotton Crossing Subdivision, Unit 10. The following regulations shall apply to the "Gruene Lake Village" special district:

(a) *Authorized uses.*

(1) *Uses permitted by right.*

Residential uses:

Residential use in buildings with the following non-residential uses.

Non-residential uses:

Adult day care (no overnight stay).
Adult day care (with overnight stay).
Amusement devices/arcade (four or more devices).
Antique shop.
Art dealer/gallery.
Artist or artisan's studio.
Bakery (retail).
Bank, savings and loan, or credit.
Barber/beauty shop, haircutting (non-college).
Bed and breakfast establishments.
Book store.
Caterer.
Check cashing service.
Church/place of religious assembly.
Cleaning, pressing, and dyeing pickup stations.
Clinic (dental).
Clinic (emergency care).

Clinic (medical).

Coffee shop.

Confectionery store (retail).

Consignment shop.

Contractor's temporary on-site construction office (only with permit from building official; see section 144-5.9).

Convenience store without gas sales.

Credit agency.

Curio shops.

Custom work shops.

Drapery shop/blind shop.

Drug sales/pharmacy.

Electrical substation.

Florist.

Garden shops and greenhouses.

Golf course (public or private).

Governmental building or use (state/federally owned and operated).

Greenhouse.

Handicraft shop.

Kiosk (providing a retail service).

Laundromat and laundry pickup stations.

Locksmith.

Martial arts school.

Municipal use owned or operated by the city, including libraries.

Museum.

Needlework shop.

Offices, business or professional including banks.

Park and/or playground (public or private).

Photographic studio (no sale of cameras or supplies).

Photographic supply and printing.

Refreshment/beverage stand.

Restaurant.

Restaurant/prepared food sales.

Shoe repair shops.

Small equipment repair (i.e. computer, bicycle, appliance).

Specialty shops in support of project guests and tourists.

Stores, shops and markets for neighborhood retail trade.

Studios (art, dance, music, drama, reducing, photo, interior decorating, etc.).

Tailor shop.

Travel agency.

Video rental/sales.

Water storage (surface, underground or overhead), water wells and pumping stations that are part of a public or municipal system.

(b) *Maximum height, minimum area and setback requirements.*

(1) *Height.* 75 feet.

(2) *Front building setback.* 25 feet.

(3) *Side building setback.* No side building setback is required except that where a side line of a lot in this district abuts upon the side line of a lot in any residential zone, a side building setback of not less than six feet shall be provided.

(4) *Corner lots.* Buildings on corner lots shall have 15-foot side building setbacks adjacent to the street where the rear lot lines of the corner lots coincide with the rear lot lines of the adjacent lots. Buildings on corner lots shall have 25-foot side building setbacks adjacent to the street where the rear lines of the corner lots coincide with the side lot lines of the adjacent lots. Where a minimum 25-foot setback is required, a canopy at least eight feet in height, attached to the main building, may be built within 15 feet

of the property line so long as such construction will not obstruct the vision of vehicular or pedestrian traffic.

(5) *Garage setback.* Where a driveway is located in front of a garage, the garage shall be setback 20 feet from the right-of-way or the driveway to the garage shall be at least 20 feet long to provide enough space for a vehicle to park without overhanging into the right-of-way, if the garage door is closed. (See Illustration 8 in section 144-5.1-1.)

(6) *Residential setback.* Effective November 8, 2006, where any building abuts a one- or two-family use or zoning district, the setback from the one- or two-family property line shall be at least 20 feet plus one foot for each foot of building height over 20 feet.

(7) *Rear building setback.* The depth of the rear yard shall be at least 15 percent of lot depth, but such depth need not be more than 20 feet.

(8) *Width of lot.* 45 feet.

(9) *Lot depth.* None.

(10) *Parking.* See section 144-5.1 for permitted uses' parking.

(c) *Area included in SND-Gruene Lake Village.* See Exhibit "A".

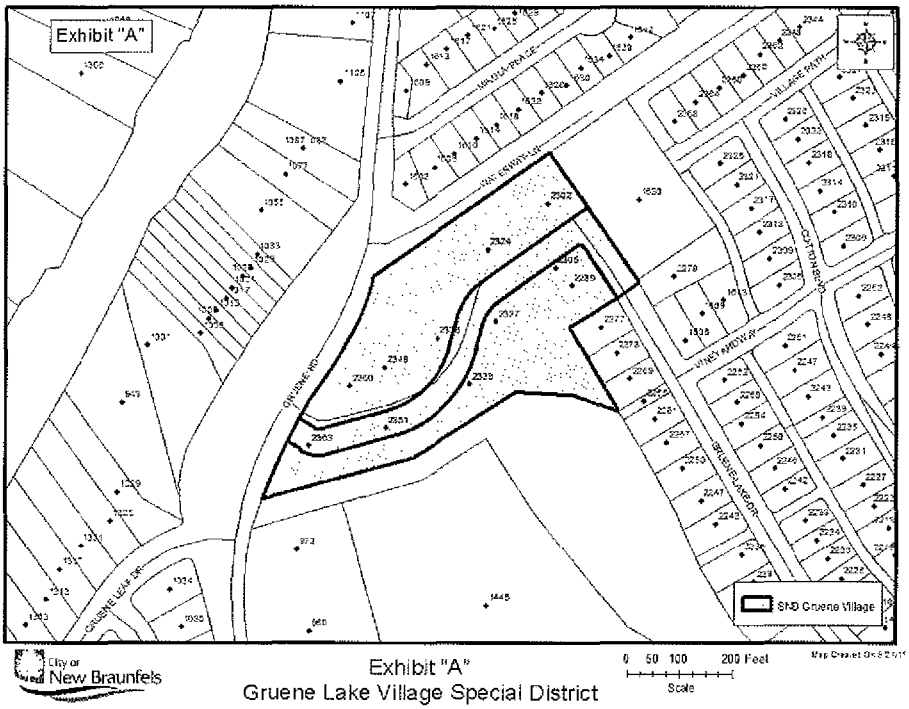


Exhibit "A"
Gruene Lake Village Special District

3.8-6. *Special district—"ADSD" Advantage Drive.*

Purpose. The "ADSD" Advantage Drive special district is intended for the development of a variety low density residential uses on an infill tract at the terminus of Advantage Drive, transitioning from non-residential uses to low density residential uses. The following regulations shall apply in the "AD" special district:

(a) *Authorized uses.*

(1) *Uses permitted by right.*

Residential uses:

Accessory building/structure.
Accessory dwelling (one accessory dwelling per lot, no kitchen).
Community home (see definition).
Duplex/two-family/duplex condominiums.
Family home adult care.
Family home child care.
Home occupation (see section 144-5.4).
One-family dwelling, detached.
Single- or two-family industrialized home (see section 144-5.7).
Townhouse (attached).

Non-residential uses:

Church/place of religious assembly.

Community building (associated with residential uses).

Contractor's temporary on-site construction office (only with permit from building official; see section 144-5.9).

Governmental building or use with no outside storage.

Park and/or playground (public or private).

(b) *Maximum height, minimum area and setback requirements.*

(1) *One-family, two-family and townhouse residential uses.*

(i) *Height.* 35 feet.

(ii) *Front building setback.* 20 feet.

(iii) *Side building setback.* There shall be a side building setback on each side of a building not less than five feet in width, unless the residences are attached.

(iv) *Garage setback.* Where a driveway is located in front of a garage, the garage shall be setback 20 feet from the right-of-way or the driveway to the garage shall be at least 20 feet long to provide enough space for a vehicle to park without overhanging into the right-of-way, if the garage door is closed. (See illustration 8 in section 144-5.1-1.)

(v) *Rear building setback.* A rear building setback of 12 feet shall be provided adjacent to property zoned residentially including mobile homes.

(vi) *Width of lot.* The minimum width of a lot shall be 40 feet per duplex or 20 feet per townhouse measured at the front of the residential building structure.

(vii) *Lot area per single-family.* Every single-family dwelling hereafter erected or altered shall have a lot area of not less than 6,600 square feet per lot.

(viii) *Lot area per duplex/townhouse pair.* Duplex (one structure with two dwellings) and townhouse pair (two attached townhouses) hereafter erected or altered shall have a combined lot area of not less than 3,600 square feet where the overall density of the district area does not exceed 12 units per acre. (See sample layout below.)

(ix) *Lot depth.* 90 feet.

(x) *Parking.* Two off-street parking spaces shall be provided for each dwelling unit. Required parking may be located on a common lot, but must be located within 75 feet of the property it serves and restricted for that property. See section 144-5.1 for other permitted uses' parking.

(2) *Non-residential uses.*

(i) *Height.* 35 feet.

(ii) *Front building setback.* 20 feet.

(iii) *Side building setback.* There shall be a side building setback on each side of a building not less than five feet in width. Where any building abuts a property with a one- or two-family use, the setback from the one- or two-family property line shall be at least 20 feet plus one foot for each foot of building height over 20 feet.

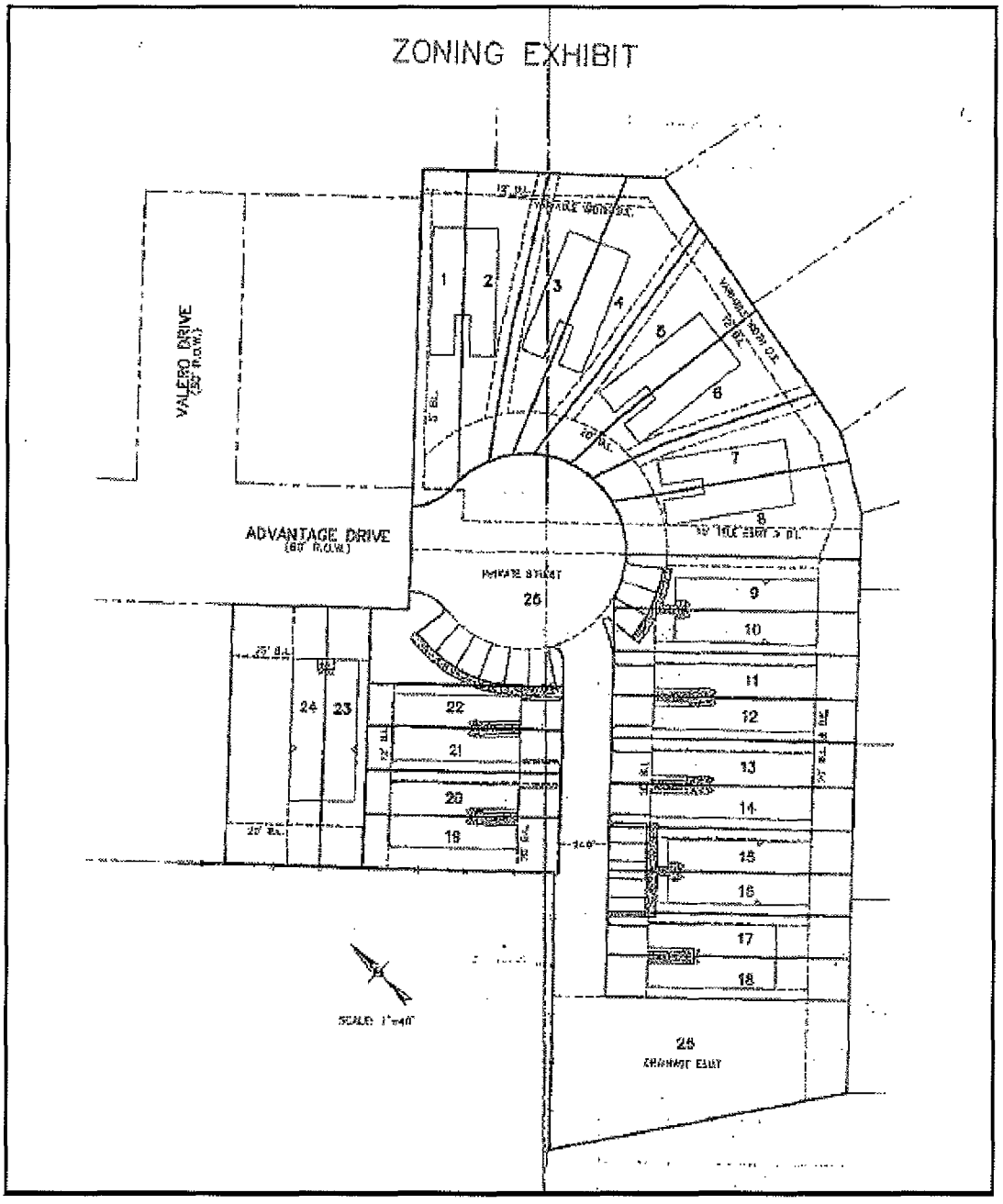
(iv) *Corner lots.* Buildings on corner lots shall have 15-foot side building setbacks adjacent to the street where the rear lot lines of the corner lots coincide with the rear lot lines of the adjacent lots. Buildings on corner lots shall have 25-foot side building setbacks adjacent to the street where the rear lines of the corner lots coincide with the side lot lines of the adjacent lots. Where a minimum 25-foot setback is required, a canopy at least eight feet in height, attached to the main building, may be built within 15 feet of the property line so long as such construction will not obstruct the vision of vehicular or pedestrian traffic.

(v) *Rear building setback.* 20 feet.

(vi) *Width of lot.* 60 feet.

(vii) *Lot depth.* 100 feet.

(viii) *Parking.* See section 144-5.1 for permitted uses' parking.



Sample Layout

(Ord. No. 2012-49, § 1(Exh. A), 9-10-12; Ord. No. 2012-64, § 1, 12-10-12)

New Braunfels, Texas, Code of Ordinances >> PART II - CODE OF ORDINANCES >> Chapter 144 - ZONING >> ARTICLE IV. - USE REGULATIONS >>

ARTICLE IV. - USE REGULATIONS

Sec. 144-4.1. - Interpretive rules.
Sec. 144-4.2 - Land use matrix.

Sec. 144-4.1. - Interpretive rules.

4.1-1. *Use of land and/or buildings.* The use of land and/or buildings shall be in accordance with those listed in the following land use matrix. In the event of conflict between uses listed in this matrix and those listed in a zoning district, the uses listed in the district shall be deemed those authorized. No land or building shall hereafter be used and no building or structure shall be erected, altered, or converted other than for those uses specified in the zoning district in which it is located. The legend for interpreting the permitted uses in the land use matrix is:

P Designates use permitted in the zoning district indicated.

□ Designates use prohibited in the zoning district indicated.

Further use description. See definitions in section 144-1.3 for further description of uses.

4.1-2. *Classification of new/unlisted uses.* It is recognized that new types of land use will arise in the future and forms of land use not presently anticipated may seek to locate in the city. In order to provide for such changes and contingencies, a determination as to the appropriate classification of any new or unlisted form of land use in the land use matrix shall be made as follows:

(a) *Interpreting new and unlisted uses.* A new and unlisted use may be interpreted by the planning director as similar to a listed use. The unlisted use shall possess the majority of characteristics of the listed use, otherwise the unlisted use must be submitted to the planning commission and city council as outlined in these subsections above. If the unlisted use is deemed similar to a listed use, no amendment of the land use matrix is required.

(b) *Regulating new and unlisted uses.* A person, city department, the planning commission, or the city council may propose zoning amendments to regulate new and previously unlisted uses.

(1) A person requesting the addition of a new or unlisted use shall submit to the planning director, or designee, all information necessary for the classification of the use, including but not limited to:

a. The nature of the use and whether the use involves dwelling activity, sales, services, or processing;

b. The type of product sold or produced under the use;

c. Whether the use has enclosed or open storage and the amount and nature of the storage;

d. Anticipated employment for the use;

e. Transportation requirements, including approximate mileage, turning radius, or driving time of the expected client or patron base;

f. The nature and time of occupancy and operation of the premises;

g. The off-street parking and loading requirements;

h. The amount of noise, odor, fumes, dust, toxic materials and vibration likely to be generated;

i. The requirements for public utilities such as sanitary sewer and water and any special public services that may be required; and

j. Impervious surface coverage or anticipated size of building.

(2) The planning director shall refer the question concerning any new or unlisted use to the planning commission requesting a recommendation as to the zoning classification into which such use should be placed.

(3) The planning commission shall consider the nature and described performance of the proposed use and its compatibility with the uses permitted in the various districts and determine the zoning district or districts within which such use is most similar and should be permitted.

(4) The planning commission shall transmit its findings and recommendations to the city council as to the classification proposed for any new or unlisted use. The city council shall approve or disapprove the recommendation of the planning commission or make such determination concerning the classification of such use as is determined appropriate based upon its findings. If approved, the new or unlisted use shall be amended in the land use matrix of the regulations according to procedures outlines in this chapter (i.e., following notification and public hearing, etc.).

(c) *Interpreting standards for new and unlisted uses.* Standards for a new and unlisted uses may be interpreted by the planning director as those of a similar use. When a determination of the appropriate zoning district cannot be readily ascertained, the same criteria outlined above shall be followed for determination of the appropriate district. The decision of the planning director may be appealed according to the process outlined in the subsections above.

The following matrix will be updated based on what recommendations are approved.

(Ord. No. 2012-49, § 1(Exh. A), 9-10-12)

Sec. 144-4.2. - Land use matrix.

LEGEND

P - The land use is permitted by right in the zoning district indicated.

- The land use is prohibited in the zoning district indicated (Blank).

NOTE: An application for a special use permit may be made for any land use not permitted in any district, except PD.

Types of Land Uses	Pre-1987 Zoning Districts													Post-1987 Zoning Districts																			
	R-1	R-2	R-3	B-1	TH	ZH	C-1	C-2	C-3	C-4	M-1	M-2	APD	R-1A-43.5	R-1A-12	R-1A-8	R-1A-6.6	R-2A	R-3L	R-3H	B-1A	B-1B	B-A	TH-A	ZH-A	MU-A	MU-B	C-1A	C-1B	C-2A	C-4A	C-4B	CO	M-1A	M-2A
Accessory building/structure (see section 144-5.4	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P		P	P	P
Accessory dwelling (one accessory dwelling per lot, no kitchen)	P	P	P			P	P	P	P	P	P	P	P	P	P	P	P	P							P	P						P			
Accounting, auditing, bookkeeping, and tax preparations							P	P	P	P	P	P														P	P	P	P	P	P	P	P	P	P
Acid manufacture																																			
Adult day care (no overnight stay)							P	P	P	P	P	P							P	P					P	P	P	P	P	P	P		P	P	P
Adult day care (with overnight stay)			P				P	P	P	P	P	P													P	P	P	P	P	P				P	P
Aircraft support and related services									P		P	P														P								P	P
Airport											P	P														P								P	P
All terrain vehicle (ATV) dealer/sales								P	P		P	P														P		P	P	P	P			P	P
Ambulance service (private)							P	P	P	P	P	P														P		P	P					P	P
Amphitheaters (outdoor live performances)								P	P	P	P	P														P		P	P	P	P			P	P
Amusement devices/arcade (four or more devices)								P	P	P	P	P													P	P	P	P	P	P	P			P	P
Amusement services or venues (indoors) (see section 144-5.13								P	P	P	P	P														P		P	P	P	P			P	P
Amusement services or venues (outdoors)									P	P	P	P														P		P		P	P			P	P
Animal grooming shop							P	P	P		P	P													P	P	P	P	P	P	P			P	P
Answering and message services							P	P	P	P	P	P													P	P	P	P	P	P	P	P	P	P	P
Antique shop							P	P	P		P	P													P	P	P	P	P	P	P	P	P	P	P
Appliance repair							P	P	P		P	P													P	P	P	P	P					P	P
Archery range										P	P	P														P				P	P			P	P
Armed services recruiting center							P	P	P	P	P	P													P	P	P	P	P	P	P	P	P	P	P
Art dealer/gallery							P	P	P	P	P	P								P					P	P	P	P	P	P	P	P	P	P	P
Artist or artisans studio							P	P	P	P	P	P													P	P	P	P	P	P	P	P	P	P	P
Assembly/exhibition hall or areas								P	P	P	P	P														P		P	P	P	P			P	P
Assisted living facility/retirement home			P				P	P																	P	P	P	P							
Athletic fields								P	P		P	P														P		P		P	P			P	P
Auction sales (non-vehicle)								P	P		P	P														P		P						P	P
Auto body repair, garages (see section 144-5.11								P	P		P	P														P		P	P					P	P
Auto glass repair/tinting (see section 144-5.11								P	P		P	P														P		P						P	P
Auto interior shop/upholstery (see section 144-5.11								P	P		P	P														P		P						P	P
Auto leasing								P	P		P	P													P	P	P	P	P					P	P
Auto muffler shop (see section 144-5.11								P	P		P	P														P		P						P	P
Auto or trailer sales rooms or yards (see section 144-5.12								P	P		P	P														P		P	P					P	P
Auto or truck sales rooms or yards—Primarily new (see section 144-5.12								P	P		P	P														P		P	P					P	P
Auto paint shop								P	P		P	P														P		P						P	P
Auto repair as an accessory use to retail sales								P	P		P	P														P		P	P					P	P
Auto repair garage (general) (see section 144-5.11)								P	P		P	P														P		P	P					P	P
Auto supply store for new and factory rebuilt parts							P	P	P		P	P													P	P	P	P	P					P	P
Auto tire repair/sales (indoor)								P	P		P	P													P	P	P	P	P					P	P
Auto wrecking yards																																			
Automobile driving school (including defensive driving)							P	P	P		P	P														P		P	P					P	P
Bakery (retail)							P	P	P	P	P	P													P	P	P	P	P	P	P	P	P	P	P
Bank, savings and loan, or credit union							P	P	P	P	P	P													P	P	P	P	P	P	P	P	P	P	P
Bar/tavern (no outdoor music)							P	P	P	P	P	P													P	P	P	P	P	P	P	P	P	P	P

| | | |

Community building (associated with residential uses)																																
Community home (see definition)	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
Computer and electronic sales							P	P	P		P	P											P	P	P	P	P			P	P	
Computer repair							P	P	P		P	P											P	P	P	P	P	P	P	P	P	
Concrete or asphalt mixing plants—Permanent												P																			P	
Concrete or asphalt mixing plants—Temporary												P																			P	
Confectionery store (retail)							P	P	P	P	P	P											P	P	P	P	P	P	P	P	P	
Consignment shop							P	P	P		P	P											P	P	P	P	P			P	P	
Contractor's office/sales, with outside storage including vehicles									P		P	P												P			P			P	P	
Contractor's temporary on-site construction office	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	
Convenience store with gas sales							P	P	P	P	P	P												P		P	P	P	P	P	P	
Convenience store without gas sales							P	P	P	P	P	P											P	P	P	P	P	P	P	P	P	
Cotton ginning or baling works												P																			P	
Country club (private)	P	P	P	P			P	P	P	P	P	P	P											P		P		P	P			
Credit agency							P	P	P	P	P	P											P	P	P	P	P	P	P	P	P	
Curio shops							P	P	P	P	P	P											P	P	P	P	P	P	P	P	P	
Custom work shops							P	P	P		P	P											P	P	P	P	P			P	P	
Dance hall/dancing facility (see section 144-5.13								P	P		P	P												P		P	P	P	P	P	P	
Day camp							P	P	P	P	P	P												P		P	P	P	P	P		
Department store							P	P	P		P	P											P	P	P	P	P			P	P	
Distillation of bones																																
Dormitory (in which individual rooms are for rental)										P	P	P						P	P					P			P	P	P	P	P	
Drapery shop/blind shop							P	P	P		P	P											P	P	P	P	P			P	P	
Driving range										P	P	P												P		P		P			P	P
Drug store/pharmacy							P	P	P	P	P	P											P	P	P	P	P	P	P	P	P	
Duplex/two-family/duplex condominiums		P	P	P			P	P	P	P	P	P						P			P			P			P			P	
Electrical generating plant												P																			P	
Electrical repair shop							P	P	P		P	P											P	P	P	P	P	P	P	P	P	
Electrical substation			P	P			P	P	P	P	P	P						P	P				P	P	P	P	P			P	P	
Electronic assembly/high tech manufacturing											P	P												P						P	P	
Electroplating works											P	P												P						P	P	
Enameling works												P																			P	
Engine repair/motor manufacturing re-manufacturing and/or repair											P	P												P						P	P	
Explosives manufacture or storage																																
Exterminator service							P	P	P		P	P												P		P	P			P	P	
Fair ground											P	P												P				P		P	P	
Family home adult care	P	P	P	P	P	P	P	P	P	P			P	P	P	P	P	P	P	P			P	P	P							
Family home child care	P	P	P	P	P	P	P	P	P	P			P	P	P	P	P	P	P	P			P	P	P							
Farmers market (produce market—wholesale)							P	P	P	P	P	P	P											P		P	P				P	
Farms, general (crops) (see chapter 6 and section 144-5.9	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
Farms, general (livestock/ranch) (see chapter 6 and section 144-5.9	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
Feed and grain store								P	P	P	P	P												P		P	P			P	P	
Fertilizer manufacture and storage																																
Filling station (gasoline tanks must be below the ground)							P	P	P	P	P	P												P		P	P	P	P	P	P	
Florist							P	P	P	P	P	P											P	P	P	P	P	P	P	P	P	
Flour mills, feed mills, and grain processing											P	P	P																		P	
Food or grocery store with gasoline sales							P	P	P	P	P	P												P		P	P	P	P	P	P	
Food or grocery store without gasoline sales							P	P	P	P	P	P											P	P	P	P	P	P	P	P	P	
Food processing (no outside public consumption)											P	P												P						P	P	
Forge (hand)											P	P												P						P	P	
Forge (power)											P	P												P						P	P	
Fraternal organization/civic club (private club)			P	P			P	P	P	P	P	P												P		P	P	P	P	P	P	

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Wire or rod mills																														
Wood distillation plants (charcoal, tar, turpentine, etc.)																														
Woodworking shop (ornamental)						P	P	P	P	P	P										P	P	P	P	P	P			P	P
Wool scouring																														
Zero lot line/patio homes					P															P	P						P		

(Ord. No. 2012-49, § 1(Exh. A), 9-10-12)

New Braunfels, Texas, Code of Ordinances >> PART II - CODE OF ORDINANCES >> Chapter 144 - ZONING >> ARTICLE V. - DEVELOPMENT STANDARDS >>

ARTICLE V. - DEVELOPMENT STANDARDS

Sec. 144-5.1. - Parking, loading, stacking and vehicular circulation.
Sec. 144-5.2. - Drive-through facility or use with drive-through service.
Sec. 144-5.3. - Landscaping, tree preservation, public trees, screening, fences, buffering and lighting.
Sec. 144-5.4. - Accessory uses and structures.
Sec. 144-5.5. - Home occupation regulations.
Sec. 144-5.6. - Bed and breakfast facilities.
Sec. 144-5.7. - Telecommunication towers/antennas.
Sec. 144-5.8. - Industrialized housing.
Sec. 144-5.9. - Agricultural uses.
Sec. 144-5.10. - Temporary uses.
Sec. 144-5.11. - Auto body repair and garages (public).
Sec. 144-5.12. - Automobile or trailer sales rooms or yards or sales of outdoor merchandise.
Sec. 144-5.13. - Bowling alleys, dance halls, shooting galleries, shooting ranges, skating rinks, commercial or public tuber entrance or take out facilities, and similar commercial recreation buildings or activities.
Sec. 144-5.14. - Heavy load and farm machinery sales and service.
Sec. 144-5.15. - Lumberyards.
Sec. 144-5.16. - Accessory recreation.
Sec. 144-5.17. - Short term rental or occupancy.
Sec. 144-5.18. - Sale of alcoholic beverages.
Sec. 144-5.19. - Historic landmarks and districts.
Sec. 144-5.20. - Airport zoning.
Sec. 144-5.21. - General provisions and exceptions, use, height and area regulations.
Sec. 144-5.22. - Non-residential and multifamily design standards.
Sec. 144-5.23. - Temporary vending operations.
Sec. 144-5.24. - Temporary mobile storage units.
Sec. 144-5.25. - Heliports and helistops.

Sec. 144-5.1. - Parking, loading, stacking and vehicular circulation.

5.1-1. *General provisions.*

(a) *Application to existing and future uses.* Except as provided hereafter, the parking space requirements of this chapter shall apply to all buildings hereafter erected, to all changes in use hereafter made, and to all expansions of present uses. Existing uses not meeting the requirements of this section may be continued, and such uses shall be considered as nonconforming uses. Except as provided hereafter, no change in use shall be permitted unless the number of off-street parking spaces required by this section for such proposed use shall have been provided.

The parking requirements of this chapter shall apply to all automobiles, recreational vehicles, boats, trailers and other merchandise, as determined by the planning director, parked on private property for the purpose of sale. Sale may be intended through an on-site office facility or by appointment. These requirements apply to sales of merchandise that is not the seller's personal property and is intended for a commercial purpose.

(b) *Exception to application for existing uses and changes in uses.* Buildings existing in the area defined by the boundary shown on Figure 3 are exempt from having the number of off-street parking spaces required by this section when:

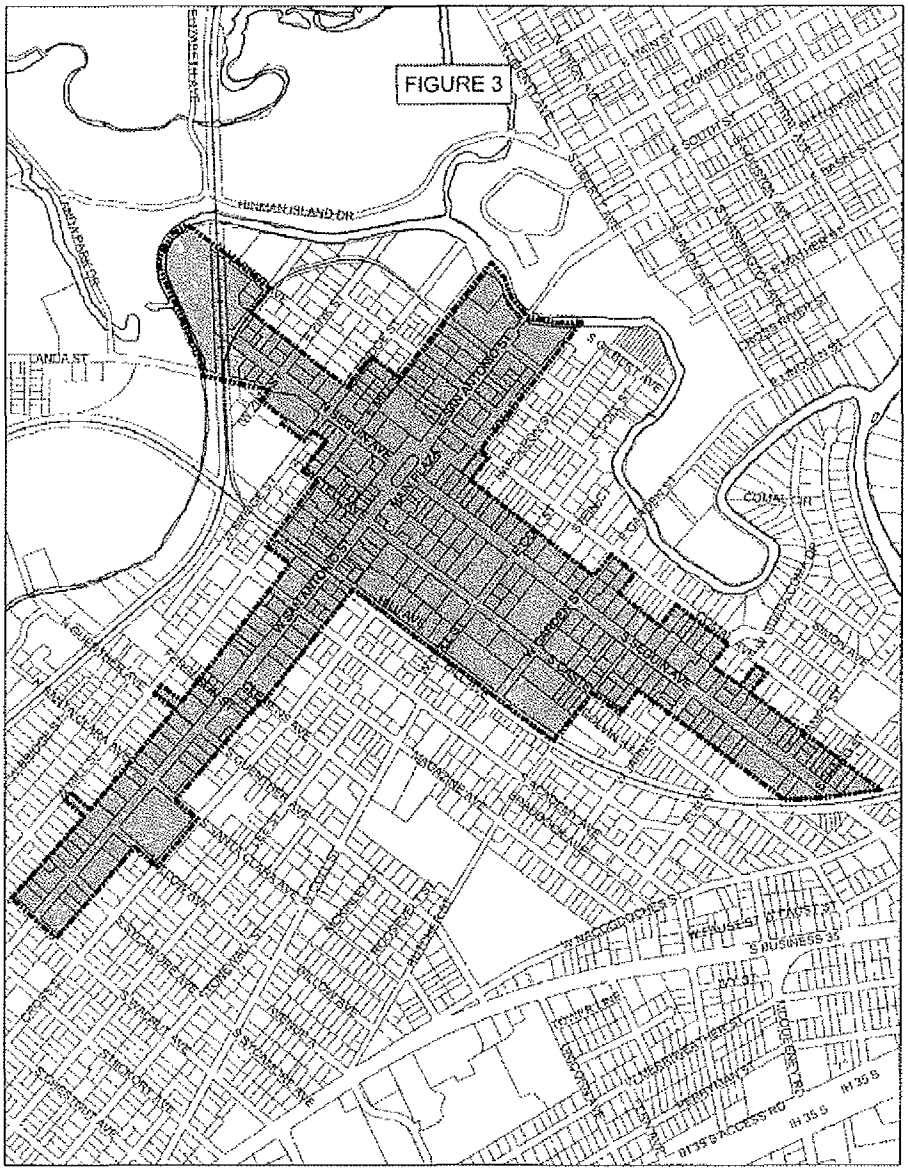
(1) The use of the building is being changed, but the building is not being enlarged;

(2) The building is being reconstructed or renovated, but not enlarged; or

(3) The building is being brought back into use after being vacant.

(4)

Where an existing building is being enlarged by more than ten percent, the parking shall be required for the expanded area only.



(c) *Location.* The off-street parking facilities required for the uses mentioned in this regulation and for other similar uses shall be on the same lot or parcel of land as the structures they are intended to serve, unless a special exception is granted by the zoning board of adjustment (ZBA), in accordance with this chapter.

(d) *Continuing character of obligation.* The schedule of requirements for off-street parking applicable to newly erected or substantially altered structures shall be a continuing obligation of the owner of the real estate on which such structure is located, so long as the structure is in existence or its use requiring vehicle parking continues. No owner of any building affected by these regulations shall discontinue, change or dispense with, or cause the discontinuance or change of, the required vehicle parking spaces apart from the discontinuance or transfer of such structure or without establishing adequate parking spaces which meet with the requirements of, and are in compliance with, these provisions. No person, firm or corporation shall use such building without acquiring such land for vehicle parking which meets the requirements of, and is in compliance with, this section.

(e) *Construction and maintenance.* Off-street parking facilities shall be constructed, maintained and operated in accord with the following specifications:

(1) Areas shall be properly graded for drainage; surfaced with concrete, asphaltic concrete, or asphalt; and maintained in good condition, free of weeds, dust, trash and debris.

(i) In order to enable parking lots to better withstand the natural elements, asphalt in the above section shall be interpreted to include a two-course treatment of asphalt.

(ii) In order to address varying development situations, the city engineer, at his or her discretion, may allow the use of substitute materials, such as pavestone or permeable pavement for construction purposes.

(2) Where the area is adjacent to property used for residential purposes, there shall be provided for the length of the common boundary, a wall or solid screening fence not less than six feet in height, but no taller than eight feet in height, measured from the finished grade of the abutting parking area.

(3) Lighting facilities shall be arranged so that the source of light is concealed from view from adjacent residential property and does not interfere with traffic.

(4) Construction and location of entrances, exits, aprons, stops, etc., shall be according to standard city specifications found in chapter 114 and shall be located so as to minimize traffic congestion.

(5) Any use requiring five or more off-street parking spaces under the provisions of this section shall be required to delineate or mark each space in a manner acceptable to the city. Said delineation or marking shall be in accordance with the parking plan as approved in conjunction with the building permit.

(f) *Minimum dimensions and specifications for off-street parking facilities.* Off-street parking facilities shall be designed to meet the following minimum dimensions and specifications:

(1) Ninety-degree angle parking. Each parking space shall not be less than nine feet in width and 18 feet in length. Maneuvering space shall not be less than 24 feet for one-way or two-way traffic operation. (See Illustration 4.)

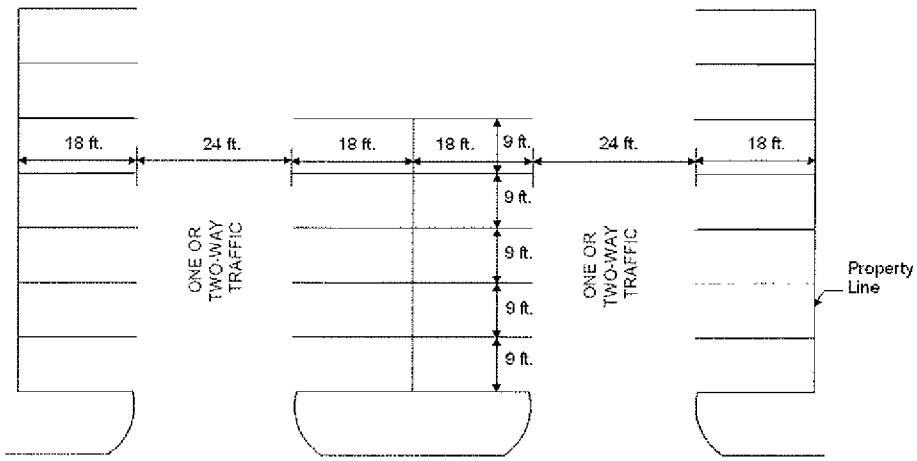


Illustration 4. 90-Degree Layout

(2) Sixty-degree angle parking. Each parking space shall not be less than nine feet wide perpendicular to the parking angle and not less than 20 feet in length when measured at right angles to the building or parking line. Maneuvering space shall not be less than 17 feet six inches for one-way traffic operation, and 20 feet for two-way traffic operation perpendicular to the building or parking line. (See Illustration 5.)

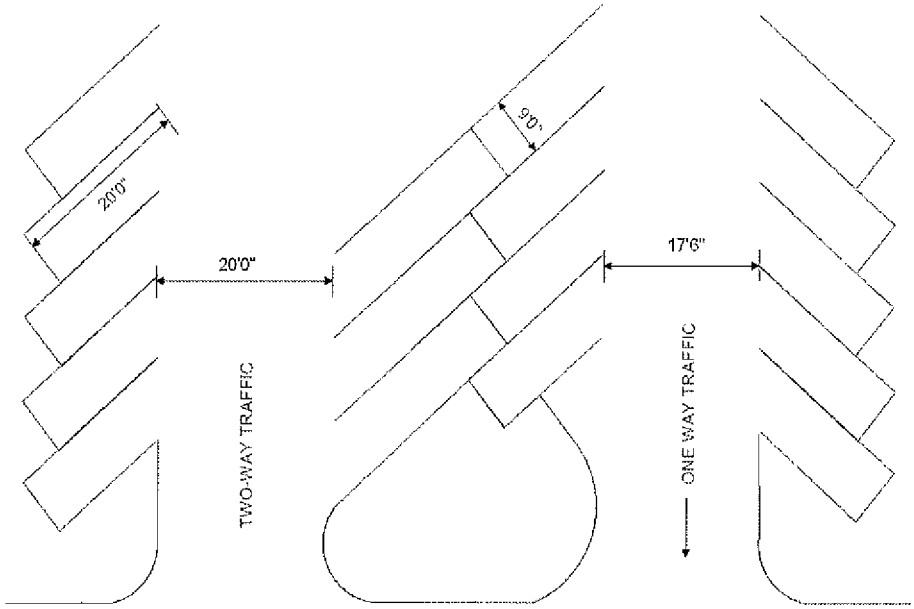


Illustration 5. 60-Degree Layout

(3) Forty-five-degree angle parking. Each parking space shall not be less than nine feet wide perpendicular to the parking angle nor less than 19 feet in length when measured at right angles to the building or parking line. Maneuvering space shall not be less than 13 feet five inches for one-way traffic operation and 20 feet for two-way traffic operation perpendicular to the building or parking line. (See Illustration 6.)

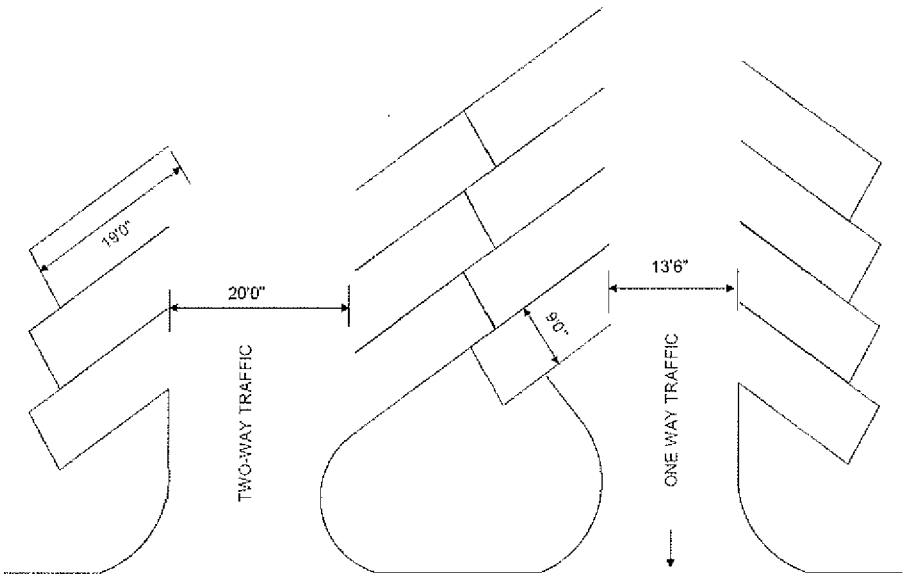


Illustration 6. 45-Degree Layout

(4) Thirty-degree angle parking. Each parking space shall not be less than nine feet wide perpendicular to the parking angle nor less than 15 feet 11 inches in length when measured at right angles to the building or parking line. Maneuvering space shall not be less than 12 feet eight inches for one-way traffic operation and 20 feet for two-way traffic operation perpendicular to the building or parking line. (See Illustration 7.)

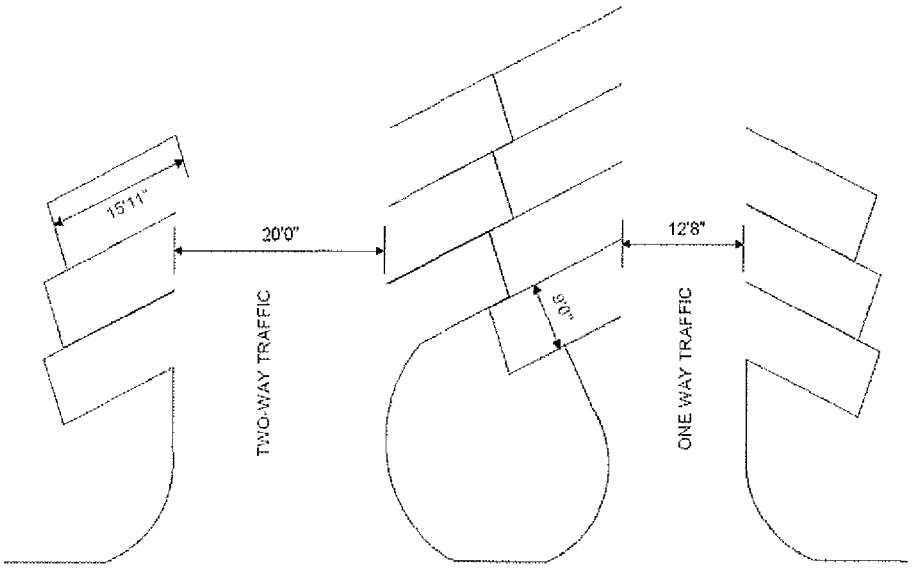


Illustration 7. 30-Degree Layout

(5) Parallel parking. Each parking space shall not be less than nine feet wide perpendicular to the curb or parking line nor less than 22 feet in length measured parallel with the curb or parking line. Maneuvering space shall not be less than ten feet for one-way traffic operation and 20 feet for two-way traffic operation parallel to the parking line.

(6) Island requirements for single row parking. An island, not less than six inches in height and encompassing not less than 180 square feet in area, shall be located at both ends of every single parking row of 25 parking spaces or greater.

(7) Island requirements for double row parking. An island, not less than six inches in height and encompassing not less than 360 square feet in area, shall be located at both ends of every double parking row of 25 parking spaces or greater.

(8) When off-street parking facilities are provided in excess of the minimum amounts herein specified, or when off-street parking facilities are provided, but not required by this section, said off-street parking facilities shall comply with the minimum requirements for parking and maneuvering space herein specified.

(9) Maneuvering space shall not be required for single-family dwellings or two-family dwellings.

(10) Compact parking areas. No more than ten percent of the required number of parking spaces may be compact car spaces. Each compact car parking space shall have the letter "C" painted within the compact space. The letter shall be at least two feet tall. A compact parking space shall be not less than nine feet wide and 16 feet long, if in a 90-degree parking arrangement; 18 feet long for 60-degree parking spaces; 14 feet long for 30-degree parking spaces and 20 feet long for parallel parking.

(11) Parking space overhang. The length of a parking space may include a two-foot overhang of a curb or wheel stop, so long as the overhang is not over a walkway.

(g) *Shared parking.* Shared parking may be allowed in the case of mixed uses (different buildings) under the following conditions:

(1) Up to 50 percent of the parking spaces required for a theater or other place of evening entertainment (after 6:00 p.m.), or for a church, may be provided and used jointly by banks, offices, and similar uses not normally open, used, or operated during evening hours.

(2) The planning director may approve shared parking based on an applicant-submitted parking study demonstrating significantly different peak hours of parking demand.

(3) Shared parking must be on the same parking lot, unless a special exception to on-site parking is granted.

(4) Reduction due to shared parking shall only be allowed if approved on the site plan, the building permit site plan, SUP site plan or PD detail plan.

(5) To assure retention of the shared parking spaces, each property owner shall properly draw and execute an irrevocable mutual parking agreement document expressing the same, approved by the planning director, shall file this agreement with the county, and shall provide a copy of the filed agreement to the city prior to issuance of a certificate of occupancy for any use that relies upon the parking agreement.

(h) *Garage setback.* Where a driveway is located in front of a garage, the garage shall be setback 20 feet from the right-of-way or the driveway to the garage shall be at least 20 feet long to provide enough space for a vehicle to park without overhanging into the right-of-way, if the garage door is closed. (See Illustration 8.)

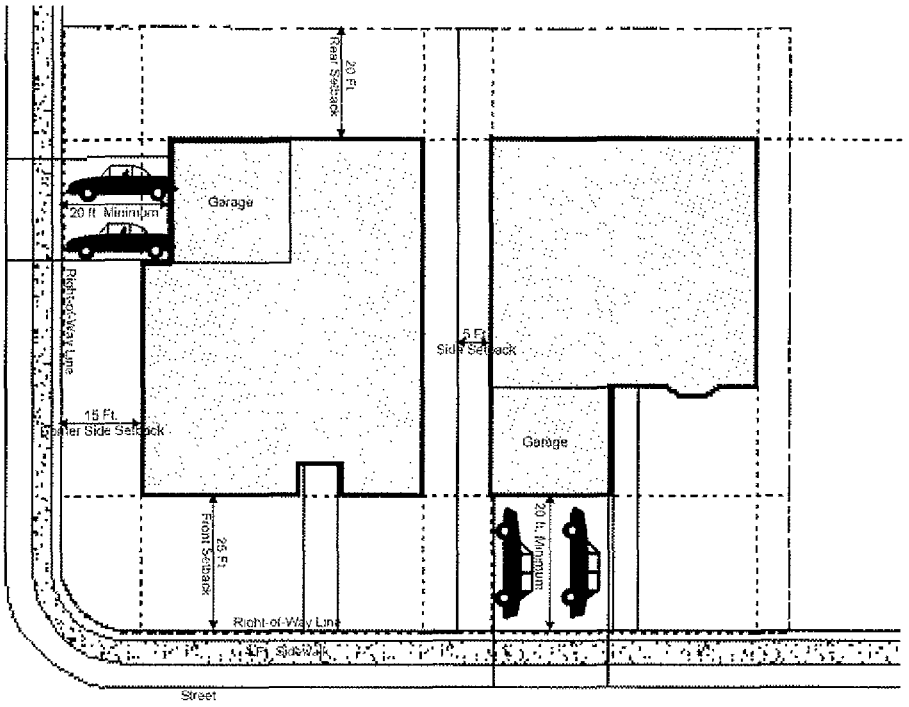


Illustration 8. Residential Garage Setbacks

(i) *Valet parking.*

(1) *Purpose.* Valet parking benefits businesses and their patrons by helping alleviate perceived parking deficiencies, enhancing customer service, and encouraging maximum use of less accessible parking spaces. However, unregulated valet parking may cause traffic flow stoppages, unanticipated traffic movements, parking violations and unauthorized use of public areas and private parking spaces. The purpose of this section is to regulate valet parking where its undesirable effects significantly affect public areas or public safety.

(2) *Definitions.* For the purposes of this section, the following definitions shall apply unless the context clearly indicates or requires a different meeting:

Attendant. A person employed by a licensee who drives a vehicle while providing valet parking.

Person. A natural person, firm, partnership, association, corporation or other business entity, and employees, agents and subcontractors thereof.

Sponsor. Any person who operates, or causes to be operated, a valet parking operation at the sponsor's place of business or function.

Valet parking operation. The receiving, taking possession of, driving, moving, parking, or leaving standing, any vehicle that is left at one location to be driven to another location for parking, whether or not a charge is levied and whether or not done under contract to the business or organization for which the vehicles are being parked, or done independently. It does not include operators of public or private off-street parking operations or facilities where customers park their own vehicles and remove the keys themselves.

Valet parking operator. A person who employs one or more attendants for the purpose of providing a valet parking service or who provides such services as a contractor, but not in the capacity of employee, at any business establishment, for the purpose of providing a valet parking service to such establishment.

Valet parking service. A parking service provided to accommodate patrons of any business establishment, which service is incidental to the business of the establishment and by which an attendant on behalf of the establishments takes temporary custody of the patron's motor vehicle and moves, parks, stores, or retrieves the vehicle for the patron's convenience.

(3) *Permit required.* After the effective date of this chapter, no person shall conduct a valet parking service unless the person has obtained a valid valet parking operator permit, and no valet parking operations

shall be conducted, except in accordance with a valid valet parking operation permit issued by the planning director.

(4) *Valet parking operator permit.* No valet parking permit shall be issued unless the following conditions are met:

(i) The valet parking operator shall park all cars entrusted to the applicant in legal, off-street or legal on-street sites and shall conduct valet parking operations according to the valet parking plan approved by the planning director or designee.

(ii) The applicant provides proof to the city that the applicant has met all the requirements of V.T.C.A., Transportation Code ch. 686, which is adopted by reference into this chapter.

(iii) The permit fee shall be $50.00.

(5) *Valet parking operations.*

(i) The holder of a valet parking permit shall at all time conduct valet parking operations in accordance with this section and in accordance with an approved valet parking plan.

(ii) The valet parking operator and his employees shall, when conducting a valet parking operation, wear a clearly legible patch, insignia, or badge on the clothing stating the name of the valet operation.

(iii) Valet parking spaces may be designated with a portable device, no taller than four feet (cones, for instance) with no markings, letters, words, numbers or lights on them. These devices may only be placed no earlier than one hour before valeting begins, and must be removed within one hour of the cessation of valet parking operations.

(iv) No permanent signs for valet or other signs or devices designating valet parking spaces may be used other than the portable devices defined in subsection (c) of this section.

(v) Circulation in a parking lot shall not be impeded by valet parking operations.

(vi) "Stadium parking," tandem parking, double or triple parking may be approved if circulation is not impeded and is part of an approved valet parking plan.

(vii) If off-site property is used for valet parking, as shown on an approved valet parking plan, and the owner of the off-site property revokes or otherwise abrogates the use of that off-site property for valet parking, said valet parking operation which utilized said off-site parking shall cease to use that property for valet parking. The sponsor must submit a new valet parking plan within 30 days of such loss of off-site parking.

(viii) Valet parking operations may only be conducted in areas shown on an approved valet parking plan. In an event that all of the parking spaces available in that parking plan are in use, the valet parking operations may use other available spaces in the subject parking lot. Under no circumstances will these parking spaces outside the approved valet parking plan be reserved at any time. Valet parking operations outside the approved plan area shall cease when vacancies occur within the approved plan area.

(ix) Vehicles in staging areas used for valet drop off as shown on an approved valet parking plan, may be stored or parked for no longer than five minutes per vehicle.

(x) All temporary structures used in a valet parking operation shall be portable and placed in operation and in view of the public no earlier than one hour before valet parking operations commence and must be removed from the view of the public no later than one hour after the cessation of valet parking operations. These structures may not impede pedestrian circulation nor create a driver view obstruction.

(xi) Fire lanes may not be used to "hold," park, or store vehicles and may not be blocked or impeded by any valet parking operation activity.

(xii) It shall be a violation of this section for a valet to drive a vehicle that violates any law related to moving vehicles or parking.

(xiii) Dashboard ticket. Every valet parking operator shall place or cause the operator's agent to place on the dashboard of each patron's vehicle a ticket stating the valet company and its phone number in such a manner so as to be conspicuously visible through the windshield of the patron's vehicle.

(xiv) Valet parking receipt. All valet parking attendants must, upon taking custody of a patron's vehicle, issue a numbered receipt to each customer, containing the name, address, and telephone number of the company providing the valet service, a statement that the company has liability insurance as required by this chapter, and the charge for the valet service.

(6) *Valet parking plan—Permit required.*

(i) No business or person in the city shall provide a valet parking service nor shall any valet parking operation be conducted unless a valet parking plan for that business or person has been

approved by the planning director, and a valet parking permit has been issued in accordance with this section.

(ii) The valet parking sponsor, or his designee appointed in writing by the sponsor, shall be responsible for submitting the valet parking plan.

(iii) The valet parking permit shall be issued to the valet parking operator.

(iv) Valet parking plan contents:

1. On a sheet no larger than 24 inches by 36 inches, drawn to a scale of one inch equals 20, 30, 40 or 50 feet.
   a. All buildings, parking lot layouts, streets, and fire hydrants within 150 feet of where valet parking operations will take place.
   b. The location of all valet parking spaces.
   c. The location of drop-off and holding areas.
   d. The location and elevations (pictures, renditions) of all structures to be used during valet parking operations.
   e. Valet parking, circulation routes, and patterns.
   f. The time of valet parking operations.
   g. The number of parking spaces to be reserved for valet parking.
   h. The parking pattern (vehicle movement pattern).
2. A valet parking report, including the following:
   a. Data showing that the reserved spaces are available. Parking calculations as follows: that the valet parking spaces are in excess of those required by this chapter; or, if said spaces are not in excess, that the valet spaces are not needed when the valet operations will occur or required; or as part of a condition of a special use permit for any other business than the sponsor; and, or if the valet parking will be conducted on shared parking spaces or off-site.
   b. If spaces off the property being served or the spaces are shared by others than the sponsor, in a shopping center for instance, are utilized, a letter from the off-site property owner of the owner of the spaces that are shared with others than the sponsor, agreeing to the time and location of the designated valet spaces shall be provided. Unless the off-site valet spaces are excess to those required by code, a parking study shall be provided showing the off-site spaces are actually available when valet parking operations.
   c. The time valet parking operations will be conducted.
   d. The number of valet parking spaces to be used by the valet parking operator.
   e. The number of valets to be used.
3. Copies of the valet parking operator's valid valet parking operator's license.
4. The name, address and telephone number of the sponsor and all valet parking operators to be used.
5. If applicable, agreements with off-site businesses to use their property for valet operations and a parking study showing such spaces are available.
6. Any other information deemed necessary by the planning director.

5.1-2. *Measurement and computation.*

(a) *Mixed uses.* Where more than one use exists on the same site or in the same building, the portion of such site or building devoted to each use shall be used in computing the number of off-street parking spaces required for such use. For such site or building the total requirements for off-street parking spaces shall be the sum of the requirements of the various uses computed separately. The off-street parking space for one use shall not be considered as providing the required off-street parking space for another use.

(b) *Fractional measurement.* When the requirement for each separate use is computed, fractions shall be counted at their actual value. When units of measurements determining the total number of required off-street parking spaces result in a requirement of a fractional space, any fraction less than one-half shall be disregarded. Any fraction of one-half or over shall require one off-street parking space.

5.1-3. *Schedule of required spaces.*

(a) *Interpretation.* The classification of uses enumerated in this schedule are general and are intended to include all similar uses. Where classification of use is not determinable from said schedule, the planning director shall fix the classification.

(b)

For each structure designed for any of the following uses, or for any like use, no less than the number of parking spaces required shall be provided according to the following schedule:

PERMITTED USE	MINIMUM VEHICLE SPACES
Adult care facility	One for each two employees or staff members, PLUS One space for each five adults for which the facility is licensed by the state
Ambulance service	One for each 400 sq. ft. of gross floor area
Amphitheaters	One for each four persons based on maximum occupancy capacity
Amusement parks	One for each 600 sq. ft. of outdoor recreation area, and One for each 400 sq. ft. of indoor recreation area
Amusement services	One for each 200 sq. ft. of gross floor area
Animal grooming shops	One for each 400 sq. ft. of gross floor area
Antique shops	One for each 400 sq. ft. of gross floor area
Apartments	Two-bedroom apartment or unit .....Two One-bedroom apartment or unit .....One and one-half Each additional bedroom .....One-half Each dwelling unit provided exclusively for low income elderly occupancy .....Three-fourths ("Low income elderly" is defined as any person 55 years of age or older with low or moderate income, according to HUD standards.)
Archery ranges	One for each 600 sq. ft. of outdoor recreation area, and One for each 400 sq. ft. of indoor recreation area
Arenas	One for each four persons based on maximum occupancy capacity
Art dealer/gallery	One for each 400 sq. ft. of gross floor area
Artist or artisans studio	One for each 400 sq. ft. of gross floor area
Assisted living/retirement homes	One for each four employees, and One for each four patient beds, and One for each staff doctor
Asylums	One for each four employees, and One for each four patient beds, and One for each staff doctor
Assembly halls	One for each 200 sq. ft. of gross floor area
Auditoriums	One for each 200 sq. ft. of gross floor area, or One for each four seats, or One for each three persons of total building occupancy, whichever is greater
Auto leasing	One for each 400 sq. ft. of gross floor area
Auto glass repair/tinting	One for each 400 sq. ft. of gross floor area
Automobile driving school	One for each 200 sq. ft. of gross floor area
Auto muffler shops	One for each 300 sq. ft. of gross floor area
Automobile repair shops	Three per service bay
Bakery	One for each 400 sq. ft. of gross floor area
Banks and other financial/ lending institutions	One for each 200 sq. ft. of gross floor area
Barber and beauty shops	One for each 200 sq. ft. of gross floor area
Bars	One for each four seats for patron use, or One for each 100 sq. ft. of gross floor area, whichever is greater
Bed and breakfasts	See section 144-5.6
Bicycle sales and repair	One for each 400 sq. ft. of gross floor area
Billiard/pool facility	One for each 200 sq. ft. of gross floor area
Bingo facility	One for each 200 sq. ft. of gross floor area
Blueprinting	One for each 1,000 sq. ft. gross floor area/lot area
Boarding house	One for each two person the establishment is designed to house, PLUS One for each three employees
Bowling alleys	One for each 400 sq. ft. of gross floor area
Brake shops	Three per service bay
Cabins	One-bedroom apartment or unit .....One and one-half Two-bedroom apartment or unit .....Two Each additional bedroom .....One-half
Car wash	Three stacking spaces per approach lane, PLUS Two drying spaces per stall
Carpenter, cabinet or pattern shops	One for each 400 sq. ft. of gross floor area
Carpet cleaning	One for each 400 sq. ft. of gross floor area
Children's day care center	One for each two employees or staff members, PLUS One space for each five children for which the facility is licensed by the state
Churches	One for each 400 sq. ft. of gross floor area
Circus tents	One for each 400 sq. ft. of gross floor area
Civic clubs not providing regular service of food or alcoholic beverages. (If overnight	One for each five members or one for each 300 sq. ft. of gross floor area, PLUS One for each 5,000 sq. ft. of gross land area, whichever is greater

accommodations are provided, the requirements of section 144-5.1-3 shall be applicable.)	
Club having sleeping accommodations	One for each two person the establishment is designed to house, PLUS One for each three employees
Colleges and universities	One for each two teachers and members of the technical and administrative staff, PLUS One for each four additional persons employed on the premises, PLUS One for each five students capacity not residing on campus
Community home	One for each four employees, and One for each four patient bed, and One for each staff doctor
Computer repair	One for each 400 sq. ft. of gross floor area
Conference centers	One for each 200 sq. ft. of grow floor area, or One for each four seats, or One for each three persons of total building occupancy, whichever is greater
Contractor's equipment yard	One for each 1,000 sq. ft. gross floor area/lot area
Convalescent homes	One for each four employees, and One for each four patient beds, and One for each staff doctor
Convenience store	One for each 200 sq. ft. of gross floor area
Convention centers	One for each 200 sq. ft. of gross floor area, or One for each four seats, or One for each three persons of total building occupancy, whichever is greater
Cottages	One-bedroom apartment or unit .....One and one-half Two-bedroom apartment or unit .....Two Each additional bedroom .....One-half
Custom workshops	One for each 200 sq. ft. of gross floor area
Dancehalls	One for each four seats for patron use, or One for each 100 sq. ft. of gross floor area, whichever is greater
Dental clinics	One for each 300 sq. ft. of gross floor area
Dormitory	One for each two person the establishment is designed to house, PLUS One for each three employees
Driving range	One for each 400 sq. ft. of gross floor area
Duplex	Two off-street parking spaces per dwelling unit
Electrical repair shop	One for each 400 sq. ft. of gross floor area
Exercise studio and health clubs	One for each 200 sq. ft. of gross floor area
Exhibition halls	One for each 400 sq. ft. of gross floor area
Fabricating plants	One for each 1,000 sq. ft. gross floor area/lot area
Fair and rodeo grounds	One for each 600 sq. ft. of outdoor recreation area, and One for each 400 sq. ft. of indoor recreation area
Feed mills	One for each 1,000 sq. ft. gross floor area/lot area
Filling stations	One for each 400 sq. ft. of gross floor area
Flour mills	One for each 1,000 sq. ft. gross floor area/lot area
Fraternal organizations not providing overnight accommodations or any regular service of food or alcoholic beverages and not affiliated with a college or university. (If overnight accommodations are provided, the requirements of section 144-5.1-3 shall be applicable.)	One for each five members, or One for each 300 sq. ft. of gross floor area, PLUS One for each 5,000 sq. ft. of gross land area, whichever is greater
Fraternity	One for each two persons the establishment is designed to house, PLUS One for each three employees
Funeral homes	One for each 400 sq. ft. of gross floor area
Go-cart tracks	One for each 600 sq. ft. of outdoor recreation area, and One for each 400 sq. ft. of indoor recreation area
Grain elevators	One for each 1,000 sq. ft. gross floor area/lot area
Grain processing plants	One for each 1,000 sq. ft. gross floor area/lot area
Grocery stores (less than 100,000 sq. ft.)	One for each 200 sq. ft. of gross floor area
Group quarters	One for each two person the establishment is designed to house, PLUS One for each three employees
Handicraft shops	One for each 400 sq. ft. of gross floor area
Homes for the aged and infirm	One for each four employees, and One for each four patient beds, and One for each staff doctor
Hospice	One for each four employees, and One for each four patient beds, and One for each staff doctor

Hospitals and all other similar institutions	One for each four employees, and One for each four patient beds, and One for each staff doctor
Hotel	One and one-tenth for each bedroom
Industrial/manufacturing and construction uses listed in the land use matrix	One for each 1,000 sq. ft. gross floor area/lot area
Kindergarten	One for each two employees or staff members, PLUS One space for each five children for which the facility is licensed by the state
Laboratories	One for each 300 sq. ft. of gross floor area
Laundries, washaterias, dry cleaners	One for each 300 sq. ft. of gross floor area
Libraries	One for each 400 sq. ft. of gross floor area
Livestock auctions	One for each 1,000 sq. ft. gross floor area/lot area
Locksmiths	One for each 400 sq. ft. of gross floor area
Lodges not providing overnight accommodations or any regular service of food or alcoholic beverages and not affiliated with a college or university. (If overnight accommodations are provided, the requirements of section 144-5.1-3 shall be applicable.)	One for each five members, or One for each 300 sq. ft. of gross floor area, PLUS One for each 5,000 sq. ft. of gross land area, whichever is greater
Lodging	One for each two persons the establishment is designed house to house, PLUS One for each three employees
Lunch counters and drive-ins	One for each four seats for patron use, or One for each 100 sq. ft. of gross floor area, whichever is greater
Lumberyards	One for each 1,000 sq. ft. gross floor area/lot area
Maintenance/janitorial service	One for each 400 sq. ft. of gross floor area
Manufactured or mobile home	Two
Meat markets (less than 100,000 sq. ft.)	One for each 200 sq. ft. of gross floor area
Medical clinics	One for each 300 sq. ft. of gross floor area
Medical supplies and equipment	One for each 400 sq. ft. of gross floor area
Miniature golf	One for each 600 sq. ft. of outdoor recreation area, and One for each 400 sq. ft. of indoor recreation area
Mini-storage warehouses	Four minimum One for 300 sq. ft. of service/retail area, PLUS Two per living quarters No storage of any material or vehicles is allowed in required parking. Rent vehicle areas shall be in striped parking areas and not in required parking spaces. Aisle width of drives located in the storage area shall be at least 24 feet wide.
Mortuaries	One for each 400 sq. ft. of gross floor area
Motel	One and one-tenth for each bedroom
Motor vehicle filling stations	One for each 200 sq. ft. of gross floor area
Motor vehicles sales	One for each 400 sq. ft. of gross floor area
Motion picture houses	One for each five seats for patron use
Muffler shops	Three per service bay
Multifamily, apartments, hotel units	One-bedroom apartment or unit .....One and one-half Two-bedroom apartment or unit .....Two Each additional bedroom .....One-half Each dwelling unit provided exclusively for low income elderly occupancy .....Three-fourths ("Low income elderly" is defined as any person 55 years of age or older with low or moderate income, according to HUD standards)
Museums	One for each 400 sq. ft. of gross floor area
Nightclubs	One for each four seats for patron use, or One for each 100 sq. ft. of gross floor area, whichever is greater
Nursing homes	One for each four employees, and One for each four patient beds, and One for each staff doctor
Office and service uses	One for each 300 sq. ft. of gross floor area
One-family dwelling, detached	Two
Orphanages	One for each four employees, and One for each four patient beds, and One for each staff doctor
Outdoor amusement and recreation establishments	One for each 600 sq. ft. of outdoor recreation area, and One for each 400 sq. ft. of indoor recreation area
Outdoor rides	One for each 600 sq. ft. of outdoor recreation area, and One for each 400 sq. ft. of indoor recreation area
Passenger terminals	One for each 400 sq. ft. of gross floor area

Photographic supply	One for each 400 sq. ft. of gross floor area
Plant nurseries	One for each 250 sq. ft. of gross indoor sales and display area, PLUS One for each 1,000 sq. ft. of outdoor display area
Printing and engraving plants	One for each 1,000 sq. ft. gross floor area/lot area
Private clubs and community clubs not providing regular service of food or alcoholic beverages. (If overnight accommodations are provided, the requirements of section 144-5.1-3 shall be applicable.)	One for each four members, or One for each 300 sq. ft. of gross floor area, PLUS One for each 3,000 sq. ft. of gross land area up to ten acres, and One for each 6,000 sq. ft. of gross land area in excess of ten acres, whichever is greater
Private clubs and community clubs providing regular service of food or alcoholic beverages	One for each two members, or One for each 300 sq. ft. of gross floor area, PLUS One for each 1,500 sq. ft. of gross land area up to ten acres, and One for each 5,000 sq. ft. of gross land area in excess of ten acres, whichever is greater
Public storage rental units	Four minimum One for 300 sq. ft. of service/retail area, PLUS Two per living quarters No storage of any material or vehicles is allowed in required parking. Rent vehicle areas shall be in striped parking areas and not in required parking spaces. Aisle width of drives located in the storage area shall be at least 24 feet wide.
Public utility building (except offices)	One for each 1,000 sq. ft. gross floor area/lot area
Quick lube oil change	Three per service bay
Racetracks	One for each four persons based on maximum occupancy capacity
Radio and television studio	One for each 400 sq. ft. of gross floor area
Research laboratories	One for each 1,000 sq. ft. gross floor area/lot area
Restaurants and all other similar dining or drinking establishments	One for each four seats for patron use, or One for each 100 sq. ft. of gross floor area, whichever is greater
Retail establishments, 100,000 sq. ft. or larger	One for each 400 sq. ft. of gross floor area
Retail establishments, less than 100,000 sq. ft.	One for each 200 sq. ft. of gross floor area
Rooming house	One for each two person the establishment is designed to house, PLUS One for each three employees
Sales, display, customer or office areas in wholesale establishments	One for each 200 sq. ft. of gross floor area
Sanitariums	One for each four employees, and One for each four patient beds, and One for each staff doctor
Schools, elementary and junior high schools (public, parochial, private)	One for each two teachers, and One for each two persons employed on the premises, and One for each bus if kept at the school
Schools, senior high schools (public, parochial, private)	One for each two teachers, and One for each two persons employed on the premises, and One for each ten enrolled students, and One for each bus
Schools, martial arts	One for each 300 sq. ft. of gross floor area
Schools, vocational	One for each two teachers and members of the technical and administrative staff, PLUS One for each four additional persons employed on the premises, PLUS One for each five students capacity not residing on campus
Shooting ranges	One for each four persons based on maximum occupancy capacity
Shooting ranges, outdoor	One for each 600 sq. ft. of outdoor recreation area, and One for each 400 sq. ft. of indoor recreation area
Skating rinks	One for each 200 sq. ft. of gross floor area
Soft-drink bottling establishments	One for each 1,000 sq. ft. gross floor area/lot area
Sorority	One for each two persons the establishment is designed to house, PLUS One for each three employees
Stadiums and athletic fields	One for each four persons based on maximum occupancy capacity
Studios for art, dance, music, drama, reducing, etc.	One for each 200 sq. ft. of gross floor area
Supermarkets, less than 100,000 sq. ft.	One for each 200 sq. ft. of gross floor area
Tailor shops	One for each 400 sq. ft. of gross floor area
Taverns	One for each four seats for patron use, or One for each 100 sq. ft. of gross floor area, whichever is greater
Taxidermist	One for each 400 sq. ft. of gross floor area
Theaters	One for each five seats for patron use
Townhouse, attached	Two
	One and one-tenths for each bedroom

Transient accommodations (similar to hotel, motel, tourist home)	
Truck or transit depots, terminals	One for each 400 sq. ft. of gross floor area
Tube rentals and like uses	One for every 100 sq. ft. of building, including tube storage structures, or One space for every four tubes measured by the cubic area of the tube storage area, whichever is greater
Upholstery shop	One for each 400 sq. ft. of gross floor area
Vacuum cleaner sales and repair	One for each 400 sq. ft. of gross floor area
Veterinary hospitals	One for each 300 sq. ft. of gross floor area
Warehouses and storage buildings and yards (except mini-storage warehouses)	One for each 1,000 sq. ft. gross floor area/lot area
Warehouse and storage areas in wholesale establishments	One for each 1,000 sq. ft. gross floor area/lot area
Welding shop	One for each 400 sq. ft. of gross floor area
Well drilling equipment yard	One for each 1,000 sq. ft. gross floor area/lot area
Zero lot line/patio home	Two

(Ord. No. 2012-49, § 1(Exh. A), 9-10-12)

Sec. 144-5.2. - Drive-through facility or use with drive-through service.

5.2-1. *Applicability.* This section applies to an accessory use to principal use such as a bank or fast food restaurant, designed to enable customers in parked vehicles to transact business with persons inside of the principal building.

5.2-2. *Purpose and intent.* Products of the automobile age, drive-through facilities have become a common amenity for a specific range of uses, including banks, freestanding drug stores, and fast food restaurants. A well designed drive-through on a parcel with adequate area can be convenient for motorists and have minimal impact upon the streetscape and pedestrians. Conversely, a poorly designed drive-through on a parcel of inadequate size can cause problems with traffic circulation and create areas that are hostile to the pedestrian. Moreover, drive-throughs have the potential to generate undesirable impacts for adjacent properties such as odors from vehicle exhaust and noise from engines, car stereos, and menu board speakers. The purpose and intent of this section is to establish appropriate standards which allow for the typical range of activities while ensuring public safety and mitigating the associated impacts.

5.2-3. *Establishment.* Drive-through facility with drive-through service uses shall be allowed as provided in the matrix: Use permissions and parking requirements and shall comply with the development standards of the zoning district, the general development standards and this section.

5.2-4. *Special use standards.*

5.2-5. *Minimum stacking requirements.*

(a) Restaurant and retail establishments, such as drug stores, pharmacies, or beverage stores, shall provide not less than five stacking spaces at or behind the menu board.

(b) Financial institutions shall provide not less than three stacking spaces at or behind the pneumatic tube for the drive-through.

(c) Drive-through stacking lanes shall be delineated from other vehicular use areas by means of a landscaped divider median. Stacking lanes may include part of the drive aisles in a parking area.

5.2-6. *Pedestrian connections.*

(a) Drive-through lanes that obstruct the pathway between parking areas and entries into the building shall be designed with a pedestrian crossing that is delineated by landscaping, curbing, raised or decorative pavement, and signage.

(b) Where a drive-through lane intersects a public or private sidewalk, the sidewalk pavement shall be continued through the driveway to clearly delineate the pedestrian network. The maximum width of a driveway shall be 24 feet at the intersection of a public sidewalk.

5.2-7. *Speaker box.* No drive-through speaker shall be oriented to face a single-family residential use or "residential" zoning district.

5.2-8. *Hours of operation.* When the drive-through facility abuts a residential use or "residential" zoning district, drive-through services shall be prohibited from the hours of 12:00 a.m. and 6:00 a.m. weekdays and between 1:00 a.m. and 6:00 a.m. Saturday and Sunday, This prohibition shall apply to any drive-through facility operation after the passage of this ordinance (September 10, 2012) except those facilities that were on that date, and continue to be, operating during the

prohibited hours. Any drive-through facility that was legally operating during the prohibited hours before the passage of this ordinance (September 10, 2012) and ceases such operation for any period of time shall, thereafter, comply with this requirement that drive-through services are prohibited during certain hours.

5.2-9. *Location.* Drive-through facilities shall be located to take advantage of the first available alternative in the following prioritized list:

1. Interior side or rear yard when either yard abuts a non-residential use;
2. Street side yard when the interior side and rear yard abut an existing residential use or a "residential" zoning district, or when abutting a non-residential use, the interior side and rear yard are impractical due to the lot's physical constraints or concerns regarding vehicle and pedestrian safety.

5.2-10. *Lighting.* Lighting shall be shielded in accordance with the general development standards for lighting per section [5.3-3] of this chapter.

5.2-11. *Landscape and buffering.* The drive-through, drop off or drive up facility shall be buffered and visually screened from residential development with a masonry wall and landscaping.

(a) When a multifamily or non-residential development is adjacent to land used or zoned for single-family or two-family development the combination of fencing and plantings help disperse sound waves, therefore:
  (1) A minimum two-inch diameter tree per 20 linear feet shall be planted along the common property line of the single-family or two-family property. A variety of native tree species shall be used. Shade trees must be used, unless near utility lines where ornamental trees must be used. All new trees shall be provided with a permeable surface of 60 square feet per tree under the drip line. All planting areas shall be a minimum of five feet in width.
  (2) A minimum of one 24-inch high native Texas bush/shrub per five linear feet. Plantings may be clustered in the buffer area.
  (3) Maintenance. All plant material shall be regularly maintained in conformity with accepted practices for landscape maintenance; Each planting bed shall be served by at least one permanent automatically controlled irrigation line.
  (4) Parking areas visible from the public street must be screened by hedges/shrubberies which will be a minimum of 36 inches high within three years of planting.

(b) Sidewalks of six feet width, abutting the curb, will be installed when no sidewalk exist.

(c) Front yard landscaping.
  (1) The front yard setback must maintain a 50-percent permeable surface. Of that area, 50 percent must be living plant material.
  (2) There must be a minimum of one shade tree per 25 linear feet of street frontage.

(d) Trash cans shall be located in the rear yard and screened from view from the public right-of-way.

(Ord. No. 2012-49, § 1(Exh. A), 9-10-12)

Sec. 144-5.3. - Landscaping, tree preservation, public trees, screening, fences, buffering and lighting.

5.3-1. *Landscaping, tree preservation, public trees and screening.*

(a) *Jurisdiction.* The terms and provisions of these regulations shall apply to the city limits.

(b) *Landscaping.*
  (1) *Purpose.* Landscaping is accepted as adding value to property and is in the interest of the general welfare of the city. The provision of landscaped areas also serves to increase the amount of a property that is devoted to pervious surface area which, in turn, helps to reduce the amount of impervious surface area, storm water runoff, and consequent non-point pollution in local waterways. Therefore, landscaping is hereafter required of new development as provided in this section, except landscaping is not required for single-family and two-family, and agricultural uses.
  (2) *Scope and enforcement.*
    (i) The standards and criteria contained within this article are deemed to be minimum standards and shall apply, as of the effective date of this section (August 29, 2005), to all new construction requiring a building permit (including uses such as schools, day care centers, and churches) as well as city and county uses occurring within the city, except that single-family or two-family dwellings shall be exempt. Additionally, any special use permit or a PD zoning application for those uses that are not single-family or two-family dwellings, must comply with these landscape standards unless special landscaping standards are otherwise provided for in the ordinance establishing the SUP or PD district.

(ii) The provisions of this article shall be administered by the planning director.

(iii) For all landscaping installed as a requirement of this section, if at any time after the issuance of a certificate of occupancy, the approved landscaping is found to be not in conformance with the standards and criteria of this article, the planning director shall issue notice to the owner, citing the violation and describing what action is required to comply with this article. The owner shall have 90 days from date of said notice to establish/restore the landscaping, as required. If the landscaping is not established/restored within the allotted time, then such person shall be in violation of this chapter.

(iv) Existing development.

1. No additional landscaping shall be required when a building is enlarged on an existing tractor lot.
2. Where a parking lot is being enlarged, only the parking lot area being added shall be required to meet the standards of this section. For instance, if a parking lot is expanded in an area not adjacent to a street, no street yard landscaping is required, and only the area being added would be subject to the parking lot shade standards.

(3) *Permits and certificate of occupancy.*

(i) Permits. No building permit shall be issued until a landscape plan, as provided for in subsection 144-5.2-1(c)(4), is submitted and approved by the planning director. A landscape plan shall be required as part of the building permit application submission for all applicable properties.

(ii) Certificate of occupancy. Prior to the issuance of a certificate of occupancy for any applicable building or structure, all landscaping shall be in place in accordance with the landscape plan, unless a temporary certificate of occupancy is issued in accordance with the provisions of this article.

(iii) In any case in which a certificate of occupancy is sought in which the planning director determines that it would be impractical (too wet, too dry, too hot or too cold) to plant trees, shrubs or groundcover, or to successfully establish turf areas, a temporary certificate of occupancy may be issued provided there is agreement between the property owner and the planning director as to when installation will occur. All landscaping required by the approved landscape plan shall be installed within six months of the date of the issuance of the temporary certificate of occupancy.

(4) *Approval procedures.*

(i) *Approvals.* The planning director, or his designee, shall review and approve or disapprove such landscape plan within ten days of the receipt of an application for a building permit and landscape plan. If the landscape plans are in accordance with the criteria of these regulations, the planning director shall approve same. If the plans are not in conformance, they shall be disapproved and shall be accompanied by a written statement setting forth the changes necessary for compliance.

(ii) *Alternate landscape plan.* The planning director may approve an alternate landscape plan. The applicant shall demonstrate that the reasons for the reduction in landscaping or deviations from other provisions of this section are appropriate, why the alternative plan is appropriate, and why it is consistent with the purposes of this section. The planning director for any reason may forward the alternate landscape plan to the zoning board of adjustment for its consideration.

(iii) *Appeal.*

1. If the planning director disapproves the landscape plan or alternate landscape plan, appeal may be made in writing to the zoning board of adjustment. Such appeal must be made within 90 days of the planning director's denial. The zoning board of adjustment shall have the authority to approve the existing plan or to approve an alternate landscape plan. The applicant shall demonstrate reasons the reduction in landscaping or other site design features are appropriate. The zoning board of adjustment shall make a decision on all appeals within 60 days of the date of appeal application. A simple majority vote of the members present is necessary to approve or approve with conditions an alternate landscape plan.
2. Other appeals concerning the interpretation of this section by any city official shall be processed and considered in accordance with the zoning ordinance.

(iv) *Alternate landscape plan criteria.* The planning director and the zoning board of adjustment shall use the following criteria and standards when considering an alternate landscape plan:

1. The landscape standards are not intended to be so specific as to inhibit creative development. Project conditions associated with individual sites may justify approval of alternative methods of compliance. Conditions may arise where normal compliance is impractical or where the aesthetic and environmental purposes of this section can be better achieved through alternative compliance.

2. Conditions which shall be considered when evaluating alternative compliance include:
   i. Topography, soil, vegetation, drainage, and other site conditions are such that full compliance is impractical.
   ii. Improved environmental quality would result from the alternative plan.
   iii. The land is unusually shaped.
   iv. Public safety is a consideration.
   v. Conformity to and compatibility with the existing character of the surrounding or nearby area lend themselves to alternative compliance.
3. If proposed landscape plan calls for a reduction of the landscape requirements by more than 25 percent, the proposed plan shall not be considered an alternate plan but rather a variance. This will require application for a variance. An affirmative vote of four members of the zoning board of adjustment shall be required to approve a variance or a variance with conditions.

(v) *Variances.* Variances to provisions of this section shall be processed and considered in accordance with the zoning ordinance.

(5) *Landscape plan.* Landscaping plans shall contain the following minimum information:
- (i) Minimum scale of one inch equals 100 feet; show scale in both written and graphic form.
- (ii) Location, size and common name of existing trees that are greater than or equal to an eight-inch diameter measured four and one-half feet above the ground, except those listed in Appendix B [to this subsection 144-5.3-1]. Any tree which is proposed to be saved as credit for the landscaping requirements in this article shall also be shown.
- (iii) Location, size (container size, planted height, etc.) and common name of all trees and shrubs to be planted as part of the landscape plan.
- (iv) Location and design of all landscaping materials to be used, including paving, screens, earthen berms and ponds.
- (v) Spacing of plant material where appropriate.
- (vi) Layout and description of irrigation, hose bibs, or water systems including location of water sources.
- (vii) Description of maintenance provisions.
- (viii) Name and address of the person(s) responsible for the preparation of the landscape plan including the name and address of the project.
- (ix) North arrow/symbol.
- (x) A legible location map showing where the property is located.
- (xi) Dumpster and outside trash receptacle areas.
- (xii) Fences by height and material and any other screening devices or vegetation.
- (xiii) Date of the landscape plan.
- (xiv) The planning director may waive any of this information.

(6) *General standards.* The following criteria and standards shall apply to landscape materials and installation:
- (i) Landscaping materials such as wood chips, mulch or gravel may be used under trees, shrubs and other plants.
- (ii) Plant materials shall conform to the standards of the current edition of the "American Standard for Nursery Stock" (as amended), published by the American Association of Nurserymen. Grass seed, sod and other material shall be clean and reasonably free of weeds and noxious pests and insects. All landscaping shall be selected from the approved plant list in Appendix A.
- (iii) Grass areas shall be sodded, plugged, sprigged, hydro-mulched and/or seeded, except that solid sod or other erosion control devices shall be used in swales, earthen berms or other areas subject to erosion.
- (iv) Ground covers shall be planted in such a manner as to present a finished appearance and reasonably completed coverage within one year of planting.
- (v) Preserved tree credit. Any trees preserved on a site meeting the herein specifications may be credited toward meeting the total tree requirement of this article, according to the following table:

Diameter of Existing Tree measured 4.5' above ground	Credit Toward Tree Requirement
0" to 2½"	No credit
2½" to 8"	One inch credit for every inch of diameter of existing tree

8" to 24"	Two inches of credit for every inch of diameter of existing tree
24" or more	Three inches of credit for every inch of diameter of existing tree

Every two and one-half inches of tree credit shall equal one required tree.

However, in no case shall the number of required trees in the residential buffer be decreased below the minimum number as required in this article.

Should any required tree designated for preservation in the landscape plan die, the owner shall replace the tree with a one and one-half-inch minimum diameter tree measured six inches above the ground.

(vi) Earthen berms shall have side slopes not to exceed 33 percent (three feet of horizontal distance for each one foot of vertical height). All berms shall contain necessary drainage provisions as may be required by the city's engineer.

(vii) Utilities. No trees or other landscaping may be planted on public or private property that will mature within ten lateral feet of any overhead utility wire, or over or within five lateral feet of any underground water line, sewer line, electric line or other utility. Ornamental trees as listed in Appendix A shall be installed in the affected landscaping areas as required, including street frontage trees and shrubs in accordance with subsection 144-5.2-1(c)(7)(A)2.

(7) *Minimum landscaping requirements.*

(A) *Parking lot screening and landscaping.* See Illustrations 9 and 10. Subject to the provisions of section 144-5.2-1, the following landscaping is required for parking lots:

1. *Street frontage landscape buffer area.* Where a parking lot is adjacent to and within 50 feet of public street right-of-way, a minimum five-foot landscape buffer adjacent to the right-of-way of any street is required. Lots adjacent to two streets or more shall be required to observe the five-foot buffer on all frontages. Trees within street rights-of-way shall not count toward the number of trees required for a development site, unless approved by the planning director.

2. *Street frontage trees and shrubs.* Where a parking lot is adjacent to and within 50 feet of public street right-of-way, a minimum of one minimum one and one-half-inch diameter tree and four five-gallon or three-foot tall shrubs for every 40 feet (or portion thereof) of street frontage shall be installed using trees from the approved plant list (Appendix A). Shade trees must be used, unless near utility lines where ornamental trees must be used, as required in subsection 144-5.2-1(c)(6)(vii). Trees shall be planted no closer than 20 feet apart. In no event may trees other than ornamental trees listed in Appendix A be planted under overhead power lines. All new trees shall be provided with a permeable surface of 60 square feet per tree under the drip line. All planting areas shall be a minimum of five feet in width.

3. *Parking lot shading.* A minimum of one minimum one and one-half-inch diameter tree per 14 parking spaces shall be planted in or adjacent to a parking lot. Shade trees must be used, unless near utility lines where ornamental trees must be used, as required in subsection 144-5.2-1(c)(6)(vii). All trees shall be planted in a minimum permeable area of 100 square feet per tree. These trees may be clustered and are in addition to the required street frontage trees. This paragraph does not apply to a parking lot that is located further than 300 feet from public street right-of-way or otherwise obstructed from view from a public street.

4. *Turf.* No more than 30 percent of the parking lot landscaped area, not including detention ponds, shall be turf grasses, except buffalo and prairie grasses may be planted. Xeriscaping is preferred.

5. *Residential buffer.* Where a multifamily or non-residential development is adjacent to land used or zoned only for single-family or two-family development, a six-foot (minimum) to eight-foot (maximum) masonry wall plus one minimum one and one-half-inch diameter tree for 25 linear feet, or part thereof, of property shall be built and planted along the common property line of the single-family or two-family property. Shade trees must be used, unless near utility lines where ornamental trees must be used, as required in subsection 144-5.2-1 (c)(6)(vii). All new trees shall be provided with a permeable surface of 60 square feet per tree under the drip line. All planting areas shall be a minimum of five feet in width.

(B) *Trash and dumpster screening.* All trash receptacle or dumpster areas visible from a public street, or single-family or two-family dwellings, or from land zoned for only single-family or two-family dwellings, shall be completely screened by wood, masonry or solid vegetation so that the trash

receptacle(s) or dumpster cannot be seen from a public or private street or a single-family or two-family dwelling.

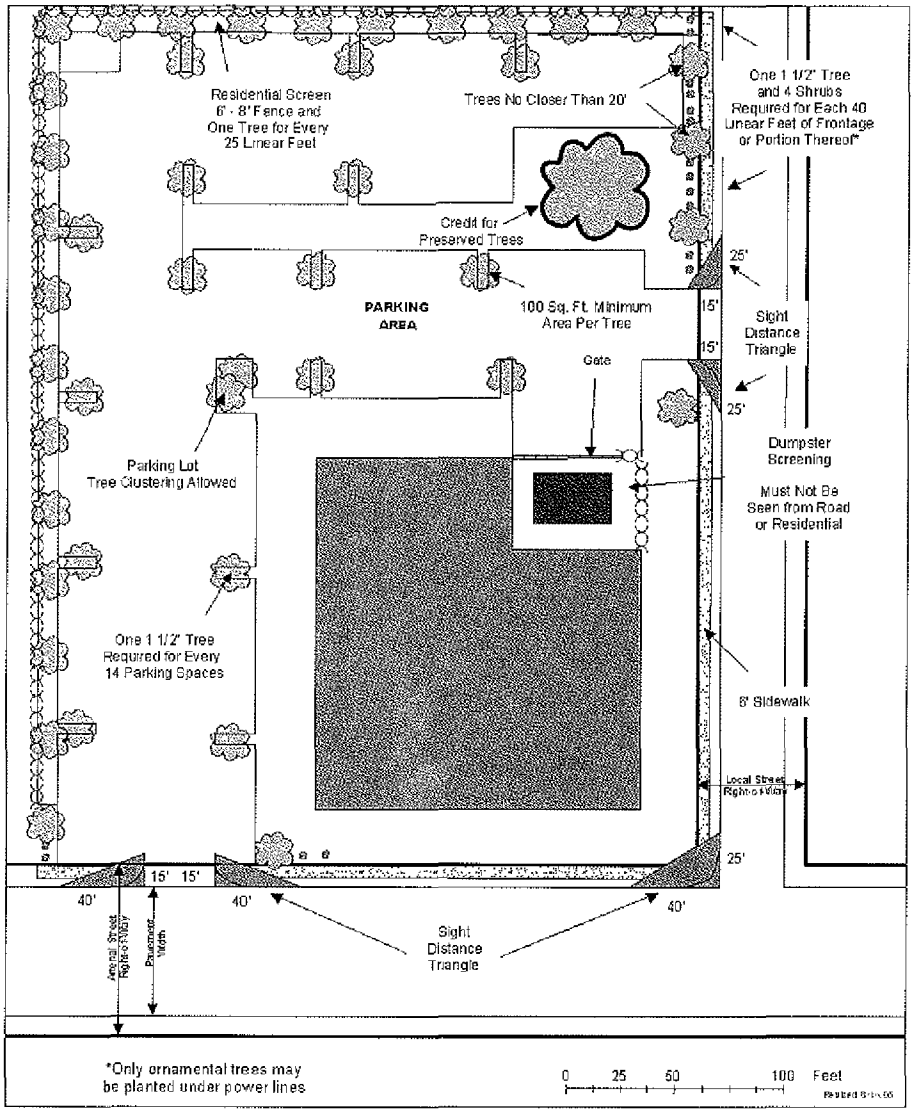


Illustration 9. Landscaping Requirements—Rear Parking Lot

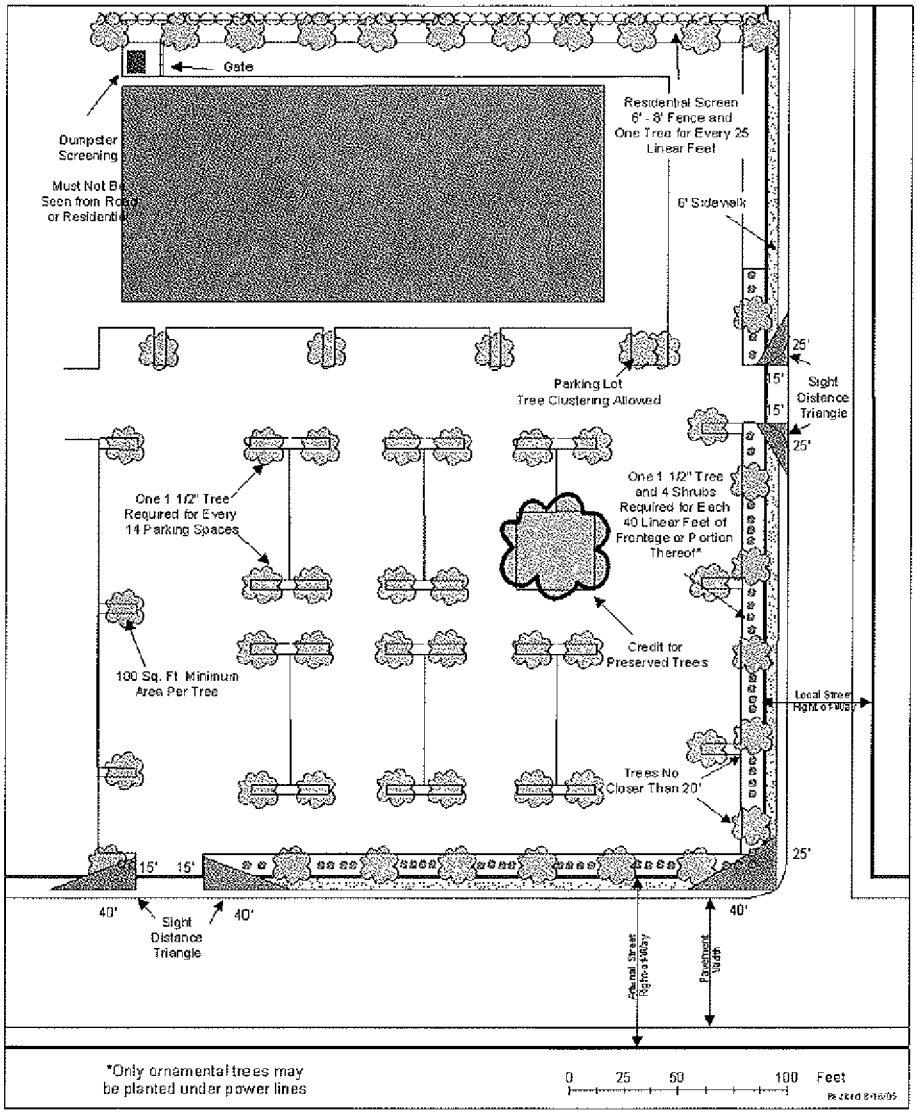


Illustration 10. Landscaping Requirements—Front Parking Lot

(8) *Sight distance and visibility.* To ensure that landscape materials do not constitute a driving and pedestrian hazard, a "sight triangle" will be observed at all street intersections, street and alley intersections, and intersections of driveways with streets. Within the "sight triangle," no landscape material, wall, or other obstruction shall be permitted between the height of two and one-half feet and seven feet above the street, alley or driveway elevation. The sight triangle shall consist of the following; or other dimensions having a similar effect when intersections are not 90 degrees.

Street	Length of triangle side along the curb on outer edge of the shoulder
Uncontrolled* street with two or fewer through lanes in one direction	25 feet
Controlled street with two or fewer through lanes in one direction, driveways and alleys	15 feet
Uncontrolled street with more than three lanes in one direction	40 feet

* Uncontrolled street means a street without a yield, stop, or traffic signal at the intersection.

See the following diagrams:

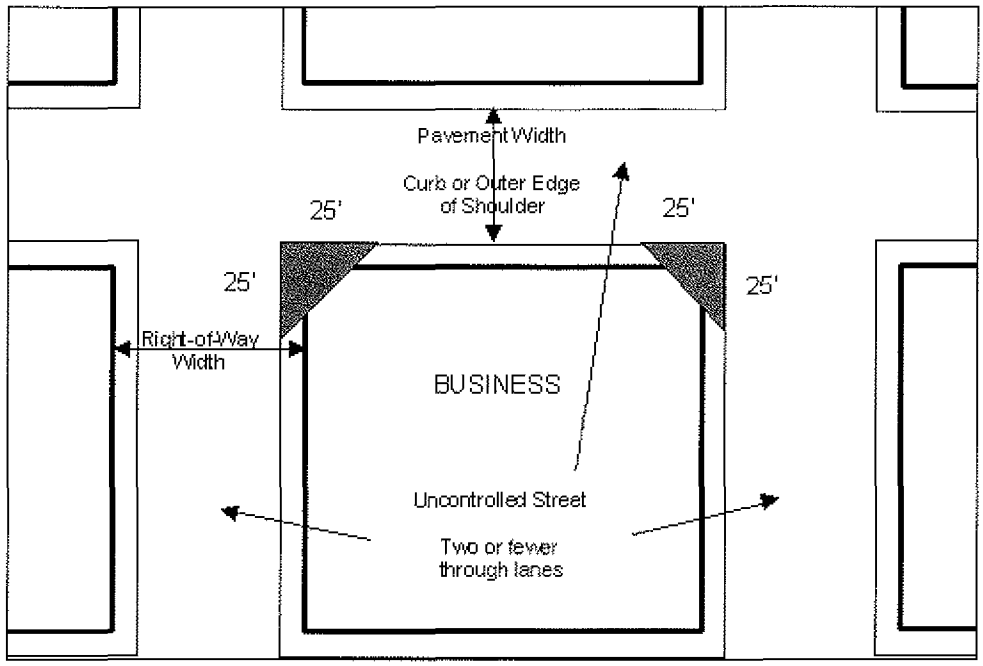


Illustration 11

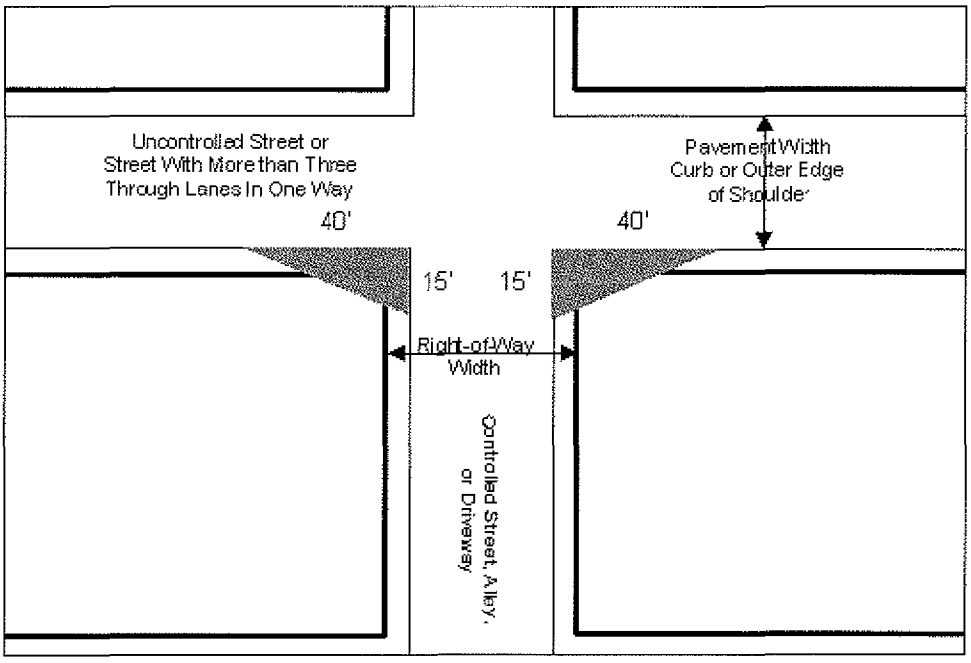


Illustration 12

(9) *Maintenance.*

(i) The owner, tenant and/or their agent, if any, shall be jointly and severally responsible for the maintenance of all landscaping. All required landscaping shall be maintained in a neat and orderly manner at all times. This shall include, but not to be limited to, mowing, edging, pruning, fertilizing, watering, weeding, and other such activities common to the maintenance of landscaping. Landscaped areas shall be kept free of trash, litter, weeds, and other such material or plants not a part of the landscaping. All plant material shall be maintained in a healthy and growing condition as is appropriate for the season of the year. Plant materials which die shall be replaced with plant material of similar variety, within 120 days. Trees having a trunk diameter of no less than one and one-half inches measured six inches above the ground may be used to replace dead trees. A time

extension of six months may be granted by the planning director, if substantial evidence is presented to indicate abnormal circumstances beyond the control of the owner.

(ii) All landscaped areas shall be irrigated, unless waived by the planning director for xeriscaped landscaping or where preserved landscaping is established. An underground automatic drip or bubbler system is preferred. If spray type irrigation heads are used, irrigation spray outside of the landscaped area is prohibited. Landscaped areas located more than 100 feet from an outside hose bib (faucet) are required to have an underground automatic irrigation system.

(iii) Clearance.

1. *Over sidewalks and rights-of-way.* It shall be unlawful for any tree, shrub, vine, palm or any similar plant of any description or kind to be grown, maintained or cultivated in such a manner that any portion of such tree, shrub, vine, palm, or other plant may overhang or obtrude upon or over any sidewalk and/or the city right-of-way between the curb line and the property line of any business, commercial or residential property, unless there is a full seven-foot clearance between the surface of all portions of such sidewalk or right-of-way and the overhanging tree, limb, shrub, vine, palm or plant of any description or kind.
2. *Over streets.* It shall be unlawful for any tree, shrub, vine, palm or any similar plant of any description or kind to be grown, maintained or cultivated in such a manner that any portion of such tree, shrub, vine, palm, or other plant may overhang or obtrude upon or over any street or highway in the city, unless there is a full 12-foot clearance between the surface of all portions of such street or highway and the overhanging tree, limb, shrub, vine, palm or plant.
3. *Near fire plugs.* It shall be unlawful for any tree, shrub, vine, palm, hedge or any similar plant of any description or kind to be planted, cultivated, grown or permitted to be planted, cultivated or grown between the sidewalk and/or the city's right-of-way and the curb or ditch line on any street or highway at a lesser distance than ten feet from any fire plug in the city; provided, however, that all shade trees growing prior to March 10, 1975, between the sidewalk and/or the city's right-of-way and the curb on any public street or highway in the city less than ten feet from any such fire plug shall not be affected by the terms of this section.

(iv) Failure to maintain any landscape area in compliance with this article is considered a violation of this article and may be subject to penalties of this chapter.

(v) The provisions of this article are subject to the provisions of chapter 130. However, trees or other landscaping which die or which may be permanently damaged for lack of water during periods of required water conservation must nevertheless be replaced in accordance with the provisions of this chapter.

(c) *Tree protection and tree removal.*

(1) *Purpose.* The purpose of this article is to protect existing protected and heritage trees.

(2) *General provisions.*

(i) It shall be unlawful for any person or corporation to recklessly remove, or cause the removal of any protected or heritage tree without first submitting the appropriate application for a permit and securing approval in the form and manner specified by this chapter.

(ii) A tree removal permit is not needed if:

1. The protected or heritage tree(s) to be removed is located on property zoned or used for agricultural or single-family or two-family dwellings.
2. The protected or heritage tree(s) is diseased or sustained damage, which was not recklessly inflicted by the owner, his agents or employees, in the form of a broken trunk, broken limbs or uprooting, which creates a hazard to life or property.
3. The tree(s) to be removed is one of those listed in Appendix B.
4. The protected or heritage tree(s) to be removed is removed by a governmental agency in the scope of its authority.

(3) *Tree removal permit approval authority and appeal.*

(i) The planning director shall have the authority to approve a tree removal permit.

(ii) If a request to remove a protected or heritage tree(s) is denied by the planning director, the applicant may appeal the denial to the zoning board of adjustment by filing written notice of such appeal, along with a nonrefundable fee of $75.00, with the city, within 90 days of the notice of denial. The hearing shall be conducted in compliance with the Texas Open Meeting Act.

(iii) The zoning board of adjustment may seek the testimony of a qualified arborist. If such expert testimony is requested by the board, it shall be provided by the city.

(iv) The decision of the zoning board of adjustment shall be final.

(4) *Application for tree removal permit.*

(i) An application for tree removal permit must provide the following information:

1. The location of the tree.
2. The trunk circumference of the tree.
3. The approximate drip-line area of the tree.
4. The species/common name of the tree.
5. The reason for removal.
6. The planning director may require a professional arborist's report that defines the impact of the development upon existing trees affected by proposed construction. This report shall further define methods of tree protection during construction, impervious cover limitations adjacent to protected trees, proposal for tree replacement, and maintenance requirements for new planting.
7. Such other information as may be required by the planning director.

(ii) Where practical, an application for protected or heritage tree removal shall be combined with any other applications and site plans required for development projects.

(iii) Failure to provide any of the above and foregoing information may constitute the sole grounds for denial of the permit.

(5) *Action on application for tree removal permit.* The following actions shall occur upon receipt of an application:

(i) Upon receipt of an application to remove a protected or heritage tree, the planning director or his designee shall promptly inspect the tree to be removed and shall approve or deny the application in accordance with the provisions of this article. Approval is automatically granted within 30 days if the application is not otherwise formally denied during the 30-day review period.

(ii) The planning director shall approve an application for the removal of a protected or heritage tree when a valid application is received and a determination is made that:

a. The tree is so located as to prevent reasonable access to the property or as to preclude reasonable and lawful use of the property;
b. The tree is dead, dying or diseased such that recovery is not practicable, or that an infestation is likely; or
c. The tree constitutes a hazard to life or property which cannot be mitigated without its removal.

(6) *Protection measures.*

(i) Prior to construction or land development, four-foot high safety fencing shall be installed around the root protection zone of a protected or heritage tree that is to be preserved.

The root protection zone is an area with a radius of one-half-foot for each inch of trunk measured four and one-half feet above the ground, or if branching occurs at four and one-half feet, the diameter is measured at the point where the smallest diameter closest to the branching occurs. The zone need not be exactly centered around the tree or circular in shape, but it should be positioned so that no disturbance occurs closer to the tree than one-half of the radius of the zone or within five feet of the tree, whichever is less. For any tree or groups of trees, the zone need not exceed 1,000 square feet in size. The radial root protection zones of trees may overlap one another so that the area of protection required for one tree may be shared by the area of protection required for another tree to minimize the total square footage of protected area where possible.

(ii) During construction, the cleaning of equipment or materials and/or the disposal of any waste material, including, but not limited to paint, oil, solvents, asphalt, concrete, mortar, etc., under the canopy or drip line of any protected tree shall be prohibited.

(iii) No attachments or wires of any kind, other than those of a protective nature, shall be attached to any protected tree.

(iv) Grading or fill in an area under the drip line of a protected tree shall be prohibited unless approved by the planning director and city engineer. If grading or filling were to occur within five feet of the protected or heritage tree to be preserved, a retaining wall or tree well of rock, brick, landscape timbers or other approved materials shall be constructed around the tree no closer than the drip line of the protected tree. The top of the retaining wall or tree well shall be constructed at the new grade.

(7) *Tree replacement.*

(i)

The planning director may require as a condition for approval that replacement trees be planted. Replacement trees must be of the species placed on the approved plant list (Appendix A). Shade trees must be used, unless near utility lines where ornamental trees must be used, as required in subsection 144-5.2-1(c)(6)(vii). Standards for planting shall conform to current Texas Forest Service standards. Planting requirements shall conform to the following:

a. Replacement trees shall have a diameter of at least one and one-half inches.

b. Tree replacement must occur within 12 months of the removal of a protected or heritage tree.

c. Replacement trees that do not survive for a period of at least 12 months shall be replaced by the original applicant for removal until they survive a 12-month period.

d. If ten or more replacement trees are required, no more than 25 percent of the trees shall be of the same species. The replacement trees shall be of any of the species described in Appendix A.

e. No artificial plant materials may be used to satisfy the requirements of this article.

(ii) Determination of the number of replacement trees shall be calculated in accordance with the following procedure:

a. The trunk circumference, in inches shall be recorded for each healthy protected or heritage tree to be removed.

b. Where more than one healthy protected or heritage tree is to be removed, the respective trunk circumferences shall be added together to produce a total aggregate value expressed in circumference inches.

c. Replacement trees of sufficient number and trunk circumference shall be provided to produce a total aggregate value of 50 percent of the total aggregate value of the healthy protected or heritage tree(s) to be removed.

(iii) If the planning director determines that it is not practical to plant the number of replacement trees required at the removal property, then the planning director may require only the amount of trees that are practical at the removal property.

(8) *Penalties.* The violation of any provision of this section shall be a misdemeanor and shall be punishable, upon conviction, by a fine of not more than $2,000.00.

APPENDIX A.
APPROVED PLANT LIST

* denotes recommended species.

TREES

Scientific Name	Common Name
SHADE	
* Carya illinoensis	Pecan
* Catalpa bignoniodes	Catalpa
* Ehretia anacua	Anaqua
Fraxinus Pennsylvania	Green ash
* Fraxinus texansis	Texas ash
* Juglans major	Arizona walnut
Juglans microcarda	Nogalillo, river walnut
* Juglans nigra	Black walnut
* Maclura pomifera	Osage Orange, Bois d'Arc
* Magnolia grandiflora	Magnolia
* Platanus mexicana	Mexican sycamore
Platanus occidentalis	Texas sycamore
* Quercus buckleyi (texana)	Texas red oak
* Quercus canbyi	Canby's oak
* Quercus durandii	Durand oak
* Quercus fusiformis	Escarpment live oak
Quercus glaucoides	Lacey oak
* Quercus gravesii	Chisos red, Graves
* Quercus laceyi (glaucoides)	Lacey's oak
* Quercus macrocarpa	Bur oak
Quercus mohriana	Shin oak
* Quercus muhlenbergii	Chinkapin or Chinquapin oak
* Quercus polymorpha	Mexican live or Monterrey oak
	Vasey oak

Quercus pungens var. vaseyana	
* Quercus virginiana	Southern live oak
Quercus texana	Red oak
* Sapindus drummondii	Soapberry
* Taxodium distichum	Bald cypress
* Taxodium mucronatum	Montezuma cypress
Tilia caroliana	Carolina basswood
* Ulmus Americana	American elm
* Ulmus crassifolia	Cedar elm
ORNAMENTAL	
* Acacia roemeriana	Roemer's acacia
* Acer grandidentatum	Bigtooth maple
Arbutus xalapensis	Texas madrone
* Bauhinia congesta	Anacacho orchid tree
* Cercis canadensis var. texensis	Texas or Oklahoma redbud
* Cercis reniformis	Mexican redbud
* Chilopsis linearis	Desert willow
* Condalia hookeri	Condalia, brazil
Cordia boissieri	Wild olive, Mexican wild olive
* Cotinus obovatus	American smoketree
* Diospyrus texana	Texas persimmon
* Eriobotrya japonica	Loquat (exotic)
* Fraxinus cuspidate	Fragrant ash
Hamamelis virginiana	Witch hazel
* Ilex deciduas	Possum-haw holly
Ilex vomitoria	Yaupon holly
* Juglans microcarpa	Little, Texas walnut
* Koelreuteria bipinnata	Goldenrain tree (exotic)
* Lagerstroemia indica, fauriei, and X's	Crepe myrtle, etc. (exotic)
* Leaucaena retusa	Goldenball leadtree
Malus sp.	Blanco crabappie
* Myrospermum sousanum	Arroyo sweetwood
Parkinsonia aculeate	Retama, Jerusalem Thorn
* Pistacia texensis	Texas pistache
Prunus barbonia	Redbay
* Prunus caroliniana	Cherry laurel
* Prunus mexicana	Mexican plum
* Prunus virginiana	Chokeberry
* Pyrus calleryana	Callery pear (exotic)
Pyrus ioensis	Blanco crabapple
* Rhamnus caroliniana	Carolina buckthorn
* Rhus lanceolata	Flameleaf sumac
Rhus virens	Evergreen Sumac
* Sophora affinis	Texas sophora or Eve's
* Sophora secundiflora	Mountain laurel or mescal bean
* Ungnadia speciosa	Mexican buckeye
* Viburnum rufidulum	Rusty blackhaw
Vitex agnus-castus	Lavender tree
Zizyphus jujuba	Chinese date, Jujube
EVERGREEN	
* Cupressus arizonica	Arizona cypress
* Juniperus virginiana	Eastern red cedar
Pinus cembroides	Mexican pinyon pine, Remote pine
Pinus eldarica	Afghan pine
* Pinus halepensis	Aleppo pine (exotic)
* Pinus pinea	Italian stone pine (exotic)
PALMS	
* Chamaerops humilius	Mediterranean fan palm (exotic)
* Phoenix canariensis	Canary Island or false date (exotic)
* Sabal mexicana	Mexican or Texas sabal
* Sabal texana	Palm, sabal and dwarf sabal
* Washingtonia filifera	California fan (exotic)
SHRUBS, VINES, AND HERBACEOUS PERENNIALS	
Achillea millefolium	Yarrow

Agave americans	Century Plant
Amorphia fruticosa	Amorpha, Indigobush
Anisacanthus spp.	Hummingbird Bush
Antigonon leptopus	Coral Vine, Rosa-De-Montana, Queens Wreath
Aquilegia spp.	Columbine
Aster spp.	Aster
Bamboo spp.	Bamboo, non-invasive/clumping
Berberis (Mahonia) trifoliata	Agarita, Agarito
Berberis spp.	Agarita, Tx. Barberry
Bignonia capreolata	Crossvine
Bougainvillea	Bougainvilla
Buddleia spp.	Butterfly Bush
Caesalpinia gilliesi	Bird of Paradise
Caesalpinia mexicana	Mexican Bird of Paradise
Caesalpinia pulcherrima	Pride of Barbados
Callicarpu americana	American Beauty
Callistemon spp.	Bottlebrush
Campsis radicans x "Madame Galen"	Trumpet Vine, Trumpet Creeper
Capsicum annuum	Chilipiquin
Cassia alata	Candlestick Tree
Cassia spp.	Cassia
Cassia lindheimeriana	Lindheimer Senna
Callirhoe involuerata	Winecup
Calylophus spp.	Calylophus
Cephalanthus occidentialis	Buttonbush
Chrysactinia mexicana	Damianita
Clematis pitcheri	Purple Leatherflower
Clematis texanis	Texas Clematis
Clematis texensis	Scarlet Leatherflower
Cooperia drummondii	Rain Lily
Cornus drummondii	Rough-Leaf Dogwood
Coursetia axillaris	Baby Bonnets
Crataegus spp.	Hawthorn
Crinum spp.	Crinum Lily
Cuphea spp.	Cigar Plants
Dasylirion spp.	Sotol, Desert Spoon
Dasylirion texanum	Sotol
Desmanthus illinoensis	Illinois Bundleflower
Duranta repens	Brazilian Sky Flower
Echinacea purpurea	Purple Coneflower
Elaeagnus pungens vars.	Silverberry
Eriobotrya x "Coppertone"	Coppertone Loquat
Erythina crista-galli	Fireman's Cap, Coral Tree
Erythina herbacea	Coral Bean
Eupatroium spp.	Mist Flower
Euryops pecinatus	Golden Shrub Daisy
Euryops pactinatus	Grayleaf Euryops
Eysenhardtia texana	Kidneywood
Foresteriera pubeseebs	Texas Elbow Bush
Gamolepis chrysanthemoides	Golden Shrub Daisy
Garrya ovata lindheimer Mx.	Silk Tassel
Gaura spp	Guara
Gelsemium sempervirens	Caroline Jessamine
Gymnosperma gutinosum	Tataleneho
Hamamelis virginiana	Witchhazel
Heimia salicifolia	Willow-leaf Heimia
Hesperaloe parviflora	Red Yucca
Hibiscus coccineus	Hibiscus, Texas Star
Hibiscus cardiophyllus	Heartleaf Hibiscus
Hibiscus syriacus	Althea, Rose-of-Sharon
Hymenoxys scaposa	Four-nerve Daisy
Hypericum spp.	St. John's Wort
Ilex cornuta	Dwarf Chinese Holly
Ilex decidua	Possumhaw
Ilex vomitoria	Yaupon
Ilex vomitoria nana	Dwarf Yaupon
Ipomea fitulosa	Bush Morning-Glory
Ipomoea quamoclit	Cypress (Cardinal) Vine

Ipomoea sinuata	Alamo Vine
Iris spp.	Iris
Jasminium floridum	Italian Jasmine
Jasminum mesnyi	Primrose Jasmine
Jatropha spp.	Jatropha
Juniper spp.	Juniper
Justicia brandegeana	Shrimp Plant
Justicia spp.	Shrimp Plant
Justicia suberecta	Mexican Shrimp Plant
Lantana spp.	Lantana
Leucophyllum frutescens	Texas Silverleaf, Sage, Cenizo
Liatris spp.	Gayfeather
Lindera benzoin	Spicebush
Lonicera albiflora	White Bush Honeysuckle
Lonicera sempervirens	Coral Honeysuckle
Malpighia glabra	Barbados Cherry
Malvaviscus drummondii	Turk's Cap
Manfreda spp.	Manfreda
Mascagnia spp.	Butterfly Vine
Mimosa bluncifera	Cat Claw Mimosa, Fragrant Mimosa
Moraea spp.	African Iris
Myrica cerifera	Wax Myrtle—Dwarf, Standard
Nandina domestics spp.	Nandina
Nandina domestics "nana" etc.	Dwarf Nandina
Parthenocissus heptaphylla	Seven Leaf Creeper
Parthenocissus quinquefolia	Virginia Creeper
Passiflora allatocaerrulea (P. pfordtii)	Passion Vine
Passifloria incarnate	Passionflower
Pavonia lasiopetala	Rock Rose
Penstemon spp.	Penstemon
Philadelphus spp.	Mock Orange
Phlox spp.	Prairie Phlox
Physostegia spp.	Obedient Plant
Poliomentha longiflora	Mexican Oregano
Pistache texana	Texas Pistache
Plumbago auriculata (P. capensis)	Blue Plumbago
Podocarpus macrophyllus	Yew
Poliomentha longiflora	Mexican Oregano
Primrose spp.	Primrose
Ptelea trifoliolata	Hop Tree
Puncia granatum	Pomegranate (Regular and Dwarf)
Phyracantha spp.	Firethorn, Phyracantha
Rosa Banksiae	Lady Banksia Rose
Rosemarinus spp.	Rosemary
Ruellia spp.	Mexican Petunias
Russelia equisetiformis	Firecracker Plant
Sabal minor	Palmetto Palm
Salvia spp.	Salvia
Salvia farenaceae	Blue Sage, Mealy Sage
Salvia greggii	Autumn Sage
Salvia regla	Mountain Sage
Salvia ballotaeflora	Blue Shrub Sage
Sambucus Canadensis	Elderberry
Santolina spp.	Santolina
Scutelleria spp.	Pink Skullcap
Senecio confuses	Mexican Flame Vine/Love Vine
Solidago spp.	Goldenrod
Stigmaphyllon littorale	Butterfly Vine
Tagetes llucida	Mexican Marigold
Tecoma stans	Yellowbells, esperanza
Tecoma capensis	Cape Honeysuckle
Teuerium laciniatum	Dwarf Germander
Thyrallis glauca	Yellow Plumbago
Trachelospermum jasminoides	Confederate Jasmine
Vauquelinia angustifloria	Chisos Rosewood
Vibernum rufidulum	Viburnum Rusty Blackhaw
Viguiera stenoloba	Skelton-leaf goldeneye
Wisteria macrostachya	Texas Wisteria

Wisteria millettia veticulata	Wisteria, evergreen
Yucca spp.	Yuccas
Yucca agustifolia	Narrow-leaf Yucca
Yucca constricta	Buckley Yucca
Yucca rupicola	Twisted-leaf Yucca
Yucca pendula	Softleaf Yucca
Yucca thompsonia	Thompson Yucca
Yucca treculeana	Spanish Dagger
Zexmenia hispidia	Zexmenia
GROUND COVER	
Aptinia condifolia	Heart Leaf Ice Plant
Asparagus sprengeri	Asparagus Fern
Aspidistra elatior	Aspidistra, Cast Iron Plant
Hedera canariensis	Algerian Ivy
Juniper spp.	Juniper
Lantana spp.	Lantana
Liriope gigantea	Giant Liriope
Liriope muscari vars	Lily Turf, Liriope (Std., "Big Blue")
Ophiopogon japonica	Mondo Grass, Monkey Grass
Rosemarinus officinales vars.	Prostrate Rosemary
Setcreasea purpurea	Purple Heart
Trachelospermum asiaticum	Asian Jasmine
Trachelospermum jasminoides	Confederate Jasmine, Star Jasmine
Verbena spp.	Verbena
Vinca major	Large Vinca
Vinca minor	Small Vinca
Wedelia trilobata	Wedelia
Acacia hirta	Fern Acacia
Artemesia spp.	Artemesia
Dalea spp.	Dalea
Dyschorista linearis	Snake Herb
Marsilea macropoda	Water Clover
Oenothera speciosa	Evening Primrose
Phyla humilis	Frogfruit
Rivina humilis	Pigeonberry
Sedurn acre	Stonecrop
Stachys coccinea	Texas Betony
Symphoricapus orbiculatus	Coralberry
Thryallis augustifolia	Thyallis
ORNAMENTAL GRASSES AND GRASS-LIKE PLANTS	
Agropyron smithii	Western Wheatgrass
Andropogon gerardii	Big Bluestern
Bouteloua curtipendula	Sideoats grama
Chasmanthium latifolium	Inland Sea Oats
Erianthus giganteus	Sugarcane Plume grass
Muhlenbergia capiliaris	Gulf Muhly
Muhlenbergia dubia	Pine Muhly
Muhlenbergia dubioides	Weeping Muhly
Muhlenbergia dumosa	Bamboo Muhly
Muhlenbergia lindheimer	Lindheimer Muhly
Muhlenbergia rigens	Deer Muhly
Muhlenbergia reverehonii	Seep Muhly
Nolina spp.	Beargrass
Panicum virgatum	Switch Grass
Schizaachyrium scoparium	Little Bluestem
Schoenocaulon texanum	Green Lily
Sorghastrum natums	Indian Grass
Stipa tenuissima	Mexican Feathergrass
Tripsacum dactyloides	Eastern Gama grass
Cyperus alternifolius	Umbrella Grass

APPENDIX B
UNDESIRABLE TREES

Scientific Name	Common Name

Acacia farnesiana	Huisache or Sweet Acacia
Acer negundo	Box Elder
Ailanthus altissima	Tree of Heaven
Albizia julibrissin	Mimosa
Broussonetia papyrifera (L.) (L(Hér. ex. Vent.))	Paper Mulberry
Celtis laevigata	Sugarberry or Hackberry
Eriobotrya japonica	Chinese Loquat or Loquat
Firmiana simplex	Chinese Parasol/Varnish Tree
Fraxinus velut	Arizona Ash
Koelrenteria paniculata	Golden-Rain Tree
Juniperus ashei	Ashe-Juniper or Mountain Cedar
Ligustrum japonicum	Ligustrum or Privet
Melia azedarach	L. Chinaberry tree
Populus nigra "italica"	Lombardy Popular
Prosopis glandulosa	Mesquite
Prunus salicina	Japanese Plum
Pyrus calleryana	Bradford Pear
Sapium sebiferum	Chinese Tallow
Tamarix ramosissima	Ledeb. Saltcedar

5.3-2. *Fences and walls.*

(a) Maximum height of fence or wall.

(1) *Non-residential and multifamily:* Eight feet.

(2) *One- or two-family:* Eight feet.

Ornamental features may be placed on top of the screening fence or wall so long as the features obstruct less than 50 percent of the opening on top of the fence or wall.

(b) No fence or wall shall be constructed in any required front yard, except fences and walls no taller than 36 inches unless the fence is at least 50 percent open, in which case the fence may be four and one-half feet tall.

(c) If an existing, legally non-conforming building has less than the required setback, the front yard shall be measured from the front building line.

(d) A fence from the front or rear corners of a building may extend through the side yard at the maximum height allowed.

(e) Permit required. All fences and walls require building permits.

(f) Public easement. Fences within public easements. Fences within a public easement shall have a gate or removable panel to allow for maintenance access to such easement. The entity responsible for the public easement must approve the fence.

(g) Fences are prohibited within drainage easements.

(h) Where a multifamily or non-residential development is adjacent to land used or zoned only for single-family or two-family development, a six-foot (minimum) to eight-foot (maximum) masonry wall must be installed by the commercial property owner/developer as a buffer between the properties and must be consistent with any pre-existing masonry wall.

5.3-3. *Lighting and glare standards.*

(a) Non-residential and multifamily.

(1) Lighting limited. Any light fixture for non-residential or multifamily development shall be operated so as not to produce an obnoxious and intense glare or direct illumination across the bounding property line, and shall not be of such intensity as to create a nuisance or detract from the use or enjoyment of adjacent property. All outside lights shall be made up of a light source and reflector so selected that acting together, the light beam is controlled and not directed across any bounding property line above a height of three feet. The allowable maximum intensity measured at the property line of a residential use in a residential zoning district shall be 0.25 foot candles.

(2) Outdoor lighting used to illuminate parking spaces, driveways, maneuvering areas, or buildings shall conform to the definition for "fully shielded light fixtures" and be designed, arranged and screened so that the point light source shall not be visible from adjoining lots or streets. No portion of the bulb or direct lamp image may be visible beyond a distance equal to or greater than twice the mounting height of the fixture. For example, for a fixture with a mounting height of 12 feet, no portion of the bulb or direct lamp image may be visible from 24 feet away in any direction. Light poles or wall-mounted fixtures shall be full -cutoff fixtures only. All perimeter fixtures shall possess house-side shielding; bollards shall be louvered and utilize coated lamps.

(3) Setback or shielding requirements. Outdoor lighting fixtures are allowed with no additional "house-side" shielding in accordance with the following formula: Height (H) < 3 + (D/3); where D equals the distance in feet from light source to the nearest residential lot line (extended vertically). Additional "house-side shielding" shall be added in all cases where the Height (H) is greater than 3 +(D/3).

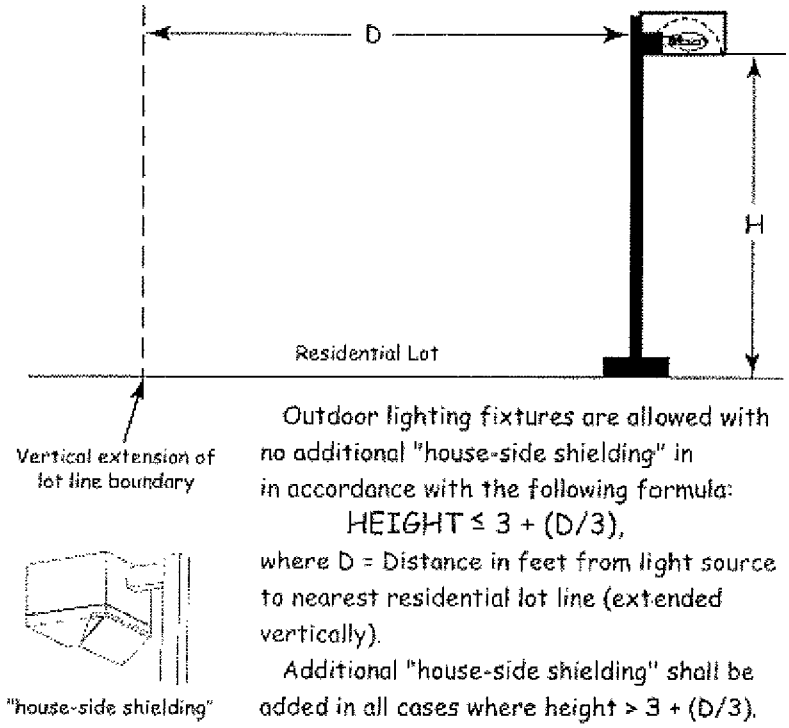


Illustration 13. Light Fixture Setback/Shielding Diagram

(b) Residential. Residential lighting for one- or two-family development for security and night recreation use is permitted provided the following requirements are met:

(1) Direct lighting over ten feet in height must be shielded from adjacent property.

(2) No light source shall exceed 20 feet in height. Street lights and other traffic safety lighting are exempt from this standard.

(3) Lighting shall not directly shine on adjacent dwellings.

(c) Luminaries. Light sources shall be of a down-light type, indirect, diffused, or shielded type luminaries installed and maintained so as to reduce glare effect and consequent interference with use of adjacent properties and boundary streets. Strings of bulbs above 75 watts each and strings of lamps are prohibited. Low wattage temporary lighting is permitted.

(d) Where a multifamily or non-residential development is adjacent to land used or zoned for single-family or two-family development all canopies and awning lighting must be shielded from residential uses or residential zoning.

5.3-4. *Additional residential buffering requirements.*

(a) Residential setback. Where a non-residential building or a multifamily development of more than three units abuts a one- or two-family use or zoning district, the setback from the one- or two-family property line shall be at least 20 feet plus one foot for each foot of building height over 20 feet.

(b) Where a non-residential building or a multifamily development is adjacent to residential uses or residential zoning outdoor audio or speakers are prohibited unless being used to provide ADA access at fuel pumps.

(c) Where a non-residential building or a multifamily development is adjacent to residential uses or residential zoning outside music is prohibited.

(d) Where a non-residential building or a multifamily development is adjacent to residential uses or residential zoning an additional 30-foot setback buffer will be required as separation between the residential property and any fuel pumps or fuel tanks.

(Ord. No. 2012-49, § 1(Exh. A), 9-10-12)

Sec. 144-5.4. - Accessory uses and structures.

(a) *General.* Accessory buildings are subordinate buildings detached from the main building, the use of which is incidental to and used only in conjunction with the main building. Accessory buildings include, but are not limited to, an automobile storage garage, storage building (for storage belonging to the owner or tenant), greenhouse or home workshop, and shall not be utilized for human habitation.

(b) *Front yard/location requirement.* Any accessory building hereafter constructed or placed on any lot shall provide a front yard of 60 feet or shall be located behind the main building, whichever is less.

(c) *Side building setback requirement.* Except for townhouses, there shall be a side building setback on each side of an accessory building not less than five feet. In the case of a corner lot, the exterior side setbacks for the particular zoning district shall govern. Townhouse accessory building setback is a minimum of three feet.

(d) *Rear building setback requirement.* The depth of the rear yard shall be at least three feet. The building(s) shall not occupy more than 30 percent of the rear yard. In the case of a through lot, the depth of the rear yard shall be 25 feet.

(e) *Height.* The height of the accessory building shall not exceed the height of the main building.

(f) *Maximum number of buildings per lot.* In no instance shall more than two detached accessory buildings be allowed on one lot.

(g) *Building spacing.* As per adopted building codes.

(h) *Accessory dwellings.* A secondary living space that is on-site with a primary living space is allowed and may be contained within the same structure as the primary dwelling, or may be contained in a separate structure. A guest house and a garage loft are examples of accessory dwellings. No compensation may be paid for occupying the accessory dwelling. Separate kitchen facilities such as a stove, oven or dishwasher are not allowed in accessory dwelling.

(i) *Accessory equipment requirements.* Air conditioning compressors, swimming pool pumps and similar accessory structures shall observe all front and exterior side yard setbacks specified for the particular zoning district in which the property is located. A minimum interior side building setback and rear building setback of three feet shall be observed, unless otherwise approved by the building official in accordance with the city adopted building codes.

(Ord. No. 2012-49, § 1(Exh. A), 9-10-12)

Sec. 144-5.5. - Home occupation regulations.

5.5-1. *Purpose.* Standards for controlling home occupations are set forth to minimize annoyance and inconvenience to neighboring property owners within residential areas. These standards are intended to allow reasonable and comfortable enjoyment of adjacent and nearby property by their owners and by occupants of neighboring residential dwellings, while providing opportunities for the pursuit of home-based businesses.

5.5-2. *Special provisions for home occupations.*

(a) Home occupations shall be permitted as accessory use in all residential zoning districts provided that they comply with all restrictions herein;

(b) The occupation shall produce no alteration or change in the character or exterior appearance of the principal building from that of a residential dwelling, and performance of the occupation activity shall not be visible from the street;

(c) Such use shall be incidental and secondary to the use of the premises for residential purposes, and shall not utilize floor area exceeding 30 percent of the combined gross floor area of dwelling unit and any accessory building(s) that are used for the home occupation (in no case shall the combined floor area utilized for a home occupation exceed 600 square feet);

(d) The occupation shall not employ more than one person who is not a member of the household in which the home occupation occurs;

(e) Not more than one business-related commercial vehicle shall be present at one time;

(f) The operation of such an occupation shall be between the hours of 8:00 a.m. and 9:00 p.m. for outdoor activities;

(g) One commercial vehicle, gross vehicle weight capacity of one ton or less, according to the manufacturer's classification, may be used, or parked behind the front building line on the property, in connection with the home occupation, but said vehicle may not be parked in the street;

(h) The occupation activity shall not increase vehicular traffic flow beyond what normally occurs within a residential district, and shall not require regular and frequent deliveries (more than twice per day) by large delivery trucks or vehicles with a rated capacity in excess of one and one-half tons, according to the manufacturer's classification;

(i) The home occupation use/activity shall take place primarily within the dwelling, and there shall be no outside storage, including trailers, or outside display related to the home occupation use;

(j)

No mechanical or electrical equipment shall be employed on the premises other than that which is customarily found in a home office environment, and that which is customarily associated with a hobby or avocation which is conducted solely for pleasure and not for profit or financial gain;

(k) The home occupation shall not generate noise, vibration, glare, fumes or odors, heat or electrical interference beyond what normally occurs within a residential district;

(l) The occupation shall not require the use of chemicals on the property that are obnoxious or hazardous to the welfare of the neighborhood;

(m) One non-illuminated identification sign that is physically attached to the exterior of the structure, with a sign area no larger than four square feet is permitted;

(n) The occupation shall not offer any commodity for sale on the premises.

5.5-3. *Applicability of other regulations.* Home occupations shall also be subject to any and all other provisions of local, state and federal regulations and laws that govern such uses.

5.5-4. *Uses allowed as home occupations.* Subject to the provisions of this division, home occupations may include the following uses:

(a) Office facility of an accountant, architect, landscape architect, attorney, engineer, consultant, insurance agent, realtor, broker, or similar profession;

(b) Author, artist, artisan, or sculptor;

(c) Dressmaker, seamstress or tailor;

(d) Music or dance teacher, or similar types of instruction, provided that instruction shall be limited to no more than five pupils at a time;

(e) Individual tutoring;

(f) Office facility of a minister, rabbi, priest or other cleric;

(g) Home crafts, such as rug weaving, model making, etc.;

(h) Office facility of a salesman, sales or manufacturer's representative, provided that no retail or wholesale transactions or provision of services are personally and physically made on the premises;

(i) Repair shop for small electrical appliances, cameras, watches and clocks, and other small items, provided that the items can be carried by one person without using special equipment, and provided that the items are not equipped with an internal combustion engine;

(j) Food preparation establishments such as cake making, decorating or catering, provided that there is no on-premises consumption by customers, and provided that all aspects of the business comply with all state and local health regulations;

(k) Family homes, in compliance with applicable state laws, which are incorporated herein by reference, with no more than six children or adults;

(l) Barber shop or beauty salon or manicure studio, provided that no more than one customer is served on the premises at any one time;

(m) Swimming lessons and water safety instruction, provided that such instruction involves no more than two pupils at any one time;

(n) Activity involving primarily a computer;

(o) Contractor, provided that there shall be no outside storage of materials related to the operation of the business and any interior storage shall count toward the maximum area allowed in subsection 144-5.4(b)(3).

(p) Such uses must be located in the dwelling used by the person who has the home occupation as his or her private residence.

(q) Said incidental use shall never be permitted as a principal use but only as a secondary use when indispensably necessary to the enjoyment of the premises.

5.5-5. *Uses prohibited as home occupations.* Home occupations shall not, in any event, be deemed to include the following uses:

(a) Animal hospitals or clinics, commercial stables having more than two horses per acre or kennels;

(b) Restaurants or on-premises food or beverage, including private clubs, consumption of any kind, except for limited food or meal consumption associated with the operation of a licensed registered family home or a bed and breakfast facility;

(c) Automobile, boat or trailer paint or repair shop; small engine or motorcycle repair shop; welding shop; large household appliance repair shop; or other similar type of business;

(d) On-premises retail or wholesale sales of any kind where multiple customers patronize the sales business on-site, except for items that are produced entirely on the premises in conformance with this Code, and except for

occasional garage sales (no more than two per calendar year and shall not be held within six months of each other);

(e) Commercial clothing laundering or cleaning;

(f) Mortuaries or funeral homes;

(g) Trailer, vehicle, tool or equipment rentals;

(h) Repair shops for any items having internal combustion engines; and

(i) Any use that would be defined by the building code as an assembly, factory or industrial, hazardous, institutional or mercantile occupancy.

5.5-6. *Home occupation uses not classified herein.* Any use that is not either expressly allowed nor expressly prohibited by this division is considered prohibited, unless and until such use is classified by amendment to this chapter by the city council, subsequent to an affirmative recommendation by the planning commission.

5.5-7. *Effect of section 144-5.5 upon existing home occupations.* Any home occupation that was legally in existence as of the effective date of this chapter and that is not in full conformity with the provisions herein shall be deemed a legal nonconforming use, and provided that the home occupation use was not in violation of any other local, state or federal law or regulation on that date. Proof of the existence of such home occupation use prior to the effective date of this Code may be required by the planning department.

(Ord. No. 2012-49, § 1(Exh. A), 9-10-12)

Sec. 144-5.6. - Bed and breakfast facilities.

5.6-1. *[Requirements.]* Bed and breakfast facilities are subject to the following requirements:

5.6-2. *Parking.* One off-street parking space per guest room, and one off-street parking space for the owner/proprietor are required.

5.6-3. *Number of guest rooms.* The maximum number of guest rooms shall be eight.

5.6-4. *Length of stay.* The maximum length of stay for each guest shall be limited to 14 consecutive days within any 30 -day time period.

5.6-5. *Management.* The facility shall be owner occupied in the residential zoning districts and may be manager occupied in other zoning districts.

5.6-6. *Signs.* Signs shall conform to chapter 106.

5.6-7. *Health factors.*

(a) Only overnight guests may be served meals. The meals shall be confined to a continental-type breakfast, consisting of pastries (prepared outside the establishment), milk, cereal, fruit, fruit juice, and coffee, unless the facility meets all state and city health department requirements for commercial food service. Cooking in a guest room is prohibited.

(b) The owner of the facility shall provide clean linens and towels on a daily basis, provide adequate heating, air conditioning, ventilation and lighting; provide adequate hot and cold water; provide adequate sewage disposal; maintain the outside area in a clean and sanitary manner; maintain the structure(s) in suitable state of repair; and properly clean the premises and facilities during the guests stay and after each guest has departed.

(c) Each owner of the facility must acquire a permit for the facility from the city health department prior to issuance of a certificate of occupancy.

(d) Inspections by the city health department will be made on a regular basis and upon demand as required by a complaint. The inspections must be successfully passed.

(e) Building and fire protection considerations.

(1) Owner of bed and breakfast facility must obtain a certificate of occupancy (C.O.) from the city building official after a special use permit is issued, if a special use permit (SUP) is required. The facility must successfully pass the C.O. inspection.

(2) The structure(s) must conform to all city and state building codes for existing or new construction as the situation dictates.

(3) The city fire marshal or his representative shall inspect all bed and breakfast facilities before a C.O. is issued. The facility must successfully pass the inspection. Regular inspections shall be made on an annual basis.

(4) Each bed and breakfast facility must comply with the appropriate section on "Lodging and Rooming Houses" contained in NFPA 101 Life Safety Code.

(5) Each facility must have at least one battery operated or regular hard wired smoke detector in all guest rooms, stairwells and/or corridors on each floor of the structure.

(6) An approved fire extinguisher shall be provided in close proximity to the guest units on each floor.

(f) Other activities. Other activities such as weddings, parties, and other functions are not permitted unless approved by the planning director.

(Ord. No. 2012-49, § 1(Exh. A), 9-10-12)

Sec. 144-5.7. - Telecommunication towers/antennas.

5.7-1. *Purposes.* The regulations for telecommunications towers and antennas set forth in this section are intended to:

(a) Be nondiscriminatory and competitively neutral.

(b) Facilitate the provision of wireless telecommunications services to the residents and businesses of the city while complying with federal statutory requirements adopted in the Telecommunications Act of 1996.

(c) Minimize adverse visual effects of telecommunications towers through design and siting standards.

(d) Protect historic, residential and scenic areas from potential adverse impacts of telecommunications towers.

(e) Avoid potential damage to adjacent properties from tower failure through structural standards and setback requirements.

(f) Discourage unnecessary proliferation of telecommunications towers and antennas by maximizing the use of existing and approved towers and buildings to accommodate new wireless telecommunication antennas.

5.7-2. *Application and exemptions.*

(a) This section shall apply to the installation, renovation, or modification of any telecommunications tower, including lattice style towers and towers secured by guy wires.

(b) Exemptions. The following facilities shall be exempt from the requirements of this section:

(1) Structures intended only for and capable only of use as amateur radio facilities;

(2) Ground based telecommunications towers that do not exceed a height of 40 feet from the base of the tower and are not lattice style towers or towers secured by guy wires.

(3) Telecommunications facilities and tower structures that are attached to, placed upon, or constructed on top of a building, provided the height of the tower structure does not exceed ten feet above the height of the building upon which the tower is constructed and the tower structure is not a lattice style tower or tower secured by guy wires;

(4) Towers or other facilities placed on land or right-of-way owned by the federal government, the state, or the city;

(5) Telecommunications towers that were constructed prior to January 14, 2002. This section shall apply to the renovation, modification or repair of any telecommunication tower for any purpose other than installing additional antennas or complying with applicable FCC, FAA or other applicable federal requirements where the anticipated cost of the renovations, modifications or repairs exceeds the percentage of the original cost of the tower by more than the amount provided in the following schedule:

Date of Modification, Renovation or Repair	Percentage of Cost of Tower
Between Jan. 1, 2002 and Jan. 1, 2003	90% of original cost
Between Jan. 1, 2003 and Jan. 1, 2004	80% of original cost
Between Jan. 1, 2004 and Jan. 1, 2005	70% of original cost
Between Jan. 1, 2005 and Jan. 1, 2006	60% of original cost
Between Jan. 1, 2006 and Jan. 1, 2007	50% of original cost
Between Jan. 1, 2007 and Jan. 1, 2008	40% of original cost
Between Jan. 1, 2008 and Jan. 1, 2009	30% of original cost
Between Jan. 1, 2009 and Jan. 1, 2010	20% of original cost
After Jan. 1, 2010	10% of original cost

5.7-3. *Development/approval process.* Prior to the issuance of a building permit for the installation of any tower or antenna pursuant to this chapter, the owner of such tower or antenna shall send written notice to the planning department, which notice shall include:

(a) The legal description, parcel number, and address of the parcel of land upon which the proposed tower is to be situated.

(b)

The name, address, and telephone number of the owner and/or lessee of the parcel of land upon which the proposed tower is to be situated. If the applicant is not the owner of the parcel of land upon which the proposed tower is to be situated, a copy of the lease agreement is required.

(c) A full site plan showing the location of the tower on the site, the type and height of the proposed tower, on-site land uses and zoning, adjacent land uses and zoning, adjacent roadways, proposed means of access, setbacks from property lines, elevation drawings of the proposed facility, the location of existing structures, trees, and other significant site features, the type and location of plant materials used to screen the facility, fencing, proposed color(s), and any other proposed structures.

(d) (Not required if applicant is co-locating antenna on an existing tower). Applicant must identify whether or not it is utilizing the most compact or least obtrusive technological design for the proposed tower. The applicant must provide written technical evidence from an engineer(s) of the tower's capability of supporting at least two additional antennas for future users at a reasonable, market-based cost. If accommodation of future co-location is not proposed, information must be submitted with the application detailing why future co-location is not possible.

(e) (Not required if applicant is co-locating antenna on an existing tower). An inventory of the applicant's existing towers within the corporate limits and ETJ of the city, including the location, height, and design of each tower and the number of antennas that may be supported by each structure. Co-location is encouraged, and the planning department may share such information with other applicants seeking to locate antennas within the city. The applicant shall demonstrate how the proposed site fits into its overall telecommunications network within the city.

(f) (Not required if applicant is co-locating antenna on an existing tower). The names, addresses, and telephone numbers of owners of all other towers or antenna support structures, capable of supporting the applicant's telecommunications facilities, within a one-half mile radius of the proposed tower site, including city-owned property. An affidavit shall be submitted attesting to the fact that the applicant made diligent efforts to obtain permission to install or co-locate the proposed telecommunications facilities on existing towers or antenna support structures located within a one-half-mile radius of the proposed tower site, but, due to physical, economic, or technological constraints, no such existing tower or antenna support structure is available or feasible. Evidence submitted by the applicant or owner to demonstrate that no existing tower or structure can accommodate the applicant's proposed antenna may consist of any of the following:

(1) No existing towers or structures are located within the geographic area required to meet applicant's engineering requirements.

(2) Existing towers or structures are not of sufficient height to meet applicant's engineering requirements.

(3) Existing towers or structures do not have sufficient structural strength to support applicant's proposed antenna and related equipment.

(4) The applicant's proposed antenna would cause electromagnetic interference with the antenna on the existing towers or structures, or the antenna on the existing towers or structures would cause interference with the applicant's proposed antenna.

(5) The fees or costs required to share an existing tower or structure or to adapt an existing tower or structure for sharing are unreasonable. Costs exceeding new tower development are presumed unreasonable.

(6) Property owners or owners of existing towers or structures are unwilling to accommodate reasonably with the applicant's needs.

(7) The applicant demonstrates that there are other limiting factors that render existing towers and structures unsuitable.

(g) An affidavit from the applicant that the construction and placement of the proposed tower and/or antenna will meet FCC requirements and not interfere with public communications and the usual and customary transmission or reception of radio, television, or other communications services enjoyed by adjacent properties.

(h) (Not required if applicant is co-locating antenna on an existing tower.) Certification from an engineer that the tower is structurally sound, will be fixed to the land, and, at a minimum, in conformance with the building code and any other standards set forth in this chapter.

(i) A written statement by the applicant stating the tower and telecommunications facilities will comply with all FAA regulations and EIA Standards and all other applicable federal, state and local laws and regulations.

(j) Copies of any environmental documents required by any federal, state, or local agency, if available. These shall include the environmental assessment required by FCC Para. 1.1307. 1.1307, or, in the event that a FCC environmental assessment is not required, a statement that describes the specific factors that obviate the requirement for an environmental assessment.

(k) The city shall have on file any requirements from law enforcement, fire and emergency services agencies within the city that want to be included in a particular area for future communications and would be interested in co-

location. If any such agency decides to co-locate, then any new towers approved under this chapter shall be designed for, and the owner shall not deny, co-location.

The city may require a qualified, independent third-party review by a city-approved consultant to validate and review the technical information contained in the application submittals. The cost of such review shall be borne by the applicant.

5.7-4. *Administrative approval.* Administrative approval for the following towers may be obtained by submitting the required information to the planning department:

(a) *Installation of antennae on existing tower or structure.*

(1) In any zoning district, the installation of an antenna on an existing stealth tower that is less than 50 feet in height or on an existing structure other than tower (such as a sign, light pole, or other freestanding non -residential structure) that is less than 50 feet in height, so long as such addition does not add more than five feet to the height of the existing tower or structure. Any antenna installed on a structure other than a tower must be of a neutral color that is compatible with the color of the supporting structure so as to make the antenna and related equipment as visually unobtrusive as possible.

(2) In any commercial or industrial zoning district , the installation of an antenna on an existing stealth tower of any height or on an existing structure other than a tower (such as a sign, light pole, water tower or other freestanding non-residential structure) of any height, so long as the addition adds no more than 20 feet to the height of the existing tower or structure. Any antenna installed on a structure other than a tower must be of a neutral color that is compatible with the color of the supporting structure so as to make the antenna and related equipment as visually unobtrusive as possible.

(3) In any industrial zoning district except those industrial districts located within the New Braunfels Downtown Area as defined in chapter 114, the installation of an antenna on any existing tower so long as the antenna adds no more than 20 feet to the height of the existing tower.

(b) *Installation of new towers.*

(1) In any zoning district, the installation of a stealth tower that is less than 50 feet in height. The tower must be set back from the nearest property line of any off-site residential structure a distance equal to one foot for each foot of height of the tower plus 15 feet.

(2) In any commercial or industrial zoning district, the installation of a stealth tower that is 150 [feet] in height or less. The tower must be set back from the nearest property line of any existing off-site residential structure, platted residential subdivision, or historically designated building or landmark a distance equal to one foot for each foot of height of the tower plus 25 feet.

(3) In any industrial zoning district except those industrial districts located within the New Braunfels Downtown Area as defined in chapter 114, the installation of a tower that is not a stealth tower, proposed by the applicants as follows:

(i) For a single user, up to 90 feet in height.

(ii) For two users, up to 120 [feet] in height.

(iii) For three or more users, up to 150 feet in height.

Said tower must be set back from the nearest property line of any existing off-site residential structure, platted residential subdivision, or historically designated building or landmark a distance equal to one foot for each foot of height of the tower plus 25 feet. Said tower must be set back at least 100 feet from the centerlines of the Comal and Guadalupe Rivers. Said tower shall maintain a galvanized steel finish or, subject to any applicable standards of the FAA, be painted sky blue or gray, so as to reduce visual obtrusiveness.

5.7-5. *Additional guidelines.*

(a) Towers and antennas may be considered either principal or accessory uses. A different existing use or an existing structure on the same lot shall not preclude the installation of a tower or antenna on such lot. For purposes of determining whether the installation of a tower or antenna complies with district development regulations, including but not limited to setback requirements, lot coverage requirements, and other such requirements, the dimensions of the entire lot shall control, even though the towers or antennas may be located on leased parcels within such lots.

(b) At any tower site, the design of buildings and related structures shall use materials, colors, textures, screening and landscaping that will blend the tower facilities to the natural setting and built environment. Existing vegetation around the facility shall be preserved to the extent possible. A combination of hedges (preferably fast-growing plants) and/or evergreen trees, at least four feet in height when planted, shall be planted and maintained around the site and spaced close enough together to provide a visual screen. Shrubs shall also be planted and maintained around guy anchors for visual screening purposes. Towers shall not be artificially lighted, unless required by the FAA or other applicable authority. If lighting is required, the planning department may review the available lighting alternative s and approve the design that would cause the least disturbance to

the surrounding views. No signs, including company identification or its logo, or advertising shall be permitted on any tower or antenna.

(c) FCC Requirements: All towers and antennas must meet or exceed current standards and regulations of the FAA, the FCC, and any other agency of the federal government with the authority to regulate towers and antennas. If such standards and regulations are changed, then the owners of the towers and antennas governed by this chapter shall bring such towers and antennas into compliance with such revised standards and regulations within six months of the effective date of such standards and regulations. Failure to bring towers and antennas into compliance with such revised standards and regulations shall constitute grounds for the removal of the tower or antenna at the owner's expense.

(d) Separation requirement.

(1) Proposed towers must meet the following minimum separation requirements from existing towers or towers which have a building permit but are not yet constructed at the time that a building permit is granted:

(i) Monopole tower structures 90 feet in height or less shall be separated from other telecommunications towers by a minimum of 750 feet. Monopole towers over 90 feet in height shall not be located within one-quarter of a mile from any existing tower that is over 90 feet in height.

(ii) Self-supporting lattice or guyed tower structures of any height shall not be located within one-quarter of a mile from any existing tower that is over 90 feet in height.

(iii) There is no required separation distance for stealth towers.

(2) For the purpose of this section, the separation distances between towers shall be measured by drawing or following a straight line between the base of the existing or approved structure and the proposed base, pursuant to a site plan of the proposed tower. The minimum tower separation distances from other towers shall be calculated and applied irrespective of city jurisdictional boundaries.

(e) If the applicant meets the requirements of this chapter, administrative approval for the tower location shall be granted by the planning department, and the applicant may apply for a building permit. It shall be a condition of approval that all towers must be designed and certified by an engineer to be structurally sound and at a minimum in conformance with the building code and any other standards set forth in this chapter.

5.7-6. *Special use permit.* If, in the opinion of the planning department, a tower or antenna is not a permitted use or the planning department declines to approve administratively any application, pursuant to section 144-5.7-5, the applicant may seek a special use permit.

(a) *Application.* In addition to the requirements for a tower application in section 144-5.7-2 above, the applicant must provide:

(1) A description of how the proposed plan addresses any adverse impact that might occur as a result of approving the modification.

(2) A description of off-site or on-site factors which mitigate any adverse impacts which might affect the granting of a special use permit.

(b) *Special use permit provisions.* The following provisions shall govern the issuance of special use permits for telecommunications towers and/or antennas:

(1) In granting a special use permit, the city council may impose certain conditions to the extent the city council concludes such conditions are necessary to buffer or otherwise minimize any adverse effect of the proposed tower on adjoining properties.

(2) Any information of an engineering nature that the applicant submits, whether civil, mechanical, or electrical shall be certified by a qualified professional engineer.

(3) Each applicant requesting a special use permit under this chapter shall submit a scaled site plan and a scaled elevation view and other supporting drawings, calculations, and other documentation, signed and sealed by appropriate professional engineers, showing the location and dimensions of all improvements, including information concerning topography, radio frequency coverage, tower height requirements, setbacks, drives, parking, fencing, landscaping, adjacent uses, and other information necessary to assess compliance with this chapter.

(4) The city council shall consider the following factors in determining whether to issue a special use permit, although the city council may waive or reduce the burden on the applicant of one or more of these criteria, if, at the sole discretion of the city council, the goals of this chapter are better served thereby:

(i) Height of the proposed tower;

(ii) Proximity of the tower to residential structures and residential district boundaries;

(iii) Nature of uses on adjacent and nearby properties;

(iv) Surrounding topography;

(v)

Surrounding tree coverage and foliage;

(vi) Design of the tower, with particular reference to design characteristics that have the effect of reducing or eliminating visual obtrusiveness; and

(vii) Availability of suitable existing towers and other structures as discussed in this chapter.

(5) The following setbacks and separation requirements shall apply to all towers and antennas for which a special use permit is required; provided, however, that the city council may, at its sole discretion, reduce the standard setbacks and separations requirements if the goals of this chapter would be better served thereby.

(i) Towers must be set back a distance equal to the height of the tower from any off-site residential structure plus 25 feet.

(ii) Towers, guys, and accessory facilities must satisfy the minimum district yard setback requirements.

(iii) In zoning districts other than industrial zoning districts, towers over 90 feet in height shall not be located within one-quarter of a mile from any existing tower that is over 90 feet in height.

(6) Towers shall be enclosed by security fencing not less than six feet in height and shall be equipped with an appropriate anti-climbing device; provided, however, that the city council may, in its sole discretion, waive such requirements, as it deems appropriate.

(7) The following guidelines shall govern the landscaping surrounding towers for which a special use permit is required; provided, however, that the city council may, in its sole discretion, waive such requirements if the goals of this chapter would be better served thereby.

(i) Tower facilities shall be landscaped with a buffer of plant materials that effectively screens the view of the tower compound from adjacent public rights-of-way or property, or adjacent to residentially zoned or used properties. The standard buffer shall consist of a landscaped strip at least six feet wide outside the perimeter of the compound.

(ii) The buffer zone may consist of a variety of plant material, including trees, which are evergreen in nature and can be expected to grow to form a continuous hedge at least six feet in height within two years.

(iii) In locations where the visual impact of the tower would be minimal, the landscaping requirement may be reduced or waived altogether.

(iv) Existing mature tree growth and natural land forms on the site shall be preserved. In some cases, such as towers sited on large, wooded lots, natural growth around the property perimeter may be a sufficient buffer.

(v) Maintenance and replacement of which plant material shall be the responsibility of the owner. Replacement of plant material shall mean, for the proposes of this chapter, which such plant material does not grow to the prescribed height as stated herein or dies. The plant material shall be replaced within 15 calendar days, weather permitting, and shall be of the same size and kind as the plant material being replaced.

5.7-7. *Removal deposit.* If a tower installation is approved, a removal deposit is required before a building permit will be issued; applicant will provide a letter from a licensed engineer to estimate the cost of removing the tower. The amount shall be held by the city and shall be refundable to the owner of the property upon which the tower is located, after the owner has removed the tower in accordance with city requirements. If the deposit is returned to the owner, it shall be returned with accumulated interest at the rate received by the city, less a processing fee of ten percent of the aggregated amount of the deposit and interest. Upon written request, the planning director shall lower the tower removal deposit to a level proven by an applicant to be sufficient to cover the estimated probable cost of removing the tower. The director's actions in failing to lower deposit in accordance with a request may be appealed to the zoning board of adjustment.

The planning director may allow the applicant to post a performance bond in lieu of the removal deposit. The performance bond shall be equal to or greater than 125 percent of the amount calculated for the removal deposit. Proof of performance bonds shall be submitted before a building permit will be issued.

5.7-8. *Maintenance.* To ensure the structural integrity of towers and antennas, the owner of a tower shall ensure that it is maintained in compliance with standards contained in applicable local building codes and the applicable standards fort towers that are published by the Electronic Industries Association, as amended from time to time, and all FCC and state regulations. If, upon inspection, the inspection department concludes that the tower fails to comply with such codes and standards and constitutes a danger to persons or property, then upon notice being provided to the owner of the tower, the owner shall have 90 days to bring such tower into compliance with such codes and standards. If the owner fails to bring such tower into compliance within said 90 days, the city council may remove such tower at the owner's expense.

5.7-9. *Abandonment.* Any tower or antenna that ceases to operate for a continuous period of 12 months shall be considered abandoned, and the owner of such antenna or tower shall remove same within 90 days of receipt of notice from

the city notifying the owner of such abandonment. If such antenna or tower is not removed within said 90 days, the city council may cause the removal of such antenna or tower at the owner's or user's expense or with the removal deposit. If payment is not made within 30 days of removal, or the removal deposit does not cover the cost of removal, the city may place a lien on the property. If there are two or more users of a single tower, then this provision shall not become effective until all users cease using the tower.

(Ord. No. 2012-49, § 1(Exh. A), 9-10-12)

Sec. 144-5.8. - Industrialized housing.

The following provisions shall be met by single-family and duplex industrialized housing in accordance to the V.T.C.A., Occupations Code § 1202.253, not located in the B-1, B-1A or B-1B districts:

(a) Single-family or duplex industrialized housing must have all local permits and licenses that are applicable to other single-family or duplex dwellings.

(b) Single-family or duplex industrialized housing shall:

(1) Have a value equal to or greater than the median taxable value for each single-family dwelling located within 500 feet of the lot on which the industrialized housing is proposed to be located, as determined by the most recent certified tax appraisal roll for each county in which the properties are located;

(2) Have exterior siding, roofing, roof pitch, foundation fascia, and fenestration compatible with the single-family dwellings located within 500 feet of the lot on which the industrialized housing is proposed to be located;

(3) Comply with municipal aesthetic standards, building setbacks, side and rear building setback offsets, subdivision control, architectural landscaping, square footage, and other site requirements applicable to single-family dwellings; and

(4) Be securely fixed to a permanent foundation.

(c) For purposes of subsection (2), "value" means the taxable value of the industrialized housing and the lot after installation of the housing.

(Ord. No. 2012-49, § 1(Exh. A), 9-10-12)

Sec. 144-5.9. - Agricultural uses.

Farms and ranches are permitted in residential and commercial districts provided that no obnoxious fertilizer is stored upon the premises and no obnoxious soil or fertilizer renovation is conducted thereon.

(Ord. No. 2012-49, § 1(Exh. A), 9-10-12)

Sec. 144-5.10. - Temporary uses.

(a) *Contractor's office, tool and construction sheds.* Contractor's office, tool and construction sheds are allowed in all zoning districts provided that they are used for construction purposes only, and which shall be removed upon completion or abandonment of construction work.

(b) *Temporary real estate sales office.* Temporary real estate sales office, whether portable or non-portable, shall be permitted in any residential zoning district or on residentially used property. The sales office shall be removed when the development is completely sold.

(Ord. No. 2012-49, § 1(Exh. A), 9-10-12)

Sec. 144-5.11. - Auto body repair and garages (public).

Other than premises where used vehicles are dismantled or used parts are sold, garages shall not have repair facilities or activities maintained or carried on outside of the building. No body or fender repairs shall be conducted on any premises adjacent at the side or rear to a residential zoning district. No wrecked, junked, or otherwise inoperative vehicle shall be stored or parked on the premises except while awaiting repair and except under cover of a permanent screening fence of masonry and/or solid wood (weather-resistant redwood, cedar, or equal not less than six feet in height).

(Ord. No. 2012-49, § 1(Exh. A), 9-10-12)

Sec. 144-5.12. - Automobile or trailer sales rooms or yards or sales of outdoor merchandise.

Vehicles or merchandise displayed or parked outside the building must be located behind the property line of said property. In the case of a corner lot, no vehicle or merchandise shall be displayed or parked within the area embraced by the

radius of the curb and a straight line drawn diagonally between the beginning points of the radius. No outdoor merchandise taller than eight feet shall be located within five feet of the property line of a residence or residential district.

Vehicles or merchandise must be located on a paved surface with adequate parking as provided in section 144-5.1.

(Ord. No. 2012-49, § 1(Exh. A), 9-10-12)

Sec. 144-5.13. - Bowling alleys, dance halls, shooting galleries, shooting ranges, skating rinks, commercial or public tuber entrance or take out facilities, and similar commercial recreation buildings or activities.

(a) These uses or activities shall be at least 200 feet from any property line with an existing clinic, hospital, school or church, and shall be at least 200 feet from a "R-1," "R-2," "R-1A-43.5," "R-1A-12," "R-1A-8," "R-1A-6.6," or "R-2A" district.

(b) Effective November 8, 2006, no commercial or public tuber entrance or take out facility shall be developed without approval of a special use permit.

(Ord. No. 2012-49, § 1(Exh. A), 9-10-12)

Sec. 144-5.14. - Heavy load and farm machinery sales and service.

No repair facilities shall be maintained or carried on outside the building, and no machinery shall be displayed outside that is within 30 feet of the front lot line.

(Ord. No. 2012-49, § 1(Exh. A), 9-10-12)

Sec. 144-5.15. - Lumberyards.

A lumberyard storage yard, whether a principal or accessory use, must be completely surrounded, excepting entrance points, on all sides by a solid wall or fence not less than eight feet high.

(Ord. No. 2012-49, § 1(Exh. A), 9-10-12)

Sec. 144-5.16. - Accessory recreation.

Parks, playgrounds, swimming pools, tennis courts, recreation building, community rooms, fitness centers, gyms, and the like, are authorized when they are an accessory use in any residential district or non-residential development. This accessory use may not be open to the public.

(Ord. No. 2012-49, § 1(Exh. A), 9-10-12)

Sec. 144-5.17. - Short term rental or occupancy.

5.17-1. *Purpose.* This section is intended to provide a procedure to allow the rental of private residences to visitors on a short term basis, while ensuring that such rental use does not create adverse impacts to residential neighborhoods due to excessive traffic, noise, and density. Additionally, this section is intended to ensure that the number of occupants within such rental units does not exceed the design capacity of the structure to cause health and safety concerns, and that minimum health and safety standards are maintained in such units to protect visitors from unsafe or unsanitary conditions.

5.17-2. *Definitions.*

Adult means an individual 17 years of age or older.

Bedroom means a room designated and used primarily for sleeping and rest on a bed.

Floodway means the channel for a river or other water course and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

Non-residential district means the following zoning districts: R-3, R-3L, R-3H, MU-A, MU-B, C-1, C-1A, C-1B, C-2, C-2A, C-3, C-4, C-4A, C-4B, C-O, M-1, M-1A, and M-2A. This includes all subsequently approved special districts identified as non-residential unless otherwise specified within the special district.

Occupant means the person or persons who have rented the short term rental and their guest(s).

Operator means every natural person, firm, partnership, association, social or fraternal organization, corporation, estate, trust, receiver, syndicate, branch of government or any other group or combination acting as a unit who is the

proprietor of a short term rental, whether in the capacity of owner, lessee, sub-lessee, mortgagee in possession, license or any capacity. Where the operator performs his or her functions through a managing agent of any type of character, other than an employee, or where the operator performs his or her functions through a rental agent, the managing agent or the rental agent shall have the same duties as his or her principal.

Owner means the person or entity that holds legal and/or equitable title to the private property.

Residential district means the following zoning districts: R-1, R-1A-43.5, R-1A-12, R-1A-8, R-1A-6.6, R-2, R-2A, B-1, B -1A, B-1B, TH, TH-A, ZH, ZH-A and SND-1. This includes all special and planned development districts identified as residential unless otherwise specified within the special district.

Resort condominiums means a form of housing tenure and other real property where a specified part of a piece of real estate (usually of an apartment house) is individually owned and rented out for use of persons for less than 30 days while use of and access to common facilities in the piece such as hallways, heating system, elevators, exterior areas is executed under legal rights associated with the individual ownership and controlled by the association of owners that jointly represent ownership of the whole piece.

Resort property means a compound of buildings and facilities located together that provides lodging, entertainment and a relaxing environment to people on vacation. This includes 24-hour security and 24-hour front desk personnel. These units comply with all commercial building code standards.

Short term rental means the rental for compensation of one- or two-family dwellings, as defined in the IRC (International Residential Code), for the purpose of overnight lodging for a period of not less than one night and not more than 30 days other than ongoing month-to-month tenancy granted to the same renter for the same unit. This is not applicable to hotels, motels, bed and breakfasts, resort properties as defined in this chapter or resort condominiums.

Short term rental decal means the decal issued by the city as part of a short term rental permit that identifies the subject property as a short term rental, the short term rental permit number, the owner or rental agent's name and 24-hour emergency contact phone number of either the owner or the rental agent.

Sleeping area means a room or other space within a dwelling designed or used for sleeping, including a bedroom. Tents and recreational vehicles shall not be considered a sleeping area.

5.17-3. *Applicability.*

(a) Short term rental within residential districts is prohibited.

(b) Short term rental is prohibited in any floodway located within the city limits, regardless of zoning district.

(c) A short term rental permit is required prior to the use of a one-family or two-family dwelling as a short term rental located within a non-residential district. Subject to subsection (d), Standards, of this section, an owner shall obtain and maintain a current permit whenever a dwelling is used as a short term rental. Annual inspection is required as specified in subsection (f), Inspections, of this section. A special use permit is required in all zoning districts except C-4, C-4A and C-4B.

(d) Within 180 days of the effective date of this section, the owner or operator of each existing legally established short term rental shall apply for and pay the permit fee for a short term rental permit. Within 45 days of receipt of a completed application, the permit fee and compliance with subsection (e), short term rental permit, of this section, a permit shall be issued to the owner or operator that will be good for one year from the date issued and subject to the annual renewal inspection by the fire marshal. Ability to approve said permit is predicated on verification that the short term rental is in compliance with subsections 144-2.3(b), (c), (d), Nonconforming use.

5.17-4. *Standards.* All short term rentals permitted pursuant to this chapter are subject to the following standard requirements:

(a) *Occupancy.* The maximum number of persons allowed to reside in a short term rental is two adults per sleeping area plus an additional four adults per residence.

(b) *Short term rental decal display.* As part of a short term rental permit, the city issued short term rental decal shall be posted on the front of each short term rental in a location that is accessible and legible to an individual at the entry of the short term rental.

(c) *Parking.* A minimum of one off-street parking space, not including the garage, per sleeping area shall be provided with a minimum of two and a maximum not to exceed the number of sleeping areas plus one. No required parking shall be permitted within public right-of-way or access easements as defined by city and state regulations regarding parking.

(d) *Life safety.*

(1)

All building and fire related construction shall conform to the city's adopted IRC (International Residential Code) building code.

(2) A 2A:10B:C type fire extinguisher (a standard five-pound extinguisher) shall be properly mounted within 75 feet of all portions of the structure on each floor.

(3) Every sleeping room shall have at least one operable emergency escape and rescue opening.

(4) An evacuation plan posted conspicuously in each sleeping area.

(5) Every bedroom/sleeping area in a short term rental that does not comply with subsection (d)(4), Life safety, of this section shall not be used as a sleeping area and where equipped with a door, shall remain locked at all times when the dwelling is being used as a short term rental. Such a non-compliant sleeping area shall not be included in the maximum occupancy calculation for the short term rental. The owner/operator shall notify every occupant, in writing, that the non-compliant sleeping area may not be used for sleeping.

(e) *Conduct on premises.*

(1) Each occupant and visitor to a short term rental shall comply with all applicable provisions of the City Code, including, without limitation: noise and disorderly conduct restrictions from chapter 82, Offenses and miscellaneous provisions; litter prohibition from chapter 50, Environment; and others such as parking, and trespassing provisions. No occupant of or visitor to a short term rental shall cause or permit a public nuisance to be maintained on such property. This information shall be included in the rental agreement and inside the short term rental as specified in subsection (7), Tenant indoor notification, below.

(2) All occupants shall be informed in writing of relevant city ordinance including, but not limited to, the city's nuisance and water conservation ordinances by the owner/operator of the short term rental.

(3) Excessive noise or other disturbance outside the short term rental is prohibited between the hours of 10:00 p.m. and 8:00 a.m. This includes, but is not limited to, decks, portals, porches, balconies, patios, hot tubs, pools, saunas or spas.

(4) No sleeping outdoors.

(f) *Signage.* Signage shall be in compliance with the city's current sign code.

(g) *Tenant indoor notification.* The operator shall post in a conspicuous location of the dwelling the following minimum information:

(1) Maximum number of occupants.

(2) Location of required off-street parking, other available parking and prohibition of parking on landscaped areas.

(3) Quiet hours and noise restrictions.

(4) Restrictions of outdoor facilities.

(5) 24-hour contact person and phone number.

(6) Property cleanliness requirements.

(7) Trash pick-up requirements, including location of trash cans.

(8) Flooding hazards and evacuation routes. Including information on the emergency siren system.

(9) Emergency numbers.

(10) Notice that failure to conform to the occupancy and parking requirements is a violation of the City Code and occupant or visitor can be cited.

(11) Other useful information about the community.

(h) *Rental agreement notification.* The rental agreement between the owner/operator of the short term rental and the occupant shall include by attachment, all of the information provided on the tenant indoor notification signage.

5.17-5. *Short term rental permit.*

(a) *Application.* Application for a short term rental permit shall be in writing on an application form available in the planning director's office, shall be accompanied by a one-time payment of the fee of $50.00 and shall include the following information, at a minimum:

(1) A list of all owners of the short term rental including names, address and telephone numbers.

(2) A sketch or narrative describing the location of the available parking spaces as required by subsection d (3), Parking, of this section.

(3) A sketch of the floor plan.

(4) The name, address and 24-hour telephone numbers of a contact person who shall be responsible and authorized to respond to complaints concerning the use of the short term rental.

(5) Proof of hotel occupancy tax compliance with V.T.C.A., Tax Code ch. 351, before permit is granted.

(6) A statement that the owner of the short term rental has met and will continue to comply with the standards and other requirements of this section.

(7) Provide current email address of owner/operator, if applicable.

(8) If owner/operator has a property management or agent, owner/operator shall provide property management or agent phone number, mailing address and email address.

(b) *Completeness of application.* If the application is incomplete or the full fee has not been paid, the planning director shall notify the applicant in writing, within ten business days of the date of the application, that the application is incomplete and will not be considered by the city until the application is complete and/or the full fee is paid. If the full fee is not paid or the application is not compete within 45 days of the date of the application, the application shall expire.

(c) *Annual renewal.* A short term rental permit will be renewed annually through an inspection conducted by the fire marshal to verify continued compliance with subsection 144-5.17-4, Standards, of this section.

(d) *Transferability.* A short term rental permit is transferable to a new property owner, if the new property owner submits a short term rental permit application and agrees in writing to comply with the requirements of this section. A new owner must apply for a short term rental permit within 90 days from the closing date of the purchase. The new owner must provide a copy of the closing statement with the short term rental permit application form. Failure of the new property owner to apply for permit within 90 days from the closing date will revoke the short term rental permit. Short term rentals existing prior to the effective date of this section that are non-conforming to the zoning for which property is located, but obtained a permit in compliance with subsection 144-5.17-3(d), Applicability, shall become null and void if the new owner fails to apply for the short term rental permit within 90 days from the date of the deed of the new owner's purchase.

(e) *Appeal.* If an application for a short term rental permit or renewal is denied, the owner or operator may appeal to the planning and zoning commission by written notice delivered within 30 days of denial or revocation.

5.17-6. *Inspections.* To ensure continued compliance with the requirements of this section a short term rental shall be inspected in the following methods:

(a) *Transfer inspection.* As part of the transfer of a short term rental permit to a new owner, in accordance with subsection 144-5.17-5(d), Transferability, and the issuance of a new short term rental permit the city's fire marshal shall conduct an inspection to verify compliance with this section.

(b) *Fire extinguishers.* The owner/operator is responsible for obtaining annual independent inspections of the fire extinguishers in compliance with the city's current fire code.

(c) *Immediate inspection.* The city will perform inspections immediately when a violation is suspected.

(d) *Annual fire inspection.* The city's fire marshal's office will perform annual inspections for compliance with this section.

5.17-7. *Enforcement/penalty.*

(a) Emergency contact. The owner/operator of the short term rental shall provide the city with a 24-hour contact number. Should a law enforcement officer respond to the short term rental and issue a citation for any violation of city ordinances, the owner/operator shall be called by the officer. The owner/operator shall attempt to contact the occupants within one hour of the call to address the occupants about the complaints. Should a second complaint be filed and citation issued to any part of the occupants or guests, the owner/operator must take appropriate step, in accordance with the individual rental agreement, to assure future complaints do not occur. Should three separate citations be issued to an occupant or their guest(s), involving separate occupants under separate rental agreements within a six-month period, the short term rental permit may be revoked in accordance with the revocation process specified in subsection 144-5.17-8, Revocation.

(b) Violations of any subsection of this section may revoke the short term rental permit in accordance with subsection 144-5.17-8, Revocation.

(c) Failure to pay hotel occupancy tax timely is considered a violation of this section and may result in revocation of the short term rental permit in accordance with subsection 144-5.17-8, Revocation. Owner shall have 30 days from the date the city or state issue a notice of delinquency to submit delinquent hotel occupancy tax to city and state before revocation of the short term rental permit begins.

(d) Failure to successfully complete the renewal process of a short term rental permit is considered a violation of this section. Owner shall have 45 days from the date city issues notice of denial to gain compliance of noncompliant items before the revocation of the short term rental permit begins.

(e) The provisions of this subsection are in addition to and not in lieu of any criminal prosecution or penalties as provided by city ordinances or county or state Law.

(f) Proof. Prima facie proof of occupancy of a dwelling is established in any prosecution for violation of this section if it is shown that vehicles with registrations to persons having different surnames and addresses were parked

overnight at the dwelling. Establishment of a prima facie level of proof in this subsection does not preclude a showing of illegal "occupancy" of a dwelling by a person in any other manner.

(g) Offense. It is an offense for the property owner, any agent of the property owner, or the occupant(s) to directly occupy or indirectly allow, permit, cause, or fail to prohibit an occupancy in violation of this section 144-5.17. Each day that a unit is occupied in violation of this ordinance shall be considered a separate offense, and, upon conviction, shall be subject to a minimum fine of $500.00 to a maximum fine of $2,000.00 per violation.

(h) Each day of violation of said standards and provisions of this section constitutes a separate offense and is separately punishable, but may be joined in a single prosecution.

5.17-8. *Revocation.* If any violations stated in subsection 144-5.17-7, Enforcement/penalty, of this section have been committed and not corrected within the time specified the planning director shall begin the procedures to revoke the short term rental permit in accordance with the following:

(a) The city shall give 30-day written notice to the owner/operator regarding the public hearing date and recommendation by the planning commission, and public hearing and decision by the city council.

(b) The city shall provide written notice to property owners within 200 feet of the subject property at least 15 days prior to the hearing.

(c) If a short term rental permit is revoked, the owner/operator may not reapply for the same property for a period of 12 months.

[5.17-9.] *Abrogation and greater restrictions.* This section is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this section and another ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

(Ord. No. 2012-49, § 1(Exh. A), 9-10-12)

Sec. 144-5.18. - Sale of alcoholic beverages.

A place of business where alcoholic beverages are sold shall be prohibited within 300 feet of a church, private or public school, daycare center or child-care facility or public hospital. The measurement of this distance shall be along the property lines of the street fronts and from front door to front door, and in direct line across intersections. The measurement of this distance shall be from the nearest property line of the public school to the nearest doorway by which the public may enter the place of business, along street lines and in direct line across intersections. On premises selling alcoholic beverages where minors are prohibited from entering, the measurement of the distance between the premises and a public school shall be along the property lines of the street fronts and from front door to front door and in a direct line across intersections. This section does not apply to any establishment that is licensed for the sale or consumption of alcoholic beverages at the time a church, private or public school, daycare center or child-care facility or hospital begins construction or occupancy of a building within 300 feet of the licensed establishment. Nor shall it apply to churches, public schools or hospitals that are themselves licensed for the sale or consumption of alcoholic beverages.

(Ord. No. 2012-49, § 1(Exh. A), 9-10-12)

Sec. 144-5.19. - Historic landmarks and districts.

See chapter 66, Historic preservation.

(Ord. No. 2012-49, § 1(Exh. A), 9-10-12)

Sec. 144-5.20. - Airport zoning.

See chapter 10, Aviation.

(Ord. No. 2012-49, § 1(Exh. A), 9-10-12)

Sec. 144-5.21. - General provisions and exceptions; use, height and area regulations.

5.21-1. *General provisions.*

(a) *Conformity to regulations.* No structure shall be constructed, erected, or moved in or onto any location in the city if such structure does not conform to the sanitary, health and building regulations of such location. This section shall not apply to those temporary buildings used in connection with a construction project, provided that such buildings shall be removed within 30 days after completion of the permanent building being constructed.

(b) *Open storage or display and storage containers.*
(1)

No open accessory storage or display of materials and commodities shall be permitted unless the storage or display is set back at least 25 feet from all right-of-way lines and screened on all sides by a solid wall or fence not less than eight feet in height. This shall not apply to automobile or trailer sales lots.

(2) Accessory storage containers, such as "c-containers" must be placed in the rear yard and screened from view on all sides by a solid wall or fence not less than six feet in height from any adjoining residential use or zoning district that allows a residential use.

(3) Mobile storage pod for onsite storage may not be larger than eight feet wide by 16 feet long by eight feet high and may not be placed on a lot for more than 30 days in a one-year period unless the property ownership changes or there is a change in occupancy of a rental unit as per lease agreement.

(4) Roll-off dumpsters are permitted in residential areas for the temporary storage of construction and demolition debris, prior to disposal. They may be kept on private property for up to three consecutive months per year and they must be placed on the driveway or other hard surface. Roll-off dumpsters must be emptied every two weeks.

(c) *Reserved.*

(d) *Sight distance and visibility.* To ensure that obstructions do not constitute a driving and pedestrian hazard, a "sight triangle" will be observed at all street intersections, street and alley intersections, and intersections of driveways with streets. Within the "sight triangle," no landscape material, wall, or other obstruction shall be permitted between the height of two and one-half feet and seven feet above the street, alley or driveway elevation. The sight triangle shall consist of the following; or other dimensions having a similar effect when intersections are not 90 degrees.

Street	Length of triangle side along the curb on outer edge of the shoulder
Uncontrolled* street with two or fewer through lanes in one direction	25 feet
Controlled street with two or fewer through lanes in one direction, driveways and alleys	15 feet
Uncontrolled street with more than three lanes in one way	40 feet

* Uncontrolled street means a street without a yield, stop, or traffic signal at the intersection.

See the following diagrams:

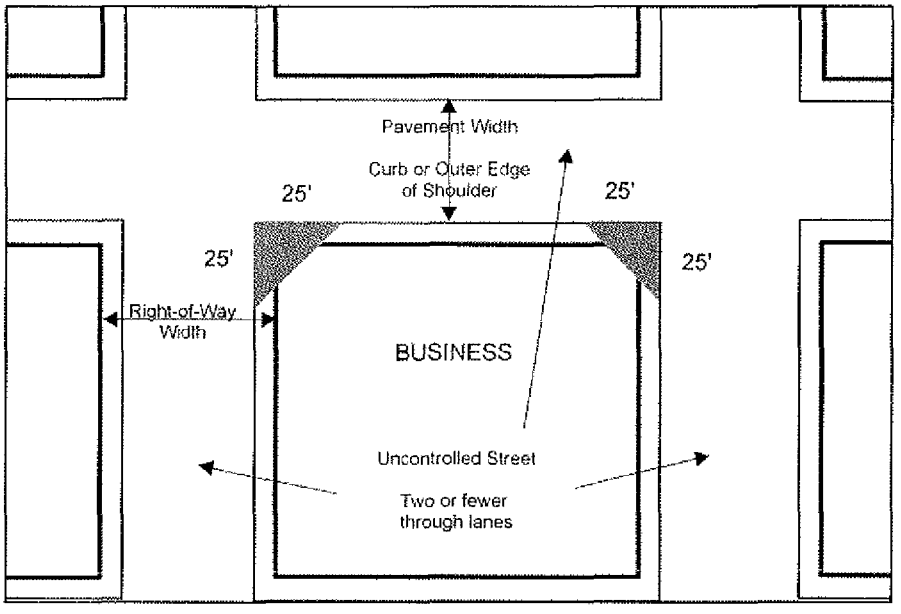


Illustration 14. Sight distance and visibility triangle—Uncontrolled street

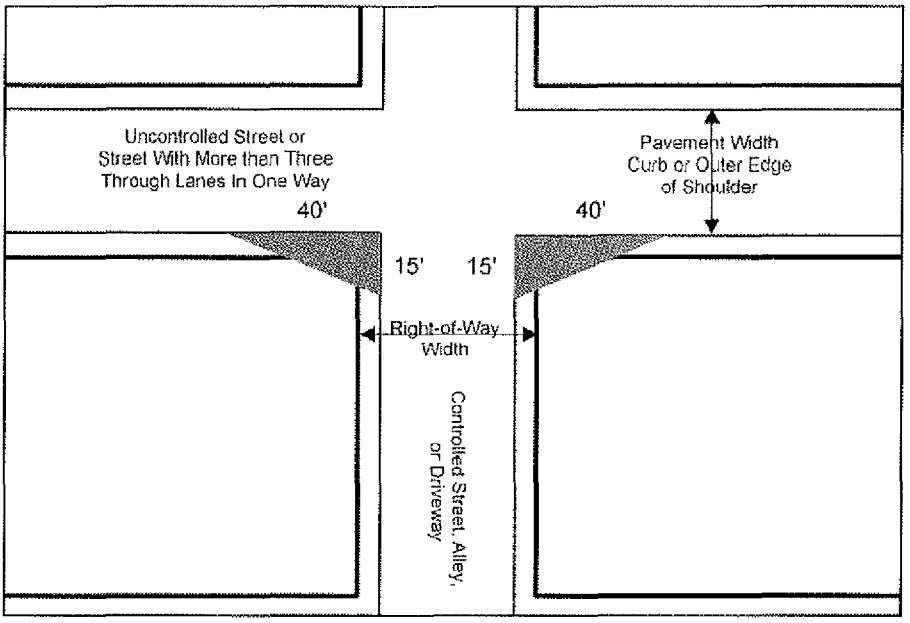


Illustration 15. Sight distance and visibility triangle—Controlled street

5.21-2. *Height exceptions.*

(a) The height limits for the various districts shall not apply to church spires, belfries, cupolas or domes not used for human habitation or to chimneys, ventilators, skylights, water tanks, parapet walls, cornices, solar energy systems, or necessary mechanical appurtenances usually located on the roof level, provided that such features are limited to that height necessary for their proper functioning.

(b) Towers and antennas. The height limitations applicable to buildings and structures shall not apply to towers and antennas. The requirements set forth in section 144-5.7 shall govern the location of towers and antennas that are installed at a height in excess of the height limitations specified for each zoning district.

5.21-3. *Yard and setback exceptions.*

(a) *Front setback determination.* In any zoning district where lots on the same side of the street between two intersecting streets are developed with varying front yard depths and no plat has been filed showing a setback line, the front setback shall be determined by the planning director.

(b) *Official line and measurement.* Where an official line has been established for future widening or opening of a street upon which a lot abuts, then the depth or width of such yard shall be measured from such official line to the nearest line of the building.

(c) *Open yard.* Every part of a required yard shall be open from its lowest point to the sky unobstructed, except for the ordinary projection of sills, belt courses, cornices, chimneys, buttresses, ornamental features and eaves, provided that none of the above projections shall extend into a required yard more than 24 inches. In residential districts, canopies or open porches having a roof area not exceeding 60 square feet may project a maximum of six feet into the required front yard. In zero lot line districts canopies or open porches having a roof area not exceeding 120 square feet may project a maximum of five feet into the required side building setback, except in the case of a corner lot, where the required side yard is adjacent to the street, no encroachment may be allowed.

(d) *Exterior stairway.* Any exterior stairway, open or enclosed, may project not more than four feet into a required rear building setback.

(e) *Commercially or industrially zoned lots.* No rear building setback shall be required on any lot commercially or industrially zoned, the rear line of which adjoins a railway right-of-way or which has a rear railway tract connection, provided the lot is not utilized for residential purposes.

(f) *Computing the depth of a rear yard.* In computing the depth of a rear yard for any building where such yard abuts a dedicated alley, one-half of such alley may be assumed to be a portion of the rear yard.

(g) *Private garages on corner lots.* On a corner lot, a private garage, when attached to the main building and not exceeding the height of the main building, may extend into the required rear building setback to a point not less than 18 feet from the rear yard lot line, and shall not occupy more than 30 percent of the required rear yard.

(h) *Decreasing rear yard setbacks.* In any mobile or manufactured home subdivision in the mobile home zoning district, the rear yard setback requirement may be decreased one foot for every foot the side yard is increased

above the minimum; provided that under no circumstances shall the rear yard be less than ten feet. This exception shall apply only to mobile homes and not to site-built residences.

(i) *Interior side yard.* In any district, an interior side yard of five feet may be permitted for a one- or two-family dwelling or an addition to a one- or two-family dwelling if the lot on which it is to be built is less than 60 feet wide at the front setback line and the lot was in separate ownership prior to September 25, 1967.

5.21-4. *Lot width and area exceptions.* Where a lot or parcel has less than the required width or area prescribed for the particular zoning district and the lot or parcel was in separate ownership or platted prior to September 25, 1967, the lot area or width requirement will not prohibit erection of a one-family dwelling.

5.21-5. *Lot area and on-site sewage facilities.* Where on-site sewage facilities are used, lot area for duplex, townhouse, multifamily and non-residential uses may be determined by the city sanitarian, but shall not be less than required by the applicable zoning district or state law.

(Ord. No. 2012-49, § 1(Exh. A), 9-10-12; Ord. No. 2013-6, § II, 1-28-13)

Sec. 144-5.22. - Non-residential and multifamily design standards.

5.22-1. *Applicability of non-residential design standards.* All non-residential and multifamily buildings, with the exception of those described in subsection 144-5.22-2, below, that are adjacent to or front a public roadway, public park or residential district must comply with the standards of this Section.

5.22-2. *Structures exempt from design standards.*

(a) Industrial uses. The planning director may exempt industrial use buildings when located in an "M-1 Light Industrial District," "M-1A Light Industrial District," "M-2 Heavy Industrial District" and "M-2A Heavy Industrial District" and where adjacent to other properties zoned and/or used for industrial or agricultural purposes;

(b) Expansions of existing buildings containing 10,000 square feet or less gross floor area, if the expansion is no more than 40 percent of the existing building area;

(c) Expansions of existing buildings containing more than 10,000 square feet gross floor area, if the expansion is no more than 20 percent of the existing building area;

(d) Metal buildings used for industrial uses are not exempt from additional landscape standards as required in subsection 144-5.22-3(e).

5.22-3. *Building mass, articulation and building elements.*

(a) *Purpose.* In order to provide building articulation and interest in design and human scale to the facade of a building, a variety of building techniques are required. The purpose of this section is to ensure that the front of non-residential and multifamily structures have a variety of offsets, relief, and insets to provide a more interesting facade appearance.

(b) *Applicability.* The following articulation standards shall apply to building facades facing a public street.

(c) *Building articulation.*

(1) *Horizontal (or depth) articulation.*

(i) *Maximum distance between offsets.* No building facade shall extend for a distance greater than three times its average height without a perpendicular offset.

(ii) *Minimum depth of offsets.* Offset depth shall be a minimum 15 percent of the average building height.

(iii) *Minimum length of offsets.* Offset shall extend laterally for a distance equal to at least ten percent of the entire facade.

(iv) *Offset depth variation.* Offsets can be of varying depth as long as the minimal standard is satisfied.

(v) *Facade calculation.* For calculation purposes, the facade shall be considered the total distance of the building line.

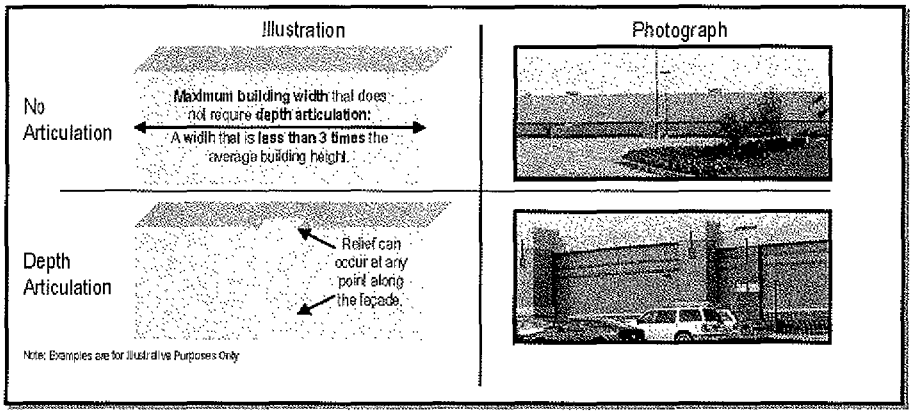
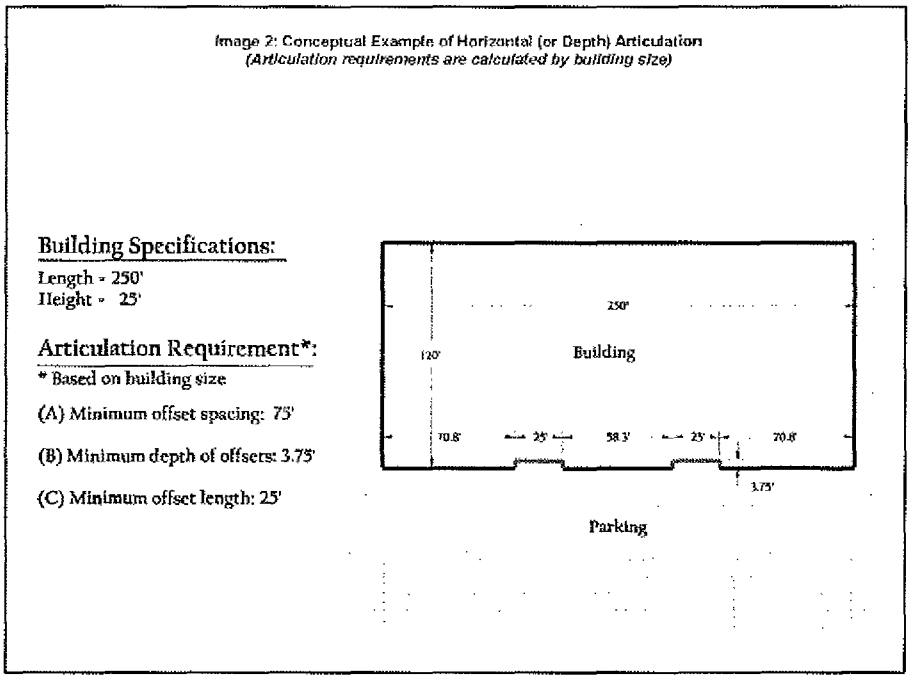


Image 1. Horizontal (or Depth) Articulation Examples



(2) *Vertical (or height) articulation.*

(i) *Maximum distance between elevation changes.* No wall shall extend horizontally for a distance greater than three times its average height without a change in elevation.

(ii) *Minimum height of elevation changes.* An elevation change height shall be a minimum 15 percent of the average building height.

(iii) *Minimum length of elevation changes.* An elevation change shall continue to extend laterally for a distance equal to at least ten percent of the entire facade.

(iv) *Elevation change variation.* Elevation changes can be of varying heights as long as the minimal standard is satisfied.

(v) *Facade calculation.* For calculation purposes, the facade shall be considered the total distance of the building facade.

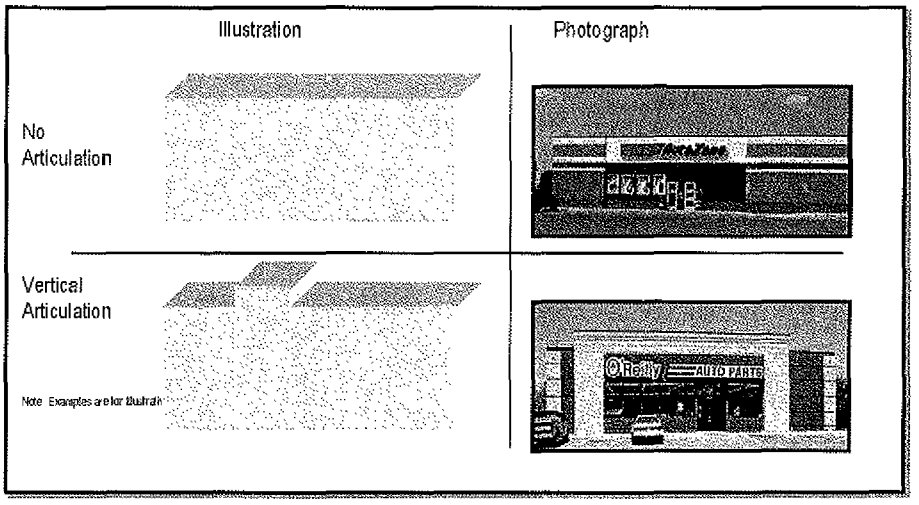
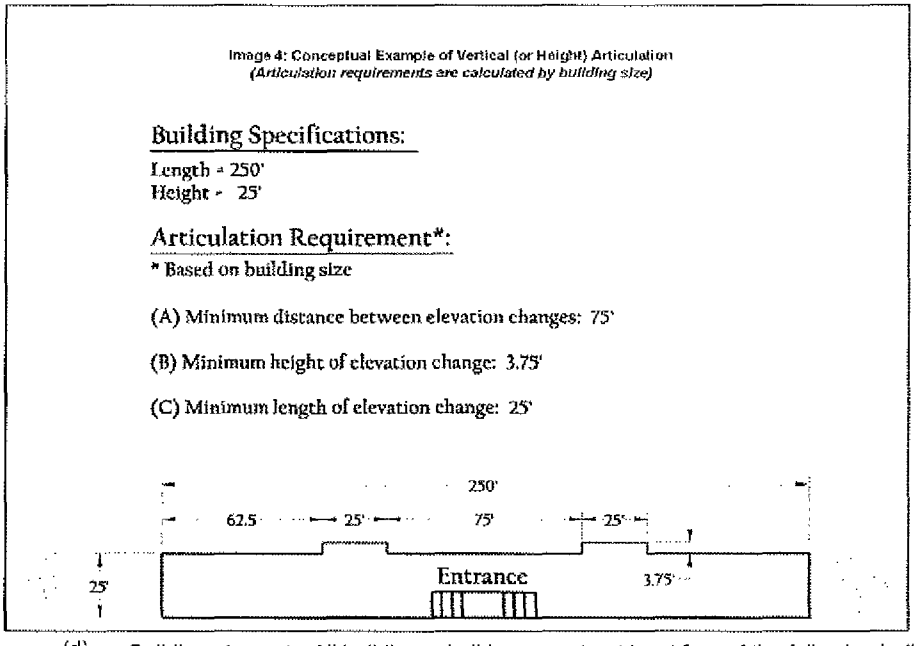


Image 3. Vertical (or Height) Articulation Examples



(d) *Building elements.* All buildings shall incorporate at least four of the following building elements:

(1) Lighting features;
(2) Awnings;
(3) Canopies;
(4) Alcoves;
(5) Windows;
(6) Recessed entries;
(7) Ornamental cornices;
(8) Pillar posts;
(9) Other building elements that contribute to the human scale of a building.

(e) *Additional landscaping for metal buildings for industrial uses.* All metal industrial buildings shall incorporate the following elements in addition to section 144-5.3

(1) A minimum of one tree and four shrubs for every 40 feet (or portion thereof) of building facade shall be installed using trees from the approved plant list (subsection 144-5.3-1.). The above requirements shall be planted within 40 feet of the building facade.
(2) Trees shall be planted no closer than 20 feet apart.
(3) In no event may trees other than ornamental trees listed in Appendix A of subsection 144-5.3-1 be planted under overhead power lines.

(4) All new trees shall be provided with a permeable surface of 60 square feet per tree under the drip line.

(5) All planting areas shall be a minimum of five feet in width.

5.22-4. *Exterior building materials.*

Masonry requirement. At least 80 percent of the vertical walls of all buildings (excluding doors and windows) to which these standards apply, shall be finished in one or more of the following materials:

(a) Permitted by right.

(1) Brick, stone, cast stone, rock, marble, granite, glass block, tile;

(2) Stucco or plaster;

(3) Glass with less than 20 percent reflectance (however, only a maximum of 50 percent of a building may be constructed in glass);

(4) Split-face concrete block, poured-in-place concrete, and tilt-wall concrete. Any use of concrete products shall have an integrated color and be textured or patterned. Tilt-wall concrete structures shall include reveals, punch-outs, or other similar surface characteristics to enhance the facade on at least ten percent of each facade.

(5) Cellulose fiber-reinforced cement building plank products, i.e. Hardi-Plank products or other cement building products approved by a nationally recognized building products evaluation service. The use of vertical boards may only be allowed in a board and batten design style.

(6) Exterior insulation and finish system (EIFS) or equivalent product.

(b) Additions to existing structures with vertical walls made of wood, including shingles and siding, may utilize wood in an amount consistent with the percentage of wood on the original structure.

5.22-5. *Consistent facade standard.*

(a) All facades or sides of a building shall be designed with architectural style and building materials consistent with the front facade.

(b) Side or rear facing facades, not on a public roadway, are not required to meet the articulation standards in subsection 144-5.22-3.

5.22-6. *Roof treatments.*

(a) Parapets shall be used to conceal roof top equipment on flat roofs. If a sight line drawing is provided with the site plan showing that all roof top equipment will not be visible from the public right-of-way or adjacent property, then a parapet wall shall not be required.

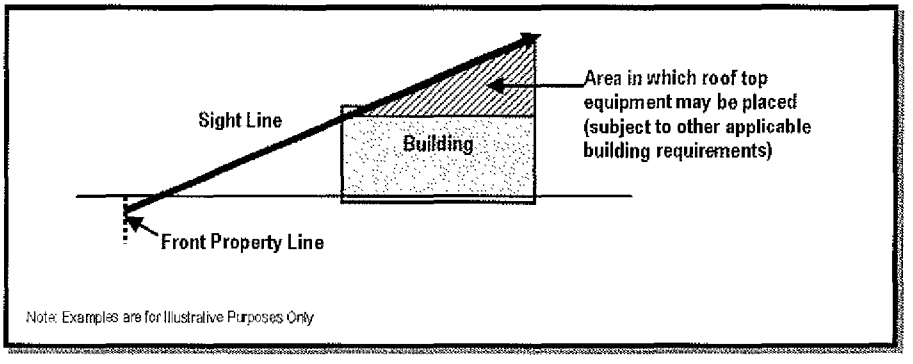


Image 5. Sight Line Example

(b) Where overhanging eaves are used, overhangs may be no less than two feet beyond the supporting walls.

(c) Any roof using shingles shall use dimensional shingles (shingles that have a shadow at the top exposure to give added depth and definition).

(d) Red tile roofs. Red tile roofs are not considered shingles for the purpose of the section.

5.22-7. *Roof types.* The following types of roofs are prohibited:

(a) Mansard roofs and canopies without a minimum vertical distance of eight feet and at an angle not less than 25 degrees, and not greater than 70 degrees;

(b) Back-lit awnings used as a mansard or canopy roof.

5.22-8. *Entryways/customer entrance treatments and pedestrian routes.*

(a) Any front entry shall be set back from the drive a minimum distance of 15 feet.

(b) Single-use or multi-tenant buildings over 60,000 square feet in size must provide clearly defined, highly visible customer entrances that include an outdoor patio area, at least 200 square feet in area, that incorporates the following:

(1) Benches or other seating components;

(2) Decorative landscape planters or wing walls that incorporate landscaped areas;

(3) Structural or vegetative shading; and

(4) Pedestrian routes between parking areas and buildings.

5.22-9. *Applications procedures.* The above standards shall be required to be shown on a site plan that is part of a building permit application. Facade elevation drawings shall also be required.

5.22-10. *Appeal procedures.*

(a) Enforcement of this section may be appealed to the city council.

(b) Appeal procedures.

(1) All appeal actions for a site plan application denied by the planning director or his/her designee shall be submitted to and reviewed by the city council, if requested by the applicant.

(2) An appeal must be made in writing on an application form available in the planning department, shall be accompanied by an application fee of $300.00 and shall include a site plan, building elevation plan and landscape plan.

(3) The appeal shall be scheduled for consideration of the site plan on the regular agenda of the council within 30 days after the appeal application is received, or, in the case of an incomplete application, 30 days after the submission is deemed complete.

(4) The council shall review the site plan and shall recommend approval, approval subject to certain conditions, or disapproval of the concept plan or building site plan.

(5) The city council shall determine final approval or disapproval of all site plan appeals.

(Ord. No. 2012-49, § 1(Exh. A), 9-10-12)

Sec. 144-5.23. - Temporary vending operations.

5.23-1. *Applicability.* On improved property, a vendor may set up an accessory use as long as a permit is issued. Temporary vending operations are permitted in all non-residential districts with an approved site plan and permit. It is also expressly prohibited to solicit anywhere a sign is posted that says "NO SOLICITING" or words and/or symbols to that effect.

Anyone wishing to peddle, solicit, or vend from private property may do so as long as all applicable codes and ordinances of the city are met, and a vending permit is issued by the city. There can be no such activity on vacant, unimproved property.

5.23-2. *Permit and fee.* An application processing fee of $25.00 is required for each vendor permit application. No fee is required for fundraising activities but an application and site plan are required.

5.23-3. *Merchandise.* All merchandise offered for sale must be consistent with this chapter.

5.23-4. *Time.* The temporary vendor permit is valid for a period not to exceed 90 days in the same location. A vendor cannot set up activities on the same property within 30 consecutive days of the expiration of a vendor permit for the same location by the same vendor.

5.23-5. *Parking.* Parking allocated for the patronage of the primary, permanent host business shall not be utilized for set up or parking of the temporary vending operation. Additional parking spaces must be available from the primary business. Parking must be paved. One space is required per vendor.

5.23-6. *Location.* All vending activities must occur on private property. No activity, parking, or signage may be located on public property or street right-of-way or within 25 feet of a street intersection, as measured at the right-of-way line, as to create a visual distraction. Anyone wishing to sell, take orders for immediate or future delivery, collect money or property, or attempt to do any of the foregoing, in exchange for a good or service, is prohibited from peddling, soliciting, or vending or advertising from any public street or park in the city.

No vendor shall sell or vend within 1,000 feet of any public or private school grounds during regular class session hours.

5.23-7. *Setbacks.* All vendor activities must occur a minimum of 25 feet from the host business. All activities must be located a minimum of 50 feet from flammable combustible liquid or fuel storage and dispensing structures.

5.23-8. *Refuse.* At least one 100-gallon garbage receptacle (dumpster) must be located on the host property and accessible to all vendor activities at all times during the permitted period. Permitted sites must be kept clean of all debris, trash, and litter at all times.

5.23-9. *Fire extinguisher.* All temporary stands shall be equipped with a fire extinguisher.

5.23-10. *Noises.* No vendor shall use a sound device, including a bell, horn, voice (amplified or not) to attract attention.

5.23-11. *Codes and ordinances.* The existing property and uses must be and remain in compliance with all applicable codes and ordinances. The accessory use of the vendor will be in compliance with all applicable codes and ordinances (e.g. vendor would meet zoning requirements for setbacks and permitted uses, fire codes, health codes, etc.).

5.23-12. *Restroom facilities.* The vendor and vendor's employees and customers must have unrestricted access to restrooms at all times the vendor is on the property. No portable restrooms may be used. The designated restroom must be in a public commercial operation and must be to code.

5.23-13. *Utilities.* No permanent water, sewer, electric, fuel, or phone facilities may be connected to the vending operation. Any use of extension cords must be no longer than a maximum of 50 feet, including multiple cords. A maximum of two cords may be utilized. Extension cords may not cross an area of vehicular traffic.

5.23-14. *Maximum number of vendors.* An existing non residential property may have a maximum number of two permitted vendors at any one time.

5.23-15. *Food establishments.* Vendors providing food services must be registered and inspected by the city health department. No seating may be provided for temporary food vending.

5.23-16. *Storage of inventory.* No inventory may be stored on trailers on the host property unless the trailers are not accommodating parking spaces that are additional to the host property's operations. No inventory may be viewed from the public right-of-way or from residential property during non-operating hours.

5.23-17. *Use of vehicles for vending.* Any vehicle used for vending purposes must be fully operational and capable of driving. Vehicles may not be placed on blocks or jacks. No permanent or temporary foundation may be placed or constructed for a temporary vending operation. Any external structures (decks, stairs, etc.) must be shown on the site plan and removed at the end of the permitted period.

5.23-18. *Signage.* All temporary vending operations must comply with chapter 106, Signs. Sandwich boards, banners attached to a building, and pennants are permitted. No banners may be utilized which stand independently utilizing stakes, t-posts, or otherwise attached to the ground.

5.23-19. *Downtown vending.* Any vendor wishing to set up in the downtown area as delineated in subsection 144-5.1-1(b), Figure 3, must be permitted through the main street department.

5.23-20. *Provision of recreational activities.* No recreational activities may be permitted through the temporary vending operation ordinance.

5.23-21. *Special events.* Special events may operate for a maximum of ten days, at which time the vending operation must be removed. The event may recur a maximum of once per month. All temporary facilities (booths, utilities) must be removed between events. A minimum of ten vendors must be present to be considered a special event. Port-a-potties are permitted with special events. No additional parking is required.

5.23-22. *Application procedures.* An application shall be submitted to the planning department for review and decision. All vendors providing food or drink services shall also submit an application to the health department.

The planning director shall have the authority to make decisions concerning the site plan and other information provided during the consideration of a vendor permit. The planning director will approve or deny the permit application.

5.23-23. *Application elements.*

(a) The vendor provides, with the application, a letter and drawing from the owner of the property stating:
  (1) The name and home address of the vendor and any other employees or helpers;
  (2) The purpose of the vending operation (for example, "sell watermelons");
  (3) The dates and times of the operation;
  (4) The location on the property where the vending will take place;
  (5) The vendor and vendor's employees and customers have unrestricted access to bathrooms and off-street paved parking at all times the vendor is on the property;

(6) Miscellaneous information necessary to determine the compliance of the property, improvements, and vendor operations with city applicable codes and ordinances.

(b) The vendor provides, with the application, a copy of a State of Texas sales tax certificate issued to him/her for the proposed vending operation if the vended items are taxable.

(c) The permit must be visibly posted on all vendor operations with the expiration date.

5.23-24. *Penalties.*

(a) Permits may be revoked by the director of planning, chief of police, health department, or other city authority for any of the following causes:
(1) Fraud, misrepresentation, or a false statement contained in the application for the license;
(2) Fraud, misrepresentation, or a false statement made in the course of conducting business;
(3) Any violation of any city code or ordinance that has not been brought into compliance within 24 hours of notification.
(4) Conviction of any crime or misdemeanor involving moral turpitude;
(5) Conducting the business in an unlawful manner so as to constitute a breach of the peace or a menace to the health, safety, or general welfare of the public.

(b) If a vendor has violated this or any other applicable part of the City Code while conducting business with a permit issued under this section, the business owner shall be penalized as follows:
(1) The first offense shall result in a warning and the operation shall bring the business into compliance within 24 hours or the permit shall be revoked. $500.00 for each offense per day.
(2) The second offense shall result in the operation having the permit revoked immediately and the vendor shall be prohibited from obtaining a permit under this section for one year from the date of the offense. $1,000.00 for each offense per day.
(3) The third offense shall result in the operation having the permit revoked immediately and the vendor shall be prohibited from obtaining a permit under this section indefinitely. $2,000.00 for each offense per day.

(c) If a host business has violated this or any other applicable part of the City Code while allowing temporary vendor operations to be conducted with or without a permit issued under this section, the business owner shall be penalized as follows:
(1) The first offense shall result in a warning and the host shall correct the violation within 24 hours or the permit shall be revoked. $500.00 for each offense per day.
(2) The second offense shall result in the operation having the permits of all the host's vendors revoked immediately and the host shall be prohibited from hosting temporary vendors for one year from the date of the offense. $1,000.00 for each offense per day
(3) The third offense shall result in the operation having the permits of all the host's vendors revoked immediately and the host shall be prohibited from hosting temporary vendors indefinitely. $2,000.00 for each offense per day.

5.23-25. *Appeal procedures.*

(a) Enforcement of this section may be appealed to the city council.

(b) Appeal actions.
(1) All appeal actions for a site plan application denied by the planning director or his/her designee shall be submitted to and reviewed by the city council, if requested by the applicant.
(2) The appeal shall be scheduled for consideration of the site plan on the regular agenda of the council within 30 days after the submission is received, or, in the case of an incomplete submission, 30 days after the submission is deemed complete.
(3) The council shall review the site plan and shall recommend approval, approval subject to certain conditions, or disapproval of the concept plan or site plan.
(4) The city council shall determine final approval or disapproval of all site plan appeals.

(Ord. No. 2012-49, § 1(Exh. A), 9-10-12)

Sec. 144-5.24. - Temporary mobile storage units.

5.24-1. *Applicability.* A property owner or lessor may place a temporary mobile storage unit on a property used for non residential purposes as long as a permit is issued.

5.24-2. *Permit and fee.* An application processing fee of $25.00 is required for each application to place a temporary mobile storage unit.

5.24-3. *Time.* The temporary storage unit permit is valid for a period not to exceed 180 days in the same location. A unit cannot be set up on the same property within 30 days.

5.24-4. *Parking.* Parking allocated for the patronage of the primary business shall not be utilized for placement of the temporary storage unit. Additional parking spaces must be available.

5.24-5. *Location.* All temporary storage may only be placed in non residential zoning districts. Units must be placed behind the main structure on a paved surface. No units may be placed on public property or street right-of-way or within 25 feet of a street intersection, as to create a visual distraction.

5.24-6. *Screening.* Any temporary structure that can be seen from any adjoining residential use or zoning district that allows a residential use must be screened from view through the placement of a six- to eight-foot solid screening fence.

5.24-7. *Setbacks.* All temporary storage units must be placed a minimum of 50 feet from the primary business. All units must be located a minimum of 100 feet from flammable combustible liquid or fuel storage and dispensing structures.

5.24-8. *Codes and ordinances.* The existing property and uses must be and remain in compliance with all applicable codes and ordinances.

5.24-9. *Utilities.* No permanent water, sewer, electric, fuel, or phone facilities may be connected to the temporary storage unit. Any use of extension cords must be no longer than a maximum of 50 feet, including multiple cords. A maximum of two cords may be utilized. Extension cords may not cross an area of vehicular traffic.

5.24-10. *Maximum number of temporary storage units.* An existing non residential property may have a maximum number of one unit.

5.24-11. *Signage.* No signage of any type may be attached to the storage unit.

5.24-12. *Application procedures and elements.* An application shall be submitted to the planning department for review and decision. The application shall include:

(a) The number, size, and company providing the temporary storage containers.
(b) The expected date of placement and date of removal of the containers.
(c) A site plan showing the placement of each container and distances from property lines. The site plan shall include the location of fencing or other screening as required in section 144-5.22-2.

The planning director shall have the authority to make decisions concerning the site plan and other information provided during the consideration of the sitting of temporary storage containers.

5.24-13. *Penalties.*

(a) Permits may be revoked by the director of planning, chief of police, health department, or other city authority for any of the following causes:
    (1) Fraud, misrepresentation, or a false statement contained in the application for the license;
    (2) Fraud, misrepresentation, or a false statement made in the course of conducting business;
    (3) Any violation of any city code or ordinance that has not been brought into compliance within 24 hours of notification.
    (4) Conducting the business in an unlawful manner so as to constitute a breach of the peace or a menace to the health, safety, or general welfare of the public.
(b) If a business has violated this or any other applicable part of the City Code while conducting business with a permit issued under this section, the business owner shall be penalized as follows:
    (1) The first offense shall result in a warning and the operation shall bring the business into compliance within 24 hours or the permit shall be revoked. $500.00 for each offense per day.
    (2) The second offense shall result in the operation having the permit revoked immediately and the vendor shall be prohibited from obtaining a permit under this section for one year from the date of the offense. $1,000.00 for each offense per day.
    (3) The third offense shall result in the operation having the permit revoked immediately and the vendor shall be prohibited from obtaining a permit under this section indefinitely. $2,000.00 for each offense per day.

5.24-14. *Appeal procedures.*

(a) Enforcement of this section may be appealed to the city council.
(b) Appeal actions.

(1) All appeal actions for a site plan application denied by the planning director or his/her designee shall be submitted to and reviewed by the city council, if requested by the applicant.

(2) The appeal shall be scheduled for consideration of the site plan on the regular agenda of the council within 30 days after the submission is received, or, in the case of an incomplete submission, 30 days after the submission is deemed complete.

(3) The council shall review the site plan and shall recommend approval, approval subject to certain conditions, or disapproval of the concept plan or site plan.

(4) The city council shall determine final approval or disapproval of all site plan appeals.

(Ord. No. 2012-49, § 1(Exh. A), 9-10-12)

Sec. 144-5.25. - Heliports and helistops.

5.25-1. *Applicability.* Heliports and helistops shall conform to all FAA rules governing such uses.

5.25-2. *Permit and fee.* An application processing fee of $25.00 is required for each application to operate a heliport or helistop in the appropriate zoning district and according to FAA and other regulations.

5.25-3. *Parking.* A heliport/helistop must not take up existing parking spaces allocated to another use. Parking spaces must be available for the heliport/helistop use.

5.25-4. *Location.* No heliport or helistop shall be located within 1,000 feet from a residential zoning district or a public or private school or within 500 feet from a park. Helistops for emergency use may be within 500 feet of a residential zoning district, school, or park. Temporary landing sites may be permitted through a special use permit.

5.25-5. *Setbacks from property lines.* 100 feet for takeoff and landing area; 25 feet for helicopter maintenance facilities; 15 feet for administration and operations building.

5.25-6. *Approach and departure paths.* Heliports and helistops shall establish and utilize approach and departure routes over non residential uses to the maximum extent possible.

5.25-7. *Codes and ordinances.* The existing property and uses must be and remain in compliance with all applicable codes and ordinances.

5.25-8. *Landing/takeoff area.* Shall be of a paved surface and free of gravel, dirt, dust, structures, and debris.

5.25-9. *Signage.* A sign advertising a commercial operation may be provided following the city's sign ordinance.

5.25-10. *Lighting.* All lighting shall be directed away from adjacent properties and public rights-of-way.

5.25-11. *Minimum separation.* Minimum separation between all heliports and helistops shall be one and one-half miles, except for helistops used for emergency use.

5.25-12. *Hospital helistop.* Helistops for emergency use shall have a standard landing area with the words "emergency only". Helistops shall be limited to touchdown and liftoff only, and shall have no maintenance, storage, or refueling facilities. Helistops may be located at ground level or rooftop and shall be paved and maintained.

5.25-13. *Application procedures.* An application shall be submitted to the planning department for review and decision. The following items shall be included in an application submission:

(a) A site plan which includes existing and proposed structures and trees.

(b) A land use map showing the current land uses and zonings within a one-mile area of the takeoff and landing area must be provided that clearly shows the proposed flight path.

(c) A description of the proposed operations, type and size of helicopters expected to use the facilities, and projected number and timing of daily flights. Commercial operations must provide hours of operation, if applicable. Hours shall be approved based on use.

(d) A noise study showing existing day/night average noise levels in decibels (LDN contours) and future day/night average after operation begins. The study must also provide single event maximum sounds levels expected from certain types of helicopters that may utilize the facility.

The planning director shall have the authority to make decisions concerning the site plan and other information provided during the consideration of a heliport/helistop permit.

5.25-14. *Penalties.*

(a)

Permits may be revoked by the director of planning, chief of police, health department, or other city authority for any of the following causes:

(1) Fraud, misrepresentation, or a false statement contained in the application for the license;

(2) Fraud, misrepresentation, or a false statement made in the course of conducting business;

(3) Any violation of any city code or ordinance that has not been brought into compliance within 24 hours of notification.

(4) Conviction of any crime or misdemeanor involving moral turpitude;

(5) Conducting the business in an unlawful manner so as to constitute a breach of the peace or a menace to the health, safety, or general welfare of the public.

(b) If a business has violated this or any other applicable part of the City Code while conducting business with a permit issued under this section, the business owner shall be penalized as follows:

(1) The first offense shall result in a warning and the operation shall bring the business into compliance within 24 hours or the permit shall be revoked. $500.00 for each offense per day.

(2) The second offense shall result in the operation having the permit revoked immediately and the vendor shall be prohibited from obtaining a permit under this section for one year from the date of the offense. $1,000.00 for each offense per day.

(3) The third offense shall result in the operation having the permit revoked immediately and the vendor shall be prohibited from obtaining a permit under this section indefinitely. $2,000.00 for each offense per day.

5.25-15. *Appeal procedures.*

(a) Enforcement of this section may be appealed to the city council.

(b) Appeal actions.

(1) All appeal actions for a site plan application denied by the planning director or his/her designee shall be submitted to and reviewed by the city council, if requested by the applicant.

(2) The appeal shall be scheduled for consideration of the site plan on the regular agenda of the council within 30 days after the submission is received, or, in the case of an incomplete submission, 30 days after the submission is deemed complete.

(3) The council shall review the site plan and shall recommend approval, approval subject to certain conditions, or disapproval of the concept plan or site plan.

(4) The city council shall determine final approval or disapproval of all site plan appeals.

(Ord. No. 2012-49, § 1(Exh. A), 9-10-12)

New Braunfels, Texas, Code of Ordinances >> PART II - CODE OF ORDINANCES >> Chapter 144 - ZONING >> ARTICLE VI. - PENALTY >>

ARTICLE VI. - PENALTY

Sec. 144-6.1. - General.
Sec. 144-6.2. - Minimum fine.
Sec. 144-6.3. - Court action or proceedings.

Sec. 144-6.1. - General.

Any person, firm or corporation violating any of the provisions of this chapter shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be fined a sum not more than $2,000.00; each day such violation continues shall constitute a separate offense.

(Ord. No. 2012-49, § 1(Exh. A), 9-10-12)

Sec. 144-6.2. - Minimum fine.

The minimum fine for a violation of the provisions of this chapter related to rental for less than one month and occupancy of a dwelling unit in a one- or two-family dwelling by more than five unrelated persons or not living as a single household unit shall be $500.00.

(Ord. No. 2012-49, § 1(Exh. A), 9-10-12)