



# CITY OF BAYTOWN

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## NOTICE OF MEETING

**CITY COUNCIL REGULAR MEETING  
THURSDAY, SEPTEMBER 8, 2022  
6:30 P.M.  
COUNCIL CHAMBER, CITY HALL  
2401 MARKET STREET, BAYTOWN, TEXAS 77520**

For those members of the public that cannot or do not wish to be physically present at the meeting, they will be able to participate through two-way communications. For video conferencing, use the following website: [www.zoom.com](http://www.zoom.com), click on "join a meeting" on the top right-hand corner, and input the following Meeting ID: 821 4810 9721. For telephone conferencing, please use the following toll-free number: 1-888-788-0099, Meeting ID: 821 4810 9721. The meeting can also be viewed on the local Baytown Channel 16, which can be accessed at: <https://baytown.org/1/home>.

Any person, who is participating through video/teleconferencing and is interested in speaking on any item on the agenda, must submit his/her request via email to the City Clerk at [cityclerk@baytown.org](mailto:cityclerk@baytown.org). The request must include the speaker's name, address, and phone number that will be used if teleconferencing as well as the agenda item number. The request must be received prior to the posted time of the meeting.

The agenda packet is accessible to the public in both HTML and PDF formats at the following link:  
[Agenda Packet](#)

For more information or questions concerning the teleconference, please contact the City Clerk's Office at (281) 420-6504.

## AGENDA

### CALL TO ORDER AND ANNOUNCEMENT OF QUORUM

#### PLEDGE AND INVOCATION

Council Member Chris Presley, District No. Two

#### 1. MINUTES

- a. Consider approving the minutes of the City Council Work Session and Regular Meeting held on August 11, 2022.
- b. Consider approving the minutes of the City Council Budget Work Session held on August 16, 2022.

#### 2. RECOGNITIONS AND CITIZEN COMMUNICATIONS

- a. Presentation of the Life Saving Award to Officer Nicholas Lewin by the Chief of Police.

- b. Ms. Amy Skicki with the Bay Area Houston Transportation Partnership (BayTran) has requested to speak to the Council in regard to its program and membership.
3. **PROPOSED REZONING OF APPROXIMATELY 25.20 ACRES GENERALLY LOCATED AT THE SOUTHEAST INTERSECTION OF SJOLANDER ROAD AND IH-10**
- a. Consider an ordinance to amend the official zoning map to rezone approximately 25.20 acres generally located at the southeast intersection of Sjolander Road and IH-10 from Open Space/Recreation (OR) to a General Commercial (GC) Zoning District.
4. **PROPOSED ANNEXATION OF APPROXIMATELY 55.49 ACRES GENERALLY LOCATED EAST OF NORTH MAIN STREET BETWEEN E. WALLISVILLE ROAD AND FM 1942**
- a. Consider the second and final reading of an ordinance for the proposed annexation of approximately 55.49 acres of land, located generally east of North Main Street between East Wallisville Road and FM 1942.
  - b. Consider an ordinance adding the newly annexed properties generally described as approximately 55.49 acres of land situated in the George Ellis League, A-21, Harris County, Texas, located generally east of North Main Street between East Wallisville Road and FM 1942 into Council District No. 4.
5. **PROPOSED UNIFIED LAND DEVELOPMENT CODE TEXT AMENDMENTS**
- a. Conduct a public hearing concerning the proposed text amendments to the Unified Land Development Code of the City of Baytown to consolidate certain land development ordinances.
  - b. Consider an ordinance for the proposed text amendments to the Unified Land Development Code of the City of Baytown to consolidate certain land development ordinances.
6. **UNOPPOSED CANDIDATE - COUNCIL MEMBER DISTRICT NO. 1**
- a. Receive the Certificate of Unopposed Status for the Office of Council Member, District No. One.
  - b. Consider an ordinance declaring the unopposed candidate Laura Alvarado elected to the Office of Council Member District No. One of the City of Baytown.



**7. PROPOSED ORDINANCE**

- a.** Consider an ordinance awarding the Annual Residential Solid Waste Collection, Disposal, and Recycling Services Contract for the City of Baytown to Best Trash, LLC.

**8. PROPOSED RESOLUTION**

- a.** Consider a resolution to amend the City of Baytown's City Council Rules and Procedures to establish new time limits for public speakers.

**9. DISCUSSION**

- a.** Discuss the City of Baytown Fiscal Year 2022-2023 Proposed Budget.

**10. REPORTS**

- a.** Receive the City of Baytown's Quarterly Financial and Investment Reports for the Quarter Ending June 30, 2022.
- b.** Receive the no-new revenue tax rate and voter-approval tax rate.
- c.** Receive the 2022 Appraisal Rolls certified by the Harris County Appraisal District and the Chambers County Appraisal District.

**11. CONSENT**

All Consent Agenda items listed are considered to be routine by the City Council and will be enacted by one motion. There will be no separate discussion of these items unless a Council Member requests, in which event the item will be removed from the Consent Agenda and considered in its normal sequence on the agenda.

- a.** Consider an ordinance authorizing Change Order No. 8 for Baytown Animal Shelter and Adoption Services Project between the City of Baytown and Construction Masters of Houston LLC.
- b.** Consider an ordinance authorizing a Professional Services Agreement with HDR Engineering, Inc. for project management, construction management, and inspection services for the Annexation Utilities Connally Area Package One Project.
- c.** Consider an ordinance approving Change Order No. 2 to the contract for Housing Reconstruction between the City of Baytown and R&R Commercial & Residential Construction, LLC.

- d. Consider an ordinance authorizing the purchase of GIS remediation services from DATAMARK, a division of Michael Baker International, Inc., to establish location validation, routing, and the geospatial layers necessary to be in compliance with National Emergency Number Association (NENA) Next Generation 9-1-1 (NG9-1-1) Core Services.
- e. Consider an ordinance authorizing a Professional Services Agreement with Kimley-Horn and Associates, Inc., to provide assistance in the submission of a Rebuilding American Infrastructure with Sustainability and Equity Grant for Segments C-F of Garth Road.
- f. Consider an ordinance authorizing payment to Baker Wotring, L.L.P., for legal services in connection with *United States of America and State of Texas v. City of Baytown*; Civil Action No. 4:22-cv-01279, in the United States District Court for the Southern District of Texas, Houston Division.

12. **APPOINTMENTS**

- a. Consider three (3) appointments to the Parks and Recreation Board.

13. **MANAGER'S REPORT**

Notice is hereby given in accordance with Section 551.0415 of the Texas Government Code, the City Council of the City of Baytown may receive a report about items of community interest from City staff and/or a member of the City Council, but no action or possible action shall be taken or discussed concerning the subject of such report, except as provided by Section 551.042 of the Texas Government Code.

14. **COUNCIL MEMBER DISTRICT REPORT**

- a. Receive a report from Council Member Chris Presley regarding District No. Two projects and programs.

15. **ADJOURN**


**PUBLIC NOTICE IS GIVEN THAT IN ADDITION TO ANY EXECUTIVE SESSION LISTED ABOVE, THE CITY COUNCIL RESERVES THE RIGHT TO ADJOURN INTO EXECUTIVE SESSION AT ANY TIME AS AUTHORIZED BY THE TEXAS GOVERNMENT CODE SECTIONS 551.071 - 551.090 TO DISCUSS ANY OF THE MATTERS LISTED ABOVE.**

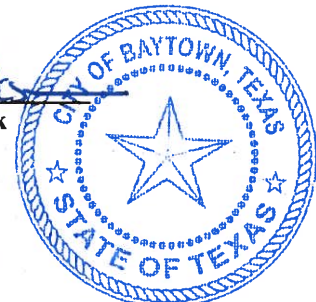
**THE CITY OF BAYTOWN IS COMMITTED TO COMPLIANCE WITH THE AMERICANS WITH DISABILITIES ACT. REASONABLE ACCOMMODATIONS AND EQUAL ACCESS TO COMMUNICATIONS WILL BE PROVIDED UPON REQUEST. FOR ASSISTANCE PLEASE CALL 281-420-6522, FAX 281-420-6586, OR CONTACT 281-420-6522 VIA RELAY TEXAS AT 711 OR 1-800-735-2988 FOR TTY SERVICES. FOR MORE INFORMATION CONCERNING RELAY TEXAS, PLEASE VISIT: [HTTP://RELAYTEXAS.COM](http://RELAYTEXAS.COM)**

Approved for posting:

  
Rick Davis, City Manager

Posted by:

  
Angela Jackson, City Clerk  
(SEAL)



Posted this 2nd day of September 2022, at 5:00 P.M.



## **CITY COUNCIL MEETING**

**1. a.**

**Meeting Date:** 09/08/2022

**Subject:** August 11, 2022, Work Session and Regular City Council Meeting Minutes

**Prepared for:** Angela Jackson, City Clerk's Office

**Prepared by:** Raquel Martinez, City Clerk's Office

**Department:** City Clerk's Office

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### **Information**

#### **ITEM**

Consider approving the minutes of the City Council Work Session and Regular Meeting held on August 11, 2022.

#### **PREFACE**

This item allows the City Council to review and approve the minutes of the City Council Work Session and Regular Meeting held on August 11, 2022.

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### **Attachments**

August 11, 2022, WS Draft Minutes

August 11, 2022, CC Draft Minutes

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**DRAFT**  
**MINUTES OF THE REGULAR WORK SESSION OF THE**  
**CITY COUNCIL OF THE CITY OF BAYTOWN**

August 11, 2022

The City Council of the City of Baytown, Texas, met in a Regular Work Session on Thursday, August 11, 2022, at 5:33 P.M. in the Hullum Conference Room of the Baytown City Hall, 2401 Market Street, Baytown, Texas with the following in attendance:

Laura Alvarado	Council Member
Chris Presley	Council Member
Charles Johnson	Mayor Pro Tem
 Brandon Capetillo	 Mayor
Jason Reynolds	Assistant City Manager
Scott Lemond	City Attorney
Angela Jackson	City Clerk

Mayor Capetillo convened the August 11, 2022, City Council Regular Work Session with a quorum present at 5:33 P.M., all members were present with the exception of the absences of Council Member Heather Betancourth, Council Member Jacob Powell, and Council Member Mike Lester.

**1. DISCUSSIONS**

**a. Discuss the Annual Residential Solid Waste Collection, Disposal, and Recycling Services Contract for the City of Baytown with Best Trash, LLC.**

A motion was made by Council Member Chris Presley and seconded by Council Member Laura Alvarado to table Discussion Item 1.a. up to sixty days. The vote was as follows:

Ayes: Mayor Brandon Capetillo, Council Member Laura Alvarado, Council Member Chris Presley, and Mayor Pro Tem Charles Johnson

Nays: None

Other: Council Member Heather Betancourth (Absent), Council Member Jacob Powell (Absent), and Council Member Mike Lester (Absent)

Approved

**b. Discuss any or all of the agenda items on the City Council Regular Meeting Agenda for August 11, 2022, which is attached below.**

The Council Members present had no discussions on the item.

**2.     ADJOURN**

With there being no further business to discuss, Mayor Capetillo adjourned the August 11, 2022, City Council Regular Work Session at 5:35 P.M.

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Angela Jackson, City Clerk  
City of Baytown

**DRAFT**  
**MINUTES OF THE REGULAR MEETING OF THE**  
**CITY COUNCIL OF THE CITY OF BAYTOWN**

August 11, 2022

The City Council of the City of Baytown, Texas, met in a Regular Meeting on Thursday, August 11, 2022, at 6:30 P.M. in the Council Chamber of the Baytown City Hall, 2401 Market Street, Baytown, Texas with the following in attendance:

Laura Alvarado	Council Member
Chris Presley	Council Member
Charles Johnson	Mayor Pro Tem
 Brandon Capetillo	 Mayor
 Jason Reynolds	 Assistant City Manager
Scott Lemond	City Attorney
Angela Jackson	City Clerk
John Stringer	Sergeant at Arms

Mayor Capetillo convened the August 11, 2022, City Council Regular Meeting with a quorum present at 6:30 P.M., all members were present with the exception of absences of Council Member Heather Betancourth, Council Member Jacob Powell, and Council Member Mike Lester.

The Pledge of Allegiance, Texas Pledge, and Invocation were led by Mayor Pro Tem Charles Johnson.

**1. MINUTES**

A motion was made by Mayor Pro Tem Charles Johnson and seconded by Council Member Chris Presley to approve the minutes of Items 1.a. and 1.b., as submitted. The vote was as follows:

Ayes: Mayor Brandon Capetillo, Council Member Laura Alvarado, Council Member Chris Presley, and Mayor Pro Tem Charles Johnson

Nays: None

Other: Council Member Heather Betancourth (Absent), Council Member Jacob Powell (Absent), and Council Member Mike Lester (Absent)

Approved

**a. Consider approving the minutes of the City Council Regular Meeting held on July 14, 2022.**

**b. Consider approving the minutes of the City Council Special Meeting held on July 14, 2022.**

**2. PROPOSED REZONING OF APPROXIMATELY 13.26 ACRES LOCATED GENERALLY SOUTH OF EAST ARCHER RD AND WEST OF BARKULOO**

**a. Conduct a public hearing concerning a request to amend the official zoning map to rezone approximately 13.26 acres located generally south of East Archer Road and directly west of and with frontage on, Barkuloo Road from Open Space/Recreation (OR) to Low Density Single-Family Residential Dwellings (SF1).**

At 6:34 P.M., Mayor Capetillo opened the public hearing concerning a request to amend the official zoning map to rezone approximately 13.26 acres located generally south of East Archer Road and directly west of and with frontage on, Barkuloo Road from Open Space/Recreation (OR) to Low Density Single-Family Residential Dwellings (SF1).

Planning and Development Director Martin Scribner summarized the subject matter of the hearing. The property was to be rezoned from OR to SF1 and was previously annexed a few years back as OR. Currently, there was a single-family residence on the property and the owners were not seeking to subdivide. Instead, the owners were looking to replace the house and, in order to do so, they needed the rezone. Mr. Scribner relayed SF1 was in line with the Future Land Use Plan and a public hearing was held with the Planning and Zoning Commission in July with no opposition.

Mayor Capetillo announced an individual had signed to speak. Mr. Jonathan Wu stated he was there on behalf of the property owners as their attorney to answer any questions Council may have.

At 6:36 P.M., Mayor Capetillo closed the public hearing concerning a request to amend the official zoning map to rezone approximately 13.26 acres located generally south of East Archer Road and directly west of and with frontage on, Barkuloo Road from Open Space/Recreation (OR) to Low Density Single-Family Residential Dwellings (SF1).

**b. Consider an ordinance concerning a request to amend the official zoning map to rezone approximately 13.26 acres located generally south of East Archer Road and directly west of and with frontage on, Barkuloo Road from Open Space/Recreation (OR) to Low Density Single-Family Residential Dwellings (SF1).**

Mayor Pro Tem Johnson made note that the annexation of the property was back in 2017. Council had then discussed waiving the fee for the rezone application, and he wondered if that fee had been waived. As he did not have that information, Planning and Development Director Martin Scribner replied he could find out. If it was not waived, Mayor Pro Tem Johnson asked if there was a way to refund the amount the applicant paid for that rezone. Mr. Scribner stated he believed they could.

A motion was made by Mayor Pro Tem Charles Johnson and seconded by Council Member Chris Presley to approve Ordinance No. 15,162, related to Item 2.b. The vote was as follows:

Ayes: Mayor Brandon Capetillo, Council Member Laura Alvarado, Council Member Chris Presley, and Mayor Pro Tem Charles Johnson

Nays: None

Other: Council Member Heather Betancourth (Absent), Council Member Jacob Powell (Absent), and Council Member Mike Lester (Absent)

Approved

ORDINANCE NO. 15,162

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BAYTOWN, TEXAS, AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF BAYTOWN TO REZONE APPROXIMATELY 13.26 ACRES LOCATED AT 5627 BARKULOO ROAD, LEGALLY DESCRIBED AS TRACTS 9, 16 AND 17 IN THE H F GILLETTE SURVEY, ABSTRACT 297, BAYTOWN, HARRIS COUNTY, TEXAS, FROM AN OPEN SPACE/RECREATION (OR) ZONING DISTRICT TO A LOW DENSITY SINGLE-FAMILY RESIDENTIAL DWELLINGS (SF1) ZONING DISTRICT; PRESCRIBING A MAXIMUM PENALTY OF TWO THOUSAND AND NO/100 DOLLARS (\$2,000.00); PROVIDING A REPEALING CLAUSE; CONTAINING A SAVINGS CLAUSE; AND PROVIDING FOR THE PUBLICATION AND EFFECTIVE DATE THEREOF.

**3. CITY OF BAYTOWN GENERAL ELECTION**

**a. Consider an ordinance authorizing the City Manager to negotiate and execute a Joint Election Agreement with Harris County for the Municipal Election to be held on November 8, 2022.**

A motion was made by Council Member Chris Presley and seconded by Mayor Pro Tem Charles Johnson to approve Ordinance No. 15,163, related to Item 3.a. The vote was as follows:

Ayes: Mayor Brandon Capetillo, Council Member Laura Alvarado, Council Member Chris Presley, and Mayor Pro Tem Charles Johnson

Nays: None

Other: Council Member Heather Betancourth (Absent), Council Member Jacob Powell (Absent), and Council Member Mike Lester (Absent)

Approved

ORDINANCE NO. 15,163

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BAYTOWN, TEXAS, AUTHORIZING THE CITY MANAGER TO NEGOTIATE AND ENTER INTO A JOINT ELECTION AGREEMENT WITH HARRIS COUNTY FOR THE MUNICIPAL ELECTION TO BE HELD ON THE 8TH DAY OF NOVEMBER, 2022, UNDER TERMS AND CONDITIONS ACCEPTABLE TO THE CITY MANAGER AND THE CITY ATTORNEY; AUTHORIZING



PAYMENT THEREFOR IN AN AMOUNT NOT TO EXCEED ONE HUNDRED TWENTY-FIVE THOUSAND AND NO/100 DOLLARS (\$125,000.00); AND PROVIDING FOR THE EFFECTIVE DATE THEREOF.

**4. SPECIAL DISTRICT BUDGETS FISCAL YEAR 2022-23**

**a. Conduct a public hearing on the Baytown Crime Control and Prevention District Fiscal Year 2022-23 Proposed Budget.**

At 6:38 P.M., Mayor Capetillo opened the public hearing regarding the Baytown Crime Control and Prevention District (CCPD) Fiscal Year 2022-23 Proposed Budget.

Finance Director Victor Brownlees summarized the subject matter of the hearing by stating the budget had been approved by the CCPD Board and was ready to be presented to Council. With that, Mayor Capetillo announced no individuals had signed up to speak on the hearing.

At 6:39 P.M., Mayor Capetillo closed the public hearing regarding the Baytown Crime Control and Prevention District (CCPD) Fiscal Year 2022-23 Proposed Budget.

**b. Conduct a public hearing on the Baytown Fire Control, Prevention, and Emergency Medical Services District Fiscal Year 2022-23 Proposed Budget.**

At 6:39 P.M., Mayor Capetillo opened the public hearing regarding the Baytown Fire Control, Prevention, and Emergency Medical Services District (FCPEMSD) Fiscal Year 2022-23 Proposed Budget.

Finance Director Victor Brownlees summarized the subject matter of the hearing by stating it was the budget that had been agreed upon by the FCPEMSD Board. Mayor Capetillo announced no individuals had signed up to speak on the hearing.

At 6:40 P.M., Mayor Capetillo closed the public hearing regarding the Baytown Fire Control, Prevention, and Emergency Medical Services District (FCPEMSD) Fiscal Year 2022-23 Proposed Budget.

**5. PROPOSED ORDINANCE**

**a. Consider an ordinance awarding the Annual Residential Solid Waste Collection, Disposal, and Recycling Services Contract for the City of Baytown to Best Trash, LLC.**

Mayor Capetillo noted there were additional material that Council did not have time to review, and three Council Members were absent. Thus, he requested the item be tabled for sixty days.

A motion was made by Council Member Chris Presley and seconded by Mayor Pro Tem Charles Johnson to suspend and table Agenda Item 5.a. up to sixty days. The vote was as follows:

Ayes: Mayor Brandon Capetillo, Council Member Laura Alvarado, Council Member Chris Presley, and Mayor Pro Tem Charles Johnson

Nays: None

Other: Council Member Heather Betancourth (Absent), Council Member Jacob Powell (Absent), and Council Member Mike Lester (Absent)

Approved

## **6. DISCUSSIONS**

### **a. Receive and discuss a presentation for the City of Baytown's new mobile app.**

Assistant to the City Manager Brian Moran presented the City of Baytown's new mobile app and online service request system, Better Baytown. Mr. Moran took a moment to recognize the efforts of the Information Technology System (ITS) Department and the Public Affairs Department. The configuration and integration side of the project was handled by ITS while the visuals, aesthetics, and marketing of the app was handled by Public Affairs. The agenda of Mr. Moran's presentation was as follows: 1) project timeline, 2) branding, 3) See Click Fix, 4) marketing, and 5) questions.

On to the project timeline, in the beginning of the fall of 2021, Council provided feedback to the City Manager about inconsistencies and the lack of responsiveness in notifying residents with their existing mobile app. In October 2021, the City's former provider notified they could no longer be able to provide technical assistance as they were being acquired by a new company. Mr. Moran explained that had allowed staff to push forward on improving their customer service. The three key components staff looked at for their new software were: 1) to improve two-way communication between residents and City staff; 2) a seamless integration with the City's existing software; and 3) create a user-friendly interface for residents.

In focusing on those objectives, it was determined See Click Fix was the best and affordable solution. In December 2021, the City entered in to an agreement with the company. From January through July of 2022, the City's implementation team began working alongside See Click Fix to create an end product. On August 1<sup>st</sup>, the City had a soft launch of the new app which allowed staff to iron out remaining issues and bugs. To date, the app and web portal worked as planned; however, Apple revised their policy so that all apps with account creation must allow their users to be able to delete that information from within the app. See Click Fix provided a solution on June 30, 2022, but Apple denied it. Thus, See Click Fix submitted a secondary solution. If it met their new guidelines, the app would be available in the Apple App Store. The City did not yet have a specific date, but staff would let Council know. Nonetheless, the app was available on Google Play.

Mr. Moran then explained their branding of the app and noted it was similar to their Better Baytown Capital Improvement Program. The intention was for residents to build a deeper connection with the City. The rationale behind that was, regardless of whether it was a big or small improvement, everyone was making improvements to Baytown. Whether that was empowering residents to utilize the app to address a broken sidewalk or Council approving a multimillion-dollar capital project, everyone was working together for a better Baytown. Mr. Moran proceeded to displayed images of what the app would look like on both Android and IOS devices. As previously mentioned, the color scheme, text, and logo were designed by Public Affairs.

The Better Baytown app, itself, was a citizen relationship management tool powered by See Click Fix. It allowed residents to report and submit non-emergency service requests, and allowed residents to track and receive updates as their requests go through the system. Residents could access that via Baytown.org or download the app on Google Play. Once the app was available on the Apple App Store, residents could provide pictures, videos, and descriptions of the issue at hand. Residents could also select how they would like to receive notification, such as: via text, phone, email, or directly through the app. Moreover, residents could learn about their Council District and could stay in tune with current city news and the Baytown Voice. Mr. Moran wished to reiterate the app was for non-emergency requests. It was not designed to report emergency situations that required immediate attention as their 311 staff monitored the system during normal business hours.

However, most importantly, Mr. Moran relayed the new platform allowed City staff to provide an elevated level of customer service to residents. The integrations with the City's existing software enabled a better two-way communication with the public and would prevent the duplication of work orders, time, and responses. Residents could see requests submitted by others and duplicate requests would be automatically combined. City staff could also create customized reports, internally, to be able to identify why the City was having particular issues in a specific Council District or if there was any specific category that needed to be addressed. Mr. Moran then demonstrated the different ways residents could submit a request on the website and with the app.

In regards to the marketing of the app, Public Affairs was in the process of creating a social media campaign that would hit all of their platforms, including: Facebook, Instagram, Twitter, YouTube, and Nextdoor. Likewise, an instructional video was also in the works. The information about the app would be featured on the current news section on the Baytown website, a button on the Better Baytown page, and another button on Baytown Engage. Staff was similarly in the process of putting articles together to be published in the Baytown Sun, the Baytown Voice, and the City's utility bill. Furthermore, the City was looking to partner with Goose Creek Consolidated Independent School District (GCCISD), a parent-teacher organization, and Lee College.

After Mr. Moran displayed what the marketing material would look like, he opened the floor to questions. Council Member Alvarado recalled the old app allowed residents to submit requests anonymously, yet they were still required to give their information. For tracking purposes, she questioned whether anonymous requests could be given a reference number to look up what has been happening with their issue. Mr. Moran believed anonymous requests could not receive updates. Council Member Alvarado further inquired about app users' anonymity. Mr. Moran replied those who decide to report anonymously could do so, but they would not receive updates.

On anonymous requests, ITS Director Ed Tomjack confirmed there was no way to text back or email updated information. However, they could go to the map where they would see a pin and get information that way. It would not be automatically provided, and Mr. Tomjack assured requests could be anonymous. Mr. Moran added the interactive map allowed users to see all the service requests submitted and where they were in their process.

On another note, Mayor Capetillo inquired if the City of Baytown's old app was active in anyway. Also, was their new app active in anyway, or only on Android? Mr. Moran replied the old app was deactivated and the new app was live and only available on Android devices through Google Play.

**7. CONSENT**

A motion was made by Council Member Laura Alvarado and seconded by Mayor Pro Tem Charles Johnson to approve Consent Agenda Items 7.a. through 7.g., as Items 7.h. and 7.i. were pulled for discussion purposes. The vote was as follows:

Ayes: Mayor Brandon Capetillo, Council Member Laura Alvarado, Council Member Chris Presley, and Mayor Pro Tem Charles Johnson

Nays: None

Other: Council Member Heather Betancourth (Absent), Council Member Jacob Powell (Absent), and Council Member Mike Lester (Absent)

Approved

**a. Consider an ordinance authorizing Change Order No. 4 for the Citizens Bank Renovation Project.**

**ORDINANCE NO. 15,164**

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BAYTOWN, TEXAS, AUTHORIZING CHANGE ORDER NO. 4 FOR THE CITIZENS BANK RENOVATION PROJECT WITH CONSTRUCTION MASTERS OF HOUSTON, INC., IN AN AMOUNT NOT TO EXCEED SEVENTEEN THOUSAND NINE HUNDRED SEVEN AND 53/100 DOLLARS (\$17,907.53); AND PROVIDING FOR THE EFFECTIVE DATE THEREOF.

**b. Consider an ordinance authorizing Change Order No. 2 for West District Wastewater Treatment Plant Second Feed Project.**

**ORDINANCE NO. 15,165**

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BAYTOWN, TEXAS, AUTHORIZING CHANGE ORDER NO. 2 FOR THE WEST DISTRICT WASTEWATER TREATMENT PLANT SECOND FEED PROJECT WITH T CONSTRUCTION L.L.C., IN AN AMOUNT NOT TO EXCEED NINETY THOUSAND AND NO/100 DOLLARS (\$90,000.00); AND PROVIDING FOR THE EFFECTIVE DATE THEREOF.

**c. Consider an ordinance authorizing the purchase of bypass pumping services from Xylem Dewatering Solutions Inc., for emergency bypassing within City's wastewater system.**

**ORDINANCE NO. 15,166**

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BAYTOWN, TEXAS, AUTHORIZING THE PAYMENT OF ONE HUNDRED TWENTY-SEVEN THOUSAND EIGHT HUNDRED SEVENTY-SEVEN AND 73/100 DOLLARS (\$127,877.73) TO XYLEM DEWATERING SOLUTIONS INC., FOR THE EMERGENCY BYPASS OF WASTEWATER AT THE CENTRAL DISTRICT WASTEWATER TREATMENT PLANT; MAKING OTHER PROVISIONS RELATED THERETO; AND PROVIDING FOR THE EFFECTIVE DATE THEREOF.

- d. Consider an ordinance authorizing payment to Goose Creek Consolidated Independent School District for ad valorem tax assessment and collection services.**

ORDINANCE NO. 15,167

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BAYTOWN, TEXAS, AUTHORIZING THE PAYMENT FOR AD VALOREM TAX ASSESSMENT AND COLLECTION SERVICES FOR FY 2021-2022 TO GOOSE CREEK CONSOLIDATED INDEPENDENT SCHOOL DISTRICT IN THE AMOUNT OF SEVENTY-SIX THOUSAND SEVEN HUNDRED SIXTY-ONE AND 60/100 DOLLARS (\$76,761.60); MAKING OTHER PROVISIONS RELATED THERETO; AND PROVIDING FOR THE EFFECTIVE DATE THEREOF.

- e. Consider an ordinance renewing the Annual Mowing, Edging and Trimming Services Contract with NeoGlobal Enterprises, LLC dba Horticare Landscape Management.**

ORDINANCE NO. 15,168

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BAYTOWN, TEXAS, RENEWING THE ANNUAL CITY FACILITIES MOWING, EDGING AND TRIMMING SERVICES CONTRACT WITH NEOGLOBAL ENTERPRISES, LLC, D/B/A HORTICARE LANDSCAPE MANAGEMENT, AND AUTHORIZING PAYMENT BY THE CITY OF BAYTOWN IN AN AMOUNT NOT TO EXCEED ONE HUNDRED SEVEN THOUSAND TWO HUNDRED AND 13,100 DOLLARS (\$107,200.13); MAKING OTHER PROVISIONS RELATED THERETO; AND PROVIDING FOR THE EFFECTIVE DATE THEREOF.

- f. Consider an ordinance authorizing a Meet and Confer Agreement with the Baytown Municipal Police Association, Inc.**

ORDINANCE NO. 15,169

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BAYTOWN, TEXAS, AUTHORIZING A MEET AND CONFER AGREEMENT WITH THE BAYTOWN MUNICIPAL POLICE ASSOCIATION, INC.; AND PROVIDING FOR THE EFFECTIVE DATE THEREOF.

- g. Consider an ordinance authorizing the annual renewal of Central Square (aka Superion) software.**

**ORDINANCE NO. 15,170**

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BAYTOWN, TEXAS, AUTHORIZING PAYMENT IN THE SUM OF SEVENTY-FIVE THOUSAND THREE HUNDRED SIXTY-EIGHT AND 42/100 DOLLARS (\$75,368.42) TO CENTRAL SQUARE, F/K/A SUPERION, F/K/A SUNGARD PUBLIC SECTOR INC., FOR THE RENEWAL OF THE SOFTWARE MAINTENANCE AGREEMENT; MAKING OTHER PROVISIONS RELATED THERETO; AND PROVIDING FOR THE EFFECTIVE DATE THEREOF.

- h. Consider and Ordinance authorizing the First Amendment to the Declaration of Covenants, Conditions and Restrictions for Gateway 10 Business Park.**

Council Member Presley inquired for the maximum square footage in the original declaration and what would that be after the first amendment. Economic Development Manager Bret Gardella replied the lot in question was immediately south of the pipeline easement on I-10 Frontage Road. The coverage of that lot was originally 30,000 square feet, but the headquarters operation needed to build out about 48,000 square feet only on that particular lot. Council Member Presley then presumed the footprints of every building out there would not be allowed to go from 30,000 square feet to 48,000. Mr. Gardella answered not unless they ask the City again within good reason. Council Member Presley requested further clarification on if they would need to come in each time, or would they not have to because of the amendment Council was about to agree to. Mr. Gardella responded, no, the amendment was only specific to the frontage of that lot alone.

A motion was made by Mayor Pro Tem Charles Johnson and seconded by Council Member Laura Alvarado to approve Ordinance No. 15,171, related to Item 7.h. The vote was as follows:

Ayes: Mayor Brandon Capetillo, Council Member Laura Alvarado, Council Member Chris Presley, and Mayor Pro Tem Charles Johnson

Nays: None

Other: Council Member Heather Betancourth (Absent), Council Member Jacob Powell (Absent), and Council Member Mike Lester (Absent)

Approved

**ORDINANCE NO. 15,171**

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BAYTOWN, TEXAS, APPROVING THE FIRST AMENDMENT TO THE DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR GATEWAY 10

BUSINESS PARK; AND PROVIDING FOR THE EFFECTIVE DATE  
THEREOF.

**i. Consider a resolution granting consent to the creation of the Harris County Municipal Utility District No. 555 over certain property within the extraterritorial jurisdiction of the City of Baytown, Texas**

As the item was a previous Consent Item, Council Member Presley recalled staff had not recommended approval and Council did not agree to the consent. Since it was again a Consent Item, he assumed staff recommended approval. Council Member Presley questioned how the current item differed from the last and why was that one recommended when the other was not. He recollected the other was not recommended based on the premise that a Public Improvement District (PID) was the route they should go.

Economic Development Manager Bret Gardella replied the item was a Paper Municipal Utility District (MUD) that Council put in to effect two years ago because there was no way for the City to get to the boundary area and annex the eighty-eight acres. The issue was a cleanup from when it was created two years ago that was brought to the attention of the City Attorney. Mr. Gardella relayed staff was not recommending the approval of a new MUD, it had been approved a couple years ago by Council. He reiterated there was nothing staff was recommending as it was only a cleanup item. Council Member Presley deduced Council had already given consent. Mr. Gardella confirmed they had about two years ago and gave further descriptions of the product.

Council Member Presley requested further clarification on the usage of the term “cleanup.” If Council did not grant consent, would they be able to utilize the MUD? He was under the assumption that staff was not recommending any more MUDs and the recommendation would be for PIDs. Council Member Presley questioned if they were changing their policy or recommendations. Could they go back and do a PID as was recommended to the last developer? In that particular situation, Mr. Gardella replied the City did not have the ability to annex the property at that time. The City was growing in that direction, but was not close enough as of yet.

City Attorney Scott Lemond, in further explanation, relayed the following timeline for Council:

- 2017 – The legislature created the district and Council passed a resolution in support of that.
- 2021 – Council passed an ordinance entering in to a development agreement with the developer.
- 2022 – The item was back before Council to actually provide the consent to create the MUD.

A motion was made by Mayor Pro Tem Charles Johnson and seconded by Council Member Laura Alvarado to approve Resolution No. 2,793, related to Item 7.i. The vote was as follows:

Ayes: Mayor Brandon Capetillo, Council Member Laura Alvarado, Council Member Chris Presley, and Mayor Pro Tem Charles Johnson

Nays: None

Other: Council Member Heather Betancourth (Absent), Council Member Jacob Powell (Absent), and Council Member Mike Lester (Absent)

Approved

RESOLUTION NO. 2,793

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BAYTOWN, TEXAS, GRANTING CONSENT TO THE CREATION OF THE HARRIS COUNTY MUNICIPAL UTILITY DISTRICT NO. 555 OVER CERTAIN PROPERTY WITHIN THE EXTRATERRITORIAL JURISDICTION OF THE CITY OF BAYTOWN, TEXAS; PROVIDING CONDITIONS TO THE GRANTING OF CONSENT; AND PROVIDING AN EFFECTIVE DATE.

**8. MANAGER'S REPORT**

Assistant City Manager Jason Reynolds only wished to thank Council and the City for his warm welcome. Mayor Pro Tem Charles Johnson added his comment of appreciation for Fire Chief Kenneth Dobson and the fire fighters who guided traffic as kids were going back to school.

**9. COUNCIL MEMBER DISTRICT REPORT**

**a. Receive a report from Council Member Mike Lester regarding District No. Six projects and programs.**

As Council Member Lester was absent, the item was not considered and was placed on the City Council Regular Meeting on August 25, 2022 at Mayor Capetillo's request.

**10. ADJOURN**

With there being no further business to discuss, Mayor Capetillo adjourned the August 11, 2022, City Council Regular Meeting at 7:05 P.M.

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Angela Jackson, City Clerk  
City of Baytown





## **CITY COUNCIL MEETING**

**1. b.**

**Meeting Date:** 09/08/2022

**Subject:** August 16, 2022, Budget Work Session Minutes

**Prepared for:** Angela Jackson, City Clerk's Office

**Prepared by:** Raquel Martinez, City Clerk's Office

**Department:** City Clerk's Office

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### **Information**

#### **ITEM**

Consider approving the minutes of the City Council Budget Work Session held on August 16, 2022.

#### **PREFACE**

This item allows the City Council to review and approve the minutes of the City Council Budget Work Session held on August 16, 2022.

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### **Attachments**

August 16, 2022, Budget WS Draft Minutes

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**DRAFT**  
**MINUTES OF THE BUDGET WORK SESSION OF THE**  
**CITY COUNCIL OF THE CITY OF BAYTOWN**

August 16, 2022

The City Council of the City of Baytown, Texas, met in a Budget Work Session on Thursday, August 16, 2022, at 5:04 P.M. in the Council Chamber of the Baytown City Hall, 2401 Market Street, Baytown, Texas with the following in attendance:

Laura Alvarado	Council Member
Chris Presley	Council Member
Charles Johnson	Mayor Pro Tem
Heather Betancourth	Council Member
Jacob Powell	Council Member
Mike Lester	Council Member
 Brandon Capetillo	 Mayor
 Rick Davis	 City Manager
Scott Lemond	City Attorney
Angela Jackson	City Clerk

Mayor Capetillo convened the August 16, 2022, City Council Budget Work Session with a quorum present at 5:04 P.M., and with all members present.

**1. DISCUSSIONS**

**a. Discuss the City of Baytown Fiscal Year 2022-23 Proposed Budget.**

City Manager Rick Davis opened the discussion by giving the following summary of the proposal:

- Inflation Impact: General Inflation 9%; Gas Inflation: Unleaded 60% and Diesel 75%
- Senior and Disabled Property Tax Exemption Raised to \$80,000 (\$20,000 increase)
- Property Tax Rate Reduced from 78.5¢ to 78¢
- No Rate Increase in Sanitation nor Stormwater Fees
  - Eliminated General Fund Transfer to Sanitation by \$250,000
- No Rate Increase in Water and Sewer for Low Volume Users
- Target: 91 Days of Operating Reserves
- General Fund Debt Issuance of \$45 Million to fund the Capital Program
  - Architectural and Engineering Committee continued to work on a revised number

The budget also carried forty and a half new full-time employee (FTE) positions. Mr. Davis noted most were field-force oriented positions within Public Works and Parks and Recreation. The City proposed a 5% salary increase to all non-civil service as the City would honor civil service through their contracts. Mr. Davis added there would be an employee health insurance premium holiday and the City was able to keep costs for employees on health insurance stable. Overall, the budget was capital project-oriented. Staff continued to pursue an aggressive schedule over the next five years to target more than a billion dollars in capital improvements of which, \$800 million capital projects were

currently under design or construction. Mr. Davis noted the Capital Improvement Plan (CIP) assumed a \$45 million in debt issuance which would continue to be discussed with the Architectural and Engineering Committee.

Furthermore, staff had ideas for Council on how to further reduce the property tax burden for citizens. To describe those options, Mr. Davis deferred to Finance Director Victor Brownlees. Mr. Brownlees explained the options were predicated upon a reduction of debt issuance. While he did not want to prejudge the outcome of the deliberations of the Architectural and Engineering Committee, Mr. Brownlees assumed they would reduce the debt issuance up to \$15 million.

If they were able to reduce debt issuance as he assumed, Mr. Brownlees gave the following options:

- Option 1: Reduce rate to 77.5¢ with a neutral effect on the General Fund balance
- Option 2: Reduce rate to 77¢ and reduce General Fund contingency by \$350,000
- Option 3: Reduce rate to 76.5¢ and reduce General Fund contingency by \$1 million

Mr. Brownlees reminded Council the City had \$3.25 million in the General Fund by way of contingency in the proposed budget. He reiterated that was predicated on a reduction in the overall level of debt, but he had wanted to give Council those options to consider as they go through their deliberation on the budget. On Options 2 and 3, Council Member Alvarado inquired what that would bring their contingency down to in terms of days as they normally strived for ninety to a hundred days. Mr. Brownlees replied that did not affect the General Fund balance, so they would still have ninety days. It was additional contingency over and above what was in the fund balance.

Mr. Davis then took a moment to list important dates for Council

- Budget Work Sessions: August 16<sup>th</sup>, August 18<sup>th</sup>, August 23<sup>rd</sup>, and August 25<sup>th</sup> (if needed)
- Budget Public Hearing: August 25<sup>th</sup>
- Budget Adoption: August 25<sup>th</sup>, September 8<sup>th</sup>, and September 22<sup>nd</sup> (final day)
- Set Tax Rate: September 22<sup>nd</sup>

### **Contingency and Reserve Funds Discussion**

Mayor Pro Tem Johnson questioned when was the last time they dipped in to that contingency fund and for what reason. Mr. Brownlees replied, in the last year, the City used about a \$1.5 million of the contingency for the acquisition of a large piece of equipment for the Fire Department. The decision was made on staff's part to avoid the risk of entering in to a lease for the vehicle. Mr. Brownlees viewed that was a reasonable way to fund the acquisition which would be repaid by the Fire Control, Prevention, and Emergency Medical Services District (FCPEMSD) over the next couple of years. During the course of the year, there were also other lesser issues that arose that the contingency had been used for. However, the City did not utilize much of it in a normal year.

Mr. Brownlees suggested, going in to the next year, Council would have some latitude to use that contingency fund for other purposes. Mayor Pro Tem Johnson requested the numbers on those other things the City used the contingency for in the last five to ten years. Mr. Brownlees answered staff could provide that. Until about two years ago, the City had a small contingency fund of about \$250,000. The charter allowed up to 3% of the City's operating budget by way of contingency. In the previous year, the City went up to about 2%, but Council did have some latitude. On another note, Council Member Presley understood the contingency was separate from the reserves and inquired where the

City was at on that. Mr. Brownlees replied the proposed budget assumed reserves of ninety days which was the industry standard and recommended by the Government Finance Officers Association (GFOA). In previous years, Baytown outperformed that substantially as they closed the last year with around 180 days. Council Member Lester stated he had believed the GFOA recommended sixty days which Mr. Brownlees confirmed it was sixty to ninety days.

In addition to the contingency request, Council Member Lester asked to know from the last three to five years where they had ended up with their reserves. To his knowledge, the City always ended with more than their target. Therefore, if they were to target less than ninety days, he believed they would be solid. Even in the years where they had major catastrophes, Baytown ended with good reserves. With that, Council Member Lester wished to see that go down from ninety and closer to sixty knowing that they would end up somewhere around ninety to a hundred days anyways. It was money that just sat there that he believed the City could utilize on other things. Restating his request, Council Member Lester explained that would help him determine if they needed to target ninety days. In regards to the 180 days of the previous year, Council Member Lester questioned how much money was that worth. Mr. Brownlees replied that was about \$330,000 a day.

Council Member Alvarado wished to know why they ended up with 180 days and cautioned against the mindset of choosing sixty days because they believed they would end up with ninety. They may not have those ninety days as they had in the past because Baytown was a growing city. She would hate to use history in the wrong way. Mr. Brownlees replied one of the main causes for those 180 days had been because of staffing vacancies. The upside of that was the City did not spend that money, so it went in to the fund balance. The downside, however, was that the City did not have the staff to get jobs done. Another large reason was due to the upturn in sales tax.

Council Member Lester requested clarification on how much those 180 days were worth, and was responded with \$54 million. He believed that was a lot of money they could not ignore. Knowing they were always over, Council Member Lester suggested to trim that down and put money back on the table for projects. Council Member Alvarado agreed 180 days was a lot, but preferred a happy median of about seventy or seventy-five days. She, again, cautioned against using up their contingency and reserves. Council Member Lester repeated his request to see where the City had been over the last three to five years as they almost doubled their reserve capacity every year. He recommended to trim that down so they could put money back on the table to get projects done. Mayor Capetillo suggested staff look at five years in budgeted reserves versus their actual endings.

In consideration of the City being short-staffed and if Council would lower their reserves or contingency, Mayor Pro Tem Johnson recommended finding ways to help fill those vacancies in the Fire and Police Departments. Council Member Lester agreed yet noted, in taking off fifteen or twenty days, that was a lot of money that could be put towards projects. Council Member Alvarado added there were needs in the Planning Department as well. The City could not do projects if it did not have the manpower. Council Member Presley concurred there was room to reduce their reserves, but the City had dipped in to the reserves for hurricanes during his tenure on Council. Thus, he preferred to stay closer to ninety days. In the options provided, Council Member Presley favored Options 2 and 3 because the contingency was not so paramount because of the great shape of their reserves. He also appreciated the continuation of shaving off the tax rate. Mayor Capetillo agreed having money in the reserves did not service the needs for capital projects, but having so many capital projects that could not be completed would also back them up. He further spoke on that note and expressed his hope to provide a tax rate reduction. Moreover, Mayor Capetillo thought they could reduce debt issuance with cash funding as Council Member Lester suggested.

## **New Positions and Personnel Discussion**

Council Member Lester wished to touch on positions and the number of those they were discussing. He was aware they had moved personnel from the Crime Control Prevention District (CCPD) funds which he supported and was not concerned about. He referenced a page in their budget binder that listed the new position titles, but further requested the exact numbers of staff that would be brought on. In Economic Development, Council Member Lester recollected the Municipal Development District (MDD) requested incremental growth. Two positions had been requested originally, yet those two were still in the budget. He believed that was not incremental. Council Member Presley explained the MDD budgeted a portion of the salary for two positions based on the fact that there would be an evaluation of the first position in March of the following year before the second position would be brought on. Council Member Presley further asked over the percentages as he believed the positions had a share from the City's and the MDD's budget.

In response, Mr. Davis explained the MDD did not cover Chambers County as it was a Harris County initiative. Thus, part of the money for the two positions had to come from the General fund and the MDD. Mr. Brownlee further explained the decision of the MDD was to set the budgeting for both positions, fill one position now, and decide later in the year whether to fill the second. Both positions were budgeted, but it was not approved to actually appoint the two. The percentages of the funding for those positions were 75% from the MDD and 25% from the General Fund. Council Member Powell noted \$144,000 was the total for the two positions, and that their budget binder listed all the position titles on a single line and plural. He requested a table of each position so Council could get a feel for how many staff would be added. The positions listed were also not transferred from the City's special districts, FCPEDMSD and CCPD, but were completely new.

Mayor Capetillo wondered how many open positions there were for patrol officers. Police Chief John Stringer answered there were fifteen. In past budgets, Mayor Capetillo relayed the City added positions to try to keep up, but now they could not fill those positions. Thus, adding more positions would not do anything but tie money up. The police positions proposed were in preparation for the new Public Safety Administration Building, so he believed that was a good proposal for personnel. The City would not propose new patrol officers because of those open positions and a recently approved contract to help with recruitment. Mr. Davis added the budget also proposed hiring civilian personnel to take the place of positions utilized by sworn officers. Therefore, acquiring those civilians would put officers back on the street. Council Member Alvarado wondered with the fifteen open positions, did the Baytown Police Department (BPD) have adequate admin support for that? Chief Stringer confirmed they did and BPD would only add a few records clerks.

As Council discussed positions, Mayor Capetillo commented he wished to see clean medians, thoroughfares, and intersections in Baytown. Litter lined up against medians made the Mayor unhappy because he knew the City had personnel dedicated to that. He requested staff to focus in on that. Council Member Presley recalled when Council approved the drainage fee, one rationale given was that the City could use that money to do more drainage work in-house and have an additional dedicated drainage team. He asked if the budget accounted for that. Public Works and Engineering Director Frank Simoneaux replied the drainage team had been added in the previous year. Council Member Presley additionally inquired about the Tourism Technician. Public Affairs Director Thomas Reeves replied that part-time position would be paid fully by the Hotel/Motel (HOT) Fund and designated to the Brunson Theater as the marketing and front desk person.

## **General Budget Concerns Discussion**

Council Member Alvarado shared being part of the Architectural and Engineering Committee answered many of her questions on the budget. However, she did send staff her questions mainly dealing with the \$200,000 in vacant lot cleanings. One question was if the vacant lots were city-owned or substandard properties, and she was told they could include both. The City had about sixty plus lots and staff was working on ways to get those back on the lease roll. Council Member Alvarado believed the \$200,000 could be rolled over to something else if they find a way to take it off the budget. Nonetheless, she was happy with the response she received and hoped that number would continue to reduce as Council moved forward in future budgets.

In addition, Council Member Alvarado brought to Council's attention the \$500,000 in demolition of structures both city-owned and substandard. She understood the City got a good rate clumping those together, but she wondered how much of that would the City get back from substandard. How long did those stay on substandard, and could they tackle a different way to handle those that would be demolished by the City? She noted liens could last forever and if the property owner never sells, the demolition would be on the City's dime. She hoped there were ideas to deter that. Planning and Development Director Martin Scribner clarified the \$500,000 was a substandard program, and he did not know if that would include anything the City had another contract for. Nonetheless, the City did save by bulking demolitions together over the course of the year. In terms of how long liens sat, Mr. Scribner confirmed they could sit for years. Comparing how many structures the City demolished in the last five years and how many of those had been rebuilt, Mr. Scribner relayed there had not been many and the City had taken out about 200 lots at that point.

Mr. Scribner informed Council there was \$500,000 in the budget for the current fiscal year, and the City was on course to go through with all those demolitions. Staff's preference was not to tear the buildings down, but it was sometimes necessary. Council Member Alvarado understood and reiterated her concerns about those properties sitting forever and the empty lots. Mr. Scribner shared once a property went on the substandard list, staff exhausted all other options as they went through great lengths to get them under compliance. While staff preferred the properties redone and rehabbed, it was sometimes not possible. There was further discussions as to why properties could sit for extended periods of time. Council Member Alvarado wished for a way to incentivize such properties to be developed. Mr. Davis additionally noted, with the \$500,000, staff counted on demolishing single-family residences and hoped not to come across large commercial buildings. Council Member Alvarado agreed and expressed she would hate to demolish another church.

Lastly, Council Member Alvarado had a question over the HOT funds. Their budget binder had an entry for "historical" and she wondered what that was and who would receive that 2%. What did historical mean? Mr. Reeves replied those were the grants the City gave out every year to recipients in the community. The grants were divided in to historical and non-historical so they could go to the appropriate events the City had in town. Unlike the Community Development Block Grant (CDBG), the grants were more akin to the neighborhood grants through community engagement. With those, residents applied for the grants and every year the City would give them out.

Council Member Lester wished to revisit the \$200,000 in vacant lot cleanings. A significant portion of that was under Public Health, Title 42 United States Code Section 7231. Council Member Lester observed the budget for chemical supplies doubled. The average had been around \$190,000 in expenditures, and the following year's budget had \$349,000. Considering the rain event Baytown had, Council Member Lester did not mind if that went to mosquito control. Nevertheless, he was curious as

to why there was a significant jump. Health Director Tony Gray answered that included the chemicals for the shelter under the Public Health part for cleaning and chemical supplies in conjunction with mosquito control chemicals. Council Member Lester jested to have that pushed towards mosquito control which Mr. Gray assured they could adjust as needed.

Council Member Presley called Council's attention to the image campaign and marketing study, and requested a description of that along with the cost. Mr. Reeves responded \$150,000 was to bring in a consultant to perform research throughout the community. He shared the demographics and questions that would be given to the interviewees. Mr. Reeves explained that would build a foundation for a marketing strategy for Baytown's image and brand. With that, Council Member Presley took a moment to recognize Mr. Davis's legacy with the strategic planning process. However, he cautioned the City to be vigilant in spending money on studies and image campaigns.

Furthermore, Council Member Presley stated he disagreed with Council Member Alvarado with regard to demolitions. In District 2, demolitions were healthy, so he was a proponent of that as needed. Council Member Presley also recalled Council had discussed graffiti abatement and wondered if there was a line item in the budget for that. On liens, the City needed folks to want to acquire those properties. Without that, it would be a challenge. Vacant lot cleanup, median cleanup, grant programs, and releasing demolition liens so the properties could be put back on the tax rolls was what Council Member Presley believed Baytown needed. He did not believe the City needed another image campaign and marketing study as the City performed endless studies. Council Member Presley was not against it, but hoped staff would be diligent and strategic.

Council Member Lester, likewise, addressed liens. A lot of the \$200,000 was spent on cleanup for perpetual and vacant lots. Council Member Lester shared he had pushed to put those up for auction onsite. With the lots owned, he listed the following benefits: the lots would be maintained, it would be taken off the expenditure list, and taxes would be paid. Council Member Lester requested they be more aggressive with that as a City. He then spoke generally of the budget as the finalized discussions of the Architectural and Engineering Committee would be the next day. Council Member Lester believed there were a lot of funds that could be rearranged, such as the contingency.

Mayor Capetillo commented his support to invest in neighborhoods with the improvement grant. He also recognized the improvements to Alexander Drive. When there were improvements, whether it was a roadway or whatever the case may be, Mayor Capetillo stated that spread positively to other areas of that community. Thus, he wished to continue to parley some of those things. He then queried on the neighborhood improvement grant and how much they budgeted for that in the last year. Library Director Jamie Eustace replied that year would be the City's third cycle of that program. In the first year, it had been for \$35,000. The second had been \$40,000, and it was now \$45,000. Mayor Capetillo believed that was an area Council could increase, and further spoke on the topic of the beautification of the City. Everything he had sought did have allocated resources, so Mayor Capetillo only wanted to make sure the City was doing that.

Council Member Alvarado clarified, per Council Member Presley's comment, that she was not against the demolition of substandard. In fact, she credited Code Enforcement and BPD for tackling several businesses within her district. The City even created a special task force for a neighborhood that had continued issues. Council Member Alvarado was okay with the process and was only concerned about the properties that just sat there and that the City had to maintain.

## **Capital Improvement Projects Discussion**

Next, Mayor Capetillo requested for any comments on the capital improvement projects or any individual item. Council Member Betancourth stated she would hold her comments until she heard the Architectural and Engineering Committee's recommendations. Council Member Alvarado relayed the Committee would move to finalize their comments that Thursday. Likewise, Council Member Presley hoped there would be a joint recommendation from staff and their Committee.

Mayor Pro Tem Johnson conveyed he had spoken with Mr. Davis about the Bayway Drive redevelopment project. It was said there was something in the budget for that project in the previous year and not in the current. He requested that to be addressed. Mr. Simoneaux replied \$700,000 was in Fiscal Year (FY) 2023 for a full design. Mayor Pro Tem Johnson was happy to see that move forward incrementally. Mr. Davis added Bayway Drive's challenge was the waterline replacement was very expensive as well as the street reconstruction. The City hoped to take advantage of a grant similar to the one they received for Market Street. He explained County participation would allow them to push that project up. A survey indicated those costs would be a lot more than the City anticipated, so they would probably need that County participation. Mr. Davis relayed staff believed Bayway was a prime candidate for such participation.

In addition, Mayor Pro Tem Johnson inquired over Lantern Park street reconstruction. Mr. Simoneaux knew they had selected an engineer, so the City should be ready with a contract soon. Public Works and Engineering Assistant Director Andrea Brinkley reported staff had not finalized negotiations, but were happy with what had been presented so far. Public Works and Engineering would work with the Community Engagement staff to engage residents as part of the contract. The project would be the entryway in to that subdivision with the south circle included in case there were other areas Council wished to look at as well. Mayor Pro Tem Johnson wished for residents to know that had been on the City's radar and it was inching closer to where they would be able to see the work. Mr. Simoneaux agreed noting all streets in that subdivision needed improvements. Mayor Pro Tem Johnson looked forward to discuss that in the next Council Meetings.

Mayor Capetillo expressed he had reservations on the American Little League Park improvement. He explained he wanted to get a better idea of what little league baseball would look like in Baytown. What was the direction of baseball? Mayor Capetillo would rather utilize the \$1.5 million to work with the leagues to try to develop either at Russel Park or a select-team type of complex. What was the \$1.5 million earmarked for? He knew the City made improvements to the concessions, but he did not want to continue to invest if they were going to have a bigger complex at some point. Ms. Brinkley informed Council staff had sat down with the Little League to outline their wish list and also what staff thought was important. The facility was outdated and not utilized to the capacity staff would like with regard to sports tourism. The building, itself, had a press box that was not Americans with Disabilities Act (ADA) accessible. Thus, staff was working on having that accessibility. The restrooms were similarly not ADA accessible and needed to be refurbished like the concessions. The last inclusion Ms. Brinkley mentioned was a small child playground.

Moreover, Parks and Recreation Director Clifford Hatch noted there would be an umpire break room. The Little League Baseball programs were parent ran organizations. Thus, staff was adamant to meet with the Little League so they could be represented throughout the process. Mayor Capetillo appreciated that, yet wished staff to be mindful of the possibility for a larger park at some point. He reiterated not wanting to expend funds and then build a whole new park later. The funding Mayor



Capetillo referred to Mr. Hatch explained was out of the MDD and went to scoreboards, fencing, etc. The project captured bigger ticket items that those funds did not cover.

Council Member Lester recalled the Little League was one of the contention issues Council had discussed. As previously mentioned, he agreed with the opportunity for a bigger facility and that Russell Park would be an excellent spot. However, Council Member Lester had consternation about spending \$1.5 million on that park because it did not belong to the City. If they were to spend that money, he preferred to spend it at Russell Park. Mayor Capetillo hoped they could get a clarification to address that concern of the ownership. He supported a Little League Field complex of four or five fields at Russell Park. Or, there would be other opportunities for sports as the original design had many options. Mayor Capetillo spoke with Mr. Russell who was willing to fund a study for a site plan since the property had changed. Council Member Lester echoed his want to spend that type of money on property the City owned and also initiate something on one of their largest park. Mayor Capetillo further commented a few baseball organizations he spoke with had resources to build a ball field there, but the City needed the drainage work done first.

Finally, Mayor Capetillo requested for any other comments on any budget items. As Council awaited the Architectural and Engineering Committee's recommendation, Mayor Capetillo reminded Council August 25<sup>th</sup> was the public hearing on the proposed budget. He suggested Council not adopt the budget that same evening as the public hearing, but instead on September 22<sup>nd</sup>. Mr. Davis informed Council their next Budget Work Session would be that Thursday and would be primarily focused on enterprise funds as well as anything Council wished to discuss.

## **2. ADJOURN**

With there being no further business to discuss, Mayor Capetillo adjourned the August 16, 2022, City Council Budget Work Session at 6:18 P.M.

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Angela Jackson, City Clerk  
City of Baytown



## **CITY COUNCIL MEETING**

**2. a.**

**Meeting Date:** 09/08/2022

**Subject:** Presentation of Life Saving Award - Officer Nicholas Lewin

**Prepared for:** John Stringer, Police

**Prepared by:** Jessica Mata, Police

**Department:** Police

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### **Information**

#### **ITEM**

Presentation of the Life Saving Award to Officer Nicholas Lewin by the Chief of Police.

#### **PREFACE**

On June 5, 2022, at approximately 0011 hours, Officers responded to an Assault/Welfare concern at the 1300 block of Wright Blvd. Remarks stated a male attempted to choke the caller then threatened to hang himself. Officer Lewin arrived and searched the backyard of the residence for the male subject. Officer Lewin found the male subject on a tree and was approximately ten feet off the ground and had fastened a rope around his neck and to a tree branch. The citizen made suicidal threats to Officer Lewin. Officer Lewin recognized the seriousness of the situation and showed compassion and empathy to the citizen. Officer Lewin did this by talking to the citizen in a calm, rapport building demeanor. Officer Lewin was able to gain the citizen's confidence and get him to take the rope off from around his neck and come down from the tree. The citizen then received the help he needed.

Officer Lewin's effort to save a human life brings great credit upon himself, the Baytown Police Department and are in the highest traditions of The Law Enforcement Services.

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### **Fiscal Impact**

**Fiscal Year:**

**Acct Code:**

**Source of Funds (Operating/Capital/Bonds):**

**Funds Budgeted Y/N:**

**Amount Needed:**

**Fiscal Impact (Additional Information):**

There is no fiscal impact associated to this agenda item.

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### **Attachments**

Life Saving Award- Officer Lewin

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*John Stringer  
Chief of Police*

## **BAYTOWN POLICE DEPARTMENT**

3200 NORTH MAIN STREET  
BAYTOWN, TEXAS 77521  
(281) 422-8371

Web: <http://police.baytown.org>  
E-mail: [police@baytown.org](mailto:police@baytown.org)



*Rick Davis  
City Manager*

**On June 5, 2022 at approximately 0011 hours, Officers responded to an Assault/Welfare concern at the 1300 block of Wright Blvd. Remarks stated a male attempted to choke the caller and then threatened to hang himself. Officer Lewin arrived and searched the backyard of the residence for the male subject.**

**Officer Lewin found the actor/consumer on a tree.**

**The consumer was approximately ten feet off the ground and had fastened a rope around his neck and to a tree branch. The consumer made suicidal threats to Officer Lewin. Officer Lewin recognized the seriousness of the situation and showed compassion and empathy to the consumer. Officer Lewin did this by talking to the consumer in a calm, rapport building demeanor. Officer Lewin was able to gain the consumers confidence and get him to take the rope off from around his neck and come down from the tree.**

**The consumer then received the help he needed. Officer Lewin's effort to save a human life bring great credit upon himself, the Baytown Police Department and are in the highest traditions of The Law Enforcement Service.**



## **CITY COUNCIL MEETING**

**2. b.**

**Meeting Date:** 09/08/2022

**Subject:** Citizen Communication: Ms. Amy Skicki with Bay Area Houston Transportation Partnership

**Prepared for:** Angela Jackson, City Clerk's Office

**Prepared by:** Raquel Martinez, City Clerk's Office

**Department:** City Clerk's Office

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### **Information**

#### **ITEM**

Ms. Amy Skicki with the Bay Area Houston Transportation Partnership (BayTran) has requested to speak to the Council in regard to its program and membership.

#### **PREFACE**

The City Clerk's Office has received a citizen communication from Ms. Amy Skicki with the Bay Area Houston Transportation Partnership (BayTran). She has requested to appear before the City Council in regard to its program and membership.

A letter notifying Ms. Skicki of the placement of this item on the Thursday, September 8, 2022, City Council agenda was sent via electronic mail on Friday, September 2, 2022.

A copy of the request and the notification letter are both attached to this item for your review.

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### **Attachments**

BayTran Request to Appear Before Council

Notice to Appear Before Council - BayTran

City of Baytown Presentation - BayTran

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## CITY OF BAYTOWN

2401 Market Street Baytown, Texas 77520

Phone: (281) 422-8281

Web: [www.baytown.org](http://www.baytown.org)

### FOR OFFICE USE ONLY

Date Received: Friday, August 26, 2022

Date to Appear: Thursday, September 8, 2022

## REQUEST TO APPEAR BEFORE THE COUNCIL

### Speaker Information

- 1) Name: Amy Skicki  
Address: P.O. Box 57942 City: Webster State: TX Zip: 77598  
Phone: 832-771-0773 Email Address: director@baytran.org  
Name of Organization: Bay Area Houston Transportation Partnership

### Reason(s) for Request to Appear Before the Council

- 2) Reason for wanting to speak before the Council:  
Raise awareness of BayTran as a resource to advocate for mobility projects that efficiently move people and product through Bay Area Houston. We are also an organization that can facilitate public/private partnerships.
- 3) What action do you desire from the Council on this issue?  
For the city of Baytown to consider joining BayTran at the municipality rate of \$2,500 annually.

### Background Information

- 4) Have you attempted to resolve your issue through all administrative channels? ☐ YES or ☒ NO  
Have you attempted to resolve your issue through your Council Representative(s)? ☒ YES or ☐ NO  
If, yes to any of the above noted questions, please give a brief overview of who you have spoken to and what you have done to try and resolve your issue:  
I have had conversations with Mayor Capetillo regarding the city of Baytown joining, he asked that I speak to city council about the benefits of membership.
- 5) Is your reason to speak before the Council related to a charge against a City employee for improper conduct or misconduct? ☐ YES or ☒ NO

## Rules & Procedures for Speaking Before the Council

All citizens have a right to speak before Council. There are two types of items that a citizen may want to speak to:

- 1) Items that are on the agenda; and
- 2) Items that are not on the agenda.

For items that are on the agenda, a citizen must sign-in to speak before a Council meeting begins. The sign-in sheet is at the entrance to the Council Chambers. Citizens who sign-up to speak to an item on the agenda will be given three (3) minutes time to speak on the item.

For all other items that are not on the agenda citizens must file a citizen's communication by registering to do so on a form provided by the City Clerk and will be allowed five (5) minutes to speak; said request must be received by the City Clerk no later than 5:00 p.m. the Thursday prior to the Council agenda's posting. **NOTE:** A citizen's communication will not be schedule to speak before the Council, until such time as the applicant has made all attempts to resolve their issue or concerns through City staff and their respective Council Members. Also, Citizen Communications are for information gathering and no action may be taken on by the Council.

### Rules of Comportment when speaking before the Council:

- A speaker must be recognized by the presiding officer in order to speak before the Council. When recognized, the speaker must step to the podium stating his/her name, address and organization (if relevant) for purposes of the record.
- All statements and responses must be made at the podium and spoken into the microphone; comments from the audience are not acceptable.
- All comments and questions must be directed to the Council as a whole and not to any specific member.
- No questions will be asked of City staff without the permission of the presiding officer.
- Speakers may designate his/her three minutes to another speaker; portions of the time are not allowed. If there is a group of speakers that wish to speak on the same item, a spokesperson can be designated to speak on the group's behalf.
- Charges against employees are not acceptable as a citizen communication and will be ruled out of order immediately and will be referred to take their complaints to the City Manager.
- No electronic media is allowed for presentations during a Citizen Communication. Information being presented to Council should be in paper format and twelve (12) copies should be provided to the City Clerk for distribution to Council and staff. Speakers may also use the overhead camera to display copies on the Council screens. For assistance with this item, please see the City Clerk's staff.
- Once a speaker has completed his/her comments and takes a seat, any remaining time on the clock is forfeited, and he/she may not return to the podium.
- Any person delaying, disrupting, interrupting or refusing to follow the orders of the presiding officer shall be removed from the meeting per the direction of the presiding officer.

### Time limits:

- The City Clerk will operate the time clock at the direction of the presiding officer.
- Time limits will be strictly enforced. Speakers shall not go over their designated time unless said time frame is extended by a vote of the Council.
- The time clock will start when the speaker steps up to the podium.
- The time clock will give a warning in the form of a flashing light and one ring, when the speaker has 30 seconds remaining on his/her time. It is at this time that the speaker should begin wrapping up his/her comments.
- The time clock will give notice of the expiration of time with three consecutive rings; at this time the speaker should end all comments and return to his/her seat.





# CITY OF BAYTOWN

OFFICE OF THE CITY CLERK

2401 Market Street  
P.O. Box 424  
Baytown, Texas 77522-0424  
(281) 420-6504 • (281) 420-5891 Fax

September 2, 2022

Ms. Amy Skicki  
Bay Area Houston Transportation Partnership (BayTran)  
16821 Buccaneer Lane, Suite # 116  
Houston, Texas 77058

Re: Request to Address City Council

Dear Ms. Skicki:

Please be advised that your request to address Council has been placed as a Citizen Communication on the September 8, 2022, City Council Agenda as follows:

***"Ms. Amy Skicki with the Bay Area Houston Transportation Partnership (BayTran) has requested to speak to the Council in regard to its program and membership."***

Please note that a Citizen Communication is not a question and answer period. As such, please ensure that you present your questions to Administration prior to appearing before the City Council.

Please make arrangements to arrive promptly at 6:30 p.m., as typically, citizen communications are listed towards the beginning of the agenda.

At the meeting, the presiding officer will present your item and ask you to step up to the podium. Please begin by stating your name and the entity that you are representing for record keeping purposes and then proceed to present your statements; you will be given five (5) minutes to complete same.

Also, please note that electronic media is not allowed during the citizen communications portion of the agenda, should you have any handouts for your presentation; we ask that you provide nine (9) copies to the City Clerk, in order to distribute the information to all of Council.

Thank you for your attention to this matter and if you have any questions, please feel free to contact the City Clerk's Office at 281-420-6504.

Sincerely,

Raquel Martinez  
Deputy City Clerk



***YOUR **REGIONAL**  
**VOICE FOR**  
TRANSPORTATION,  
MOBILITY AND AIR  
QUALITY***

Presented to City of Baytown, TX

August 25, 2022





# MISSION



BAYTRAN advocates for regional transportation solutions.

# VISION

Enhancing regional mobility.

# CORE VALUES

R. A. I. S. E.

Resilience, Awareness, Influence, Safety, Education

501c4 Non-Profit – Social Welfare

# REPRESENTATION

## **BAYTRAN's Region Serves:**

5 Counties: Galveston, Brazoria, Chambers, Fort Bend & Harris.

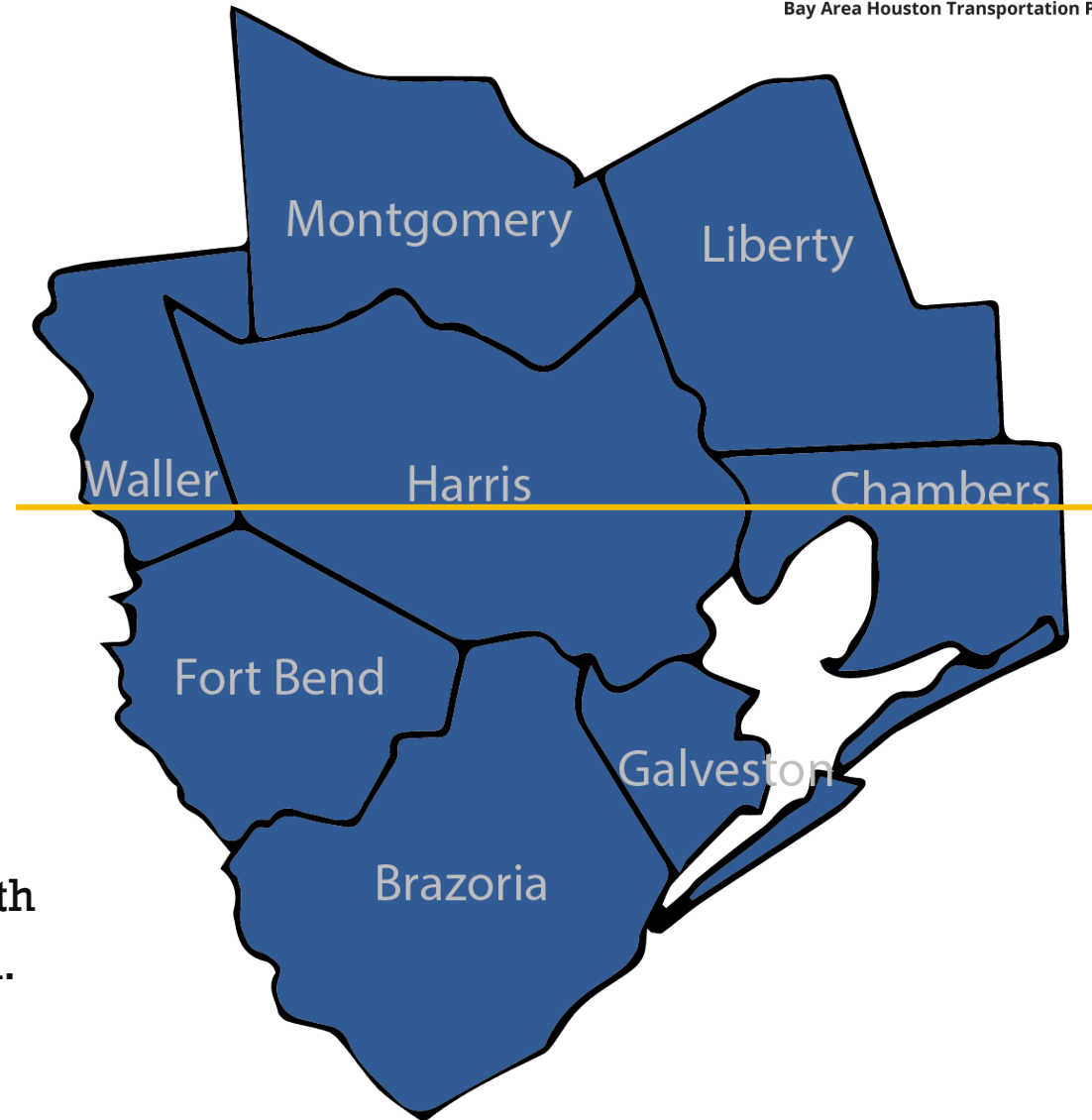
Over 90 Communities

6.2 Million Residents

6,000 square miles

**50%** of the 8-county  
regional economy

**27%** of the GDP of the 9th  
largest economy in the world.



# MEMBERS

- Counties
- Cities
- Agencies
- Local Residents
- Area Businesses
- Engineering Firms
- Trade Organizations



## *Sustaining Members*



# BENEFITS OF MEMBERSHIP

- Advocacy & Education
- Agency Coordination
- Transportation Management
- Business Development





# ADVOCACY

- H-GAC
- TxDOT
- Texas 88<sup>th</sup> Legislative Agenda
- Quarterly Austin Visits
- DC Fly-ins



TxDOT Commission Meeting Aug. 2022



DC Fly-in October 2021

# BAYTRAN INTO THE FUTURE



## ■ Transportation Projects

- Grand Parkway Segments A, B, C
- SH-146 Widening
- SH-225
- Beltway 8 Direct Connectors
- I-45 Widening

## Committees

Transportation

Public Policy

Membership

## Supporting

Coastal Protection

Widening of Houston Ship Channel



# QUESTIONS

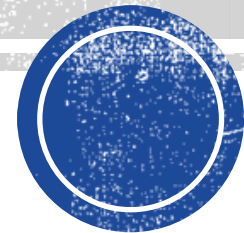


**AMY SKICKI**

EXECUTIVE DIRECTOR, BayTran

[director@baytran.org](mailto:director@baytran.org)

832-771-0773







## **CITY COUNCIL MEETING**

**3. a.**

**Meeting Date:** 09/08/2022

**Subject:** Consider Zoning Map Amendment from OR to GC

**Prepared for:** Martin Scribner, Planning and Development Services

**Prepared by:** Francesca Linder, Planning and Development Services

**Department:** Planning and Development Services

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### **Information**

#### **ITEM**

Consider an ordinance to amend the official zoning map to rezone approximately 25.20 acres generally located at the southeast intersection of Sjolander Road and IH-10 from Open Space/Recreation (OR) to a General Commercial (GC) Zoning District.

#### **PREFACE**

The applicant is requesting to rezone approximately 25.20 acres, legally described as a tract of land out of the William Bloodgood Survey, Abstract No. 4, Baytown, Harris County, Texas, from Open Space/Recreation (OR) to General Commercial (GC).

City Council approved a Development Agreement for the subject property during a 2017 unilateral annexation. The Development Agreement permitted the subject area to retain its extraterritorial status for up to seven years or until any type of subdivision plat was submitted, development occurred, or if the property lost its agricultural, wildlife management, or timber use exemption. The subject property was annexed into the city in 2021 due to a temporary development occurring. When annexed, the subject property was automatically zoned OR, the most restrictive zone for development. The zoning amendment will rezone the subject property from OR to GC.

The subject property is currently vacant. The surrounding area is characterized by a mix of residential dwellings, commercial businesses, and open space; the neighboring properties to the north, west, and south are designated GC.

The request is consistent with the existing zoning and uses of the surrounding area. The proposed zone change addresses a community need identified in the Comprehensive Plan and Land Use Policies.

Supporting documentation is attached to previous item.

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### **Fiscal Impact**

**Fiscal Year:**

**Acct Code:**

**Source of Funds (Operating/Capital/Bonds):**

**Funds Budgeted Y/N:**



**Amount Needed:**

**Fiscal Impact (Additional Information):**

No Fiscal Impact

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**Attachments**

Ordinance - Zoning Map Amendment

Exhibit A - Zoning Map

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AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BAYTOWN, TEXAS, AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF BAYTOWN TO REZONE APPROXIMATELY 25.20 ACRES GENERALLY LOCATED AT THE SOUTHEAST INTERSECTION OF SJOLANDER ROAD AND IH-10, LEGALLY DESCRIBED AS A TRACT OF LAND OUT OF THE WILLIAM BLOODGOOD SURVEY, ABSTRACT NO. 4, BAYTOWN, HARRIS COUNTY, TEXAS, FROM AN OPEN SPACE/RECREATION (OR) ZONING DISTRICT TO A GENERAL COMMERCIAL (GC) ZONING DISTRICT; PRESCRIBING A MAXIMUM PENALTY OF TWO THOUSAND AND NO/100 DOLLARS (\$2,000.00); PROVIDING A REPEALING CLAUSE; CONTAINING A SAVINGS CLAUSE; AND PROVIDING FOR THE PUBLICATION AND EFFECTIVE DATE THEREOF.

\*\*\*\*\*

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BAYTOWN, TEXAS:

Section 1: That the City Council of the City of Baytown, Texas, hereby amends the official zoning map of the City of Baytown to effectuate zoning district changes for approximately 25.20 acres generally located at the southeast intersection of Sjolander Road and IH-10, legally described as a tract of land out of the William Bloodgood Survey, Abstract No. 4, Baytown, Harris County, Texas, from an Open Space/Recreation (OR) Zoning District to a General Commercial (GC) Zoning District. The amended portion of the official zoning map is attached hereto as Exhibit "A" and incorporated herein for all intents and purposes.

Section 2: Any person who fails to comply with any provision of this ordinance shall be guilty of a misdemeanor and, upon conviction, shall be punished by a fine not exceeding TWO THOUSAND AND NO/100 DOLLARS (\$2,000.00). Each act of violation and each day upon which any such violation shall occur shall constitute a separate offense. In addition to the penalty prescribed above, the City may pursue other remedies such as abatement of nuisances, injunctive relief, administrative adjudication and revocation of licenses or permits.

Section 3: All ordinances or parts of ordinances inconsistent with the terms of this ordinance are hereby repealed; provided, however, that such repeal shall be only to the extent of such inconsistency, and in all other respects, this ordinance shall be cumulative of other ordinances regulating and governing the subject matter covered by this ordinance.

Section 4: If any provision, section, exception, subsection, paragraph, sentence, clause or phrase of this ordinance or the application of same to any person or set of circumstances shall for any reason be held unconstitutional, void or invalid, such invalidity shall not affect the validity of the remaining provisions of this ordinance or their application to other persons or sets of circumstances; and to this end, all provisions of this ordinance are declared to be severable.

Section 5: This ordinance shall take effect from and after ten (10) days from its passage by the City Council. The City Clerk is hereby directed to give notice hereof by causing the caption of this ordinance to be published in the official newspaper of the City of Baytown at least twice within ten (10) days after passage of this ordinance.

INTRODUCED, READ, and PASSED by the affirmative vote of the City Council of the City of Baytown this the 8<sup>th</sup> day of September, 2022.

---

BRANDON CAPETILLO, Mayor

ATTEST:

---

ANGELA JACKSON, City Clerk

APPROVED AS TO FORM:

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SCOTT LEMON, City Attorney

# EXHIBIT "A"



## Zoning Map Amendment

### Zoning Map

### 0 Sjolander Rd






Approx. 25.20 acres

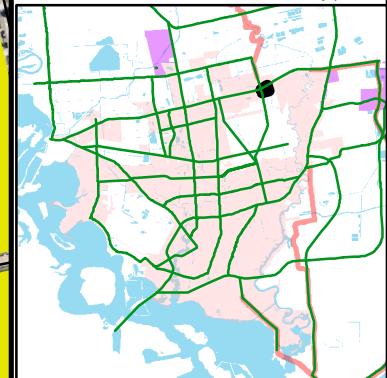


Subject Property

### ULDC Zoning

#### Zoning Districts

-  GC (General Commercial)
-  LI (Light Industrial)
-  OR (Open Space/Recreation)
-  SF1 (Low Density Single-Fam. Res.)
-  SF2 (Mixed Res. Low/Med. Density)



The City of Baytown Texas makes no warranty, representation, or guarantee regarding the accuracy of this map. This map is intended for display purposes only and does not replace official recorded documents.

1 inch = 521 feet

Date 2022-07-07



## **CITY COUNCIL MEETING**

**4. a.**

**Meeting Date:** 09/08/2022

**Subject:** Consider - Second reading of the proposed voluntary annexation of approximately 55.49 acres

**Prepared for:** Martin Scribner, Planning and Development Services

**Prepared by:** Tristan Lyons, Planning and Development Services

**Department:** Planning and Development Services

---

### **Information**

#### **ITEM**

Consider the second and final reading of an ordinance for the proposed annexation of approximately 55.49 acres of land, located generally east of North Main Street between East Wallisville Road and FM 1942.

#### **PREFACE**

Consider the second and final reading of an ordinance for the annexation of approximately 55.49 acres of land situated in the George Ellis League, A-21, Harris County, Texas, located generally east of North Main Street between East Wallisville Road and FM 1942.

On June 9, 2022, City Council approved a resolution granting the petition and directed staff to create a service plan for the area which was approved on July 15, 2022. The ordinance for the Services Agreement was then amended and approved by City Council on August 25, 2022. City Council held the public hearings for the annexation of the subject area on July 28, 2022, and August 25, 2022. City Council held the first reading for the annexation of the subject area on August 25, 2022.

The public hearings were posted on the City of Baytown's notice board on July 15, 2022, and August 9, 2022; published in The Baytown Sun on July 14, 2022, and August 11, 2022; and noticed on the City of Baytown's website since June 30, 2022.

The applicant is also in the process of requesting a rezoning of the property in order to develop since the property is automatically zoned OR when annexed into the City. The rezoning process is expected to conclude in October of this year. The applicant is proposing to rezone to mixed residential at low to medium densities (SF2) to allow for a proposed single-family residential lot subdivision containing 156 lots.

This second and final reading of the ordinance completes the annexation proceedings.

---

### **Fiscal Impact**

**Fiscal Year:**

**Acct Code:**

**Source of Funds (Operating/Capital/Bonds):**

**Funds Budgeted Y/N:**

**Amount Needed:**

**Fiscal Impact (Additional Information):**

There is no fiscal impact associated with this item.

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**Attachments**

Ordinance - Second Reading of Proposed Voluntary Annexation of Approximately 55.49 Acres

Exhibit A - Metes and Bounds

Exhibit B - Services Agreement

Vicinity Map

Applicant Petition

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AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BAYTOWN, TEXAS, MAKING CERTAIN FINDINGS; PROVIDING FOR THE EXTENSION OF CERTAIN BOUNDARY LIMITS OF THE CITY OF BAYTOWN, TEXAS, AND THE ANNEXATION OF APPROXIMATELY 55.49 ACRES OF LAND, LOCATED GENERALLY EAST OF NORTH MAIN STREET BETWEEN EAST WALLISVILLE ROAD AND FM 1942, WHICH SAID TERRITORY LIES ADJACENT TO AND ADJOINS THE PRESENT BOUNDARY LIMITS FOR THE CITY OF BAYTOWN, TEXAS.

\*\*\*\*\*

WHEREAS, there being no request for an "on-site" hearing, two public hearings before the City Council of the City of Baytown, Texas, where all interested persons were provided with an opportunity to be heard on the proposed annexation of the property described in Section 2 of this ordinance, were held during the City Council meetings on the 28<sup>th</sup> day of July, 2022, and the 25<sup>th</sup> day of August, 2022, in the City Council Chamber of City Hall of the City of Baytown, Texas; and

WHEREAS, notices of the first and second public hearings were published in a newspaper having general circulation in the City of Baytown, Texas, and in the below-described territories on July 14, 2022, and August 11, 2022; and

WHEREAS, notice of the first and second public hearings were posted on the City of Baytown's website on the 29<sup>th</sup> day of June, 2022; and

WHEREAS, notice of the first and second public hearings were posted on the City of Baytown's notice board on July 15, 2022, and August 9, 2022; and

WHEREAS, each notice posted on the City of Baytown's notice board and website remained posted until the date of the hearing referenced in the notice; and

WHEREAS, the total corporate area of the City of Baytown, Texas, on the 1<sup>st</sup> day of January, 2022, was 44.64 square miles; and

WHEREAS, the population of the City of Baytown, Texas, is approximately 83,701 inhabitants; and

WHEREAS, the below-described property lies within the extraterritorial jurisdiction of the City of Baytown, Texas; and

WHEREAS, the City Council of the City of Baytown finds that completely surrounding such area is in the public interest; NOW THEREFORE,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BAYTOWN, TEXAS:

Section 1: That all matters and facts set forth in the recitals hereinabove are found to be true and such recitals are hereby approved and made a part of this ordinance for all purposes and are adopted as a part of the judgment and findings by the City Council of the City of Baytown, Texas.

Section 2: That the following described land and territories lying adjacent to and adjoining the City of Baytown are hereby added and annexed to the City of Baytown, Texas, and shall hereinafter be included within the boundary limits of the City of Baytown, Texas, and present boundary limits of such City, at the various points contiguous to the areas hereinafter described, are altered and amended so as to include said areas within the corporate limits of the City of Baytown, Texas, to-wit:

SEE EXHIBIT "A"

Section 3: The above-described territories and the areas so annexed shall be a part of the City of Baytown, Texas, and the property so added hereby shall bear its pro rata share of the taxes levied by the City of Baytown, Texas, and the inhabitants thereof shall be entitled to all of the rights and privileges of all the citizens of the City of Baytown and shall be bound by the acts, ordinances, resolutions, and regulations of the City of Baytown, Texas.

Section 4: In accordance with Texas Local Government Code Annotated § 43.056, as amended, the service plan prepared by the City for providing municipal services to the annexed areas is hereby approved and is attached hereto as Exhibit "B," and is incorporated herein by this reference for all intents and purposes.

Section 5: This ordinance shall be published and passed in the manner provided in Article 1, Section 9, of the Charter of the City of Baytown, Texas.

INTRODUCED, READ and PASSED by the affirmative vote of the City Council of the City of Baytown this the 25<sup>th</sup> day of August, 2022.

---

BRANDON CAPETILLO, Mayor

ATTEST:

---

ANGELA JACKSON, City Clerk

APPROVED AS TO FORM:

---

SCOTT LEMOND, City Attorney

INTRODUCED, READ and PASSED on the SECOND AND FINAL READING this the 8<sup>th</sup> day of September, 2022.

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BRANDON CAPETILLO, MAYOR

ATTEST:

---

ANGELA JACKSON, City Clerk

APPROVED AS TO FORM:

---

SCOTT LEMOND, City Attorney



## EXHIBIT "A"

### DESCRIPTION OF A TRACT OF LAND CONTAINING 55.491 ACRES (2,417,192 SQUARE FEET) SITUATED IN GEORGE ELLIS LEAGUE, A-21 IN HARRIS COUNTY, TEXAS

Being a tract of land containing 55.491 acres (2,417,192 square feet) situated in the George Ellis League, A-21 in Harris County, Texas, being out of Lot 1 and Lot 2 of the Partition Map of the A.M. Dalquist Est, a subdivision map recorded in Volume 15, Page 65 of the Map Records of Harris County, Texas, being out of Lot 12 and Lot 19 of the Subdivision of the Geo Ellis League, as recorded in Volume 72, Page 459 of the Deed Records of Harris County, Texas, being all of a called 31.574-acre tract as conveyed unto Missouri Pacific Railroad Company by deed recorded under County Clerk's File No. R802767, Film Code No. 507-28-0883 of the Official Public Records of Real Property of Harris County, Texas, being all of the residue of a called 31.912-acre tract as conveyed unto Missouri Pacific Railroad Company by deed recorded under County Clerk's File No. R276773, Film Code No. 502-84-1580 of the Official Public Records of Real Property of Harris County, Texas, and being out of the north portion of the residue of a called 35.4530-acre tract as conveyed unto Larry Kent Murphy and wife, Becky Sue Murphy by deed recorded under County Clerk's File No. V277159, File Code No. 543-66-0231 of the Official Public Records of Real Property of Harris County, Texas. Said 55.491-acre tract being more particularly described by metes and bounds as follows:

**BEGINNING** at a found 5/8-inch iron located on the easterly right-of-way line of said North Main Street (60 feet wide) for the southwesterly corner of said Lot 1, for the northwesterly corner of Lot 13 of said Subdivision of Geo Ellis League, for the southwesterly corner of said 31.574-acre tract, for the northwesterly corner of a called 36.008-acre tract as conveyed unto Earl W. Wilburn, Jr., by deed recorded under County Clerk's File No. W477787, Film Code No. 564-03-0204 of the Official Public Records of Real Property of Harris County, Texas, and for the southwesterly corner of said tract herein described;

**THENCE** North 12° 41' 48" West with the easterly right-of-way line of said North Main Street, the westerly line of said Lot 1 and the westerly line of said 31.574-acre tract, at a distance of 261.20 feet passing the northwesterly corner of said Lot 1 and the southwesterly corner of said Lot 2, continuing with the easterly right-of-way line of said North Main Street, the westerly line of said Lot 2 and the westerly line of said 31.574-acre tract for a total distance of 522.40 feet to a set 5/8-inch iron rod with yellow cap stamped "Cobb, Fendley & Associates" for the northwesterly corner of said Lot 2, for the northwesterly corner of said 31.574-acre tract, for the southwesterly corner of Lot 3 of said Partition Map of A.M. Dalquist Est. subdivision as conveyed unto Helen Joyce Brown, et al by deed recorded under County Clerk's File No. X954416, Film Code No. 593-26-0692 of the Official Public Records of Real Property of Harris County, Texas, and for the northwesterly corner of said tract herein described;

THENCE North 77° 46' 30" East with the northerly line of said Lot 2, the northerly line of said 31.574-acre tract and the southerly line of said Lot 3, a distance of 2,625.26 feet to a found 1/2" iron rod with a cap stamped "Land Tech" located in the westerly line of said Lot 19, for the northeasterly corner of said Lot 2, for the northeasterly corner of said 31.574-acre tract, for the southeasterly corner of said Lot 3, for the northwesterly corner of the residue of said 31.912-acre tract, for the southwesterly corner of the residue of the S 1/2 of Lot Nineteen (19) as conveyed unto Helen Joyce Brown et al, by deed recorded under County Clerk's File No. X954414, Film Code No. 593-26-0685 of the Official Public Records of Real Property of Harris County, Texas, and for a corner in the northerly line of said tract herein described from which a found 2" iron pipe bears North 69° 42' 11" West, a distance of 0.66 feet;

THENCE North 77° 46' 34" East with the northerly line of the residue of said 31.912-acre tract and the southerly line of said residue of the S 1/2 of Lot Nineteen, a distance of 2,301.35 feet to a set 5/8" iron rod with yellow cap stamped "Cobb, Fendley & Associates" for the northeasterly corner of the residue of said 31.912-acre tract, the northwesterly corner of a called 0.6935-acre tract (Tract 11A) as conveyed unto County of Harris by deed recorded under County Clerk's File No. Y035065, Film Code No. 594-94-1074 of the Official Public Records of Real Property of Harris County, Texas, and for the northeasterly corner of said tract herein described;

THENCE South 65° 41' 02" West with the southeasterly line of the residue of said 31.912-acre tract and the northerly line of said 0.6935-acre tract, a distance of 587.31 feet to a set 5/8" iron rod with yellow cap stamped "Cobb, Fendley & Associates" for the beginning of a tangent curve to the left and for a corner on the easterly line of said tract herein described;

THENCE in a southwesterly direction continuing with the southeasterly line of the residue of said 31.912-acre tract, the northwesterly line of said 0.6935-acre tract, and with said curve to the left whose radius is 1,220.00 feet and whose central angle is 10° 26' 17" (chord bears South 60° 28' 04" West, a distance of 221.95 feet) for an arc length of 222.26 feet to a set 5/8" iron rod with yellow cap stamped "Cobb, Fendley & Associates" for the point of tangency and for a corner on the southeasterly line of said tract herein described;

THENCE South 55° 23' 27" West continuing with the southeasterly line of the residue of said 31.912-acre tract and the northwesterly line of said 0.6935-acre tract, a distance of 164.22 feet to a set 5/8" iron rod with yellow cap stamped "Cobb, Fendley & Associates" for the beginning of a tangent curve to the left and for a corner on the southeasterly line of said tract herein described;

THENCE in a southwesterly direction continuing with the southeasterly line of the residue of said 31.912-acre tract, the northwesterly line of said 0.6935-acre tract and with said curve to the left whose radius is 1,020.00 feet and whose central angle is 15° 34' 32" (chord bears South 47° 26' 23" West, a distance of 276.43 feet) for an arc length of 277.28 feet to a set 5/8" iron rod with yellow cap stamped "Cobb, Fendley & Associates" for the point of tangency and for a corner on the southeasterly line of said tract herein described;

THENCE South 39° 39' 06" West continuing with the southeasterly line of the residue of said 31.912-acre tract and the northwesterly line of said 0.6935-acre tract, a distance of 224.16 feet to a set 5/8" iron rod with yellow cap stamped "Cobb, Fendley & Associates" located on the northerly line of said Lot 12 and the southerly line of said Lot 19 for the southeasterly corner of said 31.912-acre tract, for the southwesterly corner of said 0.6935-acre tract, for the northeasterly corner of the residue of a called 4.0136-acre tract as conveyed unto the Daniel J. Hankamer by deed recorded under County Clerk's File No. X981286, Film Code No. 593-78-2665 of the Official Public Records of Real Property of Harris County, Texas, for the northwesterly corner of a called 0.5701-acre tract as conveyed unto County of Harris by deed recorded under County Clerk's File No. X771963, Film Code No. 589-11-2026 of the Official Public Records of Real Property of Harris County, Texas, and for an angle point on the southeasterly line of said tract herein described;

THENCE South 77° 59' 20" West with the southerly line of said 31.912-acre tract, the southerly line of said Lot 19, the northerly line of said Lot 12 and the northerly line of the residue of said 4.0136-acre tract, a distance of 76.89 feet to a set 5/8-inch iron rod with yellow cap stamped "Cobb Fendley & Associates" for northeasterly corner of the residue of a called 35.4530-acre tract as conveyed unto Larry Kent Murphy and wife, Becky Sue Murphy by deed recorded under County Clerk's File No. V277159, Film Code No. 543-66-0231 of the Official Public Records of Real Property of Harris County, Texas, for the northwesterly corner of the residue of said 4.0136-acre tract and for an angle point on the southeasterly line of said tract herein described;

THENCE South 11° 54' 20" East with the southeasterly line of the residue of said 35.4530-acre tract and the westerly line of the residue of said 4.0136-acre tract, a distance of 60.50 feet to a found 1/2-inch iron rod (bent) for an angle point in the southeasterly line of the residue of said 35.4530-acre tract, for an angle point on the westerly line of said 0.5701-acre tract, for the northerly corner of a called 3.6682-acre tract as conveyed unto the County of Harris by deed recorded under County Clerk's File No. Y049181, Film Code No. 595-41-1796 of the Official Public Records of Real Property of Harris County, Texas, and for an angle point on the southeasterly line of said tract herein described;

THENCE South 39° 43' 38" West with the southeasterly line of the residue of said 35.4530-acre tract and the northwesterly line of said 3.6682-acre tract, a distance of 109.06 feet to a set 5/8-inch iron rod with yellow cap stamped "Cobb Fendley & Associates" for a corner on the easterly line of the residue of said 35.4530-acre tract, for a corner on the northwesterly line of said 3.6682-acre tract, for the beginning of a tangent curve to the right and for a corner on the southeasterly line of said tract herein described;

THENCE in a southwesterly direction continuing with the southeasterly line of the residue of said 35.4530-acre tract, the northwesterly line of said 3.6682-acre tract and with said tangent curve to the right whose radius is 840.00 feet and whose central angle is  $09^{\circ} 38' 38''$  (chord bears South  $44^{\circ} 32' 58''$  West, a distance of 141.22 feet) for an arc length of 141.39 feet to a set 5/8-inch iron rod with yellow cap stamped "Cobb Fendley & Associates" for a corner on the southeasterly line of the residue of said 35.4530-acre tract, for a corner on the northwesterly line of said 3.6682-acre tract, for the point of tangency and for a corner on the southeasterly line of said tract herein described;

THENCE South  $49^{\circ} 22' 15''$  West continuing with the southeasterly line of the residue of said 35.4530-acre tract and the northwesterly line of said 3.6682-acre tract, a distance of 712.96 feet to a set 5/8-inch iron rod with yellow cap stamped "Cobb Fendley & Associates" for a corner on the southeasterly line of the residue of said 35.4530-acre tract, for a corner in the northwesterly line of said 3.6682-acre tract, for beginning of a tangent curve to the left and for a corner in the easterly line of said tract herein described;

THENCE in a southwesterly direction continuing with the southeasterly line of the residue of said 35.4530-acre tract, the northwesterly line of said 3.6682-acre tract and with said tangent curve to the left whose radius is 1,000.00 feet and whose central angle is  $02^{\circ} 15' 54''$  (chord bears South  $48^{\circ} 15' 40''$  West, a distance of 39.53 feet) for an arc length of 39.53 feet to a found 1/2-inch iron rod with cap stamped "BHA" for the southerly corner of the residue of said 35.4530-acre tract, for the northwesterly corner of said 3.6682-acre tract, for the northerly corner of a called 0.0185-acre tract as conveyed unto the County of Harris by deed recorded under County Clerk's File No. Y109360, Film Code No. 596-70-0454 and File No. 20100180391, Film Code No. 071-70-2954 of the Official Public Records of Real Property of Harris County, Texas, for the most easterly southeast corner of the residue of said 36.008-acre tract and for the southeasterly corner of said tract herein described;

THENCE North  $12^{\circ} 29' 30''$  West with the westerly line of the line of the residue of said 35.4530-acre tract and the easterly line of said 36.008-acre tract, a distance of 566.97 feet to a found 2-inch iron pipe (bent) for the northwesterly corner of said Lot 12, the southwesterly corner of said Lot 19, for the northwesterly corner of said Lot 13, for the southeasterly corner of Lot 1, for the northeasterly corner of the residue of said 35.4530-acre tract, for the southwesterly corner of the residue of said 31.912-acre tract, for the southeasterly corner of said 31.574-acre tract, for the northeasterly corner of said 36.008-acre tract and for an angle point in the southerly line of said tract herein described;

THENCE South 77° 51' 22" West with the southerly line of said 31.574-acre tract and the northerly line of said 36.008-acre tract, a distance of a distance of 2,623.95 feet to the **POINT OF BEGINNING** and containing 55.491 acres (2,417,192 square feet) of land, more or less.

Notes:

1. All bearings shown hereon are based on the Texas State Coordinate System of 1983, South Central Zone (4204), NAD 83, 2001 adjustment.
2. Square footage area shown is for information only and surveyor does not certify accuracy of survey to nearest square foot.
3. This metes and bounds description is referenced to a survey drawing prepared by Cobb, Fendley & Associates, Inc. dated February 1, 2022, and titled "A BOUNDARY SURVEY OF A 55.491 ACRE (2,417,192 SQ. FT.) TRACT SITUATED IN THE GEORGE ELLIS LEAGUE, A-21 IN HARRIS COUNTY, TEXAS".

**Cobb, Fendley & Associates, Inc.**  
TBPELS Firm Registration No. 100467  
13430 NW Freeway, Suite 1100  
Houston, TX 77040  
Phone: 713-462-3242

Job Number 2110-001-08-02  
February 1, 2022



02-01-2022

# EXHIBIT "B"

## Services Agreement

STATE OF TEXAS           §  
  §  
COUNTY OF HARRIS       §

WHEREAS, the Castlerock Communities LLC (the "Owner") owns the property more specifically identified in Exhibit "A," which is attached hereto and incorporated herein for all intents and purposes (the "Property"); and

WHEREAS, the Owner has requested annexation of the Property; and

WHEREAS, pursuant to Section 43.0672 of the Texas Local Government Code, the City of Baytown (the "City") and the Owner desire to enter into this Services Agreement (this "Agreement") in order to govern the provision of service to the Property;

NOW THEREFORE, for and in consideration of the mutual covenants and agreements herein contained, the City and the Owner (collectively the "Parties") do hereby mutually agree as follows:

1. Services to be provided. The Parties agree that upon annexation, the City will provide the following services, which shall be provided at a comparable level to that provided to other parts of the City with topography, land use, and population density similar to those reasonably contemplated or projected on the Property as of the date hereof:
  - a. Fire. The City, through its Fire Department, will provide fire and emergency medical services to the Property.
  - b. Police. The City, through its Police Department, will provide law enforcement services to the Property.
  - c. Health. The City, through its Health Department, will provide services pertaining to environmental health, neighborhood protection, storm water, and animal control to the Property.
  - d. Planning and Development. The City, through its Planning and Development Services Department, will provide development and building services to the Property, including code enforcement services.
  - e. Utility. The City through, its Public Works, Engineering and Finance Departments, will provide water, sewer, storm sewer, and garbage services to the area. Any infrastructure improvements necessary for the Property to receive these services from the existing City infrastructure shall be the sole responsibility of the Owner. Additionally, any additional infrastructure improvements, necessitated by proposed future development, shall be the sole responsibility of the Owner.

The Parties understand and agree that the City is not required to provide a service that is not included in this Agreement. However, nothing herein shall be construed to preclude the City from providing a service in the future if it chooses to do so.

2. Term. This Agreement shall commence on the date of the annexation of the Property by the City and shall terminate one year after the services referenced in Section 1 have first been provided to the Property.
3. Remedies. Should the City fail to provide the services within the time period specified in Section 1 hereof, the Owner shall give written notice of such failure to the City and provide an opportunity for the City to provide such services. The City shall not be in default hereof if the City is diligently



prosecuting the work necessary to provide the services. If the breach is not timely cured, the Owner's sole remedy is to seek disannexation. If the property is disannexed, the City shall be relieved of any and all obligations to provide those services specified in Section 1 hereof to the Property.

4. Miscellaneous Provisions.

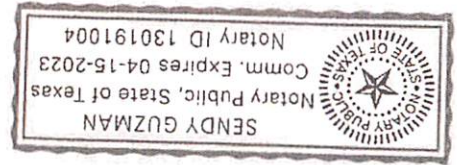
- (a) Notice. Notices required herein shall be delivered in hand or by registered or certified US mail to the City at the following address:

City of Baytown  
Attn: City Manager  
2401 Market Street  
Baytown, Texas 77520

Notice to the Owner may be addressed to Owner at the address indicated on the most recent Harris County property tax roll for the Property.

- (b) Severability. If a court of competent jurisdiction determines that any covenant of this Agreement is void or unenforceable, then the remainder of this Agreement shall remain in full force and effect.
- (c) Non-waiver. This Agreement may be enforced by any Owner or the City by any proceeding at law or in equity. Failure to do so shall not be deemed a waiver to enforce the provisions of this Agreement thereafter.
- (d) Ambiguities. In the event of any ambiguity in any of the terms of this Agreement, it shall not be construed for or against any party hereto on the basis that such party did or did not author the same.
- (e) Headings. The headings appearing at the first of each numbered section in this Agreement are inserted and included solely for convenience and shall never be considered or given any effect in construing this Agreement or any provision hereof, or in connection with the duties, obligations or liabilities of the respective parties hereto or in ascertaining intent, if any question of intent should arise.
- (f) Governing Law. This Agreement shall be governed by the laws of the State of Texas and construed in conformity with the provisions of Sections 43.0672 of the Texas Local Government Code. No subsequent change in the law regarding annexation shall affect the enforceability of this Agreement.
- (g) Venue. Venue for this Agreement shall be in Harris County, Texas.
- (h) Counterparts. This Agreement may be separately executed in individual counterparts and, upon execution, shall constitute one and same instrument.
- (i) Complete Agreement. This Agreement contains all the agreements of the Owner and the City relating to the subject matter hereof and is the full and final expression of the agreement between such parties. This Agreement may be amended only by written agreement signed by the Owner and the City.
- (j) Agreement Read. The parties acknowledge that they have read, understand and intend to be bound by the terms and conditions of this Agreement.
- (k) Authority. The Owner covenants that he/she/it has the authority to enter into this Agreement by virtue of being the owner of the Property. Additionally, the officers executing this Agreement on behalf of the Owner hereby represent that such officers have full authority to execute this Agreement and to bind the party he/she represents.

R:\Karen Horner\Documents\Files\Contracts\Voluntary Annexation Agreement for Services\FORM\Services Agreement for Company 2021.doc



[Signature]  
Notary Public, State of Texas

Given under my hand and seal of office this 17 day of July, 2022.  
to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he/she executed that instrument for the purposes and consideration therein expressed.  
(check one)

☒ government that contains the photograph and signature of the acknowledging person}  
proved to me through his/her current TX Driver License {description of  
proved to me on the oath of \_\_\_\_\_ or \_\_\_\_\_  
known to me \_\_\_\_\_

Before me, Sendy Guzman, the undersigned notary public, on this day personally appeared Lance Wright, the CO CEO of the \_\_\_\_\_  
§  
COUNTY OF HARRIS  
§  
STATE OF TEXAS

OWNER: Castlerock Communities LLC  
(Signature) [Signature]  
(Printed Name) Lance Wright  
(Title) CO-CEO

TREVOR FANNING, Interim City Attorney  
Scott Landry, City Attorney

APPROVED AS TO FORM:



ANGELA JACKSON, City Clerk

ATTEST:

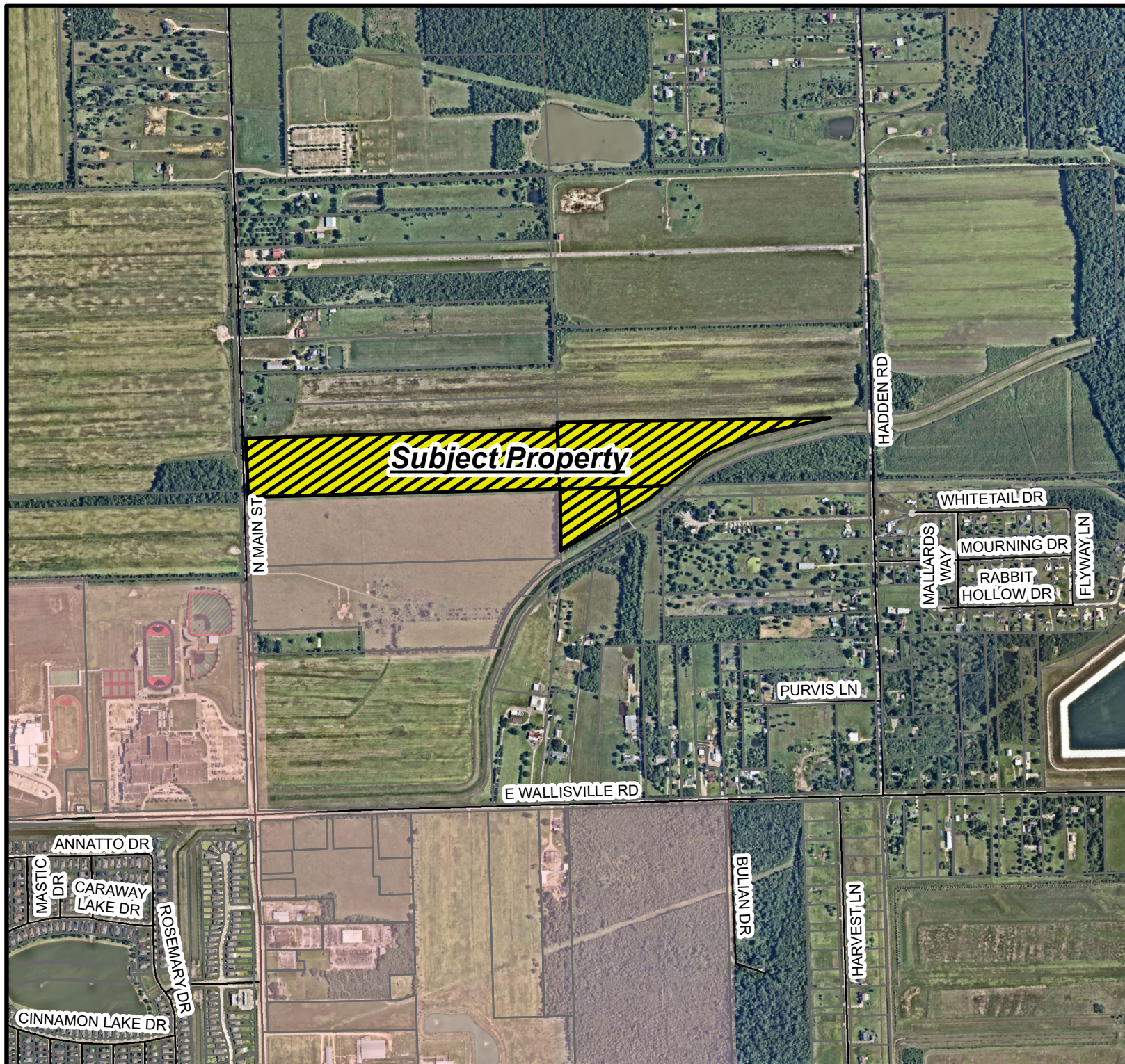
RICHARD L. DAVIS, City Manager

CITY OF BAYTOWN

Entered into this 18th day of July, 2022.



# EXHIBIT "A"





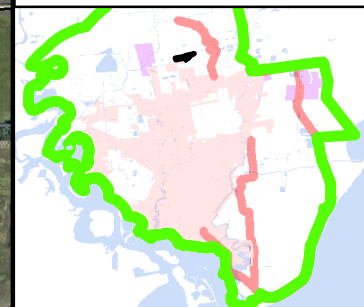
## Bay Creek 2.0 Annexation

### Vicinity Map

Approx. 55.49 acres

#### LEGEND

-  Subject Property
-  City Limit



The City of Baytown Texas makes no warranty, representation, or guarantee regarding the accuracy of this map. This map is intended for display purposes only and does not replace official recorded documents.  
1 inch = 1,128 feet Date 2022-08-10







# Bay Creek 2.0 Annexation

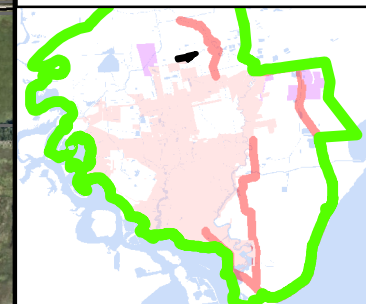
## Vicinity Map

Approx. 55.49 acres

**Subject Property**

### LEGEND

-  Subject Property
-  City Limit



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1 inch = 1,128 feet Date 2022-08-10



RESOLUTION NO. 2787

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BAYTOWN, TEXAS, GRANTING THE PETITION OF CASTLEROCK COMMUNITIES, LLC, FOR THE PROPOSED ANNEXATION OF APPROXIMATELY 62.02 ACRES, LOCATED GENERALLY EAST OF NORTH MAIN STREET BETWEEN EAST WALLISVILLE ROAD AND FM 1942, IN THE GEORGE ELLIS LEAGUE, A-21, HARRIS COUNTY, TEXAS; AUTHORIZING THE PREPARATION OF A SERVICE PLAN; AND PROVIDING FOR THE EFFECTIVE DATE THEREOF.

\*\*\*\*\*

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BAYTOWN, TEXAS:

Section 1: That the City Council of the City of Baytown, Texas, hereby grants the petition of CastleRock Communities, LLC, for the proposed annexation of approximately 62.02 acres, located generally east of North Main Street between East Wallisville Road and FM 1942, in the George Ellis League, A-21, Harris County, Texas. Said petition is attached hereto as Exhibit "A" and incorporated herein for all intents and purposes.

Section 2: That the City Council of the City of Baytown, Texas, hereby authorizes and directs the Planning and Development Services Department to prepare a service plan for the property identified in Section 1 hereof.

Section 3: This resolution shall take effect immediately from and after its passage by the City Council of the City of Baytown.

INTRODUCED, READ and PASSED by the affirmative vote of the City Council of the City of Baytown this the 9<sup>th</sup> day of June, 2022.

ATTEST:

  
ANGELA JACKSON, City Clerk



  
BRANDON CAPETILLO, Mayor

APPROVED AS TO FORM:

  
TREVOR FANNING, Interim City Attorney

# EXHIBIT "A"



Planning and Development Services  
2401 Market Street  
Baytown, TX 77520  
Phone: 281-420-5394  
Planning@baytown.org

## CITY OF BAYTOWN

### PETITION REQUESTING ANNEXATION

Incomplete applications will not be accepted. Indicate "N/A" when an item does not pertain to your application.

STATE OF TEXAS

COUNTY OF HARRIS/CHAMBERS

COME NOW, CastleRock Communities, LLC, Owner(s) of the real property describes as follows to-wit:

(Describe property and attach metes and bounds)

62.015 Acres on the East side of North Main between East Wallisville & Crosby Barbers Hill Road

(State property location, for example, the property is located north of I-10 near N. Main Street.)

East side of North Main between East Wallisville & Crosby Barbers Hill Road

(State the purpose of this annexation – What will be built, placed, etc.)

- |  |  |
|--|--|
| <input checked="" type="checkbox"/> Residential/Manufactured (Number of Lots) <u>156</u> | <input type="checkbox"/> Multifamily (Number of Units) _____ |
| <input type="checkbox"/> Commercial Business (Business type) _____                       | <input type="checkbox"/> RV Park (Number of Pads) _____      |
| <input type="checkbox"/> Restaurant (Number of seats) _____                              | <input type="checkbox"/> Hotel/Motel (Number of Beds) _____  |
| <input type="checkbox"/> Office Building (Number of Occupants) _____                     | <input type="checkbox"/> Retail (Number of Washrooms) _____  |
| <input type="checkbox"/> Other (description) _____                                       |  |

Said tract is one-half mile or less in width; is contiguous to the city limits of Baytown; and is vacant and without residence or on which fewer than three qualified voters reside.

Application Fee: voluntary annexations are \$300.00

(I), (We), CastleRock Communities, LLC, the Owner(s) of the above-described property request annexation of the property by the City of Baytown.

SIGNED this the 26 day of May, 2022.

Owner

Lance Wright - CO CEO

Name & Title

2401 Fountain View #215, Houston, TX. 77057

Address

713-600-7064

Telephone Number

AYODER@C-ROCK.COM

Email Address

Owner

Name & Title

Address

Telephone Number

Email Address

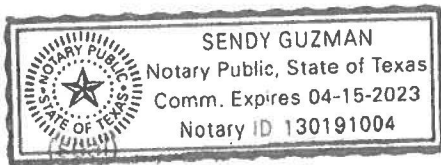
**Acknowledgement**

State of Texas §

County of Harris / ~~Chambers~~ §

BEFORE ME, the undersigned authority, on this day personally appeared Zach Wright, know to me to be the person(s) whose name(s) is/are subscribed hereto, and who acknowledged that he/she/they executed the same for the purpose and consideration therein expressed.

To certify which witness my hand and official seal on this the 26<sup>th</sup> day of May, 2022.



[Signature]  
Notary Public \* STATE OF TEXAS

**Corporate Acknowledgement**

State of Texas §

County of Harris/Chambers §

This instrument was acknowledged before me on \_\_\_\_\_, 20\_\_\_\_, by \_\_\_\_\_, as \_\_\_\_\_ of \_\_\_\_\_, a corporation and on behalf of said corporation.

To certify which witness my hand and official seal on this the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Notary Public \* STATE OF TEXAS

(seal)

**AFTER RECORDING, RETURN TO:**  
City of Baytown  
Attn: Planning Department  
P. O. Box 424  
Baytown, TX 77522-0424



## **CITY COUNCIL MEETING**

**4. b.**

**Meeting Date:** 09/08/2022

**Subject:** Consider an ordinance for placing annexed properties in Council District No. 4

**Prepared for:** Martin Scribner, Planning and Development Services

**Prepared by:** Tristan Lyons, Planning and Development Services

**Department:** Planning and Development Services

---

### **Information**

#### **ITEM**

Consider an ordinance adding the newly annexed properties generally described as approximately 55.49 acres of land situated in the George Ellis League, A-21, Harris County, Texas, located generally east of North Main Street between East Wallisville Road and FM 1942 into Council District No. 4.

#### **PREFACE**

This proposed ordinance places the newly annexed properties generally described as approximately 55.49 acres of land situated in the George Ellis League, A-21, Harris County, Texas, located generally east of North Main Street between East Wallisville Road and FM 1942 into Council District No. 4.

On June 9, 2022, City Council approved a resolution granting the petition and directed staff to create a service plan for the area which was approved on July 15, 2022. The ordinance for the Services Agreement was then amended and approved by City Council on August 25, 2022. City Council held the public hearings for the annexation of the subject area on July 28, 2022, and August 25, 2022. City Council held the first reading for the annexation of the subject area on August 25, 2022.

The public hearings were posted on the City of Baytown's notice board on July 15, 2022, and August 9, 2022; published in The Baytown Sun on July 14, 2022, and August 11, 2022; and noticed on the City of Baytown's website since June 30, 2022.

The applicant is also in the process of requesting a rezoning of the property in order to develop since the property is automatically zoned OR when annexed into the City. The rezoning process is expected to conclude in October of this year. The applicant is proposing to rezone to mixed residential at low to medium densities (SF2) to allow for a proposed single-family residential lot subdivision containing 156 lots.

A map has been included with the packet to show the location of the property within the council district.

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### **Fiscal Impact**

**Fiscal Year:**

**Acct Code:**

**Source of Funds (Operating/Capital/Bonds):**

**Funds Budgeted Y/N:**

**Amount Needed:**

**Fiscal Impact (Additional Information):**

There is no fiscal impact associated with this item.

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**Attachments**

Ordinance - Placing Annexed Properties in Council District No. 4

Exhibit A - Metes and Bounds

Council District Map

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AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BAYTOWN, TEXAS,  
ADDING APPROXIMATELY 55.49 ACRES OF LAND SITUATED IN THE GEORGE  
ELLIS LEAGUE SURVEY, A-21, HARRIS COUNTY, TEXAS, TO COUNCIL  
DISTRICT NO. 4; REPEALING ORDINANCES INCONSISTENT HERewith;  
CONTAINING A SAVINGS CLAUSE; AND PROVIDING FOR THE PUBLICATION  
AND EFFECTIVE DATE THEREOF.

\*\*\*\*\*

WHEREAS, Section 17(7) of the Charter of the City of Baytown provides that the City Council shall redistrict the City if the growth of the City justifies; and

WHEREAS, it is necessary to include the newly annexed territory described herein in a Council District; NOW THEREFORE,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BAYTOWN, TEXAS:

Section 1: Council District No. 4 is hereby redistricted by the addition of that property which is described in Exhibit "A," which is attached hereto and incorporated herein for all intents and purposes.

Section 2: All ordinances or parts of ordinances inconsistent with the terms of this ordinance are hereby repealed; provided, however, that such repeal shall be only to the extent of such inconsistency, and in all other respects, this ordinance shall be cumulative of other ordinances regulating and governing the subject matter covered by this ordinance.

Section 3: If any provision, section, exception, subsection, paragraph, sentence, clause or phrase of this ordinance or the application of same to any person or set of circumstances shall for any reason be held unconstitutional, void or invalid, such invalidity shall not affect the validity of the remaining provisions of this ordinance or their application to other persons or sets of circumstances, and to this end, all provisions of this ordinance are declared to be severable.

Section 4: This ordinance shall take effect from and after ten (10) days from its passage by the City Council. The City Clerk is hereby directed to give notice hereof by causing the caption of this ordinance to be published in the official newspaper of the City of Baytown at least twice within ten (10) days after passage of this ordinance.

INTRODUCED, READ and PASSED by the affirmative vote of the City Council of the City of Baytown this the 8<sup>th</sup> day of September, 2022.

\_\_\_\_\_  
BRANDON CAPETILLO, Mayor

ATTEST:

\_\_\_\_\_  
ANGELA JACKSON, City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
SCOTT LEMON, City Attorney



## EXHIBIT "A"

### DESCRIPTION OF A TRACT OF LAND CONTAINING 55.491 ACRES (2,417,192 SQUARE FEET) SITUATED IN GEORGE ELLIS LEAGUE, A-21 IN HARRIS COUNTY, TEXAS

Being a tract of land containing 55.491 acres (2,417,192 square feet) situated in the George Ellis League, A-21 in Harris County, Texas, being out of Lot 1 and Lot 2 of the Partition Map of the A.M. Dalquist Est, a subdivision map recorded in Volume 15, Page 65 of the Map Records of Harris County, Texas, being out of Lot 12 and Lot 19 of the Subdivision of the Geo Ellis League, as recorded in Volume 72, Page 459 of the Deed Records of Harris County, Texas, being all of a called 31.574-acre tract as conveyed unto Missouri Pacific Railroad Company by deed recorded under County Clerk's File No. R802767, Film Code No. 507-28-0883 of the Official Public Records of Real Property of Harris County, Texas, being all of the residue of a called 31.912-acre tract as conveyed unto Missouri Pacific Railroad Company by deed recorded under County Clerk's File No. R276773, Film Code No. 502-84-1580 of the Official Public Records of Real Property of Harris County, Texas, and being out of the north portion of the residue of a called 35.4530-acre tract as conveyed unto Larry Kent Murphy and wife, Becky Sue Murphy by deed recorded under County Clerk's File No. V277159, File Code No. 543-66-0231 of the Official Public Records of Real Property of Harris County, Texas. Said 55.491-acre tract being more particularly described by metes and bounds as follows:

**BEGINNING** at a found 5/8-inch iron located on the easterly right-of-way line of said North Main Street (60 feet wide) for the southwesterly corner of said Lot 1, for the northwesterly corner of Lot 13 of said Subdivision of Geo Ellis League, for the southwesterly corner of said 31.574-acre tract, for the northwesterly corner of a called 36.008-acre tract as conveyed unto Earl W. Wilburn, Jr., by deed recorded under County Clerk's File No. W477787, Film Code No. 564-03-0204 of the Official Public Records of Real Property of Harris County, Texas, and for the southwesterly corner of said tract herein described;

**THENCE** North 12° 41' 48" West with the easterly right-of-way line of said North Main Street, the westerly line of said Lot 1 and the westerly line of said 31.574-acre tract, at a distance of 261.20 feet passing the northwesterly corner of said Lot 1 and the southwesterly corner of said Lot 2, continuing with the easterly right-of-way line of said North Main Street, the westerly line of said Lot 2 and the westerly line of said 31.574-acre tract for a total distance of 522.40 feet to a set 5/8-inch iron rod with yellow cap stamped "Cobb, Fendley & Associates" for the northwesterly corner of said Lot 2, for the northwesterly corner of said 31.574-acre tract, for the southwesterly corner of Lot 3 of said Partition Map of A.M. Dalquist Est. subdivision as conveyed unto Helen Joyce Brown, et al by deed recorded under County Clerk's File No. X954416, Film Code No. 593-26-0692 of the Official Public Records of Real Property of Harris County, Texas, and for the northwesterly corner of said tract herein described;

THENCE North 77° 46' 30" East with the northerly line of said Lot 2, the northerly line of said 31.574-acre tract and the southerly line of said Lot 3, a distance of 2,625.26 feet to a found 1/2" iron rod with a cap stamped "Land Tech" located in the westerly line of said Lot 19, for the northeasterly corner of said Lot 2, for the northeasterly corner of said 31.574-acre tract, for the southeasterly corner of said Lot 3, for the northwesterly corner of the residue of said 31.912-acre tract, for the southwesterly corner of the residue of the S 1/2 of Lot Nineteen (19) as conveyed unto Helen Joyce Brown et al, by deed recorded under County Clerk's File No. X954414, Film Code No. 593-26-0685 of the Official Public Records of Real Property of Harris County, Texas, and for a corner in the northerly line of said tract herein described from which a found 2" iron pipe bears North 69° 42' 11" West, a distance of 0.66 feet;

THENCE North 77° 46' 34" East with the northerly line of the residue of said 31.912-acre tract and the southerly line of said residue of the S 1/2 of Lot Nineteen, a distance of 2,301.35 feet to a set 5/8" iron rod with yellow cap stamped "Cobb, Fendley & Associates" for the northeasterly corner of the residue of said 31.912-acre tract, the northwesterly corner of a called 0.6935-acre tract (Tract 11A) as conveyed unto County of Harris by deed recorded under County Clerk's File No. Y035065, Film Code No. 594-94-1074 of the Official Public Records of Real Property of Harris County, Texas, and for the northeasterly corner of said tract herein described;

THENCE South 65° 41' 02" West with the southeasterly line of the residue of said 31.912-acre tract and the northerly line of said 0.6935-acre tract, a distance of 587.31 feet to a set 5/8" iron rod with yellow cap stamped "Cobb, Fendley & Associates" for the beginning of a tangent curve to the left and for a corner on the easterly line of said tract herein described;

THENCE in a southwesterly direction continuing with the southeasterly line of the residue of said 31.912-acre tract, the northwesterly line of said 0.6935-acre tract, and with said curve to the left whose radius is 1,220.00 feet and whose central angle is 10° 26' 17" (chord bears South 60° 28' 04" West, a distance of 221.95 feet) for an arc length of 222.26 feet to a set 5/8" iron rod with yellow cap stamped "Cobb, Fendley & Associates" for the point of tangency and for a corner on the southeasterly line of said tract herein described;

THENCE South 55° 23' 27" West continuing with the southeasterly line of the residue of said 31.912-acre tract and the northwesterly line of said 0.6935-acre tract, a distance of 164.22 feet to a set 5/8" iron rod with yellow cap stamped "Cobb, Fendley & Associates" for the beginning of a tangent curve to the left and for a corner on the southeasterly line of said tract herein described;

THENCE in a southwesterly direction continuing with the southeasterly line of the residue of said 31.912-acre tract, the northwesterly line of said 0.6935-acre tract and with said curve to the left whose radius is 1,020.00 feet and whose central angle is 15° 34' 32" (chord bears South 47° 26' 23" West, a distance of 276.43 feet) for an arc length of 277.28 feet to a set 5/8" iron rod with yellow cap stamped "Cobb, Fendley & Associates" for the point of tangency and for a corner on the southeasterly line of said tract herein described;

THENCE South 39° 39' 06" West continuing with the southeasterly line of the residue of said 31.912-acre tract and the northwesterly line of said 0.6935-acre tract, a distance of 224.16 feet to a set 5/8" iron rod with yellow cap stamped "Cobb, Fendley & Associates" located on the northerly line of said Lot 12 and the southerly line of said Lot 19 for the southeasterly corner of said 31.912-acre tract, for the southwesterly corner of said 0.6935-acre tract, for the northeasterly corner of the residue of a called 4.0136-acre tract as conveyed unto the Daniel J. Hankamer by deed recorded under County Clerk's File No. X981286, Film Code No. 593-78-2665 of the Official Public Records of Real Property of Harris County, Texas, for the northwesterly corner of a called 0.5701-acre tract as conveyed unto County of Harris by deed recorded under County Clerk's File No. X771963, Film Code No. 589-11-2026 of the Official Public Records of Real Property of Harris County, Texas, and for an angle point on the southeasterly line of said tract herein described;

THENCE South 77° 59' 20" West with the southerly line of said 31.912-acre tract, the southerly line of said Lot 19, the northerly line of said Lot 12 and the northerly line of the residue of said 4.0136-acre tract, a distance of 76.89 feet to a set 5/8-inch iron rod with yellow cap stamped "Cobb Fendley & Associates" for northeasterly corner of the residue of a called 35.4530-acre tract as conveyed unto Larry Kent Murphy and wife, Becky Sue Murphy by deed recorded under County Clerk's File No. V277159, Film Code No. 543-66-0231 of the Official Public Records of Real Property of Harris County, Texas, for the northwesterly corner of the residue of said 4.0136-acre tract and for an angle point on the southeasterly line of said tract herein described;

THENCE South 11° 54' 20" East with the southeasterly line of the residue of said 35.4530-acre tract and the westerly line of the residue of said 4.0136-acre tract, a distance of 60.50 feet to a found 1/2-inch iron rod (bent) for an angle point in the southeasterly line of the residue of said 35.4530-acre tract, for an angle point on the westerly line of said 0.5701-acre tract, for the northerly corner of a called 3.6682-acre tract as conveyed unto the County of Harris by deed recorded under County Clerk's File No. Y049181, Film Code No. 595-41-1796 of the Official Public Records of Real Property of Harris County, Texas, and for an angle point on the southeasterly line of said tract herein described;

THENCE South 39° 43' 38" West with the southeasterly line of the residue of said 35.4530-acre tract and the northwesterly line of said 3.6682-acre tract, a distance of 109.06 feet to a set 5/8-inch iron rod with yellow cap stamped "Cobb Fendley & Associates" for a corner on the easterly line of the residue of said 35.4530-acre tract, for a corner on the northwesterly line of said 3.6682-acre tract, for the beginning of a tangent curve to the right and for a corner on the southeasterly line of said tract herein described;

THENCE in a southwesterly direction continuing with the southeasterly line of the residue of said 35.4530-acre tract, the northwesterly line of said 3.6682-acre tract and with said tangent curve to the right whose radius is 840.00 feet and whose central angle is  $09^{\circ} 38' 38''$  (chord bears South  $44^{\circ} 32' 58''$  West, a distance of 141.22 feet) for an arc length of 141.39 feet to a set 5/8-inch iron rod with yellow cap stamped "Cobb Fendley & Associates" for a corner on the southeasterly line of the residue of said 35.4530-acre tract, for a corner on the northwesterly line of said 3.6682-acre tract, for the point of tangency and for a corner on the southeasterly line of said tract herein described;

THENCE South  $49^{\circ} 22' 15''$  West continuing with the southeasterly line of the residue of said 35.4530-acre tract and the northwesterly line of said 3.6682-acre tract, a distance of 712.96 feet to a set 5/8-inch iron rod with yellow cap stamped "Cobb Fendley & Associates" for a corner on the southeasterly line of the residue of said 35.4530-acre tract, for a corner in the northwesterly line of said 3.6682-acre tract, for beginning of a tangent curve to the left and for a corner in the easterly line of said tract herein described;

THENCE in a southwesterly direction continuing with the southeasterly line of the residue of said 35.4530-acre tract, the northwesterly line of said 3.6682-acre tract and with said tangent curve to the left whose radius is 1,000.00 feet and whose central angle is  $02^{\circ} 15' 54''$  (chord bears South  $48^{\circ} 15' 40''$  West, a distance of 39.53 feet) for an arc length of 39.53 feet to a found 1/2-inch iron rod with cap stamped "BHA" for the southerly corner of the residue of said 35.4530-acre tract, for the northwesterly corner of said 3.6682-acre tract, for the northerly corner of a called 0.0185-acre tract as conveyed unto the County of Harris by deed recorded under County Clerk's File No. Y109360, Film Code No. 596-70-0454 and File No. 20100180391, Film Code No. 071-70-2954 of the Official Public Records of Real Property of Harris County, Texas, for the most easterly southeast corner of the residue of said 36.008-acre tract and for the southeasterly corner of said tract herein described;

THENCE North  $12^{\circ} 29' 30''$  West with the westerly line of the line of the residue of said 35.4530-acre tract and the easterly line of said 36.008-acre tract, a distance of 566.97 feet to a found 2-inch iron pipe (bent) for the northwesterly corner of said Lot 12, the southwesterly corner of said Lot 19, for the northwesterly corner of said Lot 13, for the southeasterly corner of Lot 1, for the northeasterly corner of the residue of said 35.4530-acre tract, for the southwesterly corner of the residue of said 31.912-acre tract, for the southeasterly corner of said 31.574-acre tract, for the northeasterly corner of said 36.008-acre tract and for an angle point in the southerly line of said tract herein described;

THENCE South 77° 51' 22" West with the southerly line of said 31.574-acre tract and the northerly line of said 36.008-acre tract, a distance of a distance of 2,623.95 feet to the **POINT OF BEGINNING** and containing 55.491 acres (2,417,192 square feet) of land, more or less.

Notes:

1. All bearings shown hereon are based on the Texas State Coordinate System of 1983, South Central Zone (4204), NAD 83, 2001 adjustment.
2. Square footage area shown is for information only and surveyor does not certify accuracy of survey to nearest square foot.
3. This metes and bounds description is referenced to a survey drawing prepared by Cobb, Fendley & Associates, Inc. dated February 1, 2022, and titled "A BOUNDARY SURVEY OF A 55.491 ACRE (2,417,192 SQ. FT.) TRACT SITUATED IN THE GEORGE ELLIS LEAGUE, A-21 IN HARRIS COUNTY, TEXAS".

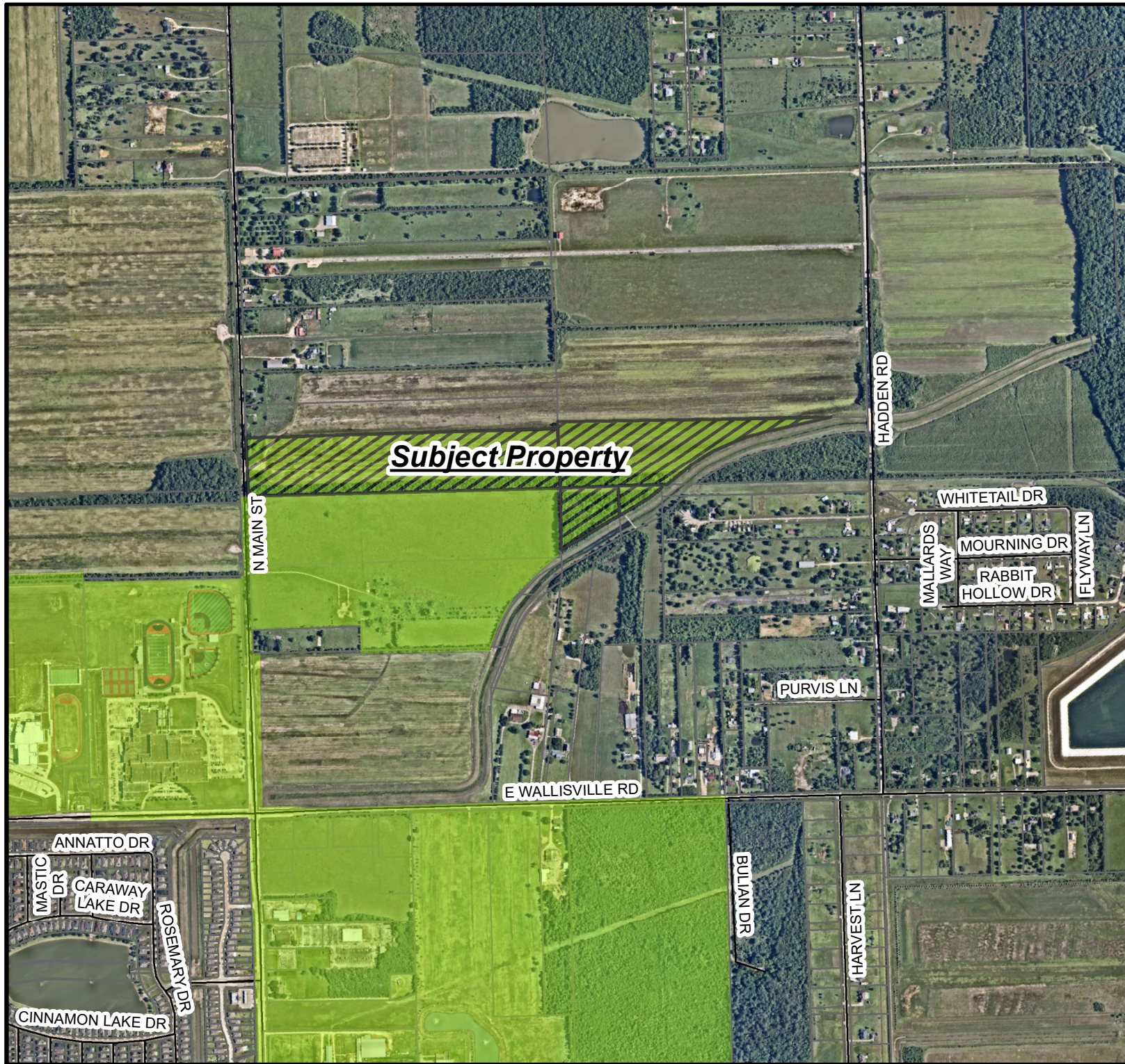
**Cobb, Fendley & Associates, Inc.**  
TBPELS Firm Registration No. 100467  
13430 NW Freeway, Suite 1100  
Houston, TX 77040  
Phone: 713-462-3242

Job Number 2110-001-08-02  
February 1, 2022



02-01-2022





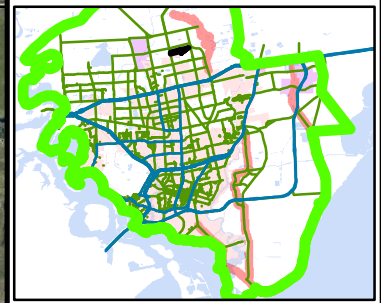


# Bay Creek 2.0 Annexation

**Baytown  
Council  
District 4**

## LEGEND

-  Subject Property
- District**
-  District 4



The City of Baytown Texas makes no warranty, representation, or guarantee regarding the accuracy of this map. This map is intended for display purposes only and does not replace official recorded documents.  
1 inch = 1,128 feet    Date 2022-08-24





## **CITY COUNCIL MEETING**

**5. a.**

**Meeting Date:** 09/08/2022

**Subject:** Text Amendments to ULDC for Consolidating Land Development Ordinances

**Prepared for:** Martin Scribner, Planning and Development Services

**Prepared by:** Christopher Chavis  
Planning and Development Services

**Department:** Planning and Development Services

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### **Information**

#### **ITEM**

Conduct a public hearing concerning the proposed text amendments to the Unified Land Development Code of the City of Baytown to consolidate certain land development ordinances.

#### **PREFACE**

After adopting its new Comprehensive Plan (the plan), the City of Baytown is preparing to update the Unified Land Development Code (ULDC) to assure that the ordinances for development will result in the longer-term changes that are suggested by the plan. Before pursuing the overhaul of the ULDC, the various land development ordinances must be put into one document.

The proposed text amendment will coordinate the various development regulations. By reorganizing certain land development regulations into a one section of the Code of Ordinances, staff will reduce conflicts and redundancies, while also improving the customer's ability to navigate and read the requirements of the Code of Ordinances. The text amendment adds the following sections of the Code of Ordinances to the ULDC:

- 1) Chapter 18 - Buildings and Building Regulation - Article XIV. Landscaping;
- 2) Chapter 112 - Off-street parking and Open Space Areas;
- 3) Chapter 118 - Signs
- 4) Chapter 126 - Subdivisions; and The supporting documentation is attached for your review.

The supporting documentation is attached to this agenda.

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### **Fiscal Impact**

**Fiscal Year:** 2022

**Acct Code:**

**Source of Funds (Operating/Capital/Bonds):**

**Funds Budgeted Y/N:**

**Amount Needed:**

**Fiscal Impact (Additional Information):**

No fiscal impact is associated with this item.

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**Attachments**

Application & Supporting Documents

Staff Report

Proposed Text Amendments

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## **ZONING TEXT AMENDMENT APPLICATION CITY OF BAYTOWN**

**App Date:** 5/27/2022  
**Plan Number:** ZP22050069

**Description:** Text Amendment for the Mixed Use Zoning District

**Applicant**

Rick Davis  
City Manager  
City of Baytown  
2401 Market Street  
Work: (281) 420-6500

**Purpose:** This application is to propose a text amendment that will consolidate the multiple land development ordinances into the ULDC.

**Applicant Statement**

**Explain how the proposed change is consistent with guiding documents**

This text amendment is in keeping with the intent of the ULDC because it consolidates a number of development regulations into one section of the Code of Ordinances.

**Explain how the proposed change is compatible with the surrounding area**

The proposed text amendment will better coordinate the various development regulations. By reorganizing certain land development regulations into one section of the Code of Ordinances, staff will reduce conflicts and redundancies, while also improving the customer's ability to navigate and ease compliance with applicable sections of the Code of Ordinances.

**Explain how the proposed request promotes health, safety, or general welfare**

This proposed text amendment will reduce existing conflicts and redundancies, while also improving the customer's ability to navigate and comply with the applicable sections of the Code of Ordinances.

**Explain how the proposed request will facilitate infrastructure (infrastructure includes the adequate provision of roadways, water, waste water, storm water and other public services)**

The proposed text amendment will not have a direct impact to the facilitation of infrastructure.

**Explain any changed conditions**

With the adoption of the Comprehensive Plan 2040, there is a need to review and assess the ordinances. Consolidating some of the land development ordinances



## **ZONING TEXT AMENDMENT APPLICATION CITY OF BAYTOWN**

into the ULDC is step one of many to assure coordination between the two documents.

**Explain how the proposed request will affect the natural environment (will there be any adverse impacts on the natural environment, including water, air, noise, storm water management, wildlife, vegetation, and wetlands)**

The proposed text amendments will not affect the natural environment.

**Explain how the proposed request will meet community needs**

By consolidating some of the land development ordinances into the ULDC there will be:

- (1) a reduction of conflicts and redundancies throughout the ordinance;
- (2) a better assurance that the ordinances are serving the goals and objectives of the newly adopted Comprehensive Plan 2040;
- (3) an improvement of the customer's ability to navigate and comply with land development ordinances.



**City of Baytown  
Zoning Text Amendment  
Staff Report  
June 21, 2022**

**Plan Number:** ZP22050069

**Address:** 2401 Market Street

**Requested Action:** The proposed Unified Land Development Code (ULDC) text amendment is to consolidate certain land development regulations, chapters, and sections of the Code of Ordinances into the ULDC.

**Applicant:** Rick Davis – City Manager

**Background:**

The applicant is seeking to place land development standards for parking, landscaping, subdivisions, and signs into the ULDC. Currently, these regulations are scattered throughout the Codes of Ordinances, which creates challenge with navigating and understanding the regulations.

In addition, the City of Baytown has recently adopted a new Comprehensive Plan, which is to guide the growth of City for the next 20 – 30 years. By consolidating the land use regulations, the City hopes to assess the codes and conduct an overhaul of the regulations to assure that the regulations facilitate the outcomes desired by the community.

**Staff Analysis**

The proposal to consolidate certain land development regulations into the ULDC is necessary to have the regulations assessed and amended to become more aligned with Comprehensive Plan 2040 goals and objectives. A consolidation such as this will reduce redundancies in the Code of Ordinances. There are no substantive changes associated with this text amendment. The amendment is primarily addressing the location of the various regulations.

1. **Consistency with Guiding Documents.**

This text amendment is in keeping with the intent of the ULDC because it consolidates a number of development regulations into one section of the Code of Ordinances.

2. **Compatible with the Surrounding Area.**

The proposed text amendment will coordinate the various development regulations by: reorganizing certain land development regulations into one section of the Code of Ordinances; reducing conflicts and redundancies; improving the customer's ability to navigate; and easing compliance with applicable sections of the Code of Ordinances.

3. **Promotion of health, safety, or general welfare.**

This proposed text amendment will reduce existing conflicts and redundancies while improving the customer's ability to navigate and comply with the applicable sections of the Code of Ordinances. This promotes the general welfare of the City.

4. **Facilitation of infrastructure.**

The proposed text amendment will not have a direct impact to the facilitation of infrastructure.

5. **There are changed conditions.**

With the adoption of the Comprehensive Plan 2040, there is a need to review and assess the ordinances. Consolidating some of the land development ordinances into the ULDC is step one of many to assure coordination between the two documents.

6. **Effect on natural environment.**

The proposed text amendment will not affect the natural environment.

7. **Community need.**

By consolidating some of the land development ordinances into the ULDC there will be:

- (1) a reduction of conflicts and redundancies throughout the ordinance;
- (2) a better assurance that the ordinances are serving the goals and objectives of the newly-adopted Comprehensive Plan 2040; and
- (3) an improvement of the customer's ability to navigate and comply with land development ordinances.

**Planning Staff Recommendations**

Staff recommends approval of the proposed ULDC text amendments.

## **APPENDIX A UNIFIED LAND DEVELOPMENT CODE<sup>1</sup>**

### **Article I – General (Sections 1.0)**

**Division 1 – Jurisdiction and Authority**

**Division 2 – Review and Decision-Making Bodies**

**Division 3 – Administration and Procedures**

### **Article 2 – Use Districts (Sections 2.0)**

**Division 1 – General**

**Division 2 – Zoning Districts**

**Division 3 – Land Use Tables and Conditions**

### **Article III – Design and Compatibility Standards (Sections 3.0)**

**Division 1 – Property Development Standards**

**Division 2 – Operational Performance Standards**

**Division 3 – Non-Residential Zones**

**Division 4 – Residential Zones**

**Division 5 – District Compatibility Standards**

### **Article IV – Subdivisions (Sections 4.0)**

**Division 1 – General**

**Division 2 – Administration**

**Division 3 – Lot Consolidation**

**Division 3.25 – Small Subdivision**

**Division 3.50 – Minor Plats**

**Division 3.60 – Minor Replats**

**Division 3.70 – Amending Plats**

**Division 4 – Subdivision Plat**

**Division 5 – Subdivision Variance**

**Division 6 – Special Developments & Subdivisions**

**Division 7 – Engineering and Construction Standards**

### **Article V – 118. Signs.**

**Division 1 – In General**

**Division 2 – Administration**

**Division 3 – Regulations**

### **Article VI - Definitions**

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<sup>1</sup>Editor's note(s)—Appendix A contains the text of the Unified Land Development Code for the City of Baytown, Texas, which derives from Ord. No. 11-866, § 2(Exh. A), adopted February 23, 2012. Exhibit A of said ordinance has been printed as adopted, except that obviously misspelled words and typographical errors have been corrected without notation. for stylistic purposes, a uniform system of headings, catchlines, capitalization, citation to state statutes, and expression of numbers in text have been used to conform to the Code of Ordinances. Words added for clarification have been added in brackets. Amendments have been included and are indicated by a history note immediately following the amended section. Section 27 of said ordinance states, "Any person who fails to comply with any provision contained in section 2 of this ordinance shall be guilty of a misdemeanor and, upon conviction, shall be punished by a fine not exceeding \$2,000.00. Each act of violation and each day upon which any such violation shall occur shall constitute a separate offense. In addition to the penalty prescribed above, the city may pursue other remedies such as abatement of nuisances, injunctive relief, administrative adjudication and revocation of licenses or permits."

## **ARTICLE I. GENERAL**

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

### ***DIVISION 1. JURISDICTION AND AUTHORITY***

#### **Sec. 1.1 Purpose and intent.**

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

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

#### **Sec. 1.2 Authority within city limits.**

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

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

#### **Sec. 1.3 Applicability of procedures.**

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

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

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

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



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## **Sec. 1.4 Inconsistent provisions and conflicts.**

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

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

## **Sec. 1.5 Violations.**

- (a) *Compliance required.* No person may use, occupy or develop land, buildings or other structures or authorize or permit the use, occupancy or development of land or buildings or other structures except in accordance with all sections of this ULDC.
- (b) *Criminal remedies.* Any person who violates any section of this ULDC shall be guilty, upon conviction, of a separate offense for each day or portion of a day during which the violation continues, which shall be punishable as provided in section 1-14 of the Code of Ordinances.
- (c) *Withholding permits.* The city may deny or withhold all permits, approvals or other forms of authorization on any land or structure for which there is an uncorrected violation of a section of this ULDC or of a condition of a permit, certificate, approval or other authorization previously granted by the city council, planning and zoning commission or board of adjustment. In lieu of withholding or denying an authorization, the city may grant such authorization subject to the condition that the violation be corrected.
- (d) *Stopping work.* With or without revoking permits, the city may stop work on any building or structure on any land on which there is an uncorrected violation of a section of this ULDC or of a permit or other form of authorization issued under this chapter, in accordance with its power to stop work under its building codes.
- (e) *Other remedies.* The city shall have such other remedies as are and as may be from time to time provided by state law for the violation of the regulations contained in this ULDC.
- (f) *Remedies cumulative.* The remedies and enforcement powers set out in this section shall not be considered exclusive remedies, but rather they shall be cumulative with all other remedies provided in this ULDC, in any other ordinance or by law.
- (g) *Transition.* The sections in this ULDC, so far as they are the same as those of the Code of Ordinances, and of ordinances existing at the time of adoption of this ULDC, shall be considered as a continuation thereof and not new enactments. Any violation of the previous land development regulations of the city shall continue to be a violation under this ULDC and shall be subject to penalties and enforcement under the Code of Ordinances. Enforcement action concerning violations of the Code of Ordinances shall cease if the use,

development, construction or other activity is consistent with the express terms of this ULDC, except to the extent of collecting penalties for convictions that occurred before April 13, 2013, the effective date of this ULDC.

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

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

### **Sec. 1.6 Purpose.**

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

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

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

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

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

### **Sec. 1.8 Summary of review authority.**

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

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

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

R = Reviewer and/or Recommender

DM = Decision Maker

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

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

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### **Sec. 1.9 Boards and commissions.**

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

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

### **Sec. 1.10 Development review committee.**

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

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

## ***DIVISION 3. ADMINISTRATION AND PROCEDURES***

### **Sec. 1.11 Purpose.**

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

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

### **Sec. 1.12 Simultaneous submission of related applications.**

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

1. Comprehensive plan amendments;
2. Zoning map amendments;
3. Special use permit;
4. Drilling permit;
5. Preliminary plat;
6. Engineering report for public improvements;
7. Final plat;
8. Special exceptions;
9. Zoning Variances;
- 9-10. Subdivision Variances;
- 10-11. Site plan review;
- 11-12. Floodplain permits;
- 12-13. Stormwater permits;

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~~13.14.~~ Watershed protection permits; and

~~14.15.~~ Inspections.

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

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

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

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

### **Sec. 1.14 Forms.**

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

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

### **Sec. 1.15 Fees.**

The city shall charge an application fee to cover the cost of processing, reviewing, noticing, recording, inspecting and other actions for land development applications. Application fees shall be established by ordinance from time to time by the city council. The city may also, from time to time, utilize consultants to perform such activities and may assess the cost of such work to the applicants. Such costs for consultants shall be paid prior to any permit issuance. Fees are set forth in chapter 2 of the Code of Ordinances. Application fees are not refundable.

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

### **Sec. 1.16 Application deadline.**

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

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

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### **Sec. 1.17 Application completeness.**

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

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

### **Sec. 1.18 Qualified applicants.**

- (a) Application on behalf of the city for zoning map amendments or text amendments shall be made by the mayor, the city council, a member of the city council or the city manager. Only qualified applicants referenced in this subsection may request text amendments.
- (b) Except as provided in subsections (a), (c) or (d) of this section, applications for zoning map amendments, variances, special exceptions, and special use permits shall be made by a property owner and shall include the name and signature of the current property owner(s) of all properties within the boundaries of the application. Property owner(s) may be represented by an agent designated in writing by the property owner(s).
- (c) Applications for special use permits associated with drilling, oil or gas operations shall be made by any mineral interest owner with the legal right to drill on the property that is the subject of the application. Mineral interest owner(s) may be represented by an agent, designated in writing by the mineral interest owner(s).
- (d) Applications for drilling overlay districts shall be made by the mayor, the city council, a member of the city council or the city manager.

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

### **Sec. 1.19 Action following decision.**

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

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

### **Sec. 1.20 Reapplication limits.**

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

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

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

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

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

- (a) *Publication for zoning cases.* Whenever this ULDC requires a public hearing for a special use permit, ULDC text amendment related to zoning, zoning variance or special exception or zoning map amendment, including the designation of a drilling overlay district, before the planning and zoning commission or the board of adjustment, notice of a public hearing on the application shall be published in a newspaper of general circulation in the city at least 11 days before the public hearing. Whenever this ULDC requires a public hearing before the city council, notice of a public hearing on the zoning application shall be published in a newspaper of general circulation in the city at least 16 days before the public hearing.
- (b) *Mailing.*
  - (1) Notice of required public hearings for a special use permit, zoning variance or special exception or zoning map amendment, with the exception of applications for a special use permit for drilling, oil or gas operations or a designation of drilling overlay district, shall also be sent by mail to owners of land within 300 feet of the lot lines of the land that is the subject of the application.
  - (2) For applications for a drilling overlay district or a special use permit for drilling, oil or gas operations, notice of required public hearings shall be sent by mail to:
    - a. Owners of land on which the drilling, oil or gas operations are proposed to occur;
    - b. Owners of land over which the drilling overlay district is proposed; and
    - c. Owners within 750 feet of the property line of the property on which drilling, oil or gas operations are proposed to occur or the boundary of the overlay district, whichever is applicable.
- (c) *Posting of signs.*
  - (1) Except as provided in subsection 1.21(c)(2), notice of required public hearings shall also be provided by way of a sign posted on the land that is the subject of the application. One sign shall be posted for each 200 feet of frontage along a public street, with a maximum of four signs required per frontage. Signs shall be located so that the lettering is visible from the street. Where the land does not have frontage on a public street, signs shall be posted on the nearest public street.
  - (2) At least six signs shall be required for any public hearing regarding one or more amendments to the official zoning map, which propose to change the zoning district classification of more than

five tracts. Nothing contained in this section shall prohibit the director from posting additional signs as the director deems appropriate.

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

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

### Sec. 1.22 Contents of notice.

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

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

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

X = Notice required

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

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

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### Sec. 1.23 Required public hearing.

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

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

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

X = Public hearing required

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

### Sec. 1.24 Conduct of public hearings.

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

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

### Sec. 1.25 Vote required for action.

(a) *Zoning text and map amendments.* After the close of the public hearing on the zoning text or zoning map amendment held pursuant to section 1.24 of this ULDC, the city council shall vote to approve, approve with modifications or disapprove the proposed amendment based upon the criteria in this ULDC. Except for actions to grant a special use permit, action to amend the zoning text of this ULDC or the official zoning map shall require an affirmative vote of at least the following:

- (1) Three-fourths of all members of the city council if the proposed change to the zoning text or official zoning map is protested in accordance with V.T.C.A., Local Government Code, ch. 211; or
- (2) Two-thirds of all members of the city council in all other cases.

(b) *Special use permits.* After the close of the public hearing on a special use permit held pursuant to section 1.24 of this ULDC, the city council shall approve, approve with conditions or disapprove the proposed special

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use permit based upon the criteria in this ULDC. Action to grant a special use permit shall require an affirmative vote of at least the following:

- (1) Three-fourths of all members of the city council if the proposed special use permit is protested in accordance with V.T.C.A., Local Government Code, ch. 211; or
- (2) Two-thirds of all members of the city council in all other cases.

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

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

- (a) *Applicability.* This process is used for review and consideration of rezoning, zoning text amendments, and special use permits, excluding special use permits addressed in section 1.26.5 and overlay districts addressed in section 2.085.
- (b) *Review process.*
  - (1) *Application and completeness determination.* Application must be made consistent with this ULDC. The director is responsible for checking that a complete application has been submitted pursuant to the provisions of this ULDC with all material necessary for the decision-making authority to render an informed decision.
  - (2) *Planning and zoning commission review.* Following notice as proscribed in this ULDC, the planning and zoning commission shall hold a public hearing in accordance with its rules and the V.T.C.A., Local Government Code ch. 211 and make a recommendation to the city council.
  - (3) *City council final action.* The city council shall hold a public hearing, in accordance with its rules and the V.T.C.A., Local Government Code ch. 211 and may take final action on the proposed rezoning or special use permit.
  - (4) *Effect.* The special use permit, rezoning, text amendment shall become effective ten days following the passage by city council.
- (c) *Approval criteria for rezoning applications.* All of the following criteria shall be applied by the director, the planning and zoning commission and the city council in the review of requests for rezoning (map changes) and changes to the zoning text of this ULDC:
  - (1) The rezoning or text amendment is consistent with and furthers the policies and goals of the future land use plan, major thoroughfare plan, vision statement, and this ULDC;
  - (2) The rezoning or text amendment is compatible with existing and proposed uses surrounding the subject land and is the appropriate district for the land use proposed;
  - (3) The rezoning or text amendment promotes the health, safety, or general welfare of the city and includes the safe, orderly, and healthful development of the city;
  - (4) The rezoning or text amendment facilitates the adequate provision of mobility, water, waste water, stormwater and other public services;
  - (5) There are changed conditions;
  - (6) The rezoning or text amendment would not result in adverse impacts on the natural environment, including, but not limited to, water, air, noise, stormwater quality, wildlife, vegetation, and wetlands; and
  - (7) The application addresses a demonstrated community need.

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- (d) *Approval criteria for special use permits.* The planning and zoning commission may recommend and the city council may issue a special use permit only if all of the following specific objectives and conditions are met:
- (1) That the specific use will be compatible with and not injurious to the use and enjoyment of adjacent property or property immediately across the street, and not significantly diminish or impair property values within the immediate vicinity in any material way;
  - (2) That the establishment of the specific use will not impede the normal and orderly development and improvement of surrounding property;
  - (3) That adequate utilities, access roads, drainage and other necessary supporting facilities have been or will be provided prior to the issuance of a certificate of occupancy;
  - (4) That adequate nuisance prevention measures will be taken and maintained to prevent or control offensive odor, fumes, dust, light, noise and vibration prior to the issuance of a certificate of occupancy;
  - (5) That there are sufficient landscaping, screening, setbacks and other land use measures to ensure harmony and compatibility with adjacent property;
  - (6) That the proposed use is consistent with the comprehensive plan and is generally consistent with this ULDC; and
  - (7) That the site plan meets the criteria set forth in subsection of this section.
- (e) *Additional criteria for special use permits.* The planning and zoning commission may recommend and the city council may adopt other conditions on any special use permit application that are needed to protect the public health, safety and welfare, including, but not limited to, hours of operation and additional landscape or parking requirements.
- (1) It shall be unlawful for any person to occupy, construct, alter, extend or expand any use within a zoning district which permits that use only as a special use unless a special use permit has first been issued by the city council for the specific occupation, construction, alteration, extension or expansion of the proposed use in accordance with the provisions of this division. If approved, the permit shall be issued specifically to the person named in the application for the permit and shall not be transferred without providing prior written notification to the director.
  - (2) All uses that receive a special use permit as required under this division shall meet all applicable regulatory requirements of the state and federal government and shall meet all applicable requirements of this and other pertinent ordinances of the city. Applicants for special use permits shall provide documentation that identifies all applicable federal and state licensing requirements for the proposed facilities at the time of application. Copies of the documentation from the state or federal agencies indicating compliance (i.e. licenses or certificates) shall be provided to the city no later than 60 days of issuance of the compliance documents.
  - (3) Prior to leasing or purchasing facilities, potential heavy industrial use developers are strongly encouraged to meet with the director to determine if the location will require a special use permit or other approvals and to review the merits of potential locations.
  - (4) The following uses identified in table 2-2 "Use conditions" require the issuance of a special use permit:
    - a. Industrial uses, including:
      - i. Excavation;
      - ii. Gravel pit;
      - iii. Junk and salvage yard;

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

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- vii. Proposed landscaping and screening buffers;
  - viii. The location and dimensions of all curb cuts, public and private streets, parking and loading areas, pedestrian walks, lighting facilities, and outdoor trash storage facilities;
  - ix. Traffic impact analysis, unless the applicant secures a written waiver from the city engineer stating that the proposed use will have no significant impact on the city's traffic system; and
  - x. Anticipated permits required regarding pollutants, wetlands and hazardous materials.
- (7) *Technical expert.* When a special use permit is required to comply with the provisions of this ULDC and when the technical information provided by the applicant is beyond the technical capacity of the city staff to review the application, in addition to the usual application fee, the applicant shall reimburse the city for the actual cost to the city for the services of a technical expert to review the application and/or information supplement. The director shall notify the applicant in writing at least five working days prior to hiring a technical expert so that the applicant has the opportunity to withdraw his application or provide feedback on the hiring of the technical expert.
- (f) *Expiration of special use permit.* A lapse of a period greater than 24 months from the date of city council approval causes the special use permit and all related approvals or permits to expire and be of no further force and effect unless one of the following conditions are met:
- (1) The holder of the special use permit is issued a certificate of occupancy for the use specified in the special use permit;
  - (2) If no certificate of occupancy is required, the holder of the special use permit is issued a certificate of completion for the use specified in the special use permit; or
  - (3) In projects where the use will be established on the property in phases, the applicant may submit a series of permit applications to prevent the special use permit from expiring. The phasing plan must be annotated on the application for the special use permit. The first certificate of occupancy or completion must be issued within 24 months of special use permit approval. No more than 24 months shall pass between subsequent issuances of certificates of occupancy or completion until the project specified in the special use permit is complete.
- If expired, a new special use permit application must be submitted and approved before engaging in the use.
- (g) *Revocation of special use permit.* The director may revoke a special use permit if it is determined that any of the following are true:
- (1) The applicants have misrepresented any material fact on their application, or supporting materials;
  - (2) The special use fails or ceases to comply with applicable standards, conditions or criteria for issuance of a permit;
  - (3) The operation of the special use violates any statute, law, ordinance or regulation; or
  - (4) The operation of the special use constitutes a nuisance or poses a real or potential threat to the health, safety or welfare of the public.
- (h) *Appeal of special use permit revocation.* Owner of the special use permit may appeal such revocation to the city council. Owner must file a written appeal with the city clerk within ten days of the decision of the director. Owner must show that the director made decisions based on incorrect or incomplete data.
- (i) *Discontinuation of use.* A special use permit shall expire 12 months following the discontinuation of the use for which the special use permit was approved.

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

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

- (a) *Applicability.* This section provides for review and consideration of applications for authorization for drilling, oil or gas operations in an HI zoning district. A special use permit for drilling, oil or gas operations is intended to provide for the extraction of oil or gas minerals only.
- (b) *Application.* An application for a special use permit shall be made consistent with this ULDC and submitted to the director. Application forms shall be supplied by the director and shall include or be accompanied, at a minimum, by the following at the time of submission to the director:
  - (1) *General information.*
    - a. The names, titles, contact information (telephone and email), and addresses of the applicant. The applicant may be any mineral interest owner with the legal right to drill on the property which is the subject of the application. If the applicant is a corporation, the state of incorporation; and if any is a partnership, the names and addresses of the general partners; and the names, titles, addresses, telephone numbers, and email addresses of the surface owners;
    - b. The names, titles, contact information (telephone and email) and addresses of the principal contact;
    - c. The names and addresses of all owners of land on which the drilling site is located;
    - d. A legal description prepared by a state licensed registered professional land surveyor of the property to be used for the drilling, oil or gas operation, including the parcel and drilling site and name of the geologic formation. If the property has been platted, the description shall also reference the subdivision, block and lot numbers;
    - e. A plat meeting the requirements of subsection 62-59(11)a. of the Code;
    - f. A list detailing all anticipated and already executed permits required by any level of government regarding injected materials, wetlands or environmental, and hazardous materials, and the current status of those applications or permits; and
    - g. A notarized copy of a signed waiver of the setback requirements contained in subsection 1.26.5(c)(10) evidencing that the surface owner agrees to a lesser setback if applicable; and
    - h. A statement affirming the right of the applicant to perform drilling, oil or gas operations on the property described in the application.
  - (2) *Plans.* All of the following plans shall be prepared by a qualified individual, in compliance with applicable general engineering or industry standards and maintain or further the public health, safety and welfare of the city and must be approved by the director before drilling, oil or gas operations may commence within the city:
    - a. Site plan;
    - b. Transportation plan;
    - c. Drainage and grading plan;
    - d. Noise management plan;
    - e. Photometric plan;
    - f. Environmental plan;
    - g. Water protection plan;
    - h. Screening and vegetative buffer plan; and

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- i. Restoration plan.
- (3) *Other documentation.*
- a. Work schedule, indicating how many hours, and during what times, drilling or other equipment is expected to be operating during construction activities, and how long this period will be.
  - b. Either:
    - 1. A copy of all documents submitted to any state agency specifically related to, but not limited to, the depth of useable quality groundwater, and the anticipated impacts of the drilling activities on such groundwater, the impact on the city's groundwater supply wells, the groundwater protection determination issued by the state agency and other related determinations; or
    - 2. A sworn statement by the applicant and its engineer, certifying that the determination by the state agency required hereinabove is not required.
  - c. All forms submitted to and, if approval has been secured, approval by the state railroad commission, and all reports required by state agencies.
  - d. Leak detection and compliance plan to include steps for monitoring and quarterly reporting.
  - e. Other information for various permits required by the city based upon provisions of the Code of Ordinances generally applicable to development activities, including, but not limited to, chapters 18, 34, 62, 98, 122 and 126.
  - f. Any additional information requested by the director if the director determines that such information is necessary for a determination regarding whether the application meets the requirements of this ULDC.
- (4) *Technical expert fees.*
- a. *Additional fees for technical experts.* When a special use permit is required to comply with the provisions of this ULDC and when the technical information provided by the applicant is beyond the technical capacity of the city staff to review the application, or the city wishes to secure additional expertise, in addition to the application fee, the applicant shall reimburse the city for the actual cost to the city for the services of a technical expert(s) to review the application. The director shall notify the applicant in writing at least ten calendar days, with an estimate of costs, prior to hiring a technical expert so that the applicant has the opportunity to withdraw its application or provide feedback on the hiring of the technical expert.
  - b. *Escrow of additional fees.* If additional costs are estimated to be in excess of \$2,000.00, the applicant shall be required to escrow funds with the city for the payment of costs. The director shall advise the applicant of the amount to be placed in escrow, and the applicant shall have ten days to remit a certified check in the amount to the director, who shall deposit same with the finance department, and the funds will be separately tracked. Any city approval periods required by this ULDC are tolled until all fees, including escrow funds, are received by the city.
  - c. *Failure to submit fees.* Failure to submit all fees as required shall result in the application being deemed incomplete.
- (c) *Application details; standards.* The director shall determine whether the information required by this section has been provided by the applicant. Additionally, the plans contained in this subsection must be approved by the director before a special use permit is issued.
- (1) *Site plan.* Applicant shall submit a site plan containing the following information at a minimum:
- a. The boundaries of the entire drilling site, all pipelines, and all appurtenances to be located on the proposed site, showing adequate access to the site from a city approved access point by means



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- of a public street constructed in accordance with city specifications or, alternatively, a fire apparatus access road built in accordance with the Code of Ordinances, the building code and the fire code;
- b. The route, location, and depth of all existing and proposed pipelines and other improvements related to drilling, oil or gas operations, including, but not limited to, structures, tanks, pipelines, roads, streets and highways;
  - c. The location and description of all uses, improvements, structures and topographic features (including floodplain information, as well as vegetation, wildlife, creeks) within 750 feet of the proposed drilling site;
  - d. All existing utilities, public or private driveways, alleys, roads, streets and highways, and all public or private access points and all restricted ingress and egress points;
  - e. The location of existing natural and manmade stormwater facilities and significant natural features, such as, but not limited to, canals, and agricultural areas;
  - f. Proposed wastewater facilities and points of discharge, including grading and engineering plans sufficient to confirm that discharge will not be into any waterways;
  - g. Proposed landscaping and screening buffers;
  - h. The location and dimensions of all curb cuts, parking and loading areas, pedestrian walks, lighting facilities, and outdoor trash storage facilities; and
  - i. All information required in this subsection shall be shown on the site plan documents to a scale specified by the director.
- (2) *Transportation plan.* Applicant shall submit a transportation plan for the site that identifies all routes proposed for equipment and product travelling to and from the site, and shall include the following information:
- a. Video and photograph documentation of the current traffic flow and condition of current roads, streets and highways, which may be used to fulfill the video requirement for the infrastructure maintenance agreement in chapter 62;
  - b. The proposed vehicle routes and public roads, streets and highways to be utilized for the transport of equipment, chemicals or waste products, hazardous or otherwise, related to the drilling, oil or gas operations;
  - c. The design characteristics of each public road, street and highway, the empty and full weights of vehicles to be utilized for construction or product hauling purposes, the number of trips per day that are expected, and the number of days such travel is expected;
  - d. The routes must be shown to have the capacity to handle the amount and type of additional traffic using Institute of Transportation Engineers published standards or equivalent as acceptable to the city engineer, be approved by the city engineer, comply with the Code of Ordinances and be in accordance with general engineering practices;
  - e. A signage element detailing the approved routes and compliance measures that shall include:
    - 1. A statement that the applicant shall require all drivers of commercial vehicles to utilize only the approved routes; and
    - 2. A statement that signage will be erected in a location visible to all drivers entering and exiting the site and shall be in place prior to the start of operations through completion of the termination of operations; and

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- f. Traffic impact analysis if the director determines that such analysis is necessary based upon number, timing or duration in days and hours of peak trips, location of the drilling site and proposed routes, or that the proposed route is not appropriate based on the road, street, and highway characteristics, weights of vehicles, and number of trips.
- (3) *Drainage and grading plan.* Applicant shall submit a drainage and grading plan showing the changes to the drilling site expected from the applicant's proposed activities, and how the drainage impacts will be managed. Grading, erosion control practices, sediment control practices, and waterway crossings shall meet the design criteria set forth in the construction regulations of chapters 18, 34, 98, 122 and 126 of the Code, shall be adequate to prevent transportation of sediment from the site, and shall use techniques that retain natural vegetation and retain natural drainage patterns to the satisfaction of the city engineer. Applicant shall not channelize, pave or otherwise straighten out any channel and shall remove only sufficient vegetation within any channel to allow it to carry the proposed capacity. Adequate drainage for a 100-year storm event shall be provided within the limits of the drilling site as approved by the city engineer, and shall be designed to utilize existing drainage patterns, and prevent off-site migration of water, silt or sediment.
- (4) *Noise management plan.* Applicant shall submit a noise management plan detailing how the equipment used in the drilling, completion, transportation, or production of a well and all on-site appurtenant facilities complies with the city's maximum permissible noise levels, as permitted by chapter 34, article VII of the Code of Ordinances and the ULDC. The noise management plan must:
- a. Identify all noise impacts expected by the operation, in both decibel levels and expected duration of the noise, from the nearest property line of a dwelling unit, multifamily dwelling, place of assembly, hospital, school or park to the proposed drilling site;
  - b. Identify the person responsible for submitting noise compliance reports in response to a noise complaint;
  - c. Detail how the impacts will be mitigated. In determining noise mitigation, specific site characteristics shall be considered, including, but not limited, to the following:
    1. Nature and distance, in feet, of adjacent development, location, and types of land uses;
    2. Seasonal and prevailing weather patterns, including wind directions;
    3. Vegetative cover on or adjacent to the site;
    4. Topography, as shown on a topographical map with a two-foot interval;
    5. Operation and site noise management measures, which may include, but not be limited to, the use of critical grade mufflers on generators and motors; the use of structural noise curtains, walls, or enclosures; and best management practices by limiting or eliminating noisier operations, such as tripping, deliveries of pipe, casing and heavy loads, the use of horns for communication, and the operation of vehicle audible back-up alarms at night; and
    6. Identify the location of noise blankets, sound walls or other applicable noise mitigation effects around the operations site. Noise mitigation shall be required during all drilling, hydraulic fracturing and production operations if construction level sound limits are anticipated to be exceeded.
- (5) *Photometric plan.* Applicant shall submit a photometric plan depicting the general plan for lighting the facility that illustrates how spillover onto adjacent properties and all public rights-of-way will be limited by directional or shielded lighting without compromising the safety and security of the site. The plan must demonstrate compliance with the light and glare standards set forth in section 3.08 of this ULDC.

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- (6) *Environmental plan.* Applicant shall submit an environmental analysis, prepared pursuant to and in compliance with applicable state agency standards, and chapter 34, article VIII and chapter 110 of the Code if:
- a. Any wetlands or other environmentally sensitive area is identified or known within the proposed drilling site, or
  - b. Any drilling, oil or gas operation is proposed on land in the 100-year floodplain, flood fringe, or floodway as designated by FEMA, or any watershed protection area designated by the city.
- (7) *Screening and vegetative buffer plan.* If any well or appurtenance is three feet or more in height measured from finished grade and within 300 feet, measured from the property line, of an adjacent use, which is not a drilling, oil or gas operation, located on property zoned SFE, SF1, SF2, MF1, MF2, MF3, UN, MU, LC, ACE, or OR, or of a public right-of-way, landscaping, buffering and screening must be in accordance with the following as well as the screening standards in this ULDC:
- a. The screening plan shall include a wall around the drilling site, a minimum of eight feet in height, but not to exceed ten feet in height, that shall be designed to enclose all planned or completed wells, tanks and compressors. Construction of this enclosure must be completed, and inspected and approved, a minimum of one day prior to the date the first well goes into production. The enclosure shall be constructed of brick, stone, or hardiplank materials.
  - b. One side of the enclosure shall be equipped with at least one gate, which is at least 24 feet wide. If two gates are used, gates shall latch and lock in the center of the span.
    1. The gate shall be of metal frame and solid material, such as wood, wooden veneer, hardiplank, or plastic wood construction;
    2. The gate shall be provided with a combination catch and locking attachment device for a combination padlock, and shall be kept locked except when being used for access to the site; and
    3. Applicant must provide the city fire marshal with a "knox padlock" or "knox box with a key" to access the well site to be used in case of an emergency.
  - c. The buffer plan shall be consistent with the district compatibility standards specified in section 3.14 of the ULDC except if the standard is in conflict with this subsection.
- (8) *Restoration plan.* Applicant shall submit a plan to be implemented after completion of drilling to restore the entire drilling site, except for those areas on which a well or appurtenance is located as shown on the site plan, to pre-operation conditions. The plan shall include the following information:
- a. A re-grading plan to return the site to pre-drilling contours;
  - b. A replanting plan to replace removed or damaged vegetation, which plan shall include planting native grasses, and tree replacement to achieve a canopy and stabilization of soil equivalent to the site's pre-drilling condition within five years;
  - c. Removal of all above ground improvements and waste disposal methods;
  - d. Measures for the control of surface water drainage and water accumulation, measures to be taken during the reclamation process, both onsite and offsite, and for the protection of the quantity and quality of surface and groundwater systems. Identify conveyance methods and easements to be used;
  - e. A statement of all lease requirements regarding post-drilling conditions along with a statement of compliance with such requirements; and

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- f. Information for other professional practices performed in the normal course of drilling operations, or otherwise necessary to ensure all disturbed areas will be reclaimed.

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

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

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- c. The use will not impede the normal and orderly development and improvement of surrounding property;
    - d. Adequate utilities, access roads, drainage and other necessary supporting facilities have been or will be provided as determined by city standards;
    - e. Adequate nuisance prevention measures have been or will be taken to prevent or control offensive odor, fumes, dust, noise and vibration;
    - f. Sufficient landscaping, screening, setbacks and other land use measures to ensure harmony and compatibility with adjacent property; and
    - g. The use is in accordance with the comprehensive plan, other adopted city plans, and is substantially consistent with the purposes and intent of the city's codes.
  - (2) *Recommend denial.* The planning and zoning commission shall make a written recommendation to the city council to deny a request for a special use permit for drilling, oil or gas operations if the application and use fail to meet all of the requirements of this ULDC, the Code of Ordinances, and the conditions contained in this section.
  - (e) *City council action.*
    - (1) *Approval or approval with conditions.* After receipt of the planning and zoning commission's recommendation and the requisite public hearing, the city council shall approve or approve with conditions an application that meets all requirements of this ULDC, the Code of Ordinances, and the conditions contained in this section.
    - (2) *Denial.* The city council shall deny a request for a special use permit if the application and use fail to meet all of the requirements of this ULDC, the Code of Ordinances, and the conditions contained in this section.
  - (f) *Expiration of special use permit.* If no substantial work is being performed on the site for a continuous period of one year, or if a use allowed pursuant to a special use permit is discontinued for a continuous period of one year, then the special use permit and all related approvals or permits shall expire and be of no further force and effect. The applicant may apply to city council for an extension of time, for a period of up to one year. Such request must evidence good cause for the delay.
  - (g) *Requirement to notify of changed information/enforcement action.* An applicant or permittee has a continuing obligation to update the director of any additional information related to the permitted drilling, oil or gas operations. This includes any changes to any of the items included in the original application and outlined in subsections (b) and (c). The director must further be notified by the applicant or permittee of any complaints or enforcement action by any governmental entity and the outcome of such investigations. Information regarding complaints or enforcement by another governmental entity shall be provided to the director within ten days of receipt by the permittee or applicant.
  - (h) *Revocation of special use permit.* The director may revoke the special use permit if it is determined that any of the following are true:
    - (1) The applicant misrepresented any material fact on its application or supporting materials;
    - (2) The special use fails or ceases to comply with the applicable standards, conditions or criteria for issuance of a permit;
    - (3) The operation of the special use violates any statute, law, ordinance or other regulation;
    - (4) Applicant or permittee fails to notify the director of changed information/enforcement action as required in subsection (g) of this section; or

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- (5) The operation of the special use constitutes a public nuisance or poses a real or potential threat to the health, safety, or welfare of the public.
- (i) *Appeal of special use permit revocation.* The permittee may appeal a revocation to the city council. The permittee must file a written appeal with the city clerk within ten days of the director's decision to revoke the special use permit, and must include detailed reasons, and grounds for the appeal. The permittee must show that the director made decisions based upon incorrect or incomplete data.
- (Ord. No. 12,473, § 11, 2-13-14)

## **Sec. 1.27 Nonconformities.**

- (a) *Scope; continuation; repair and maintenance.*
- (1) *Authority to continue.*
- a. *Continuation of nonconforming use.* A nonconforming use that lawfully occupied a structure or a vacant site on April 13, 2013, may be continued so long as it remains otherwise lawful, subject to the standards and limitations of this ULDC.
- b. *Continuation of noncomplying structure.* A noncomplying structure that lawfully occupied a land site on April 13, 2013, that does not conform to the standards for front setbacks, side setbacks, rear setbacks, height, screening, floor area of structures, driveways or open space for the district in which the structure is located may be used and maintained, subject to the standards and limitations in this ULDC.
- (b) *Nonconforming uses.*
- (1) *Process for determining abandonment.* Under this section, a nonconforming use of land or of a structure may be considered abandoned subject to the following:
- a. *Determination.* A nonconforming use of land or of a structure that is discontinued or remains vacant for a continuous period of one year shall be presumed to be abandoned and shall not thereafter be reestablished or resumed. Any subsequent use or occupancy of the structure must conform to the structure regulations for the district in which it is located.
- b. *Overcoming presumption of abandonment.* The presumption of abandonment may be rebutted upon proof to the satisfaction of the director or to the board of adjustment that during such period the owner of the land or structure (i) is maintaining the property in accordance with the building code, (ii) is in compliance with article XV of chapter 18 of the Code of Ordinances pertaining to vacant buildings, and (iii) is either:
- i. Actively and continuously marketed for sale or lease; or
- ii. Engaged in other activities that would affirmatively prove there was not intent to abandon, such as obtaining a building permit and obtaining inspections meeting the requirements of the city's building code.
- c. *Calculation of period of abandonment.* Any period of such discontinuance directly caused by government action, fire or natural calamity without any contributing fault by the owner of the property shall not be considered in the calculation of length of abandonment for this section.
- (2) *Movement, alteration and enlargement.* No nonconforming use may be moved, enlarged or altered and no nonconforming use of land may occupy additional land, except as follows:
- a. *Enlargement.* A nonconforming use may not be enlarged, expanded or extended to occupy all or a part of another structure or land site that it did not occupy on April 13, 2013. However, a

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nonconforming use may be extended within the same structure, provided no structural alteration of the structure is proposed or made for the purpose of the extension.

- b. *Exterior or interior remodeling or improvements to structure.* Exterior or interior remodeling or improvements to a structure containing a nonconforming use shall be allowed, provided there is no expansion of the nonconforming use.
  - c. *Relocation of structure.* A structure containing a nonconforming use may not be moved unless the use shall conform to the regulations of the district into which the structure is moved.
  - d. *Change of nonconforming nonresidential use to another nonconforming use.* Upon application to the director pursuant to this article, a nonconforming use may be changed to another nonconforming use of the same or similar type or intensity or to another nonconforming use of the same or similar type, but of less intensity. Whenever any nonconforming nonresidential use is changed to a less intensive nonconforming nonresidential use, such use shall not be changed back to a more intensive nonconforming nonresidential use. Whenever any nonconforming nonresidential use is changed to a conforming use, such use shall not later be changed to a nonconforming use.
  - e. *Destruction of structure with nonconforming use.* If a structure that contains a nonconforming use is destroyed to the extent of 50 percent or more by fire or natural calamity or is voluntarily razed or is required by law to be razed, the nonconforming use shall not be resumed except as provided in subsection (2)(f) of this section. The determination of the extent of damage or destruction under this subsection shall be determined in accordance with subsection (c)(7) of this section.
  - f. *Special use permit.* If a structure that contains a nonconforming use is destroyed to the extent of 50 percent or more by fire or natural calamity, the owner must file an application for a special use permit in accordance with section 1.26 if the owner desires to resume the nonconforming use. The application shall be processed in accordance with article one of this ULDC, except all of the following conditions must be met in lieu of those conditions found in section 1.26:
    - i. Not contrary to the public interest;
    - ii. Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship; and
    - iii. The spirit of this ULDC is observed and substantial justice is done.
- (c) *Noncomplying structures.*
- (1) *Generally.* Under this ULDC, no noncomplying structure may be moved, enlarged or altered, except in the manner provided in this section or section (b) above or unless required by law.
  - (2) *Applicability.* Nothing contained in this section shall be construed to prohibit improvements, maintenance or repair for any part of structures that are inside the existing footprint of a noncomplying structure that do not increase the height of the existing noncomplying structure. Some examples are the following: a water heater may be repaired or replaced within the existing footprint; components, cladding and roofs may be repaired as long as square footage (usable or not usable) is not added to make another story on the building or to exceed the existing footprint of the structure.
  - (3) *Repair, maintenance, and alteration.* Any noncomplying structure may be repaired, maintained, or altered; provided, however, that no such repair, maintenance, or alteration shall either create any new noncompliance or increase the degree of the existing noncompliance of all or any part of such structure except in the manner provided in this section or in the variance and special exception regulations of this ULDC.



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- (4) *Enlargement.* A noncomplying structure may not be enlarged, expanded or extended to occupy all or a part of the land site that it did not occupy on April 13, 2013, unless a noncomplying structure expansion variance is granted by the director or board of adjustment in accordance with subsection (d) of this section.
- (5) *Moving.* A noncomplying structure shall not be moved in whole or in part, for any distance whatsoever, to any other location on the same or any other lot unless the entire structure shall thereafter conform to the regulations of the district in which it is located after being moved except in the manner provided in this section or in the variance and special exception regulations of this ULDC.
- (6) *Damage or partial destruction.* If a noncomplying structure is damaged or destroyed by fire or natural calamity to the extent of 50 percent or less, the structure may be restored if restoration is started within six months and diligently pursued to completion. The city may require a cash deposit, bond or other guarantee of performance to ensure diligent progress and completion of the restoration. Any delay in starting such restoration that is caused by government action or natural calamities and without contributing fault by the owner shall be deducted in calculating the starting date of restoration.
- (7) *Destroyed structures.* Reconstruction of a noncomplying structure that has been more than 50 percent destroyed may be granted by the board of adjustment only upon its finding that granting the variance satisfies the following conditions:
- Not contrary to the public interest;
  - Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship; and
  - The spirit of this ULDC is observed and substantial justice is done.
- It shall be the applicant's responsibility to demonstrate the basis for the variance request to the board of adjustment. The board of adjustment may impose such conditions as are necessary to protect adjacent property owners, to safeguard the character of the neighborhood in which the noncomplying structure is located, and to ensure the protection of the public health, safety and welfare, including, but not limited to, conditions specifying the period during which the nonconforming use may continue to operate or exist before being brought into conformance with the standards of the zoning regulations of this ULDC. In considering such reconstruction, the board of adjustment shall address the public welfare, character of the area surrounding such structure, the conservation, preservation and protection of property, including the applicant's property, as well as all plans adopted by the city council that affect or cover the area in which the land is located.
- (8) *Calculation for percentage destroyed.* The board of adjustment shall utilize the following to make its determination concerning more than 50 percent destroyed:
- The value of the noncomplying structure prior to destruction shall be established using the most current (pre-destruction) appraisal district tax roll; and
  - The owner may propose to substitute a current appraisal of the nonconforming building (before it was destroyed) prepared by an appraiser licensed in the state to prepare such appraisal.
- (d) *Variances for the expansion of noncompliant structures.*
- (1) *Purpose.* The purpose of this subsection is to set minimum requirements, standards and conditions for approving proposed variances to allow the expansion of noncomplying structures. These regulations are intended to ensure the same general level of compatibility as is set forth in the comprehensive plan, neighborhood plans, and redevelopment and economic development plans adopted by city council. These regulations intend that variances granted to nonconforming structures do not adversely affect the adjacent land uses, especially adjacent residential uses, or the physical character of uses or

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

(2) *Types of expansion variances.*

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

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

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

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

**Table 1-4-5. Variance credits.**

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

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- a. The variance credits proposed to be met herein for the board of adjustment or director shall not be the same standards already approved to support a variance granted on the same property.
  - b. Such credits may be approved by the board of adjustment or director as part of the application for variance and staff may deny any subsequent building permit if applicant fails to comply with the variance conditions set by the board of adjustment.
  - c. The applicant for a variance shall then choose any of the following credits that match the number of required credits for the project, subject to the approval of the director or the board of adjustment as applicable to the case:
    - i. Installation of a streetscape along the street at which the project is addressed following the standards that are set forth in section ~~18-12063.10.5(4)~~ of the Code of Ordinances;
    - ii. Installation of parking lot landscaping to the percent of required landscaping that equals or exceeds the extent of the expansion requested in the variance based upon section ~~18-12053.10.5(4)(h)~~ of the Code of Ordinances;
    - iii. Installation of a public sidewalk along the frontage(s) of the property where no sidewalk exists;
    - iv. Installation of an improved buffer between the property and adjacent properties zoned or used for residential purposes, which may include the addition of hedges or decorative posts, or the substitution of higher quality materials for the buffer fence or other similar improvements;
    - v. Painting or otherwise modifying the exterior of the structure with appropriate building materials to match the color range and/or materials of adjacent properties and/or those immediately across the street. Modifications may include, but are not limited to, the addition of siding, awnings, window trim, and new fascia. When the property in question is located in a neighborhood that has a plan adopted by the city council and that addresses architectural standards, then material/exterior must comply with the adopted plan before credit may be given under this section;
    - vi. Construction of a new roof on the structure such that the appearance and safety of the structure are improved;
    - vii. Specifying the period during which the nonconforming use or structure may continue to operate or exist before being brought into conformance with the standards of the zoning regulations;
    - viii. Maintenance of specific operating hours for a nonconforming use; or
    - ix. Alternative proposals that meet all the intent and purpose of this ULDC.
- (5) *Approval.* The director or board of adjustment may approve, approve with conditions or disapprove the application for an expansion variance permit, pursuant to the criteria of this section. Any approval or conditional approval of a variance shall include the number and type of credits approved by the director or the board of adjustment for the variance consistent with this section.

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

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

- (a) *Exclusion determination.* Drilling, oil or gas operations that have commenced before [the effective date of this section, Feb. 23, 2014] may be allowed to continue where an exclusion certificate has been issued by the director. In order to obtain such a certificate, the applicant shall provide the director:
  - 1. A hazardous materials management plan meeting the requirements in chapter 62 of this Code.
  - 2. A risk management plan meeting the requirements in chapter 62 of this Code;
  - 3. A valid drilling permit for each well previously issued by the city in accordance with chapter 62 of this Code, or the information required in subsection 2.085(c)(3) of this article and sections 62-59 and 62-64 of the Code with the exception of subsections 62-59(10) and (11); and
  - 4. Copies of all current state permits, and those in effect prior to [the effective date, Feb. 23, 2014], including state agency documentation establishing the date of initial and most recent operations of each well, tank, or other improvement.
- (b) *Application period.* Application for an exclusion determination shall be made within 365 days of [effective date, Feb. 23, 2014], or the operations shall be considered abandoned, be considered a new project, and shall require compliance with all terms and conditions of this code.
- (c) *Decision of director.* Exclusion determinations shall be based on the written materials submitted to the director, and the materials shall be reviewed and evaluated by the director and other staff as necessary. The director shall issue a determination letter after a review of the information submitted in subsection (a). Upon a determination of pre-existing drilling, oil or gas operation, an exclusion certificate shall be issued and the site where the pre-existing operation occurs shall be registered with a record of the evidence presented, the date of determination, and the scope of the exclusion.
- (d) *Effect of exclusion determination.* The director's determination as to the pre-existing operations of any individual well shall only address issues of location for purposes of compliance with the ULDC. The director's determination cannot waive any requirements for upgrading of equipment or compliance with federal, state or national fire or safety codes.

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

(Ord. No. 12,473, § 12, 2-13-14)

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

- (a) *Review and recommendation by director.* After determining that the application for a variance or special exception permit is complete, the director shall review the application and prepare a staff report, which may include a recommendation of approval, approval with conditions or disapproval based upon the criteria in sections 1.29 and 1.30. A copy of the report shall be mailed to the applicant at least five days prior to the public hearing on the application.
- (b) *Conditions.* The director may recommend and the board of adjustment may impose such conditions on a variance or special exception permit as are necessary to accomplish the purposes of this ULDC, to prevent or minimize adverse impacts upon the public and neighborhoods and to ensure compatibility. These conditions may include, but are not limited to, limitations on size, bulk and location; standards for landscaping,

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buffering and screening, lighting and adequate ingress and egress; cash deposits, bonds and other guarantees of deposit; other on-site improvements; and limitations on the duration of the permit or hours of operation.

- (c) *Submittal requirements.* Any application for a variance or special exception shall be accompanied by a site plan, drawn to scale that accurately depicts the existing conditions and the proposed conditions, including lot lines, locations of all structures, driveways, fences, berms, buffer landscaping, signs and paved areas and other items or features that may be appropriate to the consideration of the variance or special exception being sought as requested by the director. An as-built survey may serve as the basis for the existing conditions shown on the site plan.
- (d) *Action by board of adjustment.* After due notice, the board of adjustment shall hold a public hearing on an application for a variance permit. At the public hearing, the board of adjustment shall consider the application, the staff report, the relevant support materials and the public testimony given at the public hearing. After the close of the public hearing, the board of adjustment shall vote to approve, approve with conditions or disapprove the application for a variance permit, pursuant to the criteria of section 1.29. Any approval or conditional approval of a variance shall include the number and type of credits approved by the board of adjustment for the variance consistent with section 1.29. This subsection does not apply to variances granted by the director per subsection 1.29(e).
- (e) *Effect.*
  - (1) *Generally.* Issuance of a variance or special exception permit shall authorize only the particular variation which is approved. A variance or special exception permit shall run with the land.
  - (2) *Time limit.* Unless otherwise specified in the variance or special exception permit, an application to commence construction of the improvements that are the subject of the variance or special exception must be applied for and approved within 12 months of the date of approval of the special exception or variance; otherwise the variance or special exception permit shall automatically become null and void. Permitted timeframes do not change with successive owners. Upon written request, only one extension of the 12-month timeframe may be granted by the board of adjustment for a period not to exceed 12 months for good cause shown.
  - (3) *Null and void.* Once the variance becomes null and void, owner shall remove any nonconforming structures or pieces of structures that were addressed by the variance granted. Any structures or improvements not associated with the variance granted are not required to be removed.

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

## **Sec. 1.29 Zoning Variance process.**

- (a) *Purpose and intent.* The purpose of a variance process is to consider and approve deviations from the property development and masonry standards for the applicable district where development is proposed that would not be contrary to the public interest and, due to special conditions, a literal enforcement of this chapter would result in unnecessary hardship and if granted the spirit of this chapter is observed and substantial justice done. A variance is not applicable to a use or an operational performance standard.
- (b) *Types of variances:*
  - (1) *Variance by board of adjustment.* The board of adjustment and the director may grant a variance from the property development and masonry standards of zoning for a property if the variance satisfies criteria identified in subsection (c) of this section.

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- (2) Zoning Variance by director. The director may consider and grant a variance of up to ten percent of the property development requirement when the applicant demonstrates that the variance request will meet all the criteria below:
- a. Ensures the same general level of land use compatibility as the otherwise applicable standards;
  - b. Does not adversely affect adjacent land uses and the physical character of uses in the neighborhood in which the exception is sought because of inadequate buffering, screening, setbacks and other land use considerations;
  - c. Does not adversely affect property values of adjacent properties in any material way and will improve the property value of the property for which the exception is sought. (Did the applicant demonstrate that the structure has historically provided a facility in the neighborhood or otherwise improves the overall neighborhood);
  - d. Furthers the goals and vision of the city as set forth in the comprehensive plan, the vision statement, and an applicable neighborhood plan or redevelopment plan adopted by the city council; and
  - e. Is generally consistent with the purposes and intent of this ULDC.
- (c) Zoning Variance criteria. The board of adjustment may grant a variance when the applicant demonstrates that the variance request will meet all the criteria below:
- (1) Ensures the same general level of land use compatibility as the otherwise applicable standards;
  - (2) Is not a hardship of the applicant's own making;
  - (3) Does not adversely affect adjacent land uses and the physical character of uses in the neighborhood in which the exception is sought because of inadequate buffering, screening, setbacks and other land use considerations;
  - (4) Does not adversely affect property values of adjacent properties in any material way and will improve the property value of the property for which the exception is sought. (Did the applicant demonstrate that the structure has historically provided a facility in the neighborhood or otherwise improves the overall neighborhood);
  - (5) Furthers the goals and vision of the city as set forth in the comprehensive plan, the vision statement, and an applicable neighborhood plan or redevelopment plan adopted by the city council;
  - (6) Is generally consistent with the purposes and intent of this ULDC;
  - (7) Is needed as special circumstances exist that are peculiar to the land or structure that are not applicable to other land or structures in the same district and are not merely financial;
  - (8) Is necessary as literal interpretation and enforcement of the terms and provisions of the dimensional standards would deprive the applicant of rights commonly enjoyed by landowners in the same district and would cause an unnecessary and undue hardship;
  - (9) Is the minimum action that will make possible the use of the land or structure which is not contrary to the public interest and which would carry out the spirit of this ULDC and would result in substantial justice; and
  - (10) Will bring the existing and proposed structure closer into compliance with the zoning regulations of this ULDC, or will otherwise improve or enhance public health, safety or welfare.
- (d) Zoning Variance application standards. A complete application for a variance shall be submitted by a qualified applicant to the director on a form prescribed by the director, along with a nonrefundable fee to defray the



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actual cost of processing the application. No application shall be processed until the established fee has been paid and the application has been determined complete by the director.

- (e) *Action by director.* The director may approve, approve with conditions or disapprove the application for a variance permit, pursuant to the criteria of this section.

(Ord. No. 11,866, § 2(Exh. A), 2-23-12; Ord. No. 13,764 , § 1, 5-10-18)

### **Sec. 1.29.5 Subdivision Variance process.**

~~Any person shall have the right to appeal any decision of the commission to the city council by making written request to the Planning & Development Director or his/her designee. Such request must be submitted to the Planning & Development Director within 15 days after such person has been notified of the decision of the commission on the matter involved.~~

~~No person shall have any right to appeal for relief to any court in regard to any matter covered by this chapter until after such person has exhausted the appeal procedure provided for in this chapter.~~

#### **(a) ~~Sec. 126-216.~~ Criteria for issuance.**

~~The commission may authorize a variance from this chapter when, in its opinion, undue hardship will result from requiring strict compliance. In granting a variance, the commission shall prescribe any condition it deems necessary or desirable considering the public interest. In making the findings required in this division, the commission shall take into consideration the following:~~

- ~~(1) The nature of the proposed use of the land involved and existing uses of land in the vicinity;~~
- ~~(2) The number of persons who will reside or work in the proposed subdivision;~~
- ~~(3) The probable effect of such variance upon traffic conditions and upon the public health, safety, convenience and welfare of the vicinity; and~~
- ~~(4) Any and all other facts the commission may deem relevant.~~

~~(Code 1967, § 27-62(a); Ord. No. 3655, § 3, 7-28-83; Ord. No. 6149, § 2, 2-13-92)~~

#### **(d) ~~Sec. 126-217.~~ Findings.**

- ~~(1) No variance from this chapter shall be granted unless the commission finds:~~
  - ~~a. There are special circumstances or conditions affecting the land involved, such that the strict application of this chapter would deprive the applicant of the reasonable use of his land;~~
  - ~~b. The granting of the variance will not be detrimental to the public health, safety, welfare or will be injurious to other property in the area; and~~

c. The granting of the variance will not have the effect of preventing the orderly subdivision of other land in the area in accordance with this chapter.

(2) Such findings of the commission, together with the specified facts upon which such findings are based, shall be incorporated into the official minutes of the commission meeting at which such variance is granted. Variances may be granted only when in harmony with the general purpose and intent of this chapter so that the public health, safety and welfare may be secured and substantial justice done. Pecuniary hardship to the subdivider, standing alone, shall not be deemed to constitute hardship requiring variance under this division.

(Code 1967, § 27-62(b); Ord. No. 3655, § 3, 7-28-83; Ord. No. 6149, § 2, 2-13-92)

(e) ~~Sec. 126-218.~~ Denial for certain conditions; design elements.

(1) No variance shall be granted pursuant to this division as to required improvements, ~~minimum lot sizes,~~ flood hazard area regulations, bond requirements or utilization. However, a variance may be granted for drainage improvements in a subdivision located wholly outside the corporate city limits by the commission.

(2) Nothing in this division is to be construed as prohibiting either the commission or city council from granting a variance from the design elements of required improvements. The term "design elements" refers to the minimum and maximum criteria set forth in this chapter for designing the length, width or configuration of required improvements, such as the maximum length of dead-end roadways or easements, the minimum radius of curves, the minimum width of rights-of-way, etc.

(Code 1967, § 27-62(c); Ord. No. 3655, § 3, 7-28-83; Ord. No. 6149, § 2, 2-13-92)

(f) ~~Sec. 126-219.~~ Subdivisions outside city limits.

Variances to this chapter may be granted as to all required improvements in subdivisions located wholly outside the city, but within its extraterritorial jurisdiction, provided the subdivision complies with the minimum standards set by the appropriate county governing body.

(Code 1967, § 27-62(d); Ord. No. 3655, § 3, 7-28-83; Ord. No. 6149, § 2, 2-13-92)

(g) ~~Sec. 126-220.~~ Applicability to 100-year storm requirements.

The granting of a variance from this chapter shall not relieve the developer from meeting the 100-year storm runoff requirements.

(Code 1967, § 27-62(e); Ord. No. 3655, § 3, 7-28-83; Ord. No. 6149, § 2, 2-13-92)

(h) ~~Sec. 126-221.~~ Submission of requests.

All requests for a variance from this chapter shall be submitted in writing to the commission with preliminary approval. The request shall state why the developer feels his project meets the variance requirements.

(i) ~~Sec. 126-221.~~ Appeal of Commission Decision

a. Any person shall have the right to appeal any decision of the commission to the city council by making written request to the Planning & Development Director or his/her designee. Such request must be submitted to the Planning & Development Director within 15 days after such person has been notified of the decision of the commission on the matter involved.

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- b. No person shall have any right to appeal for relief to any court in regard to any matter covered by this chapter until after such person has exhausted the appeal procedure provided for in this chapter.

(Code 1967, § 27-62(f); Ord. No. 3655, § 3, 7-28-83; Ord. No. 6149, § 2, 2-13-92)

### **Sec. 1.30 Special exception process.**

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

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

### **Sec. 1.31 Development manual.**

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

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

## ***ARTICLE II. USE DISTRICTS***

### ***DIVISION 1. GENERAL***

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## **Sec. 2.01 District map.**

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

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

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

- (a) *Generally.* This section shall govern interpretations regarding the location of zoning district boundaries shown on the official map.
- (b) *Boundaries following property lines.* District boundaries shown as approximately following property lines shall be construed as following such property lines.
- (c) *Boundaries following right-of-way lines.* District boundaries shown as approximately following right-of-way lines of a street, highway, alley, railroad or other identifiable boundary shall be construed as following such right-of-way line or identifiable boundary.
- (d) *Boundaries not following identifiable features.* On unsubdivided land or when a district boundary follows no identifiable feature, the location of district boundaries shall be determined by using the map scale appearing on the official map, unless the district line is indicated by dimensions printed on the official map, in which case the printed dimensions shall control.
- (e) *Streets and rights-of-way.* Streets, alleys, rights-of-way, navigable waterways, and other public ways will not be zoned and shall not affect district boundaries.
- (f) *Street abandonments.* Whenever any street, alley or public way is abandoned or vacated by official action of the city council, the districts adjoining each side of such street, alley or public way shall be automatically extended to the centerline of such abandonment or vacation, and all area included in the abandonment or vacation shall be subject to the regulations of the extended districts.
- (g) *Uncertainties.* Where existing physical or natural features contradict those shown on the official map or when any other uncertainty exists, the location of district boundaries shall be determined by the director.

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

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

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

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

## ***DIVISION 2. ZONING DISTRICTS***

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## Sec. 2.04 Commercial zoning districts.

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

- (a) *Mixed use ("MU")*. This district is intended to accommodate uses that are zoned MU as of April 13, 2013. No additional lands shall be zoned MU.
- (b) *Neighborhood serving commercial ("NSC")*. This district is intended to accommodate commercial uses adjacent to a residential neighborhood and not accommodate regional commercial uses. The neighborhood serving commercial district is designed or intended to improve traffic flow, and provides the option of pedestrian activity from dwelling units to the neighborhood commercial uses.
- (c) *Livable center ("LC")*. This district is intended to accommodate a variety of land uses that complement each other and could include living, working, educational and entertainment options.
- (d) *General commercial ("GC")*. This district is intended to provide for a variety of uses including offices, retail, personal and commercial services, and related uses that are mixed within buildings either vertically and/or horizontally. Uses in this district are generally conducted wholly within an enclosed building but may include outdoor display merchandise or storage of materials. The GC district may be used as a transitional district between more intensive nonresidential districts (e.g., light industrial) and higher density residential districts or as the primary district for such corridors as Garth Road or Main Street.
- (e) *Arts, cultural and entertainment ("ACE")*. This district is intended to foster the development of highly compatible and mutually supportive land uses in the downtown area.
- (f) *Light industrial ("LI")*. This district is intended to provide for low-intensity industrial and manufacturing activities that may generate some nuisances. Uses in this district are not appropriate adjacent to any residential use or residential district unless separated by an arterial or collector street and/or setbacks and screening.
- (g) *Heavy industrial ("HI")*. This district is intended to provide for manufacturing and industrial activities that may generate nuisances. Industrial uses are not appropriate adjacent to any residential uses. Unless separated by a principal arterial, the HI district is not appropriate adjacent to any residential district.

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

## Sec. 2.05 Residential zoning districts.

- ~~(a) — conservation ("NC"). This district is a residential district with a density conforming to the zoning code adopted in 1995. This district allows only residential uses and no additional lands shall be — C.~~
- ~~(b) — Urban neighborhood ("UN"). This district is a mixed use residential and limited commercial district with a density conforming to the zoning code adopted in 1995.~~
- ~~(c)~~(a) *"Single-family estate ("SFE")*. This district provides for residential dwellings at a very low density. This district accommodates only single-family detached dwellings at a density of less than one dwelling unit per acre.
- ~~(d)~~(b) *Low density single-family residential dwellings ("SF1")*. This district provides for single-family detached residential dwellings at a density up to four dwelling units per acre.

~~(e)~~(c) *Mixed residential at low to medium densities ("SF2")*. This district provides for single-family detached and attached residential dwellings and two-family dwellings at a density up to nine dwelling units per acre.

~~(f)~~(d) *Medium density mixed residential ("MF1")*. This district provides for single-family detached and attached residential dwellings, two-family dwellings, and multifamily dwellings at a density up to 15 dwelling units per acre.

~~(g)~~(e) *Mid-rise density mixed residential dwellings ("MF2")*. This district provides for two-family dwellings, single-family attached dwellings and multifamily dwellings at a density up to 23 dwelling units per acre.

*High density residential dwelling units ("MF3")*. This district provides for multifamily dwellings at a density up to 30 dwelling units per acre provided that the floor area ratio does not exceed one. For vertical mixed use, see livable centers district in this article.

~~(h)~~(f) *"Open space/recreation ("OR")*. This district provides for large open areas, private and public recreation areas, and a holding zone for newly annexed areas.

(Ord. No. 11,866, § 2(Exh. A), 2-23-12; Ord. No. 12,207, §§ 6, 7, 3-14-13)

## Sec. 2.06 Special purpose zoning districts.

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

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

## Sec. 2.07 Density and use.

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

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

Density	Up to 1	Up to 4	Up to 9	Up to 15	Up to 15	Up to 23	Up to 30
	SFE	SF1	SF2	MU	MF1	MF2	MF3

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(Supp. No. 75)

Single-family detached							
Single-family attached							
Two-family duplex							
Multifamily							

Shaded = Allowed

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

## Sec. 2.08 Planned unit developments.

- (a) *Purpose.* The planned unit development district is a district designed to provide for the development of land as an integral unit for single or mixed uses in accordance with a detail plan that may vary from the established regulations of other zoning districts. It is the intent in such a district to insure compliance with good zoning practices while allowing certain desirable departures from the strict provisions of specific zoning classifications.
- (b) *Application.* An application for a planned unit development district shall be processed in accordance with this ULDC.
- (c) *Base district.* A base zoning district shall be specified. The regulations in the base zoning district shall control unless specifically stated otherwise in the PUD. The base district specified in the plans is the minimum criteria to be met where the developer and council choose not to specify standards as an alternative to the base.
- (d) *Detail plan requirements.* The application for a planned unit development district must have a detail plan, which shall include the following:
  - (1) *Purpose.* The detail plan contains the details of development for the property;
  - (2) *Relation to the comprehensive plan.* A general statement setting forth how the proposed development will relate to the city's comprehensive plan and the degree to which it is or is not consistent with the comprehensive plan and the proposed base zoning district;
  - (3) *Acreage.* The total acreage in the plan as shown by a survey or plat, certified by a registered professional land surveyor;
  - (4) *Land uses.* Permitted uses, specified in detail, and the acreage for each use;
  - (5) *Off-site information.* Adjacent or surrounding land uses, zoning, streets, drainage facilities and other existing or proposed off-site improvements, sufficient to demonstrate the relationship and compatibility of the development to the surrounding properties, uses, and facilities;
  - (6) *Traffic and transportation.* The location and size of all streets, alleys, parking lots and parking spaces, loading areas or other areas to be used for vehicular traffic; the proposed access and connection to existing or proposed streets adjacent to the development and the traffic generated by the proposed uses. Identify the relationship of each proposed street to the city's major thoroughfare plan;
  - (7) *Development standards.* Development standards, if different from the base zoning district, for each proposed land use, as follows:



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- a. Minimum lot area;
  - b. Minimum lot width and depth;
  - c. Minimum front, side, and rear building setback areas;
  - d. Maximum height of buildings;
  - e. Maximum lot coverage;
  - f. Maximum floor-to-area ratios for nonresidential uses;
  - g. Minimum parking standards for each general land use; and
  - h. Other standards as deemed appropriate.
- (8) *Existing conditions.* On a scaled map sufficient to determine detail, the following shall be shown for the area within the proposed development:
- a. Existing streets;
  - b. Existing 100-year floodplain, floodway and major drainage ways;
  - c. Zoning districts within and adjacent to the proposed development;
  - d. Land use; and
  - e. Utilities, including water, wastewater and electric lines.
- (9) *Buildings.* The locations, maximum height, maximum floor area and minimum setbacks for all nonresidential buildings;
- (10) *Residential development.* The numbers, location, and dimensions of the lots, the minimum setbacks, the number of dwelling units, and number of units per acre (density);
- (11) *Water and drainage.* The location of all creeks, ponds, lakes, floodplains or other water retention or major drainage facilities and improvements;
- (12) *Utilities.* The location and route of all major sewer, water, or electrical lines and facilities necessary to serve the development;
- (13) *Open space.* The approximate location and size of greenbelt, open, common, or recreation areas, the proposed use of such areas, and whether they are to be for public or private use;
- (14) *Sidewalks and bike paths.* Sidewalks or other improved ways for pedestrian or bicycle use;
- (15) *Landscape plan;* and
- (16) *Phasing schedule.* A development larger than 100 acres shall provide a phasing schedule depicting the construction phases.
- (e) *Planning and zoning commission recommendation of detail plan and planned unit development.* The planning and zoning commission shall review and make recommendations on a detail plan and PUD to the city council. The planning and zoning commission shall make a recommendation to approve if it finds that the detail plan and PUD satisfies the criteria specified in section 1.26(c), except for section 1.26(c)(5).
- (f) *Approval of detail plan and planned unit development.* The city council may, after receiving a recommendation from the planning and zoning commission, approve by ordinance a detail plan and the creation of a PUD based upon a detail plan. The detail plan shall be made part of the ordinance establishing the PUD. Upon approval said change shall be indicated on the zoning maps of the city. The development standards and requirements delineated in the detail plan for uses proposed shall be established based upon the particular merits of the development design and layout. Such standards and requirements shall be more

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or less restrictive than the standards established in the base zoning district for the specific type uses allowed in the district. Modifications in these regulations may be granted by the council if it shall be found that such modifications are in the public interest, are in harmony with the purposes of this ULDC and will not adversely affect nearby properties.

- (g) *Expiration of detail plan.* A detail plan shall be valid for two years from the date of its approval. If a building permit has not been issued within the two years, the detail plan shall automatically expire and no longer be valid. The council may, prior to expiration of the detail plan, for good cause shown, extend for up to 12 months the time for which the detail plan is valid. If the detail plan is part of a PUD, the zoning designation and development standards revert to the underlying zoning district and all future phases are also expired.
- (h) *Review of progress; termination of detail plan.* Annually, on or about the time of the original city council approval, the planning and zoning commission may review progress on the development. If measurable progress cannot be demonstrated by the developer of the detail plan, then the planning and zoning commission may recommend to the city council to void the detail plan. If the detail plan is part of a PUD and found to be void, the PUD and the remaining phases of the PUD are also void.
- (i) *Changes in detail plan.* Changes in the detail plan shall be considered the same as a zoning map amendment and follow sections 2.08(e) and (f) for approval and shall be processed in accordance with this ULDC. Those changes which do not alter the basic relationship of the proposed development to adjacent property and which do not alter the uses permitted or increase the density, floor area ratio, height, or coverage of the site, or which do not decrease the off-street parking ratio or reduce the landscape provided at the boundary of the site, as indicated on the approved detail plan, may be authorized by the director. Any applicant may appeal the decision of the director to the planning and zoning commission for review and decision as to whether an amendment to the detail plan or planned unit development district shall be required.
- (j) *Deviation from code standards.* The city council may approve a PUD or detail plan with deviations from any provision in this ULDC. Such deviations shall be listed or shown as part of the ordinance that approves the detail plan or PUD. The focus shall be on the provision of private open space, trails and connections to the public trail system, higher standards for site design, and the provision of other amenities such as community buildings, preservation of view corridors, for example.

(Ord. No. 11,866, § 2(Exh. A), 2-23-12; Ord. No. 12,593, § 4, 8-14-14)

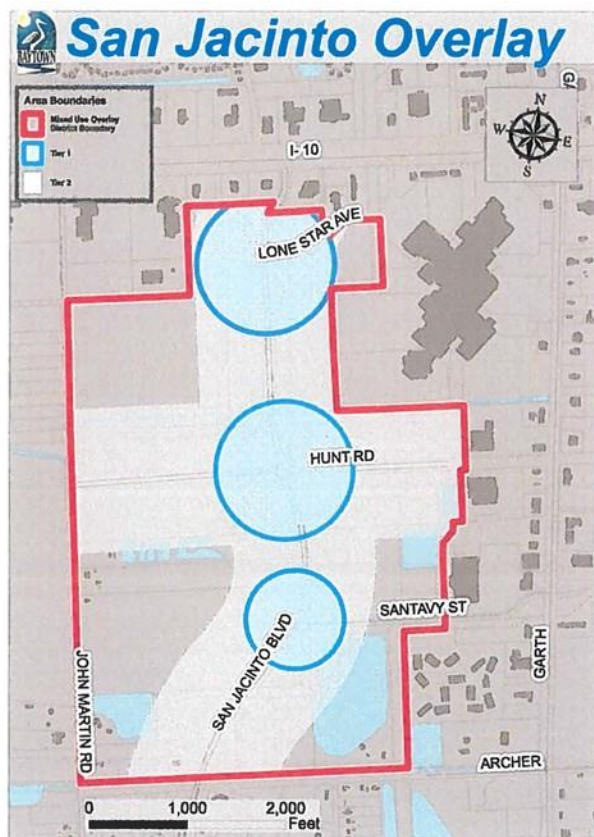
## **Sec. 2.082. San Jacinto overlay district.**

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

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

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

Figure SJO-1. Boundary and Tiers



- (c) *Procedures for appeals and interpretation.* Procedures for appeal and interpretation shall be governed by the processes within sections 1.28, 1.29, and 1.30 of the ULDC.

(d) *Utilities.*

- (1) Underground utilities are required. Poles and overhead wires and associated overhead structures are prohibited.
- (2) Exterior onsite facilities and mechanical equipment, including sewer, gas, water, electric, telephone, and communications equipment, shall be installed underground. Transformers and other mechanical equipment that must be aboveground shall be screened with solid material that is architecturally compatible with the primary building and incorporated into the landscape.
- (3) The use of regional or subregional stormwater detention is required as capacity permits. Thereafter, underground stormwater detention facilities are permitted.

~~(e) 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:~~

~~(0)(1) Mixed-use building means a building that contains at least one floor, or a portion thereof, devoted to permitted nonresidential uses, and at least one floor devoted to permitted residential uses.~~

~~(0)(1) Multi-family means any residential dwelling complex consisting of five or more units to include, but not be limited to, common accessory structures such as garages, laundry buildings, and guest parking.~~

~~(0)(1) Horizontal mixed-use development means a development consisting of two or more attached or detached buildings of differing use categories (e.g., residential and nonresidential) within the same project area.~~

~~(0)(1) Project area means a single parcel or multiple parcels, planned and constructed as one, coordinated and unified project.~~

~~Secondary building(s) means a structure that is developed in the project area but does not have direct street frontage to the adjacent street due to a primary building that has been constructed along the street frontage. Drive-through restaurant means an establishment in which food or drink is served to customers within automobiles outside of the confines of the building and/or where the consumption of such food or drink is intended to occur off the premises.~~

~~Primary entrance(s) means an ingress and egress point of a building or suite, which is designed for pedestrians, that is oriented towards the street frontage and usable open space.~~

~~Secondary entrance(s) means ingress and egress point(s) of a building or suite, which is designed for pedestrians, that is not the primary entrance(s).~~

~~(0) Small box discount retail means a single retail establishment consisting of 12,000 square feet or less of gross floor area, offering for sale an assortment of discounted general merchandise directly to the consumer. Such merchandise may include, but not be limited to, food and beverage for off-premises consumption, processed foods, household products, personal grooming and health products, clothing, and other consumer goods. This term does not include a retail establishment providing a prescription pharmacy, gasoline or diesel fuel, specialty gifts or food and beverage items intended for on-premises consumption.~~

~~(k)(e)~~ *Non-residential uses.* Unless otherwise stated, this section only applies to the uses that are permitted (P) and/or permitted with conditions (PC) within the land use table for ACE, NSC, GC, and LC zoning districts. Such uses shall be subject to section 2.10 "land use conditions" and the additional regulations within the overlay table. Where there are conflicts, the requirements of this section shall prevail.

- (1) *Prohibited uses.* Prohibited uses pertain to both primary and accessory uses. Any of the following land uses shall not occur unless it is approved by city council as part of a planned unit development (PUD):
  - a. Auto body;
  - b. Vehicle repair;

- 
- c. Boat and R-V storage;
  - d. Carwash;
  - e. Drive-through restaurant;
  - f. Gas station;
  - g. Kennel;
  - h. Outdoor sale and display;
  - i. Outdoor storage;
  - j. R-V park;
  - k. Self-storage;
  - l. Supply house;
  - m. Truck stop;
  - n. Manufacturing light;
  - o. Sandblasting;
  - p. Warehouse;
  - q. Small box discount retail.
- (2) *Tier 1.* Within Tier 1, single-tenant buildings and/or suites shall not exceed 15,000 square feet on the ground floor. Each floor of a multi-story building within Tier 1 may not exceed the square footage of the ground floor.
- (3) *Tier 1 and Tier 2.* In addition to other uses allowed within the underlying zoning district, hospitals shall be allowed within Tier 1 and Tier 2.
- (4) *Uses permitted with conditions.* In addition to other uses allowed within the underlying zoning district, the following uses shall be permitted with conditions within the tier indicated:

Land Use	Tier	Cond Ref	Additional Regulations
Equipment sales and rental	2	A53	1. All equipment shall be displayed or stored interior to a building. 2. No facility shall be permitted to have bay doors facing a residential use or a street identified on the major thoroughfare plan.
Manufacturing Custom	1 and 2	A49	A minimum of 1,500 square feet or a minimum of 10% of the total building floor area, whichever is greater, shall be designated for retail sales, services, and/or showroom of the custom manufactured goods and associated products (e.g. food and merchandise).

Mixed-Use Building	1 and 2	<ol style="list-style-type: none"> <li>1. There shall be a minimum of 4,000 square feet on the ground floor of this building.</li> <li>2. General retail, personal service, grocery store, and/or food service establishment uses shall occupy at least 50% of the area of the ground floor.</li> <li>3. A minimum of four (4) dwelling units shall be required within a mixed-use building.</li> <li>4. Dwelling units shall have a minimum of 750 square feet of floor area.</li> <li>5. Access to dwelling units shall occur from the interior of the building.</li> </ol>	
Non-residential Uses Permitted with Conditions			

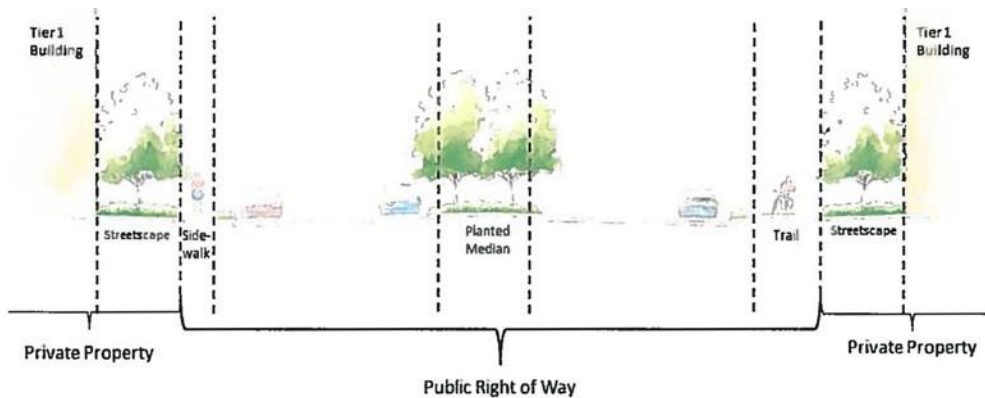
~~(f)~~ (f) *Property development standards.* The following non-residential development standards shall be applicable within the San Jacinto overlay district and shall control over those of the underlying zoning district:

Non-residential Development Standards	T1	T2	T3	Additional Regulations
Block length (min/max)	300—700 feet			
Minimum lot area	32,670 square feet (¾ acre)			
Site coverage	60%	70%	80%	Developments with mixed-use buildings with more than 7 dwelling units shall be permitted a site coverage of 80%.

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



Figure SJO-2. Public and Private Realm



- (1) *Site design.* Site design goals include clustering of buildings in multiple building projects. This method encourages pedestrian walkable/sitting areas and usable open space as part of the building placement and design.
  - a. *Building orientation.*
    1. Building(s) and the primary entrances shall be oriented towards the primary street frontage, public plazas, and usable open space - not to a parking lot. This does not preclude the additional use of secondary entrances.
    2. Primary buildings located on a corner lot may provide a primary entrance(s) at the corner of the building.
    3. The secondary buildings constructed and all subsequent buildings may not be further than 185 linear feet from another building.
  - b. *Usable open space.* This subsection (g)(l)b shall only apply to Tiers 1 and 2 of the San Jacinto overlay district and shall be required for 20,000 square feet or more of non-residential development proposed within a project area.
    1. All usable open space, with the exception of the trail system, shall have a minimum depth of 20 feet and a minimum total area of 650 square feet.
    2. Park benches and bike parking racks/facilities shall be incorporated into the usable open space.
    3. Unless arranged as a courtyard with buildings on three sides, usable open space shall abut a street.
    4. Two or more of following amenities shall be required:
      - (a) Natural and undeveloped landscaped area that is not already required by this San Jacinto overlay district or the ULDC;
      - (b) A patio or plaza with shaded spaces (shade structure) with flexible or permanent seating;
      - (c) A play area with amenities or equipment suitable for children such as, but not

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limited to, seesaw, merry-go-round, swing set, slide, and jungle gym;

- (d) Ponds designed as an amenity with shade spaces (shade structure) with flexible or permanent seating and approval by the director;
- (e) Multi-use trail that is directly extended from the Goose Creek Trail or any existing and adjacent trails that are connected to the Goose Creek Trail along the local or collector streets in the circulation plan; and
- (f) Ground floor patio and decks for dwelling units shall only be oriented towards public or private streets that are not designated as an arterial road on the major thoroughfare plan.

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

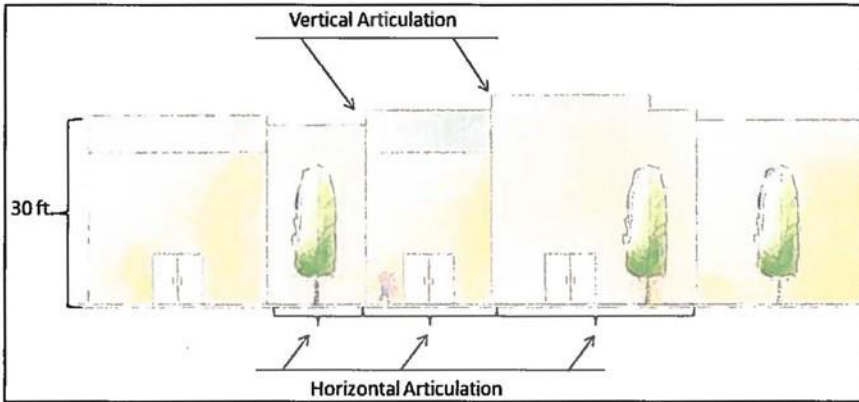
- a. *Entrances.* Entrances (excluding service doors) into buildings shall be easily identified through building design with at least one of the following:

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

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

- d. *Wall heights.* Wall heights shall be varied and articulated with a minimum of 24-inch variation each 35 feet.

Figure SJO-3. Articulation

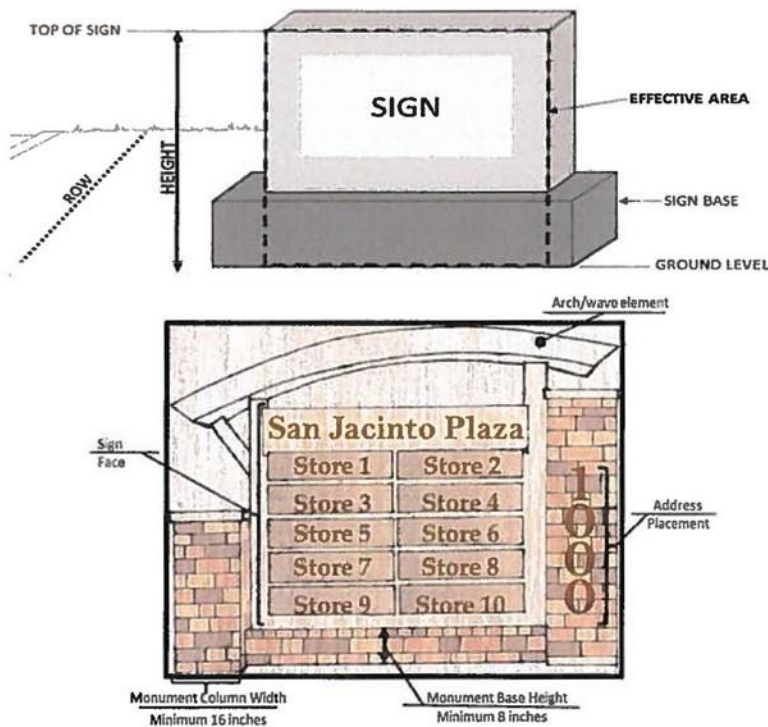


- e. *Glazing.* A minimum of 50 percent of the street-facing facade between two feet and eight feet in height on the ground floor must be comprised of windows. A minimum of 30 percent is required for all other facades, except where a facade faces or uses an area designated and constructed for service delivery or business storage.
- f. *Colors.*
1. A minimum of three different colors shall be used for building exteriors. Colors shall be only natural rock colors and earth tones. Neutral colors include browns, beige, ivory, taupe, muted greens, gold, grey, and white. Earth-tone colors should be flat or muted.
  2. The use of high-intensity colors, neon, or a fluorescent color is prohibited. Neon tubing shall not be an acceptable feature for building trim or accent areas.
- g. *Awnings.* Awnings:
1. Shall be required for primary buildings in Tier 2.
  2. Shall be broken into segments as to match the door and window openings beneath them.
  3. Shall overhang the entrance and windows along the front and side facade for a minimum of five feet.
  4. Shall be made of glass or metal construction materials.
  5. Shall not include domed and convex-shaped awnings.
- h. *Rooftop equipment.* Rooftop mechanical equipment, including HVAC and utility equipment, shall be screened. Screening shall consist of parapet walls or an opaque enclosure around the equipment that is constructed of one of the materials used on the primary facade of the principal structure.
- i. *Fences and gates.*
1. No opaque walls, fences, gates, or chainlink fences with a height greater than four feet shall be located within a front yard.

2. Walls, fences, or gates shall be consistent in style and material, complementing the surrounding architectural styles within this overlay district.
  3. The structural supports of the fence shall face interior to the property so as not to be visible from the street or neighboring property.
- j. **Signage.** The following signs shall be permitted for non-residential uses:
1. **Limitation.** Only monument signs, window signs, and wall signs are permitted. Pole signs, pylon signs, roof signs, banners, wall murals, digital signs, neon signs, flat signs, and spectacular signs are prohibited.
  2. **Monument signs.**
    - a. One ground-mounted monument sign shall be permitted for each parcel or for every 300 feet of linear frontage of one parcel.
    - b. The sign structure shall be constructed of the same materials that are used on the facade of the primary building(s).
    - c. Each monument sign shall incorporate the following features:  
(See Figure SJ0-4)
      - CorTen metal material as a part of its sign face.
      - An extended decorative arch.
      - A monument base with a minimum of eight inches above grade.
      - At least one masonry support column with a minimum of 16 inches in width.
    - d. The maximum monument sign dimensions for non-residential uses shall be as shown in the following table:

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

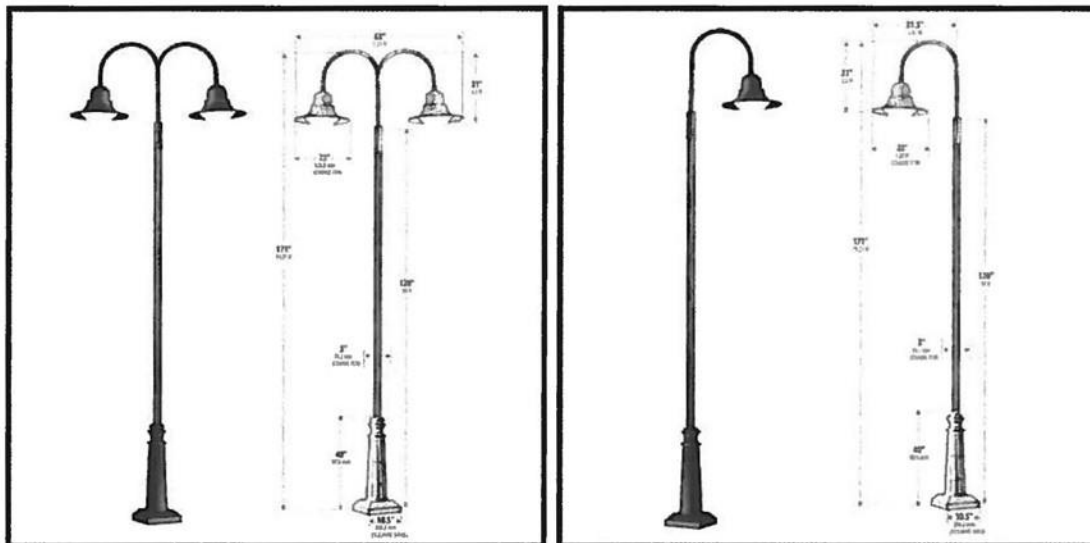
Figure SJO-4. Sign



- e. *Sign measurement.*
    - i. The size of a sign is measured by its effective area. For monument signs, the effective area includes the entire structure on which the sign is placed or mounted, including only the portion of the sign base that extends directly below the sign face. (See Figure SJO-4).
    - ii. No decorative features of the sign shall extend beyond 16 inches from the sign face.
  - f. *Sign setbacks and placement.*
    - i. No minimum setback from property line is required for a monument sign.
    - ii. Placement of a monument sign shall in no case be allowed to extend into the right-of-way or to obscure vision at a street or driveway intersection.
3. *Wall signs.*
- a. Sizes shall be calculated by one square foot per linear foot of storefront up to maximum of 64 square feet.
  - b. Wall signs shall be of individual channel letter. Framed or cabinet signs are prohibited.
  - c. One wall sign shall be permitted along the facade of the public entrance.
  - d. Buildings located on corner lots are permitted to have a second wall sign on a second facade which faces the street front.
  - e. Window signs shall be limited to a maximum of two signs, each with a maximum of four square feet within the frontage.
  - f. Illumination.

- i. Internal illumination is prohibited.
- ii. Wall signs shall be back lit, halo lit, or externally illuminated.
- k. *Lighting.*
  1. Internal to the project area, lighting design shall be of the gooseneck variety as presented in Figure SJ0-5.
  2. Lighting posts and extensions shall be a black-powder-coated aluminum or metal.
  3. Fixtures shall be shielded to reduce light pollution by facilitating a downward-directed light.
  4. All lighting fixtures internal to the development shall have poles with a maximum height of 16 feet.
  5. Lighting shall be of a consistent style throughout the project area/development site.
  6. All light fixtures shall use an LED lighting source.
  7. Lighting fixtures shall be placed to add illumination to areas such as, but not limited to, the usable open space, pedestrian facilities, and parking area.
  8. Lighting fixtures shall be of similar dimension and proportion as presented in the Figure SJ0-5.

Figure SJ0-5. Lighting



~~(m)(g)~~ *Circulation and connectivity.*

- (1) *Streets, sidewalks, and trails.* The San Jacinto overlay district shall be organized into blocks created by a grid of public streets and/or private streets. A variety of street types and block sizes may be incorporated to create the grid, including diagonal, off-set, and angled streets as approved by the director or the director of engineering. The street network goals aim to prioritize the mobility of

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pedestrians and bicyclists by improving safe mobility choices and community character. Values of the section should be placed in compatibility, livability, sense of place and urban design that enhances pedestrian facilities and streets. Where possible, cul-de-sacs and curvilinear streets shall be avoided.

a. *Access management.*

1. Access management along roadways designated as arterial shall have a minimum curb-cut separation of 200 feet from the centerline of an existing curb cut.
2. Access to properties without a curb cut along an arterial shall be permitted via connection to another collector street, local street, or shared access easement through an adjoining parking area.
3. The project areas shall incorporate the following:
  - i. A maximum design speed of a drive aisle shall be 15 mph.
  - ii. If necessary to ensure access to the streets by the general public, the director and/or director of engineering may require shared access driveways within the site to adjacent properties.
  - iii. Installation of driveway aprons, stub-outs and other design features to indicate that abutting properties can be connected to provide shared/cross access is required.
4. All curb cuts that are aligned with pre-designed median cuts shall be constructed as local streets.
5. The maximum block length for local and collector streets shall be 700 feet or as specifically approved as a part of a preliminary plat by the planning and zoning commission.

b. *Bicycle and pedestrian circulation.*

1. Direct pedestrian access from any street that is adjacent to the property line to a building entrance is required.
2. Marked pedestrian access from a parking area to a building entrance is required.
3. Pedestrians and bicycle facilities, such as sidewalks and trails, shall be separated from facilities designed for the movement of vehicles, such as streets and access drives.
4. Where complete separation of movement of pedestrians from movement of vehicles, such as a pedestrian crossing, is not possible, the site plan must use special paving (stamped concrete, stone pavers, etc.), grade separations, signs, bollards, median refuge areas, traffic calming features, landscaping, lighting, or other means to clearly delineate pedestrian areas for both day and night use. Pavement markings and striping is only permitted if required by the director of engineering.
5. Where pedestrians and bicyclists share walkways, the trail shall have a minimum width of eight feet.
6. All development with frontage along John Martin Road shall install a paved trail with a minimum of eight feet along the arterial street.

(2) *Circulation plan.* A circulation plan shall be submitted with a plot plan, preliminary plat application, or site plan. A circulation plan must demonstrate:

- a. How the onsite circulation system meets the narrative and standards of this section;



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- b. How the onsite circulation system integrates with existing and planned streets, bicycle and pedestrian facilities, and trails in the surrounding area;
  - c. How the proposed street alignments conform with or deviate from the San Jacinto Boulevard area general road network plan with an explanation how deviations from the plan in terms of street placement, alignment, and design, are consistent with the intent statements in this overlay district;
  - d. That the street and pathway system will contribute to safe and convenient pedestrian connections between development occurring onsite and adjacent to the development.
- (3) *Plan approval.*
- a. A circulation plan must be reviewed and approved by the director under the requirements of this section.
  - b. The director may waive the requirement for a circulation plan if the director finds that a plan is not necessary due to the nature of the proposed development on the site, the existence of surrounding incompatible development, or other factors unique to the property which make strict compliance unnecessary.
  - c. Revisions to the circulation plan may be approved by the director after considering the circulation characteristics of a proposed development plan, the need for access to adjoining properties, and the compatibility of surrounding development.
  - d. A plot plan, preliminary plat, subdivision, or site plan may not be approved if the circulation plan is not approved by the director. If there is disagreement on the issue, the applicant, by request, or the staff may take this pre-preliminary information to the planning and zoning commission for its determination.

Figure SJO-6. Road Network Plan



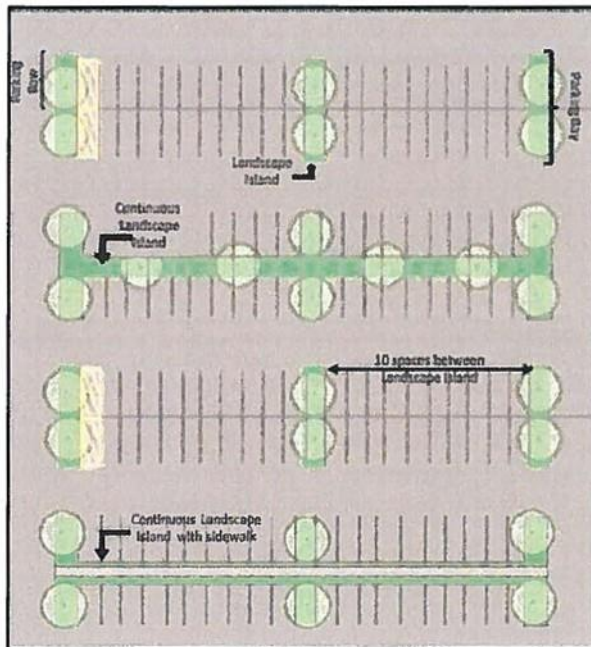
~~(h)~~(h) **Parking.** Parking lot design shall be aesthetically pleasing and assure pedestrian safety. Additionally, this section encourages a reduction in surface parking counts, smaller parking areas over vast parking lots, promotion of shared parking through shared access and the creation of on-street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

(1) **Off-street parking.**

- a. Off-street parking spaces for non-residential developments shall not exceed the number required by Sec. 3.10.7 ~~chapter 112~~ of the Code of Ordinances and not be less than 70 percent of the maximum number allowed.
- b. Off-street parking spaces for dwelling units associated with a mixed-use building shall comply with chapter ~~112~~Sec. 3.13.5 of the Code of Ordinances.
- c. Parking for any residence associated with a mixed-use building shall be secured and separated from public parking.
- d. In Tier 1, off-street parking areas shall only be located in the side and rear yards.
- e. Tier 2 and Tier 3 off-street parking areas are permitted in the front yard.

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

Figure SJO-7. Parking



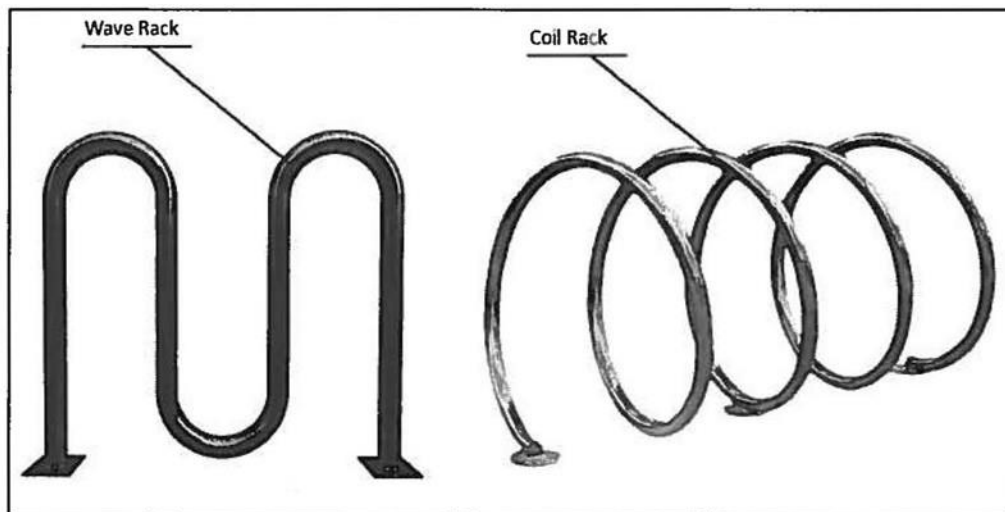
- k. Off-street parking provided as part of a building or parking structure adjacent to a public street shall be designed and constructed to accommodate non-residential uses such as retail and commercial services on the ground floor of the building or parking structure.
- (2) *On-street parking.*
- a. On-street parallel parking is encouraged along all local streets where feasible. On-street parking is subject to the approval of the director of engineering.
  - b. A reduction of minimum off-street parking may occur by two spaces for each on-street parking space installed along the extents of the subject property for non-residential uses.
  - c. The director of engineering may determine that on-street parking is not feasible due to limited right-of-way width or lack of appropriate and adequate easement, transit activity conflict and

interference, inadequate sight distance caused by vertical or horizontal curvature of a street, high roadway speeds, or other safety concerns.

(3) *Bicycle parking.*

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

Figure SJO-8. Bicycle Parking



- d. Bicycle parking facilities shall be securely anchored and located in lighted and visible locations.
- e. Bicycle parking facilities shall have a minimum depth of eight feet and shall be installed in a fashion that a parked bicycle does not extend into a sidewalk or trail.

~~(e)~~(i) *Landscaping.* Landscaping should enhance the development aesthetically and functionally by adding natural and vegetated elements to the San Jacinto overlay district. Landscaping helps with identifying transition from public realms to private and from non-residential uses to residential uses. Additionally, landscaping can be used for various functions of rain water capture, shading, and sound buffering.

(1) *Streetscape.*

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

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- d. The streetscape shall be planted with deciduous shade trees five feet tall with a two-inch caliper, DBH, at time of planting, and no less than 20 feet tall at maturity, planted 30 feet on center, and shrubbery forming an intermittent hedge not less than three feet in height designed to provide an adequate screen of off-street parking.
  - e. As part of the landscape plan, shrubs may be clustered or spaced at various intervals based on specific site requirements, but the total number of shrubs planted shall be no less than the amount required by linear planting spaced three feet apart.
- (2) *Parking area landscaping.*
- a. A landscaping island shall be located at the end of every parking row.
  - b. A landscaping island shall be no less than eight feet wide and 18 feet in length.
  - c. The island shall be planted with ornamental grasses and the required trees based upon the tree species table in subsection (j)(4) of this section.
  - d. One shade tree shall be provided within each required landscaping island.
  - e. A maximum of ten continuous linear parking spaces are permitted within a parking row before a landscape island must be installed. (See Figure SJ0-7).
- (3) *Compatibility buffer.*
- a. Compatibility buffers shall create a planted screen between residential uses and non-residential uses or activities.
  - b. Where a non-residential use abuts property zoned or planned for single-family residential, the minimum buffer width shall be 25 feet, except in areas where cross-access for pedestrian circulation is planned and/or constructed.
  - c. Compatibility buffers shall be installed with at least one of the following specifications:
    - 1. Compatibility buffer one.
      - a. A staggered double row consisting of evergreen trees and deciduous trees with an expected growth to a minimum height of 16 feet and a minimum width of ten feet at its maturity;
      - b. Tree planting for each row shall be installed with a maximum separation of 25 feet;
      - c. A transparent fence with a minimum height of six feet shall be installed if an opaque fence has not been constructed along the boundary of the adjacent residential use; and
      - d. If an opaque fence is installed, it shall be interior to the plantings of the buffer.
    - 2. Compatibility buffer two.
      - a. A single row of evergreen trees planted with 25 feet of separation;
      - b. Intermediate planting of three understory trees per 100 linear feet;
      - c. Forty shrubs per 100 linear feet; and
      - d. Six-foot opaque fence or wall is required and shall be interior to the plantings of the buffer.
- (4) *Appropriate tree planting species.* (Arterial and local streets). Appropriate shade tree species for landscaping parking lots include the following:

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

~~(b)(1)~~ **Residential uses.** The San Jacinto overlay district facilitates medium residential density into commercial zones by using a variety of housing products such as townhouses, duplexes, triplexes, and fourplexes. This section helps to manage compatibility with commercial adjacency and integrates the residential uses with the non-residential uses.

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

Residential Uses Permitted with Conditions			
Land Use	Tier	Cond Ref	Additional Regulations
Multi-family dwellings	1, 2, 3		<ol style="list-style-type: none"> <li>1. Must be located at least one-half mile from any existing garden-style multi-family complex.</li> <li>2. Shall have a maximum build out of three hundred (300) dwelling units.</li> </ol>

			3. Shall be located on not more than fifteen (15) acres.
Single-family detached	3		1. Shall be built to a maximum density of nine (9) units per acre. 2. Minimum floor area of 2,000 square feet per unit.
Single-family attached dwelling (Townhouses)	2, 3	B14	1. Maximum building length of 200 feet. 2. Minimum floor area of 1,200 square feet per unit.
Two-family dwelling duplex	2, 3		Minimum floor area of 750 square feet per unit.
Three-family dwelling, triplex	2, 3		
Four-family dwelling, fourplex	2, 3		

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

Residential Development Standards	T1, T2, and T3	Additional Regulations	
Internal block length (min/max)	300—700 ft.		
Minimum lot area (sq. ft.)	See article II, table 2-1 in the ULDC		
Site coverage	80%		
Minimum Lot Dimensions			
Frontage	Single-family attached	Multi-family dwellings	Minimum frontage shall also determine the minimum lot width.
	25 ft.	50 ft.	
Building Form and Location			
Maximum building height	35 ft.		
Minimum building setbacks	20 ft.		
Maximum front building setback	25 ft.		
Minimum Side Setback			



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Interior side setback	7.5 ft.	Single-family attached dwellings
Street-side setback (ft.)	Same as front	
Minimum rear setback	10 ft.	

( Ord. No. 14,029 , § 1, 3-14-19; Ord. No. 14,380 , §§ 1, 2, 5-14-20)

### ***DIVISION 3. LAND USE TABLES AND CONDITIONS***

#### **Sec. 2.085. Drilling overlay district.**

- (a) *Purpose.* The drilling overlay district (DOD) is designed to provide for the immediate development of land as an integral unit for drilling, oil or gas operations within the Goose Creek Oil Field. It is the intent in such a district to ensure protection of adjacent properties and uses, while allowing multiple drilling sites and private saltwater injection disposal wells with defined standards and conditions. The DOD is intended for property where exploration and production of mineral resources is scheduled to begin within a two-year period from the date of approval; it is not intended to, and shall not be approved where evidence is not sufficient to establish the immediacy of development, or where it appears intended to limit any development of the surface area that might otherwise occur.
- (b) *Applicability.* The DOD may be overlaid on the property within the Goose Creek Oil Field with the following exceptions:
  - (1) Property zoned SFE, SF1, SF2, UN, MF1, MF2, MF3, or OR;
  - (2) Property on which a residence, place of public assembly, hospital building, school, park, or a public or private water well, unless a private water well is associated with drilling, oil or gas operations; and
  - (3) Property on which structures exist that are used for human occupancy other than those associated with drilling, oil or gas operations.
- (c) *Application.* Application for a DOD shall be made consistent with this ULDC and submitted to the director. Application forms shall be supplied by the director and shall include or be accompanied, at a minimum, by the following at the time of submission to the director:
  - (1) The names, titles, contact information (telephone and email), and addresses of the applicant;
  - (2) The names and addresses of all owners of land in the proposed drilling overlay district according to the records of the county appraisal district;
  - (3) A site plan showing the boundaries of the proposed DOD with dimensions from appropriate streets and/or landmarks. If the property has been platted, the description shall also reference the subdivision, block and lot numbers. The site plan must show, to the extent practicable, compliance with the standards specified in subsection (e) of this section; and
  - (4) The approximate location of all existing and known proposed sites for well bores, test wells, active drilling operations, and private saltwater injection disposal wells.
- (d) *Base district.* The base zoning district shall be as adopted on the city's official zoning map. The regulations in the base zoning district shall control in the absence of drilling, oil or gas operations.
- (e) *Standards.*
  - (1) *Commercial saltwater injection disposal wells.* Commercial saltwater injection disposal wells are prohibited.

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- (2) *Setbacks.* Except as otherwise approved by the city council in the creation of the DOD, the following setback lines, wherein no activities, structures or appurtenances in a DOD are within:

- a. Fifty feet from the DOD boundary; and
- b. Two hundred feet setback from the shorelines of Goose Creek, Tabbs Bay, and Cedar Bayou, as measured by the mean high water level for the affected water body pursuant to chapter 34.

No DOD boundary setbacks shall be required between DOD boundaries at points of adjacency.

- (3) *Screening.* Screening for the 50 feet closest to any public roadway, public park, public or private recreational space, or DOD boundary of setbacks established in subsection (e)(2) of this section shall be required. No screening requirements shall be required between adjacent DOD boundaries.

- (4) *Rail service.* No use utilizing rail service shall be permitted within the DOD.

- (5) *Operation hours.* Site development and construction activities associated with drilling, oil or gas operations shall be conducted only between 7:00 a.m. and 7:00 p.m. Monday through Friday and between 9:00 a.m. and 5:00 p.m. on Saturday and Sunday, and will be considered "construction activity" for purposes of compliance with chapter 34, article VII of the Code. Notwithstanding the time limitations herein and in chapter 34, article VII of the Code, drilling will be allowed to run the appropriate equipment 24 hours a day, seven days a week, during the initial drilling and reworking of the well. Truck traffic associated with drilling and/or production, well servicing, site preparation, delivery or removal of equipment and materials, and all related work conducted on the drilling site shall be limited to the same work hour restrictions identified above except in cases of fires, blowouts, explosions, and any other emergencies.

- (f) *Planning and zoning commission recommendation.*

- (1) The planning and zoning commission shall review and make recommendations regarding the DOD to the city council based upon the following criteria:

- a. All of the required information has been submitted by the applicant and the standards required in subsections (b) and (e) of this subsection have been satisfied;
- b. The use will not be injurious to the use and enjoyment of adjacent property or property immediately across the street, and will not adversely affect a bald eagle or a threatened or endangered species pursuant to the Federal Endangered Species Act;
- c. The use will not impede the normal and orderly development and improvement of surrounding property;
- d. Adequate utilities, access roads, drainage and other necessary supporting facilities have been or will be provided as determined by city standards;
- e. Adequate nuisance prevention measures have been or will be taken;
- f. Sufficient landscaping, screening, setbacks and other land use measures to ensure harmony and compatibility with adjacent property; and
- g. The use is in accordance with the comprehensive plan, other adopted city plans, and is substantially consistent with the purposes and intent of the city's codes; and

- (2) Additional criteria for drilling overlay district. The planning and zoning commission may recommend and the city council may adopt additional or revise listed criteria or conditions for any request for a drilling overlay district that are needed to protect the public health, safety and welfare.

*Approval of district.* The city council may, after receiving a recommendation from the planning and zoning commission, approve, approve with conditions or deny the creation of a DOD based upon the criteria

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specified in subsection (f) of this section and standards specified in subsections (b) and (e) of this section. The approved DOD shall be indicated on the official zoning map of the city.

- (g) *Expiration of overlay.* A DOD is a zoning change and will not expire, provided the area is in active use and permits have been issued by the city. If there is no progress on drilling, oil or gas operations, exploration and production of mineral resources, a DOD shall be valid for two years from the date of its approval. The council may, prior to expiration of this approval, for good cause shown, extend for up to 12 months the time for which the DOD is valid. Once expired, the zoning designation reverts to the underlying zoning district, and all future phases for the area included in the DOD are also expired.
- (h) *Requirement to notify of changed information/enforcement action.* An applicant or permittee has a continuing obligation to update the director of any additional information related to the permitted drilling, oil or gas operations. This includes any changes to any of the items included in the original application and outlined in subsection 2.085(c). The applicant or permittee shall promptly notify the director of any changed information or complaints or enforcement action by any governmental entity and the outcome of such investigations. Information regarding complaints or enforcement actions by another governmental entity shall be provided to the director within ten days of receipt by the permittee or applicant.

(Ord. No. 12,473, § 14, 2-13-14)

## **Sec. 2.087 Overlay district.**

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

- c. Identification of site planning features designed to ensure compatibility between on-site residential and nonresidential uses, and with the surrounding neighborhood and land uses;
  - d. A statement of how the proposed development is consistent with the city's comprehensive plan; and
  - e. Information relating to the transition between and buffering of different uses.
- (d) *Process.* The review and consideration of an overlay district shall be processed in accordance with section 1.26 of this ULDC referencing the rezoning criteria only.
- ( Ord. No. 13,947 , § 2, 11-19-18)

## Sec. 2.09 Land use tables.

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

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

USES	MU	NSC	ACE	GC	LC	LI	HI	COND REF
Agriculture	PC	PC		PC		PC	PC	A4
Animals	PC			PC		PC		A5, A25
Auto body shop	P			PC		P		A1
Vehicle repair, commercial						PC	PC	A1
Vehicle repair, non-commercial	PC			PC		P		A2
Boat and RV storage						P		
Building, heating, plumbing, general, service or electrical contractors with outdoor storage	PC			PC		P		A3, A42
Community services	P	P	P	P		P		
Container						PC	PC	A7, A42
Day care	P	P		P	P	PC	PC	A8
Drilling, oil or gas operations							PC	A23, A29, A29.5, A34
Dwelling unit	PC		PC	PC	PC			A44
Entertainment facilities, including bars and lounges	PC		PC	PC	PC			A45
Equipment sales and rental facilities	PC			PC		P	P	A53
Excavation						PC	PC	A23

Extended stay motel	PC			PC				A13
Food service establishment	P	PC	PC	P	P	P		A9-10, A11, A12
Funeral home	PC			PC				A33
Gravel pit							PC	A23
Grocery stores	P	PC	PC	P	P			A19
Group housing, Boardinghouse, Dormitory, Halfway house, Orphanage, Group home for substitute care	PC			PC				A20-22
Homeless shelter	PC			PC				A21-22
Hotel	PC		PC	PC	PC			A13
Junk and salvage yard						PC	PC	A23
Live outdoor exhibitions	PC			PC	PC			A26
Manufacturing (custom)	PC	PC	PC	PC	PC			A49
Manufacturing (heavy)							P	
Manufacturing (light)	PC			PC		PC	P	A48, A48.5
Medical facilities								
Hospitals	P			P		P		
Clinics	P	P		P	P	P	P	
Medical waste storage and disposal center						PC	PC	A23
Nursing homes and assisted living facilities	PC	PC		PC	PC			A20, A22, A58
Office	P	PC	PC	P	P	P	PC	A27, A28
Oil or gas wells							PC	A23, A29, A29.5
Outdoor sales and display	PC	PC	PC	PC	PC	P	P	A50
Outdoor storage						P	P	
Packaging						PC	PC	A23
Parking, commercial	P			P	P			
Personal service	P	P	P	P	P	P		
Pet stores	PC	PC	PC	PC				A32
Places of assembly	PC	PC	PC	PC	PC			A30, A30A
Recreational vehicle park	PC			PC		PC		A31
Repair business	PC	PC	PC	PC		P		A55
Resource extraction							PC	A23, A34
Retail								
General	P	PC	P	P	P	P		A18
Big box	PC			PC	PC			A17
Sandblasting						PC	PC	A23

Self storage	PC			PC		P		A59
Slaughterhouse							PC	A23, A35
Supply houses	PC			PC		PC	P	A54, A54.5
Telecommunication facilities	PC			PC		PC	PC	A37
Towing yard						P		A42
Travel center				PC		P	P	A60
Truck stop				PC		P	P	A46
Truck terminal						P	P	
Vehicle and boat sales, rental or leasing facility	PC			PC		P		A52
Vehicle fueling station	P	P		P	P	P		A16
Vehicle fueling station minimart	P	PC		P	P	P		A14, A15, A16
Vehicle storage	PC					P		A36, A38, A42
Warehouse and freight movement	PC			PC		P	P	A40
Waste related services								
Landfills							P	
Recycling centers						PC	P	A41
Wholesale trade	PC			PC		P		A40

Accessory uses are uses incidental and subordinate to the principal use, located on the same lot as the principal use and in the same zoning district as the principal use.

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

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

**Table 2-4. Residential uses.**

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

Accessory uses are uses incidental and subordinate to the principal use, located on the same lot as the principal use and in the same zoning district as the principal use.

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

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



Non-commercial solar energy facilities	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	B2, B15
On-site management office for multifamily or single-family attached dwellings			PC	PC	PC	PC	PC		PC		B7
On-site storage of a personal pleasure boat or recreational vehicle	PC	PC	PC				PC	PC	PC	PC	B2, B22
Pool, pool house, hot tub and their equipment	P	P	P	P	P	P	P	P	P	PC	B2
Private open space	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	B2, B13
Private recreation space	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	B2, B13
Stables	PC									PC	B2, B16, B23
Storage building	P	P	P							PC	B2
Studio	PC	PC	PC							PC	B2, B10
Sports court	P	P	P	P	P	P	P	P	P	PC	B2

(Ord. No. 11,866, § 2(Exh. A), 2-23-12; Ord. No. 12,207, §§ 8—11, 3-14-13; Ord. No. 12,473, § 15, 2-13-14; Ord. No. 12,593, § 5, 8-14-14; Ord. No. 12,902, §§ 1—3, 7-23-15; Ord. No. 12,903, §§ 1, 2, 7-23-15; Ord. No. 13,062, §§ 3, 4, 12-10-15; Ord. No. 13,190, § 1, 5-12-16; Ord. No. 13,191, §§ 11, 12, 5-12-16; Ord. No. 13,210, §§ 1—3, 6-9-16; Ord. No. 13,522, § 5, 7-27-17; Ord. No. 13,523, § 3, 7-27-17; Ord. No. 13,762, § 1, 5-10-18; Ord. No. 13,763, §§ 3, 4, 5-10-18; Ord. No. 14,381, § 1, 5-14-20; Ord. No. 14,406, §§ 1, 2, 6-11-20)

## Sec. 2.095 Certain typical accessory uses.

- (a) *Special use permit required.* Any use typically classified as a residential accessory use and listed in Table 2-5 for which no principal use exists is prohibited unless the property is in SFE or SFI zoning district and a special use permit has been issued prior to any work commencing on site in accordance with the provisions of this section.
- (b) *Process for special use permit.*
  - (1) *Application.* All applications for a special use permit under this section shall be filed with the director of planning and development services. The application shall be accompanied by the non-refundable application fee specified in section 1.15 and a site plan. The site plan along with the application will become a part of the special use permit, if approved. The accompanying site plan shall provide the following information:
    - a. Data describing all activities involved with the proposed use;
    - b. Boundaries of the area covered by the site plan;

- c. The location of each proposed building and structure in the area covered by the site plan and the number of stories, height, roofline, and gross floor area of any such building or structure;
  - d. The location of existing drainageways, proposed drainageways, and significant natural features;
  - e. The location of all floodplain and floodways existing on the subject property and a description of mitigation measures to be implemented with the proposed use;
  - f. Proposed landscaping and screening buffers;
  - g. The location and dimensions of all curb cuts, public and private streets, on-site and off-site parking areas, pedestrian walks, lighting facilities, and outside trash storage facilities;
  - h. The location, height and type of each wall, fence, and all other types of screening; and
  - i. Any other information reasonably required by the director of planning and development services.
- (2) *Consideration of completed application.* After the submission of a completed application, the director of planning and development services shall follow the procedure for consideration of the special use permit by the commission and the city council as that set forth in section 1.26.
- (3) *Solicitation of opinions of surrounding neighborhood.* Notice of the public hearing concerning the special use permit application given pursuant to subsection 1.21(b) shall include a form provided by the director on which property owners may indicate their support or objection to the application by return mail. The director shall tally the results of the input received by the city prior to any public hearing and include such results in the staff report to the commission and the city council. Input received after such time will not be included in the tally.
- (c) *Approved special use permit.* If a special use permit is issued pursuant to this section, the time limit, revocation and any amendments to the approved permit shall comply with section 1.26.
- ((Ord. No. 11,866, § 2(Exh. A), 2-23-12; Ord. No. 13,191 , § 13, 5-12-16)

## Sec. 2.10 Land use conditions.

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

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

				behind opaque screening and in accordance with chapter 112 of the Code of Ordinances.
3	Building, heating, plumbing, general, service or electrical contractors with outdoor storage	GC, MU	(a)	Outdoor storage shall be separated from all adjacent uses and public rights-of-way by opaque screening.
			(b)	Loading docks or bay doors shall not face an arterial or collector street.
4	Agriculture	All, where permitted	Agricultural uses involving animal, livestock, exotic, or similar animal uses are regulated pursuant to chapter 14 and/or chapter 42, article V of the Code of Ordinances.	
5	Animals	All, where permitted	Animals are regulated pursuant to chapter 14 and/or chapter 42, article V of the Code of Ordinances.	
6	Containers	GC, MU	(a)	Containers may not be stacked on one another.
			(b)	Berms, hills, slabs in excess of one foot above natural grade or other raised features may not be created upon which to place containers.
			(c)	There is no limit to the number of containers on a property.
			(d)	Containers shall be screened from all adjacent properties by opaque screening.
7	Containers	LI, HI	(a)	Container(s) in LI may be stored or stacked up to 30 feet in height with no limit in the number of containers on a property.
			(b)	Container(s) in HI may be stacked up to 50 feet in height with no limit in the number of containers on a property.
			(c)	Containers shall be screened from all adjacent properties by opaque screening.
8	Day cares	LI, HI	Day cares must be totally within an enclosed building, in an office or other non-production building and open only to employees of the industrial facility for which the day care is operated.	
9	Food service establishments	NSC	(a)	Food service establishments shall not exceed 5,000 square feet in building size.
			(b)	Food service establishments shall be located on a collector street or higher classification as shown on the most current major thoroughfare plan map.
10	Food service establishments	All, where permitted except ACE	Food service establishments shall be separated by opaque screening from single-family or two-family dwellings.	
11	Food service establishments	All, where permitted	Mobile food establishments are subject to the restrictions under chapter 42 of the Code of Ordinances.	

12	Food service establishments	ACE	Drive-through restaurants within ACE district requires the issuance of a special use permit in accordance with section 1.26 of this ULDC.	
13	Hotel	GC, ACE, MU, LC	Hotels shall be located on property that is at least one acre in size.	
		GC, ACE, MU, LC	Interior access	A hotel shall (i) only permit controlled access to rooms via a lobby and interior hallways; and (ii) include place(s) of assembly, including but not limited, to, spa room, fitness room, game room and/or cocktail lounge with a combined minimum of 2,000 square feet.
14	Vehicle fueling station minimart	All, where permitted	(a)	Vehicle fueling station minimart shall not exceed 8,000 square feet in building size.
			(b)	Gas station minimart is allowed only if located on a freeway, an arterial street or on a collector street at its intersection with an arterial street.
			(c)	Vehicle fueling station minimart must provide opaque screening adjacent to any residential dwelling or property zoned for residential use.
15	Vehicle fueling station minimart	NSC	(a)	Vehicle fueling station minimart shall not exceed 5,000 square feet in building size.
			(b)	Vehicle fueling station minimart shall not have a drive through for food service in NSC.
			(c)	Vehicle fueling station minimart is allowed only if located on (i) an arterial street, (ii) a collector street, or (iii) a local street intersecting a street of higher classification.
16	Vehicle fueling station	All, where permitted	Vehicle fueling stations must provide opaque screening adjacent to any residential dwelling or property zoned for residential use.	
17	Big box retail	All, where permitted	(a)	Building and appurtenances shall be located at least 20 feet from a residential property line.
			(b)	Loading docks shall not face residential uses.
18	General retail	NSC, ACE	General retail shall not exceed 10,000 square feet in building size.	
19	Grocery stores	ACE, NSC	(a)	Grocery stores shall not exceed 10,000 square feet in building size in NSC.
			(b)	Grocery stores shall not exceed 40,000 square feet in building size in ACE.
20	Group housing, nursing homes and assisted living facilities	All, where permitted	(a)	Group housing, nursing homes and assisted living facilities must be licensed by the state.
			(b)	Group housing, nursing homes and assisted living facilities shall not be located within a floodplain or floodway.

			(c)	Group housing, nursing homes and assisted living facilities shall annually prepare and implement an evacuation plan for all residents in accordance with chapter 22, article II, division 3 of the Code of Ordinances.
			(d)	Direct vehicle access to nursing home facilities in the UN district shall be provided from a collector or arterial street or major thoroughfare.
21	Group housing, boardinghouse, group home for substitute care, dormitory, halfway house, homeless shelter, orphanage, and personal care home	All, where permitted	(a)	These uses must secure a special use permit in accordance with section 1.26 of this ULDC.
			(b)	Group housing, boardinghouse, group home for substitute care, dormitory, halfway house, homeless shelter, orphanage, and personal care home shall annually prepare and implement an evacuation plan for all residents in accordance with chapter 22 of the Code of Ordinances.
			(c)	No application for a proposed group housing use that requires a special use permit may be granted if another group housing use that requires a special use permit exists within one-half mile of the proposed location.
			i.	Such measurements shall be measured from property line to property line.
			ii.	In making the determination that no group housing use requiring a special use permit exists within one-half mile, the director may consider information provided by the applicant, information contained in the records of the city, and information obtained by physical inspection of the premises.
22	Group housing, all	All, where permitted	(a)	The following minimum square footage per bedroom shall be provided by the home:
			i.	To house one handicapped person per bedroom, the dwelling unit must provide 100 square feet of space per bedroom utilized for this purpose; or
			ii.	To house two handicapped persons per bedroom, the dwelling unit must provide 120 square feet of space per bedroom utilized for this purpose.
			(b)	Separate bedroom facilities from all residents shall be provided for the care provider or providers that live in the facility part-time or full-time with the residents.

			(c)	Nothing in this condition shall be construed to restrict the location or operational abilities of facilities engaging in the sale of alcohol for on or off-premises consumption based on the location of group housing facilities.
			(d)	All facilities shall meet and maintain compliance with the Code of Ordinances and requirements of this ULDC and all applicable health and safety codes and regulations in effect.
23	Industrial uses	All, where permitted	These industrial uses require the issuance of a special use permit in accordance with section 1.26 or 1.26.5 of this ULDC, or a drilling overlay district in accordance with 2.085 of this ULDC.	
25	Kennels	GC, MU, LI	(a)	Kennels are not allowed within 100 feet of any residential use.
			(b)	Kennels are not allowed within 300 feet of a church, school, hospital, or place of assembly.
			(c)	Kennels are not allowed within 300 feet from where food is sold or consumed.
			(d)	Kennels shall not house exotic animals.
26	Live outdoor exhibitions	All, where permitted	Live outdoor exhibitions shall conform to all licensing, inspection and performance standards in chapter 42 of the Code of Ordinances.	
27	Office	HI	Office use may only be ancillary to an allowed primary use.	
28	Office	NSC, ACE	Office shall not exceed 10,000 square feet in building size in NSC. Office shall not exceed 4,000 square feet in building size in ACE.	
29	Drilling, oil or gas operations	HI	(a)	A special use permit is required in accordance with section 1.26.5 of this ULDC.
			(b)	All drilling, oil or gas operations shall be separated from all adjacent uses by opaque screening.
			(c)	Private saltwater disposal injection wells are permitted where approved in accordance with section 1.26.5 of this ULDC.
			(d)	Commercial saltwater injection disposal wells are not permitted.
29.5	Drilling, oil or gas operations	DOD	(a)	A drilling overlay district is required in accordance with 2.085 of this ULDC.
			(b)	Private saltwater disposal injection wells are permitted.
			(c)	Commercial saltwater injection disposal wells are not permitted.

30	Places of assembly	All, where permitted	(a)	Direct vehicle access shall be provided from a collector or higher classification street.
			(b)	Outdoor uses associated with places of assembly shall be setback at least 300 feet from any residential property line. If a place of assembly has an outdoor use, there shall be opaque screening along the common property line with any adjacent residential uses.
30A	Places of assembly	ACE	(a)	Places of assembly cannot be located therein if its presence precludes the sale of alcoholic beverages for on-premises consumption elsewhere in the ACE district.
			(b)	Direct vehicle access shall be provided from a collector or arterial street unless the point of access to the off-street parking area serving the use is located within 1,500 feet of a collector or arterial street, as measured along the centerline of the place of assembly.
31	Recreational vehicle park	All, where permitted	(a)	Recreational vehicle parks shall be separated from all adjacent uses by opaque screening.
			(b)	Property not subject to a valid recreational vehicle park operating license pursuant to chapter 58 on April 13, 2013, must have an approved special use permit prior to receiving a building permit.
			(c)	Property not subject to a valid recreational vehicle park operating license pursuant to chapter 58 on April 13, 2013, must be a minimum of five acres in size.
32	Pet stores	All, where permitted	A dog run may be placed on site at a pet store, where it is not adjacent to any dwelling unit and it may not be used for overnight sleeping of animals.	
33	Funeral home	All, where permitted	A funeral home with a crematorium requires the issuance of a special use permit in accordance with this ULDC.	
34	Resource extraction	All, where permitted	(a)	Resource extraction shall be separated from all adjacent uses by opaque screening.
			(b)	Trucks must use designated truck routes.
			(c)	Resource extraction requires the issuance of a special use permit in accordance with section 1.26.5 of this ULDC, or a drilling overlay district in accordance with 2.085 of this ULDC.
35	Slaughterhouse	HI	A slaughterhouse shall be at least 1,000 feet from any residential property line.	
36	Vehicle storage	GC, MU	(a)	Vehicle storage is subject to the outdoor storage conditions of this ordinance and must be kept

				behind opaque screening and in accordance with chapter 112 of the Code of Ordinances.
			(b)	Vehicles that contain hazardous materials pursuant to the standards of the state department of transportation, the state commission on environmental quality, or any other regulatory agency of the state or federal government are not allowed to be in such vehicle storage.
37	Telecommunication facilities	All, where permitted	Except as otherwise provided in the Code of Ordinances, telecommunication towers in excess of 50 feet in height and monopole towers in excess of 85 feet in height are permitted in all non-residential zoning districts with a special use permit in accordance with section 1.26 of this ULDC.	
40	Warehouse and freight movement, Wholesale Trade	MU, GC	(a)	Warehouse and freight movement excludes shipment or storage of hazardous cargo and/or materials.
			(b)	Warehouse shall have a maximum building height of 40 feet.
			(c)	Outdoor storage shall be separated by opaque screening from all adjacent uses and all public rights-of-way.
			(d)	Loading docks or bay doors shall not face arterial or collector street.
			(e)	If warehouse exceeds 10,000 square feet, must adhere to LI vegetative buffer described in Sec. 18-1206.5 of the Code of Ordinances.
			(f)	No rail, boat, or air transport of cargo may be used for freight movement on site.
			(g)	The primary activity must be done within the enclosed warehouse structure.
			(h)	Warehouse must be located on an arterial street.
			(i)	Minimum lot size must be at least one acre.
			(j)	The minimum building setback shall be a 100 feet. Within this setback, a 50-foot open space and a 50-foot vegetative buffer shall be provided.
			(k)	Existing uses may expand no more than 50% of the total square footage of all buildings lawfully existing on December 20, 2015, and be exempt from all use conditions, property development and compatibility standards except for the following:
			»	Meet LI setbacks along with all other standards for GC in Table 3-1; and
			»	Provide a minimum of six feet of opaque screening from all adjacent uses.



41	Recycling centers	LI	(a)	Recycling centers are only allowed if the center is an indoor facility.	
			(b)	Outdoor storage is allowed only if the items being stored are completely enclosed in containers in conformance with this ULDC.	
42	Outdoor storage, container, Boat and RV storage, Building, heating, plumbing, general, service or electrical contractors with outdoor storage	All, where permitted	»	All outdoor storage shall only occur within the side <u>and/or</u> rear yard(s) of the property. Where double frontage occurs, outdoor storage shall not be permitted beyond the plane of the side building facade that is adjacent to the side street.	
			»	All outdoor storage shall be separated by a vegetative or transition buffer, as described in section <u>3.14(i)</u> of the Code of Ordinances, from all adjacent uses and all public streets.	
43	Medical equipment storage and research facilities	MU, GC, LI	(a)	Medical equipment must be totally enclosed within a building.	
			(b)	No outdoor storage of medical equipment.	
			(c)	Storage does not include incineration or other forms of destruction but only storage.	
			(d)	Medical research facilities shall be located only on the same lot with a hospital or on the same campus as a hospital and shown on a detailed plan meeting the requirements of subsection 2.08(d), which must be approved and administered in accordance with section 2.08.	
44	Dwelling Unit	MU, ACE, LC, GC, LI, HI	(a)	New dwelling units are allowed in MU where the residential lot provides an open space setback of 20 feet from any adjacent, existing non-residential use.	
			(b)New residential subdivisions proposed in MU shall only be approved where the subdivision is rezoned to an appropriate residential zoning		
			(c)	Dwelling units are allowed in ACE following the standards set forth in this ULDC.	
			(d)	Live-work uses may be located in an ACE district	
			i.	Behind a business on its first floor as long as:	
				•	The exterior wall of the residential area is not along Texas Avenue;
				•	The exterior wall of the commercial use and the primary entrance to the commercial use is along Texas Avenue; and
				•	The commercial use occupies at least 25% of the area of the first floor; and
			ii.	Above the first floor where the residential unit has frontage on Texas Avenue.	

			(e)	When a mixed-use building fronts on Texas Avenue in the ACE district, a residential use is allowed only
			i.	If:
				<ul style="list-style-type: none"> <li>No residential dwelling unit on the first floor has a door opening onto the primary street;</li> </ul>
				<ul style="list-style-type: none"> <li>Less than 50% of the mixed-use building's frontage on the first floor along a primary street is used for residential dwelling unit(s); and</li> </ul>
				<ul style="list-style-type: none"> <li>The mixed-use building is not new construction; or</li> </ul>
			ii.	If the residential unit is above the ground floor.
			(f)	Dwelling units are allowed in LC in cases in which they are allowed in an approved planned unit development.
			(g)	A dwelling unit is allowed in GC, LI, and HI as an accessory use for on-site security and management purposes.
			(h)	A dwelling unit is allowed in MU as an accessory use for on-site security and management purposes when used as a commercial use.
			(i)	Except as provided in condition A44(g), new dwelling units cannot be constructed after April 13, 2013, in GC.
45	Entertainment facilities, including bars and lounges	All, where permitted	Entertainment facilities, including bars and lounges, are subject to the restrictions under chapter 6 of the Code of Ordinances.	
46	Truck Stop	GC	Only allowed on a lot that has frontage on either Interstate 10 or Thompson Road and is completely located within a 2,000-foot radius measured from the centerline intersection of Interstate 10 and Thompson Road.	
48	Manufacturing (light)	All, where permitted	(a)	All manufacturing activities must be contained entirely within a building.
			(b)	Manufacturing of hazardous cargo and/or materials is prohibited.
48.5	Manufacturing (light)	MU, GC	(a)	Minimum lot size must be at least one acre.
			(b)	The minimum building setback shall be 100 feet. Within this setback, a 50-foot open space and a 50-foot vegetative buffer shall be provided.
			(c)	Existing uses may expand no more than 50% of the total square footage of all buildings lawfully existing on December 20, 2015, and be exempt from all use conditions, property development and compatibility standards except for the following:

				»	Meet LI setbacks along with all other standards for GC in Table 3-1; and
				»	Provide a minimum of six feet of opaque screening from all adjacent uses.
49	Manufacturing (custom)	All, where permitted	(a)		All manufacturing (custom) activities are to be contained entirely within a building.
			(b)		Storage or manufacturing of hazardous cargo and/or materials is prohibited.
			(c)		All manufacturing (custom) activities shall be limited to 10,000 square feet of floor area or less.
50	Outside sales and display	All, except LI and HI			Outside sales and displays are limited in area to 500 square feet or 10% of the gross floor area of primary uses, whichever is greater, and shall be considered as retail sales floor area for purposes of calculating parking.
51	Storage building	All, except LI and HI	(a)		Storage buildings are limited in area to 500 square feet or 10% of the gross floor area of the primary use, whichever is greater, and shall be considered as retail sales floor area for purposes of calculating parking.
			(b)		Storage buildings must be placed behind the front building frontage of the structure housing the primary use.
52	Vehicle and boat sales, rental or leasing facility	All, where permitted	(a)		Repair work, if any, shall be done wholly inside of a building.
			(b)		Vehicles and boats sold, rented and leased may not have a gross vehicle weight greater than 13,000 pounds.
			(c)		Vehicle storage is subject to the outdoor storage conditions of this ordinance and must be kept behind opaque screening and in accordance with chapter 112 of the Code of Ordinances.
			(d)		Vehicles that contain hazardous materials pursuant to the standards of the state department of transportation, the state commission on environmental quality, or any other regulatory agency of the state or federal government are not allowed to be in such vehicle storage.
53	Equipment sales and rental facilities	MU, GC	(a)		All equipment shall be separated by opaque screening from all adjacent properties and all public rights-of-way, except one of each equipment type may be used for display purposes.
			(b)		The sale or rental of tools, tractors or equipment, which are over 13,000 lbs. GVWR and/or are greater in height than 10 feet in its storage configuration

				and/or are designed and used solely for industrial purposes is not permitted.
54	Supply houses	MU, GC	(a)	Outdoor storage shall be separated by opaque screening from all adjacent uses and all public rights-of-way.
			(b)	Storage or sale of hazardous cargo and/or materials is prohibited.
			(c)	Loading docks or bay doors shall not face arterial or collector rights-of-way.
			(d)	The minimum building setback shall be 100 feet. Within this setback, a 50-foot open space and a 50-foot vegetative buffer shall be provided.
			(e)	Minimum lot size must be at least one acre.
			(f)	Existing uses may expand no more than 50% of the total square footage of all buildings lawfully existing on December 20, 2015, and be exempt from all use conditions, property development and compatibility standards except for the following:
				» Meet LI setbacks along with all other standards for GC in Table 3-1; and
				» Provide a minimum of six feet of opaque screening from all adjacent uses.
54.5	Supply houses	LI	(a)	Outdoor storage shall be separated by opaque screening from all adjacent properties and all public rights-of-way.
			(b)	Storage or sale of hazardous cargo and/or materials is prohibited.
55	Repair Business	All, where permitted	(a)	Outdoor storage shall be separated by opaque screening from all adjacent uses and all public rights-of-way.
			(b)	Repair work shall be performed wholly inside of an enclosed structure.
56	Sandblasting	MU, GC, NSC, ACE, LC		Sandblasting must be conducted wholly within an enclosed structure.
57	Sandblasting	LI, HI		Sandblasting shall be permitted if (i) contained wholly inside of an enclosed structure or (ii) outside of an enclosed structure with an approved special use permit.
58	Nursing homes and assisted living facilities	NSC	(a)	Nursing homes and assisted living facilities shall provide a 20-foot vegetative buffer zone consisting of one tree and eight shrubs for every 30 linear feet of the shared property line between all residential zoning districts and uses. The plantings shall meet the specifications of section 18-1203 of the Code of Ordinances.

			(b)	Nursing homes and assisted living facilities shall be located on arterials or collectors.
59	Self-storage	MU, GC	(a)	No self-storage land use shall be located within one mile of another self-storage land use. The measurement of the distance between self-storage shall be in a direct line from property line to property line, without regard to roadways and intersections; and
				Self-storage buildings shall have a maximum height of 30 feet. Parapet walls used to screen mechanical equipment on the roof shall not be considered for the height measurement.
			(b) Bay access, interior	Self-storage bay(s)/unit(s) shall be accessed from the interior of a building; and
				Self-storage bay(s)/unit(s)/doors shall not be visible from the exterior of the building.
			(c) Bay access, exterior	Self-storage bay(s)/unit(s) with entrances accessible from the exterior of the building shall only be permitted along facades facing the interior of the property and facades not facing the public street.
				Self-storage bay(s)/unit(s) with entrances accessible from the exterior of the building shall install a transition buffer as described in section <del>18-12063.14(j)</del> 5 of the Code of
60	Travel center	GC	(a)	Only permitted on sites within a 1,500-foot radius of the center lines of the following intersections: Interstate Highway 10 (IH 10) and South Main Street (near Highlands); the Grand Parkway (SH 99) east of Tri City Beach Road; and the Grand Parkway (SH 99) west of State Highway Business 146 (SH 146 BS).
			(b)	Sites shall have no less than 100 feet of frontage and be no less than 5 acres in size.
			(c)	Commercial vehicle parking spaces shall be limited to 8spaces, with a maximum of 8 commercial diesel fueling positions.
			(d)	Fueling areas for domestic vehicles and fueling areas for commercial vehicles must be separated.
			(e)	Travel centers must provide opaque screening adjacent to any residential dwelling or property zoned for residential use.
			(f)	Travel centers shall be 8,000 square feet or more inbuilding size.
B. Residential Categories				

1	Accessory dwelling units	All, where permitted	(a)	Accessory dwelling units may be permitted as an accessory use to an otherwise allowed detached single-family dwelling in any zoning district that allows single-family dwellings.
			(b)	The unit shall include a full kitchen.
			(c)	Only one accessory dwelling per lot is allowed.
			(d)	The total living area of the accessory dwelling unit shall not exceed 600 square feet or 25 percent of the square footage of the living area of the private residential dwelling, whichever is greater.
			(e)	The principal residential and accessory dwelling unit together shall not exceed the maximum zoning district impervious cover.
			(f)	The accessory dwelling unit may be part of or attached to the principal structure, and /or may be a separate structure.
			(g)	All principal structure yard requirements shall be met by the principal structure and the accessory dwelling unit.
			(h)	The accessory dwelling unit shall not exceed the maximum zoning district height.
			(i)	Accessory dwelling units may not be used for commercial purposes.
			(j)	Accessory structures other than accessory dwelling units that exceed 25% of the gross floor area of the primary residence must abide by the design standards in article three of this ULDC.
			(k)	Accessory dwelling units must have similar architecture to the primary residence.
			(l)	Accessory dwelling units may be placed inside the primary residence or may be a freestanding structure.
			(m)	The primary and secondary dwelling units must be serviced by the same water/sewer meter.
			(n)	The accessory dwelling unit must have a separate address on file with the city and the authorities/organizations responsible for emergency response, mail delivery and electric service.
2	Residential accessory structures	All, where permitted	(a)	Residential accessory structures are allowed to remain in non-residential zoning districts as nonconforming uses only if the structure is an accessory to an existing, nonconforming primary residential use.

			(b)	New residential accessory structures allowed in SF2, except accessory dwelling units, are allowed if the structure is an accessory to an existing, nonconforming primary residential use. All residential accessory structures must meet the zoning district property development standards.
3	Agriculture	SFE, SF1, SF2, OR	(a)	Animals and agricultural uses involving animals are regulated pursuant to chapter 14 and/or chapter 42, article V of the Code of Ordinances.
			(b)	Any agents causing noxious odors shall not be located closer than 100 feet from any adjacent residential property line, public right-of-way, or public space.
5	Community building	All, where permitted	(a)	Free standing buildings must be of the same architectural style as the dwelling units they serve.
			(b)	Free standing buildings must be connected by walkways to pedestrian areas and parking lots.
			(c)	Parking must be provided in the amount of one space for every 50 residential dwelling units in the complex or one space for every 50 lots in the subdivision.
6	Community services	All, where permitted	(a)	Community services shall be separated from all adjacent residential dwellings by opaque screening.
			(b)	Minimum parking requirements are one per 200 square foot of usable area.
7	On-site association management offices and club houses for dwelling units	All, where permitted		Club houses and management facilities must be of similar architecture to the apartment complex or the neighborhood in which they are located.
8	Family home day care	All, where permitted	(a)	There is a maximum of six children, including children of the family providing day care.
			(b)	Only those family home day cares that are duly licensed by the state are allowed.
			(c)	Baytown fire department permitting and inspections are required.
			(d)	All requirements for a home occupation shall be followed.
			(e)	Annual renewal of family home day care permit required with an inspection in advance of renewal.
9	Group housing, group homes for the disabled and personal care homes	All, where permitted	(a)	No group housing residents may occupy a single-family residence, other than the property owner or family of the property owner until a group housing acknowledgment form has been duly filed with the director on a form prescribed by the director.

			(b)	The facility shall be responsible for providing food, shelter, personal guidance, general care and supervision to all of its residents.
			(c)	There shall be no signs or other exterior visible evidence of the group housing use and the exterior structure must retain its compatibility with the surrounding residential dwellings.
			(d)	There shall be no visible storage of equipment, materials or vehicles that have more than two axles.
			(e)	No equipment shall be used that creates undue noise, vibration, electrical interference, smoke or particulate matter emission, excessive power demands or odors.
			(f)	The facility shall comply with the operational performance standards of the Code of Ordinances.
			(g)	The residents of the home may not keep, either on the premises of the home or on a public right-of-way adjacent to the home, motor vehicles in numbers that exceed the numbers of bedrooms in the home.
			(h)	The city reserves the right to inspect the location at any time to ensure that the health, safety and general welfare of the residents is being provided for by the facility.
			(i)	Nothing in this section shall be construed as attempting to regulate or affect the right of handicapped individuals to purchase their own dwellings or to affect the right of individuals to care for handicapped family members.
10	Home occupation	All residential districts	(a)	A home occupation shall not exceed 25% of the heated/air conditioned space of the dwelling unit.
			(b)	The following home occupation standards are intended to permit residents to engage in home occupations within zoning districts that allow residential uses and that are compatible with residential land uses and to ensure that home occupations do not adversely affect the integrity of residential areas.
			(c)	These home occupation standards shall have no application in any non-residential zoning district.
			(d)	A home occupation shall be considered an accessory use, subject to the following standards:
			i.	A home occupation must be conducted within a dwelling which is the bona fide residence of the principal practitioner;



			ii.	There shall be no signs or other exterior visible evidence of a home occupation;
			iii.	There shall be no storage of equipment visible outside the dwelling, or materials or vehicles that have more than two axles;
			iv.	The home occupation shall be conducted entirely within the principal residential building; and
			v.	No equipment shall be used that creates noise, vibration, electrical interference, smoke or particulate matter emission, power demands or odors above the existing level.
			(e)	Home occupations shall comply with the operational performance standards of this ULDC.
			(f)	Home occupation applicants shall complete an annual registration form and pay the one-time and annual fees as defined in chapter 2 of the Code of Ordinances.
11	Multifamily dwellings	MF1, MF2, MF3	(a)	If a multifamily complex is constructed in phases, the planned amenities and community buildings must be constructed in an at least equal ratio along with the residential buildings. For example, a 200-unit apartment complex with two swimming pools and two laundry buildings that is constructed in two 100-unit phases must construct at least one swimming pool and one laundry building with the first phase.
			(b)	Developments in the MF1 may not use special flood hazard areas in density calculation, thus preventing the development from being overcrowded on usable land and thereby being incompatible with the medium density duplex and townhouse development standards.
			(c)	Gazebos, workshops, green houses and other similar accessory uses are allowed in common space but may not be constructed on leased space or designated for individual tenant use.
11A	Multifamily dwellings	ACE	(a)	Multifamily dwellings shall not exceed 30 units per acre.
			(b)	Multifamily dwelling units are not allowed on the ground floor of buildings along Texas Avenue unless the units are located on the second floor or higher.
12	Places of assembly	All, where permitted	(a)	Direct vehicle access shall be provided from an arterial street.

			(b)	Outdoor recreation, entertainment and performing arts uses associated with places of assembly that utilize outdoor lighting and speaker systems shall be setback at least 300 feet from any residential use and shall provide a 25-foot wide vegetative buffer against the property line containing the residential use.
13	Private open space	All residential districts	(a)	Private open space is not a public park and may not be used to increase the net density on the project.
			(b)	Private open space shall be a minimum of 100 square feet in size.
			(c)	Private open space must be accessible to pedestrian pathways, if available.
			(d)	Private open space must be deed restricted to private recreation prior to any building permits being issued for any dwelling unit.
14	Single-family dwelling attached	SF2, MF1, MF2	(a)	Each single-family attached dwelling unit shall be situated on a separate legally platted lot.
			(b)	Required parking areas and garages shall be located to the rear of the building.
			(c)	Parking shall be permitted in the required street side yard.
			(d)	A home owner's association shall be established and made responsible for the perpetual maintenance and repair of common areas.
			(e)	The maximum number of units per building is eight.
			(f)	The minimum number units per building is three.
			(g)	Each dwelling unit shall have a front and a back door on the ground floor that exits to the exterior.
			(h)	Each unit shall have 25% of the lot area in private open space on the lot with the unit.
			(i)	Shared open space: each townhouse development shall have common open space not on the lot with the unit, accessible to all residents and not used for parking, storage, lift stations and the like.
			(j)	Density in the MF2 district shall not exceed 21 units per acre.
15	Solar energy systems	All, where permitted	Solar energy systems are allowed, so long as they do not reflect light into the public right-of-way or adjacent properties.	
16	Stable	SFE, SF1, SF2, MF1	A stable may not be used for commercial purposes.	
17	Single-family detached	MF1 ACE	(a)	Density may not exceed ten units per acre.
			(b)	Limited to developments of at least ten units.

			(c)	No single-family dwelling unit shall front on Texas Avenue.
18	Two-family dwelling duplex	SF2 ACE	(a)	Minimum density allowed shall be six units per acre.
			(b)	No two-family dwelling unit shall front on Texas Avenue.
19	Two-family dwelling duplex	MF2		Density shall not exceed 17 units per acre.
20	Garage sales	All, where permitted		Subject to the restrictions of chapter 82 <u>Article</u> IV of the Code of Ordinances.
21	Single-family dwelling attached	ACE	(a)	Required parking areas and garages shall be located to the rear of the building.
			(b)	The maximum number of units per building is 15.
			(c)	The minimum number of units per building is three.
			(d)	Common open space is required for each townhouse development and such common open space shall not be on the lot with the unit, shall be accessible to all residents, shall be within the boundary of the townhome subdivision plat, and shall not be used for parking, storage, lift stations or other similar uses.
22	On site storage of a personal pleasure boat or recreational vehicle	All, where permitted		Personal pleasure boat or recreational vehicle must be outside of the rear and side setbacks for the specific zoning category and stored in accordance to chapter 94 which requires such to be on an impervious surface.
23	Onsite animals	All, where permitted		The minimum lot size for livestock, rabbits, fowl, bees or beehives is one acre.  Animals and agricultural uses involving animals are regulated pursuant to chapter 14 and/or chapter 42, article V of the Code of Ordinances.

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

### **ARTICLE III. DESIGN AND COMPATIBILITY STANDARDS**

#### **DIVISION 1. PROPERTY DEVELOPMENT STANDARDS**

**Table 3-1. Property development standards.**

Zoning Category	MU*	NSC	GC*	LC	ACE	LI*	HI*	OR*
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Subpart B - LAND DEVELOPMENT CODE  
APPENDIX A - UNIFIED LAND DEVELOPMENT CODE  
ARTICLE III. - DESIGN AND COMPATIBILITY STANDARDS  
DIVISION 1. PROPERTY DEVELOPMENT STANDARDS

Minimum lot size (square feet)	5,000	10,000	10,000	10,000	2,500	20,000	5 AC	5,000
Minimum front setback	15	15	25	25	0	35	50	25
Minimum rear setback	5	5	5	5	0	20	40	10
Minimum interior side setback	5	5	5	5	0	5	10	10
Minimum street side setback	10	15	25	25	0	25	50	25
Maximum height (in feet)	40	35	60	60	60	50	60/75	50
Percent maximum lot coverage	90	90	75	75	100	90	90	50
Minimum lot frontage required (linear feet)	50	60	60	50	25	60	60	25
<b>Zoning Category</b>	<b>SFE*</b>	<b>SF1*</b>	<b>SF2</b>	<b>MF1</b>	<b>MF2</b>	<b>MF3</b>	<b>UN</b>	
Minimum lot size (square feet)	43,560	See Tb. 2-1	See Tb. 2-1	See Tb. 2-1	See Tb. 2-1	1.25 AC		5,400
Minimum front setback	25	15	15	20	25	25		15
Minimum rear setback	10	10	10	10	10	10		10
Minimum interior side setback	15	5	5	7.5	15	15		5
Minimum street side setback	25	15	15	20	25	25		10
Maximum height (in feet)	50	35	35	35	50	60		40
Percent maximum lot coverage	50	60	60	50	70	80		70
Minimum lot frontage required (linear feet)	125	75	50	25	20	60		50
* Flag lots are permitted in this district that do not meet the minimum lot frontage required subject to the provisions of section 3.01, subsection (e).								

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

### Sec. 3.01 Lots.

- (a) *Previously platted lots.* No requirement of this section shall prevent the development of a legally platted lot approved by the planning and zoning commission prior to April 13, 2013, so long as the development meets all other applicable provisions of this ULDC.
- (b) *Area.* Each lot shall have a minimum area as set forth in table 3-1.
- (c) *Required frontage.*

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

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

### **Sec. 3.02 Setbacks.**

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

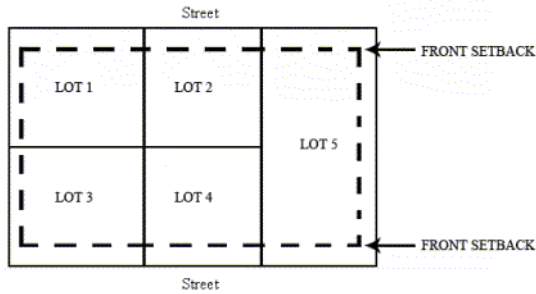
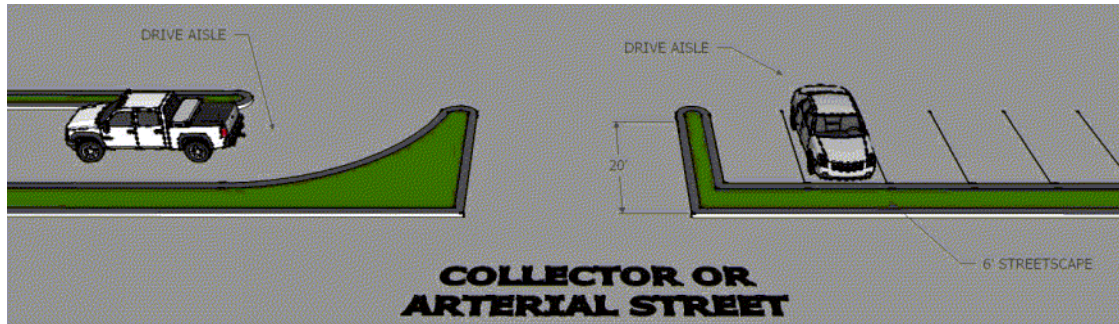


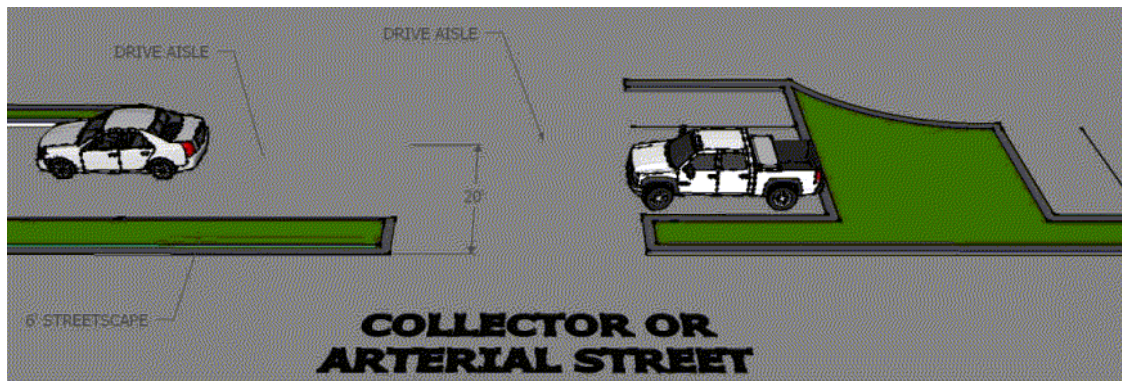
Figure 3-1. Double Frontage Lots

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

Figure 3-2. Parking Stalls and Drive Aisles



Examples of Allowable Configurations



Examples of Configurations that are Not Allowed

- (c) The following features may be located within required setbacks so long as they are in conformance with the visibility triangle standards in section 122-3 of the Code of Ordinances:

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- (1) Trees, shrubbery or other features of natural growth;
  - (2) Fences or walls may be placed in the front, side or rear yard setbacks provided that they do not violate sight triangles and provided that fences in the front yard setback are non-opaque;
  - (3) Off-street parking areas and sidewalks;
  - (4) Signs, if permitted by ~~chapter~~section 118 of the Code of Ordinances;
  - (5) Bay windows, architectural design embellishments and cantilevered floor areas of buildings that do not project more than two feet into the required setback;
  - (6) Eaves that do not project more than two feet into the required setback;
  - (7) Open outside stairways, entrance hoods, terraces, canopies, carports and balconies that do not project more than five feet into a required front or rear setback or more than two feet into a required side setback;
  - (8) Chimneys, flues and ventilating ducts that do not project more than two feet into a required setback and when placed so as not to obstruct light and ventilation;
  - (9) Open, unenclosed porches that do not project more than five feet into a required front or rear setback or more than two feet into a required side setback;
  - (10) Utility lines, wires and associated structures, such as power poles; and
  - (11) Mechanical equipment, such as air conditioning units, pool filtering and heating equipment, water softeners and similar equipment, if the equipment does not restrict pedestrian access through such setbacks and if it is totally screened from view from abutting property and rights-of-way by fences, walls or landscaping.

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

### **Sec. 3.03 Height.**

- (a) *Buildings.* Each zoning district shall have a maximum building height as specified in table 3-1.
  - (1) Building height shall be measured as the vertical distance between the average finished grade at the base of the building and the mean height of the roof. The mean height of the roof is determined by averaging the highest and lowest points of the roof.
  - (2) For fences or walls, height shall be measured on the side with the least vertical exposure above the finished grade to the top of the fence or wall.
  - (3) Buildings in the heavy industrial (HI) zoning district have a maximum height of 60 feet unless the entire building is equipped with a National Fire Protection Association ("NFPA") 13 fire sprinkler system, then the maximum height shall be 75 feet.
- (b) *Exemptions.* The following structures and features shall be exempt from the height requirements of this ULDC to the extent indicated:
  - (1) Chimneys;
  - (2) Cupolas, widow walks;
  - (3) Utility poles and support structures;
  - (4) Cooling towers and ventilators;
  - (5) Municipal or other state or county government utility infrastructure; and

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(6) Spires and church steeples.  
(Ord. No. 11,866, § 2(Exh. A), 2-23-12)

**Sec. 3.04 Lot coverage.**

Each lot or tract shall conform to the maximum lot coverage standard set forth in table 3-1.  
(Ord. No. 11,866, § 2(Exh. A), 2-23-12)

***DIVISION 2. OPERATIONAL PERFORMANCE STANDARDS***

**Sec. 3.05 Purpose.**

The operational performance standards of this division are intended to protect the health, safety and welfare of the citizens of the city by regulating potential nuisance features associated with certain land uses.  
(Ord. No. 11,866, § 2(Exh. A), 2-23-12)

**Sec. 3.06 Applicability.**

The operational performance standards of this division shall apply to all uses, buildings and structures within the city unless otherwise specifically indicated.  
(Ord. No. 11,866, § 2(Exh. A), 2-23-12)

**Sec. 3.07 Exemptions.**

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

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

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

**Sec. 3.08 Standards.**

Under this division, the following standards shall apply:

- (a) *Noise.* Sites shall be laid out and uses shall be operated to prevent noise from becoming a nuisance to adjacent single-family and duplex uses;
- (b) *Vibration.* All uses shall be operated so that ground vibration is not perceptible outside the lot lines of the site on which the use is located;
- (c) *Fire and explosive hazards.* Underground storage tanks for flammable liquids and gasses shall be located at least 50 feet from the lot line of lots that contain a single-family or duplex use; aboveground tanks shall be set back at least 100 feet from such lot lines, unless the board of adjustment determines, based on information provided by the applicant, that a 50-foot setback will ensure compliance with all



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applicable state standards. The storage tank setback requirements of this subsection shall not apply to tanks that are necessary to single-family or duplex units; and

- (d) *Light and glare.* The following operational performance standards shall apply:
- (1) All exterior lighting shall be hooded or otherwise shielded so that the light source is not directly visible from property that contains a single-family or duplex;
  - (2) All lighting shall be shielded so that substantially all emitted light falls within the property line of the property from which the light emanates;
  - (3) All exterior building floodlights shall be shielded so that all emitted light falls upon the property from which the light emanates;
  - (4) No illumination shall produce direct, incident or reflected light that interferes with the safe movement of motor vehicles on public streets. The types of lighting that shall be prohibited by this subsection shall include but not be limited to any light that may be confused with or construed as a traffic control device and any animated, flashing or changing intensity lights, except for temporary holiday displays; and
  - (5) Electromagnetic interference. No operations or activities shall be conducted that cause electrical disturbances to be transmitted across lot lines.
- (e) *Screening.* Non-residential and multifamily residential development, including off-street parking areas associated with such developments, shall be screened from view of adjacent single-family or duplex use and any property zoned SFE, SF1, SF2, or OR. Such visual screening shall be accomplished through the use of opaque fence meeting the requirements ~~of division 2 of article X of chapter 18~~ within this ULDC, pertaining to buffer fencing, along the lot line that is adjacent to the single-family or duplex use or property zoned SFE, SF1, SF2 or OR. Mechanical equipment, outdoor storage areas and refuse collection areas shall be completely shielded from view of adjacent single-family or duplex uses, scenic corridors or property zoned SFE, SF1, SF2 or OR by an opaque fence or wall made of material specified in division 2 of article XII of chapter 18 that is at least one foot taller than the site feature being screened from view, provided this shall not be interpreted as requiring screening, fences, or walls to be taller than ten feet. Fences, walls and buffers must comply with all other requirements of the ULDC.
- (f) *Drilling, oil or gas operations.* Subsection (e) of this section shall not apply to drilling, oil or gas operations. All drilling, oil or gas operations must be in compliance with the Code, including chapter 62 and this ULDC.

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

### **Sec. 3.09 Compliance.**

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

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

## ***DIVISION 3. NON-RESIDENTIAL ZONES***

### Sec. 3.10 Applicability.

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

(a) *Masonry.*

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

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

Zoning District	Building Square Footage	Arterial Streets, State Highway and Interstate Highway (Freeways) Standard			Collector and Local Street Standards		
		Front	Side	Rear	Front	Side	Rear
LC	-	80	50	0*	60	20	0*
GC	-	80	50	0*	60	20	0*
NSC	-	80	50	0*	60	40	0*
MU	No Masonry Standard						
LI	0—50K	75	50	0*	60	50	0*
	50K—100K	60	50	0*	60	50	0*
	100K and up	50	50	0*	50	50	0*
HI	No Masonry Standard						
<b>Note:</b> Rear facades facing a public street or parking lot shall be considered a side facade and use the side facade standard applicable to that zoning district and street classification.							

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

(1) *Articulation and relief.*

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

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- (2) *Style elements.* Style elements affect the building(s) entrance treatment and hierarchy, provide for architectural embellishment, or enhance the transition from public property to private property.
- a. Buildings facing any street or public right-of-way, except public alleys, shall be required to utilize two different style elements.
  - b. Acceptable style elements include, but are not limited to, recessed entries, stoops, storefront bay windows, public/private entrance differentiation, permanent decorative awnings, canopies, overhangs, porches, arcades, balconies, outdoor patios, public art displays, and plaza space.
- (c) *Site design.*
- (1) Sidewalks in conformance with chapters 18 and 122 of the Code of Ordinances shall be installed from property line to property line at the expense of the property owner in all adjacent rights-of-way prior to the issuance of a certificate of occupancy or completion for a new commercial building.
  - (2) A connection from the primary building entrance to the public sidewalk system shall be provided using an all-weather surface.
  - (3) Detention facilities shall be setback at least 30 feet from all public rights-of-way and shall be screened from view from public streets. Detention facilities may encroach into the required 30-foot setback if they are designed and maintained as a landscaped feature. Detention facilities must be separated from all adjacent uses by an opaque screen.
  - (4) Commercial waste enclosure(s). Commercial waste enclosures shall be incorporated into the overall design of the building and landscape so that visual impact of brush and commercial waste containers are fully contained and out of view from adjacent properties and public rights-of-way. Commercial waste enclosures shall be:
    - a. Located in the rear or side yard;
    - b. Subject to setback standards described in Table 3.1;
    - c. Placed a minimum distance of 20 feet from any public right-of-way, public sidewalk, or property line that abuts a residential zoning district or any residential use;
    - d. Constructed of any one or more of the following materials and include an opaque gate:
      - Redwood;
      - Rough cedar;
      - Pressure treated lumber;
      - Brick;
      - Concrete; and
      - Masonry materials as defined within article IV of the ULDC.Metal and plastic are prohibited materials for any visible exterior wall of the commercial waste enclosure, except for the required opaque gate; and
    - e. A minimum height of the greater of (i) six feet or (ii) one foot taller than the waste container; provided that the maximum height shall not exceed ten feet in height.
- (d) *Landscape.* The standards for landscaping are set forth ~~in chapter 18~~ in Sec. 3.10.5 Landscaping of this Division, e Code of Ordinances.

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### **Sec. 3.10.5 Landscaping requirements.**

#### **(1) General.**

- (a) *Title.* This article-section shall be known and may be referred to as the "Landscaping Ordinance of the City of Baytown" or simply as the "Landscaping Ordinance."
- (b) *Purpose.* This article-section is adopted for the purpose of promoting the public health, safety and general welfare of the citizens of the city and is intended to achieve one or more of the following:
  - (1) To create an aesthetically pleasing environment that improves the quality of life for citizens;
  - (2) To enhance property values and to protect public and private investment;
  - (3) To promote the beautification of the city;
  - (4) To provide adequate light and air space;
  - (5) To prevent overcrowding of land;
  - (6) To ensure that the local stock of trees and vegetation is replenished; and/or
  - (7) To stabilize the environment's ecological balance by contributing to the processes of air purification, oxygen regeneration, ground water recharge, stormwater runoff, and soil erosion retardation, while at the same time aiding in noise, glare and heat abatement.
- (c) *Applicability.* The provisions of this article-section shall apply to all nonresidential developments and multifamily complexes, as that term is defined in Article ~~IV~~ VI - Definitions, within the city, unless specifically provided otherwise in this article.
  - (1) The landscaping provisions contained in this article shall become applicable to each individual nonresidential lot at the time an application for a new commercial permit is made. When remodeling, redevelopment or reconstruction is proposed on nonresidential property that would result in an expansion of gross floor area, parking lot area, or vehicular surface area, the following provisions apply:
    - a. When remodeling, redevelopment or reconstruction is proposed on nonresidential property that would expand existing gross floor area of the lot's structure or structures by less than 50 percent, only the portion of the site where the expansion is located is subject to the provisions of this article-section.
    - b. When remodeling, redevelopment, reconstruction or expansion is proposed on nonresidential property that would expand existing gross floor area of the lot's structure or structures by 50 percent or more, the entire property must comply with the provisions of this article. The removal of any portion of an existing building is not required for compliance with this subsection (c)(1)b.
    - c. If within a three-year period the impervious surface area of a nonresidential development is increased by 25 percent or more or if within a three-year period 25 percent or more of the impervious surface area of a nonresidential development is reconstructed, the requirements of section 3.10.5(3) shall be applied only to the area where the expansion or reconstruction occurs.

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

- (2) All landscaping requirements under this article shall run with the land and shall apply against any owner or subsequent owner.
- (3) Each phase of a phased project shall comply with the requirements of this section. If the nonresidential development is to be construed in phases, phase lines shall be drawn 20 feet or more from developed site elements (parking, buildings, ponds, etc.). The portion of the land remaining for subsequent phases shall be no less than three-fourths of an acre.
- (4) This section shall have no application to nonresidential developments with parking lots of less than 5,000 square feet.
- (d) Inconsistent provisions and conflict with other regulations. In the event that any provision of this article is inconsistent or in conflict with any other provision of this article or any other ordinance or regulation of the city, the more stringent provision shall control, unless otherwise specifically stated.
- (e) Transitional provisions.
  - (1) Building permits. Except as specifically provided in this article, the provisions of this article shall not affect any valid building permit issued or any valid building permit application filed prior to August 2, 1998, provided that construction pursuant to such permit, is commenced within six months of the date of issuance of the permit and diligently pursued, as determined by the chief building official, to completion in accordance with the applicable regulations of the city.
  - (2) Subdivision plats. Except as specifically provided in this article, the provisions of this article shall not affect any preliminary plat or final plat approved pursuant to the regulations of Article IV - Subdivisions~~Chapter 126~~.

## **(2) Landscape plan.**

When a new commercial permit is required, the owner shall provide the director as part of his construction documents a landscape plan containing the following information:

- a) The location of existing boundary lines and dimensions of the tract and the square footage of the total off-street parking area;
- b) The location of existing and proposed utility easements on or adjacent to the lot and the location of overhead power lines and any underground utilities;
- c) A description of adjacent land uses, existing developments and roadways;
- d) The location, size and type of proposed landscaping in areas to be landscaped and the size of proposed landscaped area;
- e) The location, species and diameter of existing trees having a caliper of 1½ inches or larger. Landscape reserves with numerous trees may be outlined with a description of existing trees to be preserved; and
- f) All other information necessary for verifying that the minimum landscaping requirements have been satisfied pursuant to this article.

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

## **(3) Streetscape.**

- (a) In addition to the landscaping requirements of section ~~18-1205~~ 3.10.5, the owner of nonresidential property subject to this article shall be required to provide streetscape as described in this section and as depicted in Figure ~~18~~ 3-1 "Streetscape Layout." Nothing in this subsection shall be construed as to require streetscape on undeveloped land. Streetscapes shall be no less than six feet wide.
- (b) Streetscape shall be required along the entire length of the property which is adjacent to a street right-of-way, except that streetscape shall not be required across driveways.
- (c) Streetscape shall include an area beginning at the property line which is adjacent to a street right-of-way, extending into the private property to establish the required width as listed in this section.
- (d) The streetscape's trees, shrubs, ground cover, and other landscaping shall be placed and maintained so as not to cause a visual obstruction and so as not to violate section 122-3.
- (e) Streetscapes shall be adequately watered using one of the following methods:
- (1) Automatic irrigation system; or
  - (2) Manual watering, if all parts of the landscape improvements are within 100 feet of one or more hose bibs, and if a nonresidential streetscape improvement does not exceed 1,500 square feet.
- (f) Streetscape width shall be determined by the street classification as identified by the city's major thoroughfare plan and shall be as follows:

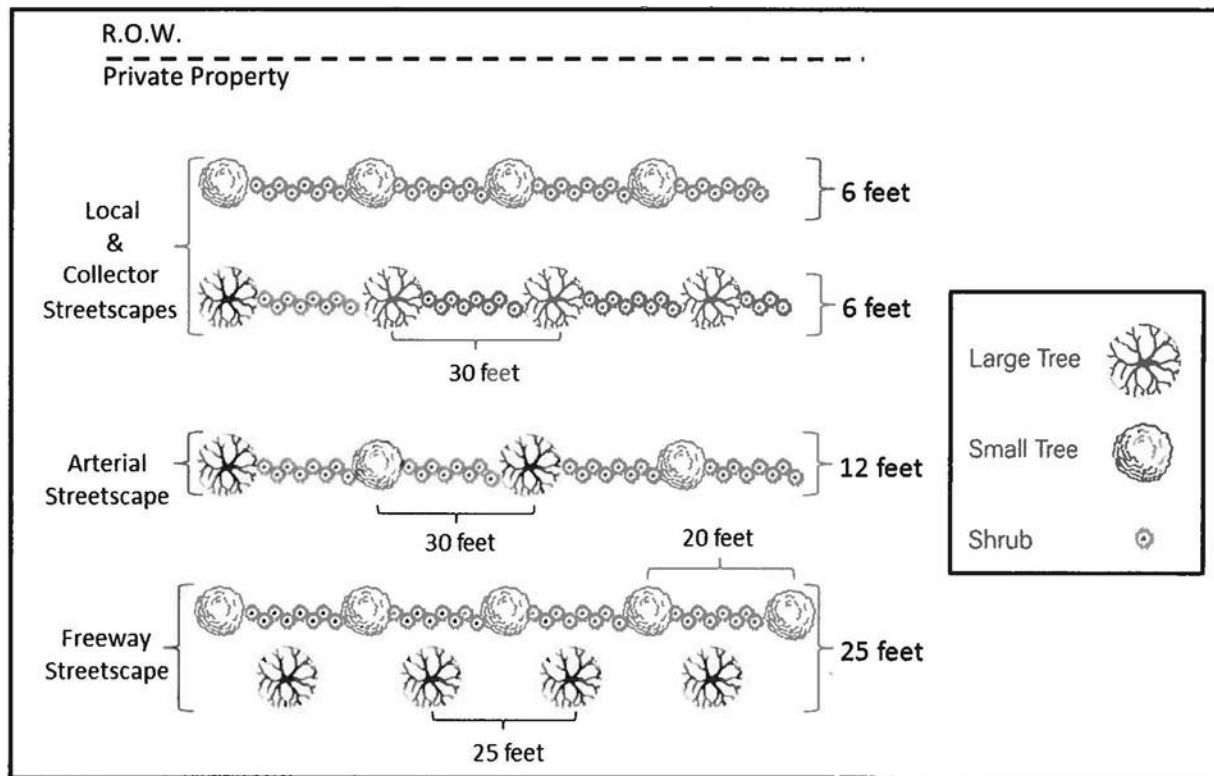
<u>Classification</u>	<u>Minimum Streetscape Width</u>	
<u>Local</u>	<u>6 feet</u>	
<u>Collector</u>	<u>6 feet</u>	
<u>Minor Arterial</u>	<u>Lot Size</u>	<u>Minimum Street Width</u>
	<u>1 acre or less</u>	<u>6 feet</u>
	<u>More than 1 acre</u>	<u>12 feet</u>

<u>Major Arterial</u>	<u>Lot Size</u>	<u>Minimum Street Width</u>
	<u>1 acre or less</u>	<u>6 feet</u>
	<u>More than 1 acre</u>	<u>12 feet</u>
<u>Freeway</u>	<u>25 feet</u>	

(g) Streetscape planting installation.

- (1) Within a streetscape, large trees can be substituted with small trees where overhead utility lines will conflict with the large tree at or before the tree grows to its mature height.
- (2) All trees and shrubs are to be planted in an organized fashion and in such a way as to facilitate the creation of a visual screen.
- (3) Local and/or collector. The streetscape along local and collectors street shall be planted with either large or small trees, planted 30 feet on center, with eight shrubs, not less than two feet in height, for every 30 feet.
- (4) Minor and major arterials. The streetscape along a major and/or minor arterial street shall be planted with either large or small trees, planted 30 feet on center, with eight shrubs not less than two feet in height for every 30 feet to form an intermittent hedge. No less than 50 percent of the tree plantings shall be large trees along minor and major arterials.
- (5) Freeway.
  - a. The streetscape along a freeway shall be planted as a staggered double row consisting of small evergreen trees on the front row, and large trees on the back row.
  - b. The front row of trees shall be planted 20 feet on center.
  - c. A minimum of 50% of the back row shall be planted with evergreen trees. This row shall consist of large trees planted 25 feet on center.
  - d. A minimum of 8 shrubs, not less than two feet in height, for every 20 feet forming an intermediate hedge, shall be planted in the front row.

Figure 3-1. Streetscape Layout



(6) Appropriate tree planting species. Appropriate shade tree species for streetscape and buffers include the following:

Tree Species	Local/ Collector Streetscape	Arterial Streetscape	Freeway Streetscape	Vegetative/ Transition Buffer
<u>Lacebark Elm ♦ (I)</u> ( <u>Ulmus parvifolia</u> )	X	X	X	
<u>Southern Magnolia ♦♦ (I)</u> ( <u>Magnolia grandiflora</u> )		X	X	X
<u>Live Oak ♦♦ (I)</u> ( <u>Quercus virginiana</u> )		X	X	X
<u>American Holly ♦♦ (I)</u> ( <u>Ilex opaca</u> )		X	X	X
<u>Montezuma Cypress ♦ (I)</u> ( <u>Taxodium mucronatum</u> )		X	X	X
<u>Eastern Redcedar ♦♦ (I)</u> ( <u>Juniperus virginiana</u> )		X	X	X



<u>Common Crapemyrtle ♦(s)</u> ( <u>Lagerstroemia indica</u> )	<u>X</u>	<u>X</u>		
<u>Waxmyrtle ♦♦(s)</u> ( <u>Myrica cerifera</u> )	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>
<u>Yaupon ♦♦(s)</u> ( <u>Ilex vomitoria</u> )	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>
<u>Little Gem Magnolia ♦♦(s)</u> ( <u>Magnolia grandiflora</u> )	<u>X</u>	<u>X</u>	<u>X</u>	
<u>Sweetbay Magnolia ♦♦(s)</u> ( <u>Magnolia virginiana</u> )	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>
<u>Foster Holly ♦♦(s)</u> ( <u>Ilex x attenuata 'Fosteri'</u> )	<u>X</u>	<u>X</u>	<u>X</u>	
<u>Flowering Dogwood ♦(s)</u> ( <u>Cornus florida</u> )	<u>X</u>	<u>X</u>		
<u>Nelly Stevens Holly ♦♦(s)</u> ( <u>Ilex x</u> )	<u>X</u>	<u>X</u>	<u>X</u>	

(s)- small tree (l) - large tree ♦ - deciduous tree ♦♦ - evergreen tree

(h) Variances.

- (1) The director has the authority to approve variations to the streetscape tree species and the layout of the streetscape plantings as set forth in this section, so long as the number of required plantings and the size of the required plantings meet the intent of this article.
- (2) Any person, wishing to appeal the director's denial of a variance pursuant to subsection (h)(2), may file a completed application for a variance pursuant to section 1.29 within 30 days after the director's decision. Such variance request shall follow the process and procedures therein established.

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

- (1) A lot that is permitted to have a lot coverage greater than 91%, or
- (2) A lot that is:
  - a. 21,780 square feet or less and
  - b. Adjacent to property developed with nonresidential land uses, which adjacent property does not have an existing streetscape.

### **Sec. 3.10.7 Off-street parking & Open space areas**

**(a) Off-street parking applicability.**

The off-street parking requirements specified in this chapter shall not apply in the arts, cultural and entertainment (ACE) zoning district and in certain central business district areas as depicted on the maps set forth in appendix 2 of this chapter which are on file with the city clerk. All private property shown in the shaded portions on such maps is exempted from the requirements of this chapter.

(Code 1967, § 19½-9; Ord. No. 2275, § 2, 7-28-77; Ord. No. 11,259, § 1, 11-24-09; Ord. No. 11,606, § 1, 3-24-11; Ord. No. 11,866, § 23, 2-23-12; Ord. No. 13,211, § 1, 6-9-16)

Editor's note(s)—Appendix 2 referred to in this section is not set out in this Code. Copies are on file with the city clerk and chief building official.

**(b) Granting of exceptions.**

The Planning & Development Director is granted the authority to issue an administrative variance where there are minor discrepancies with regard to the requirements established in this section, where it is determined that the literal application of such requirements would constitute an undue hardship with regard to the applicant's particular circumstances and would not be essential in accomplishing the objectives of this chapter. In areas that are fully or near fully developed, a variance of up to 30 percent of the number of off-street parking spaces required in this chapter shall be allowed by the Planning & Development Director. If the applicant is dissatisfied with the decision of the chief building official with regard to a requested exception, he shall be entitled to appeal such decision to the board of adjustment and appeals.

The Planning Director is granted the authority to issue a building permit where there are minor discrepancies with regard to the requirements established in this chapter, where it is determined that the literal application of such requirements would constitute an undue hardship with regard to the applicant's particular circumstances and would not be essential in accomplishing the objectives of this chapter. In areas that are fully or near fully developed, a variance of up to 30 percent of the number of off-street parking spaces required in this chapter shall be allowed by the chief building official if the conversion of a structure from a nonresidential use to another use would require the addition of more off-street parking and if it is determined that the literal application of such revisions would constitute an undue hardship with regard to the applicant's particular circumstances and

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would not be essential in accomplishing the objectives of this chapter. If the applicant is dissatisfied with the decision of the chief building official with regard to a requested exception, he shall be entitled to appeal such decision to the construction board of adjustment and appeals.

(Code 1967, § 19½-8; Ord. No. 2275, § 2, 7-27-77; Ord. No. 4684, § 1, 4-9-87)

**(c) Minimum requirements for spaces.**

(a) *Minimum number of parking spaces.* There shall be provided, at such time as a building permit is issued for the erection, alteration or use change of a structure, off-street parking spaces in accordance with the following minimum requirements:

- (1) Bowling alley: Five parking spaces for each lane;
- (2) Business or professional office, studio, bank, medical or dental clinic: Three parking spaces plus one additional parking space for each 200 square feet of floor area over 500;
- (3) Church, theater, auditorium (except school), sports arena, stadium or gymnasium: One parking space for each four seats or bench seating spaces;

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- (4) Community recreation center, library, museum or art gallery: Ten parking spaces plus one additional space for each 300 square feet of floor area in excess of 2,000 square feet. If an auditorium is included as a part of the building, its floor area shall be deducted from the total and additional parking provided on the basis of one space for each four seats that it contains;
- (5) Dancehall, assembly or exhibition hall without fixed seats: One parking space for each 100 square feet of floor area used thereof;
- (6) Fraternity, sorority or dormitory: One parking space for each three beds;
- (7) Furniture or appliance store, hardware store, wholesale establishment, machinery or equipment sales and service, clothing or shoe repair or service shop: Two parking spaces plus one additional parking space for each 300 square feet of floor area over 1,000;
- (8) Hospital: Four parking spaces plus one additional parking space for each four beds;
- (9) Hotel: One parking space for each sleeping room or suite plus one parking space for each 400 square feet of commercial floor area contained therein;
- (10) Industrial plant: The number of parking spaces required to accommodate all plant employees and construction forces on any single shift;
- (11) Mortuary or funeral home: One parking space for each 50 square feet of floor space in slumber rooms, parlors or individual funeral service rooms;
- (12) Motor vehicle sales room or car lot: One parking space for each 500 square feet of sales floor area with a minimum of three parking spaces;
- (13) Private club, lodge, country club or golf club: One parking space for each 150 square feet of floor area for every five members, whichever is greater;
- (14) Restaurant, nightclub, cafe or similar recreation or amusement establishment: One parking space for each 100 square feet of floor area;
- (15) Retail store or personal service establishment, except as otherwise specified in this section: One parking space for each 200 square feet of retail sales or floor area;
- (16) Roominghouse or boardinghouse: One parking space for each sleeping room;
- (17) Sanitarium, convalescent home, home for the aged or similar institution: One parking space for each six beds;
- (18) School, elementary: One parking space for each ten seats in the auditorium or main assembly room or one space for each classroom, whichever is greater;
- (19) School, secondary, and college: One parking space for each eight seats in the main auditorium or three spaces for each classroom, whichever is greater;
- (20) Tourist home, cabin or motel: One parking space for each sleeping room or suite;
- (21) Vehicle or boat repair business, including, but not limited to those defined in section 102-136 and automobile repair, major and minor as defined in the Unified Land Development Code: One space for each service bay, plus one space for every 300 square feet of building floor area.
- (a) Additional parking spaces for guests. In addition to the minimum number of parking spaces provided for in subsection (a) of this section, there shall be provided, at such time as a building permit is issued for the erection, alteration or use change of a structure, additional off-street parking spaces in accordance with the following minimum requirements:
- (1) Number.
- a. Townhouses: Ten percent of the number parking of spaces required in subsection (a)(21).
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~~b. Two-family dwellings: Ten percent of the number of parking spaces required in subsection (a)(21).~~

~~c. Multifamily dwellings: Ten percent of the number of parking spaces required in subsection (a)(22).~~

~~Location.~~

~~. All dwelling units of a townhouse, two-family dwelling or multifamily dwelling must have at least one parking space as required in subsection (b)(1) within 300 feet measured by the walking distance on sidewalks or along the street or driveway from the parking space to the nearest entrance to the dwelling unit.~~

~~. all parking required by this subsection (b) must be on the same site as the townhouse, two-family dwelling or multifamily dwelling.~~

~~(a) Bicycle parking. One bicycle rack (to accommodate three or more bicycles) per residential building and at the community facilities shall be installed and maintained. The bike rack shall be located not in a sidewalk and not in a required parking space but shall be located so as to provide the ability of the bike user to walk on a sidewalk or along with street to access the bicycle rack.~~

~~(a) Sidewalks from parking spaces. Sidewalks connecting all parking areas to residential and to community buildings shall be provided and maintained. Where the sidewalks cross driving aisles (driveways) crosswalks and/or alternate paving materials shall be installed.~~

~~(Code 1967, § 19½-1; Ord. No. 2275, § 2, 7-28-77; Ord. No. 11,128, § 1, 6-11-09; Ord. No. 12,798, §§ 1, 2, 2-26-15)~~

#### **(d) Rules for computing number of spaces.**

In computing the number of parking spaces required for each of the uses listed in this section, the following rules shall govern:

~~(3)(a)~~ Floor area shall mean the foundation area of the specified use. For a multistory building, each story shall be considered a separate foundation area, so that the total floor area of such building shall include the area of all floors added together;

~~(4)(b)~~ Where fractional spaces result, the parking spaces required shall be construed to be the nearest whole number;

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(c) The parking space requirement for a use not specifically mentioned in this chapter shall be the same as required for a use of a similar nature; and

(d) For mixed uses, the parking spaces required shall equal the sum of the requirements of the various uses computed separately.

(Code 1967, § 19½-2; Ord. No. 2275, § 2, 7-28-77; Ord. No. 3825, § 1, 4-12-84)

**(e) Construction or use changes.**

Whenever a building or use is constructed or changed after the effective date of the ordinance from which this chapter derives by enlarging the floor area, number of employees, number of dwelling units, seating capacity or otherwise, to create a requirement for an increase in the number of parking spaces, such spaces shall be provided on the basis of the enlargement or the change in use.

(Code 1967, § 19½-3; Ord. No. 2275, § 2, 7-28-77)

**(f) Location of spaces.**

All parking spaces required in this ~~chapter~~section shall be located on the same lot with the building or use served, except as follows:

- (1) Where an increase in the number of spaces is required by a change or enlargement of the use or where such spaces are provided collectively or used jointly by two or more buildings or establishments, the required spaces may be located not to exceed 300 feet from an institutional building ~~served~~ and not to exceed 500 feet from any other nonresidential building served;
- (2) No more than 50 percent of the parking spaces required for theaters, bowling lanes, dancehalls, nightclubs or cafes may be provided and used jointly by similar uses not normally open, used or operated during the same hours as those listed; provided, however, that written agreement thereto is properly executed and filed as specified in subsection (4) of this section;
- (3) Not more than 80 percent of the parking spaces required for a church or school auditorium may be provided and used jointly by similar uses not normally open, used or operated during the same hours as those listed; provided, however, that written agreement thereto is properly executed and filed as specified in subsection (4) of this section; and
- (4) When the required parking spaces are not located on the same lot with the building or use served or when such spaces are collectively or jointly provided and used, a written agreement thereby assuring

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their intention for such purposes shall be properly drawn and executed by the parties concerned, approved as to form by the city attorney, and shall be filed with the application for a building permit.

(Code 1967, § 19½-4; Ord. No. 2275, § 2, 7-28-77)

### **(g) Minimum dimensions.**

The minimum dimensions for off-street parking spaces required under this chapter shall be as follows:

- (1) *Ninety-degree angle parking.* Each parking space shall be not less than nine feet wide or less than 18 feet in length. Maneuvering space shall be in addition to parking space and shall be not less than 23 feet perpendicular in width;
- (2) *Sixty-degree angle parking.* Each parking space shall be not less than nine feet wide perpendicular to the parking angle or less than 17 feet in length when measured at the appropriate angles. Maneuvering space shall be in addition to parking space and shall be not less than 20 feet in width;
- (3) *Forty-five-degree angle parking.* Each parking space shall be not less than nine feet wide perpendicular to the parking angle or less than 19 feet in length when measured at the appropriate angles. Maneuvering space shall be in addition to parking space and shall be not less than 11 feet in width; and
- (4) *Other.* Where off-street parking facilities are provided in excess of the minimum amounts specified in this chapter or when off-street parking facilities are provided but not required by this chapter, the off-street parking facilities shall comply with the minimum dimensions for parking and maneuvering space specified in this section.

(Code 1967, § 19½-5; Ord. No. 2275, § 2, 7-28-77)

### **(h) Design standards.**

Geometric design standards for driveways and off-street parking stalls are set forth in appendix 1 to chapter 112, which is on file in the offices of the city clerk and chief building official. Curb cuts shall conform to standards established in the engineering department. Permits for all curb cuts will be issued by the chief building official.

(Code 1967, § 19½-6; Ord. No. 2275, § 2, 7-28-77)

Editor's note(s)—Appendix 1 referred to in this section is not set out in this Code. Copies are on file with the city clerk and chief building official.

### **(i) Maintenance of off-street parking areas.**

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

( Ord. No. 12,798, § 3, 2-26-15)

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**(j) Vehicle storage areas.**

- (a) Any motor vehicle sales, car lot, or vehicle or boat repair business, whose customers leave their motor vehicles for repair or service, shall designate a vehicle storage area separate from the required customer parking area for all non-operational vehicles to be serviced. Spaces within the vehicle storage area shall not count towards meeting the minimum required number of customer parking spaces specified in this section nor shall they block access to the building, driveways, sidewalks, or hinder proper vehicular circulation within the lot.
- (b) Each vehicle storage area shall:
- (1) Meet the off-street parking minimum dimensions and design standards in this chapter; or
  - (2) Be:
    - a. Enclosed by a six-foot-high, opaque fence consisting of the materials specified in section 18-1011 of the Code of Ordinance;
    - b. Located behind the building line of the building; and
    - c. Designed so that the vehicles stored within are not visible from any public right-of-way in any manner.
- (c) Any vehicle serviced or waiting to be serviced must be stored in the vehicle storage area when not being actively repaired.
- ( Ord. No. 12,798 , § 4, 2-26-15)

**(k) Penalty for violation.**

Any person violating any section of this chapter shall upon conviction be punished as provided in section 1-14 of the Code of Ordinances.



( Ord. No. 12,798 , § 5, 2-26-15)

(S)

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(Ord. No. 11,866, § 2(Exh. A), 2-23-12; Ord. No. 13,521 , § 1, 7-27-17; Ord. No. 13,522 , § 4, 7-27-17; Ord. No. 13,764 , § 2, 5-10-18)

## ***DIVISION 4. RESIDENTIAL ZONES***

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

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

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



Gable



Dormers



Recessed Entry



Cupola



Covered Porch



Pillars/Posts



Bay Window

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Figure 3-3. Style Elements

- (1) Front facing windows shall be provided with trim or shall be recessed. The windows shall not be flush with exterior wall treatment and shall be provided with an architectural surround at the jamb.
  - (2) Roofs shall have a minimum pitch of 12:4. Mansard roofs shall be allowed.
- (c) *Site design.*
- (1) Sidewalks in conformance with chapter 122 of the Code of Ordinances shall be installed from property line to property line at the expense of the property owner in all adjacent rights-of-way prior to the issuance of a certificate of occupancy for a new residential building.
  - (2) Entrances to attached garages shall have a 25-foot setback from the front property line and shall not exceed 35 feet in width or occupy more than 40 percent of the total building frontage, whichever is greater. The 25-foot setback does not apply to attached side entry garages.

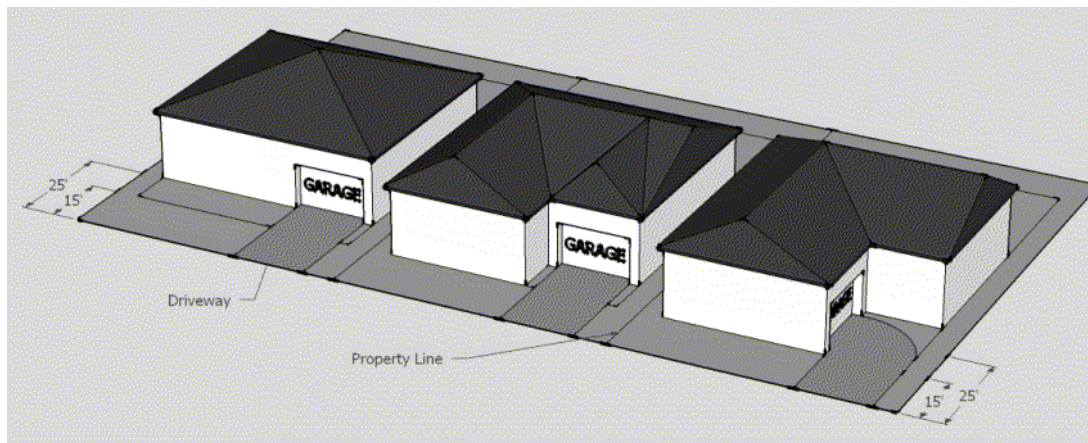


Figure 3-4. Garage Setback Options

- (3) Mechanical equipment shall not be located in the front yard. Mechanical equipment may be allowed in the street side yard setback if screened from view of the public right-of-way.
- (Ord. No. 11,866, § 2(Exh. A), 2-23-12)

### **Sec. 3.115 Residential accessory structures.**

- (a) For a tract of land two acres or smaller:
- (1) The sum of all barns and stables shall not exceed the gross square footage of the primary structure on the same lot; and
  - (2) The sum of all other residential accessory structures shall not exceed 75 percent of the gross square footage of the primary structure on the same lot.

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

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

( Ord. No. 14,406 , § 4, 6-11-20)

### **Sec. 3.12 Applicability, buildings with multiple units.**

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

(a) *Masonry.*

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

(b) *Architectural.*

(1) *Building articulation.*

- a. Building frontages greater than 75 feet in length shall have recessed places, projections, windows, arcades or other distinctive features to interrupt the length of the building facade.
- b. Front and street sides of buildings visible from the public right-of-way shall include changes in relief such as columns, cornices, bases, fenestration, and fluted masonry, for at least 15 percent of all exterior wall area.

(2) *Stairwells.* Open, unenclosed stairwells shall not be allowed along any facade facing a public street or private street system.

(3) *False door or window openings.* Use of false door or window opening shall be defined by frames, sills and lintels.

(c) *Site design.*

(1) All permitted uses and structures that require a commercial occupancy by the building code are subject to the off-street parking, open space, landscape, and streetscape requirements in Division 3 of the ULDC, unless the standards are addressed in this Division.

~~(1)(2)~~ Sidewalks in conformance with chapter 122 of the Code of Ordinances shall be installed from property line to property line at the expense of the property owner in all adjacent rights-of-way prior to the issuance of a certificate of occupancy for a new multi-unit dwelling.

~~(2)(3)~~ *Building orientation:*

- a. Building(s) located on parcels that are adjacent to SFE, SF1 SF2, or MF1 zones shall have a maximum height of 40 feet or shall be constructed in conformance with the requirements of the 35-degree angle residential proximity slope as depicted in figure 3-5.

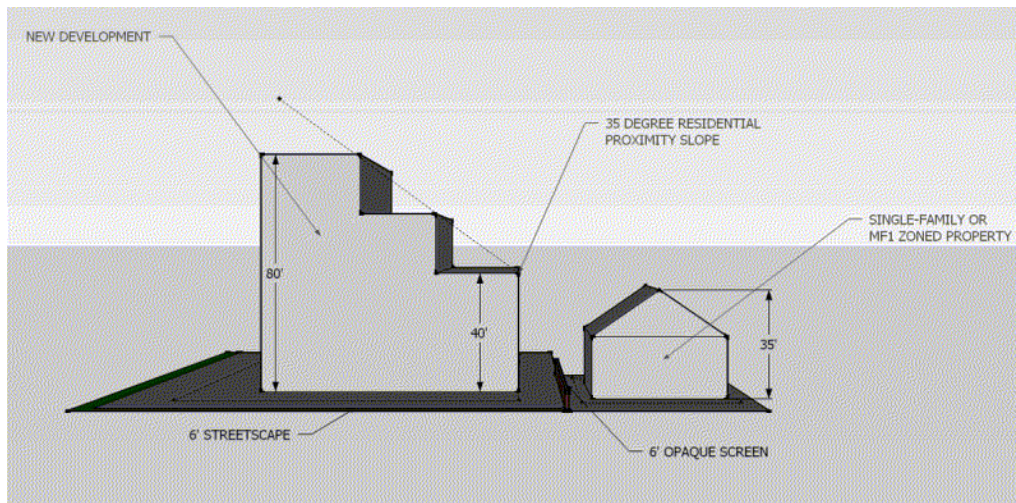


Figure 3-5. Building Orientation

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

~~(3)~~(4) Developments shall provide a private driving aisle system consisting of limited access driveways. At least one side of the private driving aisle system shall include sidewalks at least five-foot wide and a planting strip between the driveway and sidewalk at least five-foot wide that includes street trees 30-foot on center. The private street system shall provide vehicular and pedestrian access to all parking areas and on site amenities and must connect to the public sidewalk system in the public right-of-way.

~~(4)~~(5) Recreation space:

- a. Each development shall provide at least 100 square feet of outdoor recreation space per dwelling unit that is intended to serve the entire development. Open space in the required setbacks can not be counted.
- b. Outdoor recreation space shall be turf area at least 3,000 square foot in size with maximum slopes of three percent.
- c. One perimeter shade tree is required for each 1,000 square foot of outdoor recreation space.

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

### Sec. 3.13 Applicability, manufactured housing.

Manufactured housing units shall comply with following standards:

- (a) **Roof.** A roof must be predominantly double pitched and have a minimum vertical rise of 2.2 inches for every 12 inches of horizontal run. The roof must be covered with material that is commonly used on site-built single-family dwellings within the city, including but not limited to wood, asphalt composition shingles or



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fiberglass, and excluding corrugated aluminum, corrugated fiberglass or corrugated metal. The roof shall have a minimum eave projection and roof overhang of eight inches.

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

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

### **Sec. 3.13.5 Residential Off-street Parking.**

#### **(a) Off-street parking applicability.**

The off-street parking requirements specified in this section shall not apply in the arts, cultural and entertainment (ACE) zoning district and in certain central business district areas as depicted on the maps set forth in appendix 2 of this chapter which are on file with the city clerk. All private property shown in the shaded portions on such maps is exempted from the requirements of this chapter.

(Code 1967, § 19½-9; Ord. No. 2275, § 2, 7-28-77; Ord. No. 11,259, § 1, 11-24-09; Ord. No. 11,606, § 1, 3-24-11; Ord. No. 11,866, § 23, 2-23-12; Ord. No. 13,211, § 1, 6-9-16)

Editor's note(s)—Appendix 2 referred to in this section is not set out in this Code. Copies are on file with the city clerk and chief building official.

#### **(b) Granting of exceptions.**

The Planning & Development Director is granted the authority to issue an administrative variance ~~building permit~~ where there are minor discrepancies with regard to the requirements established in this ~~chapter~~ section, where it is determined that the literal application of such requirements would constitute an undue hardship with regard to the applicant's particular circumstances and would not be essential in accomplishing the objectives of this chapter. In areas that are fully or near fully developed, a variance of up to 30 percent of the number of off-street parking spaces required in this chapter shall be allowed by the ~~chief building official~~ Planning & Development Director ~~if the conversion of a structure from a nonresidential use to another use would require the addition of more off-street parking and if it is determined that the literal application of such revisions would constitute an undue hardship with regard to the applicant's particular circumstances and would not be essential in accomplishing the objectives of this chapter.~~ If the applicant is dissatisfied with the decision of the chief building official with regard to a requested exception, he shall be entitled to appeal such decision to the ~~construction~~ board of adjustment and appeals.

(Code 1967, § 19½-8; Ord. No. 2275, § 2, 7-27-77; Ord. No. 4684, § 1, 4-9-87)

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**(c) Minimum requirements for spaces.**

(1) Townhouse and two-family dwellings: 2¼ spaces per dwelling unit.

1.(2) Parking areas designed to serve multi-unit dwellings shall not be located between residential buildings and the street or drive isle system.

(3) Multi-family dwellings (three or more dwelling units):

<u>Minimum Parking Spaces</u>	<u>Unit Size</u>
<u>1.0</u>	<u>each one bedroom or efficiency up to 500 square feet in size</u>
<u>1.5</u>	<u>each one bedroom apartment 500 square feet or greater in size or with two or more bathrooms</u>



<u>1.75</u>	<u>each two bedroom apartment regardless of size</u>
<u>2.0</u>	<u>each three bedroom regardless of size</u>
<u>3.0</u>	<u>each apartment greater than three bedrooms</u>

(a) Additional parking spaces for guests. In addition to the minimum number of parking spaces provided for in subsection (a) of this section, there shall be provided, at such time as a building permit is issued for the erection, alteration or use change of a structure, additional off-street parking spaces in accordance with the following minimum requirements:

(1) Number.

- a. Townhouses: Ten percent of the number parking of spaces required in subsection (a)(21).
- b. Two-family dwellings: Ten percent of the number of parking spaces required in subsection (a)(21).
- c. Multifamily dwellings: Ten percent of the number of parking spaces required in subsection (a)(22).

(2) Location.

- a. All dwelling units of a townhouse, two-family dwelling or multifamily dwelling must have at least one parking space as required in subsection (b)(1) within 300 feet measured by the walking distance on sidewalks or along the street or driveway from the parking space to the nearest entrance to the dwelling unit.
- b. all parking required by this subsection (b) must be on the same site as the townhouse, two-family dwelling or multifamily dwelling.

(b) Bicycle parking. One bicycle rack (to accommodate three or more bicycles) per residential building and at the community facilities shall be installed and maintained. The bike rack shall be located not in a sidewalk and not in a required parking space but shall be located so as to provide the ability of the bike user to walk on a sidewalk or along with street to access the bicycle rack.

(c) Sidewalks from parking spaces. Sidewalks connecting all parking areas to residential and to community buildings shall be provided and maintained. Where the sidewalks cross driving aisles (driveways) crosswalks and/or alternate paving materials shall be installed.

**(d) Rules for computing number of spaces.**

Computing number of spaces shall be conducted in accordance with the requirements of Division 3, Section 3.10.7(d)

~~In computing the number of parking spaces required for each of the uses listed in section 112-4, the following rules shall govern:~~

- (a) The parking space requirement for a use not specifically mentioned in this chapter shall be the same as required for a use of a similar nature; and
- (b) For mixed uses, the parking spaces required shall equal the sum of the requirements of the various uses computed separately.

**(f) Minimum dimensions.**

Minimum dimensions shall be provided in accordance with the requirements of Division 3, Section 3.10.7 (g) (Code 1967, § 19½-5; Ord. No. 2275, § 2, 7-28-77)

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#### **(h) Design standards.**

Geometric design standards for driveways and off-street parking stalls are set forth in appendix 1 to this chapter of chapter 112, which is on file in the offices of the city clerk and chief building official. Curb cuts shall conform to standards established in the engineering department. Permits for all curb cuts will be issued by the chief building official.

(Code 1967, § 19½-6; Ord. No. 2275, § 2, 7-28-77)

Editor's note(s)—Appendix 1 referred to in this section is not set out in this Code. Copies are on file with the city clerk and chief building official.

#### **(i) Maintenance of off-street parking areas.**

Parking spaces and pedestrian walkways must be clearly delineated and parking spaces must meet the minimum dimensions specified in this section. ~~112-8.~~ Parking spaces must be clearly marked with appropriate striping if on a paved surface or appropriate marking if on an unpaved surface. All improved parking surfaces and walkways shall be maintained in a good and safe condition; and free of any defects affecting the use, safety, appearance or drainage of the surface or of the adjoining property.

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## DIVISION 5. DISTRICT COMPATIBILITY STANDARDS

### Sec. 3.14 Compatibility standards.

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

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

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development standards table in article three, division 1 of the ULDC and install a minimum of a six-foot-tall opaque screen between any property zoned OR, UN, SFE, SF1, SF2, MF1 or MF2.

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

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

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

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

- (h) *Heavy industrial (HI)*. New development that is zoned HI and located (i) adjacent to a property zoned OR, NSC, MU, or GC; (ii) adjacent to a public right-of-way designated as an arterial or collector on the city's adopted thoroughfare plan; or (iii) adjacent to a navigable waterway shall meet all the requirements of the property development standards table in article three, division 1 of the ULDC, and provide a minimum 300-foot building setback between (i) any property zoned OR, NSC, or GC; (ii) a public right-of-way designated as an arterial or collector on the city's adopted thoroughfare plan; or (iii) a navigable waterway. Within the setback a 100-foot vegetative buffer and a minimum of a six-foot-tall opaque screen shall be installed between any property that is (i) zoned OR, NSC, or GC; (ii) a public right-of-way designated as an arterial or collector on the city's adopted thoroughfare plan; or (iii) a navigable waterway. Any building over 40 feet in height also shall comply with the residential proximity slope in subsection 3.12(c)(3) of the ULDC.

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

(i) Vegetative and transition buffer zones

a. Purposes. The purpose of the vegetative and transition buffer zones required herein is to guard against incompatible uses in adjacent zoning districts by providing a visual screen, a light

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barrier, a sound barrier and some containment of air movement near the ground level. The provisions of this section shall be construed to accomplish these purposes.

b. *Exemption.* Where vegetative and transition buffer zones are required, the property shall be exempt from section ~~18-12063.10.5(3)~~ but must provide interior landscaped open space, as required by section ~~18-12053.10~~ for parking areas located in the front yard of the development. Side and rear yard parking areas are not required to provide interior landscaped open space.

c. *Landscaping requirements.* The landscaping requirements of this subsection are intended to provide a continuous vegetative screening of the district or land use. The following contain the minimum standards; however, additional plantings or other forms of opaque screening may be required to accomplish this purpose.

d. *Vegetative buffer zone.* Vegetative buffer zones shall have a minimum width of 50 feet.

e. *LI zoning district.* Vegetative buffer zones in a LI zoning district shall be in accordance with the following and as depicted in **Figure 183-26** "Vegetative Buffer Zone Layout":

1) LI zone 1 shall include an area adjacent to the property line, beginning at the property line and extending into the private property for a distance of 25 feet. The owner shall plant and maintain at least the following in LI zone 1:

i. A staggered double row consisting of small evergreen trees on the front row, and large trees on the back row.

ii. The front row of trees shall be planted 20 feet on center.

iii. A minimum of 50% of the back row shall consist of large evergreen trees.

iv. The back row shall be planted 25 feet on center.

v. A minimum of 8 shrubs, not less than two feet in height, for every 20 feet forming an intermediate hedge, shall be planted in the front row along the right-of-way.

vi. Groundcover extending for 25 feet measured from the outside boundary of the LI zone 1, which groundcover shall be maintained in accordance with article II of chapter 42.

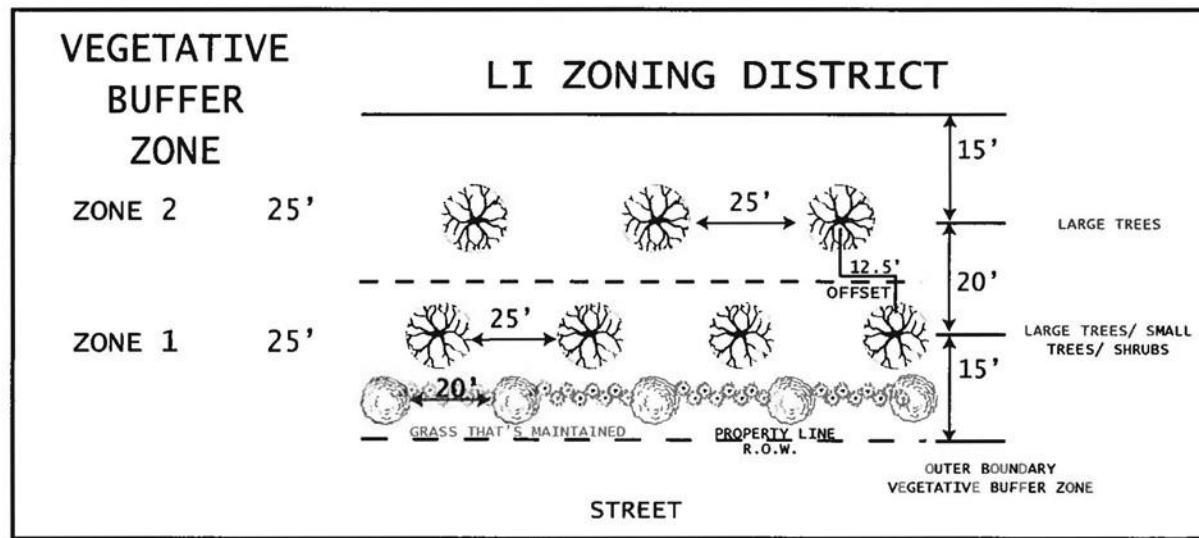
2) LI zone 2 shall include an area adjacent to LI zone 1, beginning at the interior boundary of LI zone 1 and extending into the property for a minimum distance of 25 feet. In LI zone 2, the owner shall plant and maintain at least the following:

i. A row of large trees planted 15 feet from the inner boundary of LI zone 2.

ii. The trees shall be planted 25 feet on center.

iii. Such trees shall be offset 12.5 feet from the trees in the back row of LI zone 1.

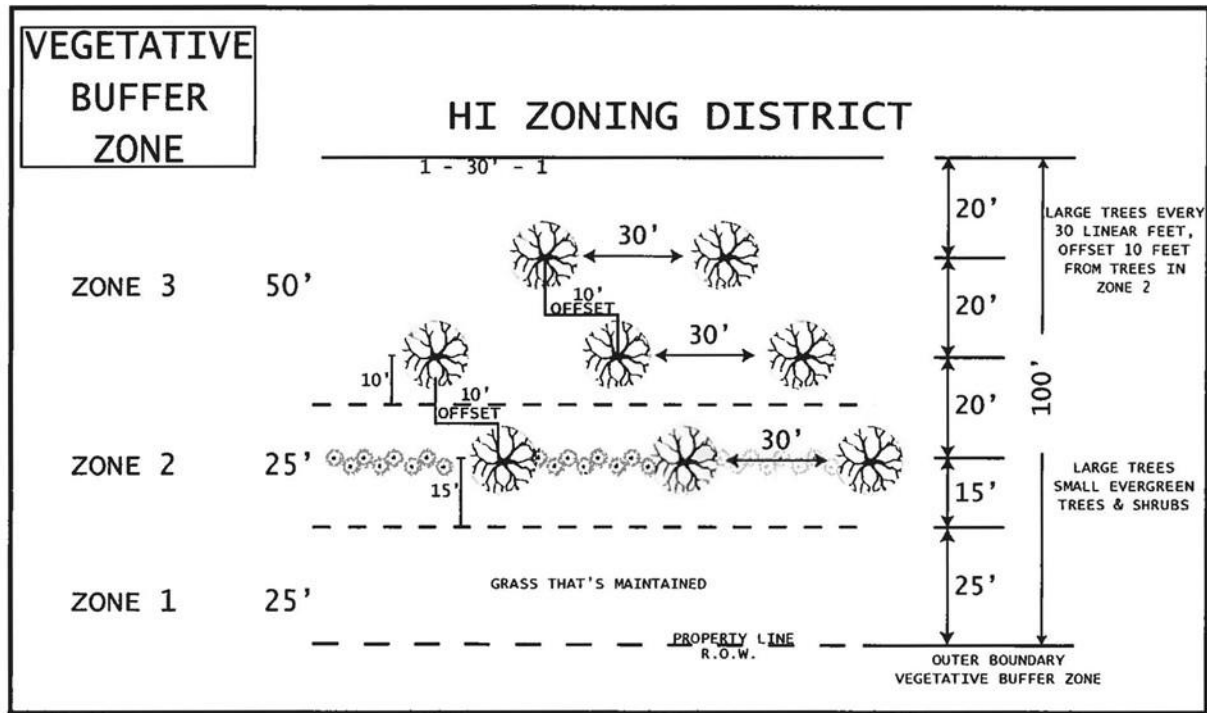
Figure 183-26. Vegetative Buffer Zone Layout



- f. HI zoning district. Vegetative buffer zones in an HI zoning district shall be in accordance with the following and as depicted in Figure 183-36 "Vegetative Buffer Zone Layout":
- 3) HI zone 1 shall include an area adjacent to the property line, beginning at the property line and extending into the private property for a distance of 25 feet. The owner shall plant and maintain groundcover extending throughout the entire HI zone 1, which shall be maintained in accordance with article II of chapter 42.
  - 4) HI zone 2 shall include an area adjacent to HI zone 1, beginning at the interior boundary of HI zone 1 and extending into the property for a minimum distance of 25 feet. The owner shall plant and maintain at least the following in HI zone 2:
    - i. Mixture of small trees and shade trees, which shall be planted every 30 linear feet, 15 feet from the inside boundary of HI zone 1; provided, however, that no more than 50 percent of trees may be small trees; and
    - ii. Eight shrubs for every 30 linear feet evenly spaced.
- HI zone 2 shall be maintained so as to allow native trees, shrubs, vines, and other forms of vegetation to grow.
- 5) HI zone 3 shall include an area adjacent to HI zone 2, beginning at the interior boundary of HI zone 2 and extending into the property for a minimum distance of 25 feet. In HI zone 3, the owner shall plant and maintain the following:
    - i. At least one shade tree every 30 linear feet with centers ten feet from the inner boundary of HI zone 2. Such trees shall be offset ten feet from the trees in HI zone 2; and
    - ii. At least one shade tree every 30 linear feet with centers 20 feet from the inner boundary of HI zone 3. Such trees shall be offset ten feet from the trees required in subsection (e)(1)(b)(2)(i) zone 2.

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



(j) Transition buffer zone. A transition buffer zone provides protection to adjacent land uses and shall consist of:

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

(Ord. No. 10,771, § 4, 12-13-07; Ord. No. 11,866, § 7, 2-23-12; Ord. No. 13,191, § 2, 5-12-16; Ord. No. 13,763, § 2, 5-10-18; Ord. No. 14,378, §§ 3, 4, 4-9-20)

Editor's note(s)—Ord. No. 13,763, § 2, adopted May 10, 2018, changed the title of § 18-1206.5 from "Vegetative buffer zones" to read as herein set out.

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



## **Article IV SUBDIVISIONS<sup>1</sup>**

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<sup>1</sup>Cross reference(s)—Any ordinance dedicating or accepting any plat or subdivision saved from repeal, § 1-9(a)(12); buildings and building regulations, ch. 18; environment, ch. 34; manufactured homes, mobile homes and parks, ch. 58; signs, ch. 118; streets and sidewalks, ch. 122; zoning, ch. 130.

State law reference(s)—Regulation of subdivisions, V.T.C.A., Local Government Code § 212.001 et seq.

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***DIVISION I. GENERAL***

State law reference(s)—Extraterritorial jurisdiction, V.T.C.A., Local Government Code § 42.021 et seq.

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(Code 1967, § 27-3; Ord. No. 3655, § 3, 7-28-83; Ord. No. 3875, § 1, 6-14-84; Ord. No. 4483, § 1, 6-26-86; Ord. No. 8815, § 1, 1-27-00; Ord. No. 9621, § 12, 9-11-03; Ord. No. 11,822, § 1, 1-12-12; Ord. No. 14,175, § 1, 9-26-19; Ord. No. 14,378, § 5, 4-9-20)

Cross reference(s)—Definitions generally, § 1-2.

### **Sec. 126 -2. Plat required.**

- (a) Except as provided in subsection (f) hereof, a plat is required for a subdivision as defined in section 126-1.
- (b) To be recorded, the plat must:
  - (1) Describe the subdivision by metes and bounds;
  - (2) Locate the subdivision with respect to a corner of the survey or tract or an original corner of the original survey of which it is a part; and
  - (3) State the dimensions of the subdivision and of each street, alley, square, park or other part of the tract intended to be dedicated to public use or for the use of purchasers or owners of lots fronting on or adjacent to the street, alley, square, park or other part.
- (c) The owner or proprietor of the tract or the owner's or proprietor's agent must acknowledge the plat in the manner required for the acknowledgment of deeds.
- (d) The plat must be recorded with the county clerk of the county in which the tract is located.
- (e) The plat is subject to the filing and recording provisions of V.T.C.A., Property Code § 12.002.
- (f) A plat is not required for a subdivision that is a division of land into four or fewer parts if:
  - (1) Such division does not include streets, alleys, squares, parks or other parts intended to be dedicated to public use or for the use of purchasers or owners of lots fronting on or adjacent to the streets, alleys, squares or other parts;
  - (2) If each of the lots is to be sold, given, or otherwise transferred to an individual who is related to the owner within the third degree by consanguinity or affinity, as determined under V.T.C.A., Government Code ch. 573; and

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- (3) No development or construction is to occur on the property at the time of division of land.

A plat is required before any lot of a subdivision described by this subsection:

- (1) Is sold, given, or otherwise transferred to an individual who is not related to the owner within the third degree by consanguinity or affinity as determined under V.T.C.A., Government Code ch. 573; or
- (2) Is developed in any manner and used for any purpose other than agricultural, wildlife management or timber use within the meaning of Section 1-d-1, Article VIII, Texas Constitution; or
- (3) Is developed in any manner which directly or indirectly impacts the city's infrastructure, water, wastewater or drainage system.

(Ord. No. 11,981, § 1, 7-26-12; Ord. No. 14,175, § 2, 9-26-19)

State law reference(s)—Similar provisions, V.T.C.A., Local Government Code § 212.004.

### **Sec. 126-3 Scope of ~~chapter~~article.**

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

(Code 1967, § 27-2; Ord. No. 3655, § 3, 7-28-83)

### **Sec. 126-4 Policy of commission.**

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

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

(Code 1967, § 27-1; Ord. No. 3655, § 3, 7-28-83)

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## **Sec. 126-5 Enforcement; penalties.**

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

(Code 1967, § 27-4; Ord. No. 3655, § 3, 7-28-83; Ord. No. 5004, § 1, 5-12-88; Ord. No. 11,822, § 2, 1-12-12; Ord. No. 14,175, § 3, 9-26-19)

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**Sec. 126-6. ~~Appeal of commission decision~~Subdivision Variance.**

Subdivision Variances, unless otherwise stated, shall be conducted in accordance with the requirements of Article 1, Division 3, Section 1.29.5.

~~(a)(i) Any person shall have the right to appeal any decision of the commission to the city council by making written request to the Planning & Development Director or his/her designee. Such request must be submitted to the Planning & Development Director within 15 days after such person has been notified of the decision of the commission on the matter involved.~~

~~(a)(i) No person shall have any right to appeal for relief to any court in regard to any matter covered by this chapter until after such person has exhausted the appeal procedure provided for in this chapter.~~

(Code 1967, § 27-6; Ord. No. 3655, § 3, 7-28-83; Ord. No. 14,175 , § 4, 9-26-19)

**Sec. 126-7 Utilization.**

No building permit shall be issued until the city engineer has stated in writing his acceptance of the subdivision improvements, as provided in section 126-455, and the plat of the subdivision has been recorded.

(Code 1967, § 27-63; Ord. No. 3655, § 3, 7-28-83; Ord. No. 14,175 , § 5, 9-26-19)

**Secs. 126-8—126-35. Reserved.**

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<sup>2</sup>Cross reference(s)—Administration, ch. 2.

## ***DIVISION 2. ADMINISTRATION.***

### **Sec. 126-36 Filing fee for plats.**

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

(Code 1967, § 27-22; Ord. No. 3655, § 3, 7-28-83; Ord. No. 4376, § 1, 2-13-86; Ord. No. 12,986, § 7, 10-8-15)

Note(s)—It should be noted that § 7 of Ord. No. 12,986, adopted Oct. 8, 2015, has an effective date of Jan. 1, 2016.

### **Sec. 126-37 Procedures for submissions and resubmissions.**

- (a) *Initial submissions.* All plats shall be submitted to the planning and development services department on the 28th day prior to the date of a regularly scheduled planning and zoning commission meeting. The commission and the director shall consider timely submitted plats only after the same are filed.
- (b) *Resubmissions.* If a filed plat has not been unconditionally approved, it shall be resubmitted only on the 14th day prior to a regularly scheduled planning and zoning commission meeting. The commission and the director shall consider only timely resubmitted plats.
- (c) *Withdrawals.* A plat may be withdrawn at any time by applicant at its own request; and, upon its resubmission, shall be considered an initial submission subject to subsection (a) of this section.
- (d) *Rejection.* Plat submissions or resubmissions failing to meet the time requirements of this section shall be automatically rejected and will not be received.

(Ord. No. 14,175, § 6, 9-26-19)

### **Secs. 126-38—126-65. Reserved.**

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



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### **Sec. 126-66. Scope of division.**

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

(Code 1967, § 27-23(a); Ord. No. 3655, § 3, 7-28-83)

### **Sec. 126-67. Lot consolidation requirements.**

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

(Code 1967, § 27-23(b); Ord. No. 3655, § 3, 7-28-83)

### **Sec. 126-68. Lot line adjustment requirements.**

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

(Code 1967, § 27-23(c); Ord. No. 3655, § 3, 7-28-83)

### **Sec. 126-69. Procedure for commission approval.**

- (a) Under this division, the following shall be submitted to the director of planning and community development seven days prior to the commission meeting at which action is sought:
  - (1) A completed application form for the lot line adjustment or a lot consolidation, accompanied by a filing fee as prescribed in section 2-595 of the Code;
  - (2) Copies of deeds and restrictive covenants to all lots involved; and
  - (3) A scale drawing on legal size paper showing all lots involved, as platted, and as desired.
- (b) Action of the commission shall be final, and no proposal regarding the same lots shall be considered for a period of six months.
- (c) Approval by the director of ~~planning and community development~~Planning & Development Director requires the submittal of items in subsection (a) of this section at any time.

(Code 1967, § 27-23(d), (e); Ord. No. 3655, § 3, 7-28-83; Ord. No. 8399, § 1, 9-10-98; Ord. No. 8649, § 1, 8-12-99; Ord. No. 12,986, § 8, 10-8-15)

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Note(s)—It should be noted that § 8 of Ord. No. 12,986 , adopted Oct. 8, 2015, has an effective date of Jan. 1, 2016.

**Secs. 126-70—126-95. Reserved.**

### ***DIVISION 3.25. SMALL SUBDIVISIONS***

#### **Sec. 126-96. ~~Definitions~~ Scope of division.**

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

*Small subdivision* means a subdivision of 12 or fewer lots.

(Code 1967, § 27-64(a); Ord. No. 3655, § 3, 7-28-83; Ord. No. 7693, § 3, 5-9-96)

Cross reference(s)—Definitions generally, § 1-2.

#### **Sec. 126-97. Platting procedure.**

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

(Code 1967, § 27-64(b); Ord. No. 3655, § 3, 7-28-83; Ord. No. 7693, § 3, 5-9-96; Ord. No. 12,986 , § 9, 10-8-15)

Note(s)—It should be noted that § 9 of Ord. No. 12,986 , adopted Oct. 8, 2015, has an effective date of Jan. 1, 2016.

#### **Sec. 126-98. General standards.**

The developer of a small subdivision must comply in all respects with the engineering and construction standards for subdivisions established by this chapter, except as provided by section 126-99.

(Code 1967, § 27-64(c); Ord. No. 3655, § 3, 7-28-83; Ord. No. 7693, § 3, 5-9-96)

#### **Sec. 126-99. Variances.**

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

**Secs. 126-100—126-104. Reserved.**

***DIVISION 3.5. MINOR PLATS***

**Sec. 126-105. ~~Definitions~~ Scope of division.**

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

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

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

(Ord. No. 8815, § 2, 1-27-00)

**Sec. 126-106. Platting procedures.**

- (a) *Submission of preliminary plat.* Application for the approval of a minor plat shall be made by the owner or his authorized agent and shall be made on a form prescribed by the director of planning and community development. The applicant shall submit the completed application form and five copies of the preliminary plat to the director.
- (b) *Application fee.* An application fee in the amount prescribed in section 2-595 shall accompany every application for a minor plat.
- (c) *Administrative review.* The director of planning and community development shall review the proposed minor plat to ensure compliance with all appropriate requirements of this Code. The director of planning and community development may submit the minor plat to other departments for review and comment, as the director deems necessary. Within ten business days after the date of the application, the minor plat shall be returned to the applicant along with written analysis detailing the items which must be addressed in order to comply with the Code.
- (d) *Submission and approval of final plat.* Within ten business days of receipt of the written analysis, the applicant shall submit to the director ~~of planning and community development~~Planning & Development Director its final plat which shall include the following items:
  - (1) A reproducible mylar of the final plat, and the copies of the original submittal with staff analysis and commentary;
  - (2) Five true to scale 18 inch by 24 inch copies of the final plat;
  - (3) Tax certificates stating that no taxes are delinquent against the property; and
  - (4) The appropriate fees for filing the plat with the county clerk.

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

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

(Ord. No. 8815, § 2, 1-27-00; Ord. No. 12,986, § 10, 10-8-15)

Note(s)—It should be noted that § 10 of Ord. No. 12,986, adopted Oct. 8, 2015, has an effective date of Jan. 1, 2016.

### **Sec. 126-107. Review by the commission.**

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

(Ord. No. 8815, § 2, 1-27-00)

### **Sec. 126-108. Limitation.**

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

(Ord. No. 8815, § 2, 1-27-00)

## ***DIVISION 3.6. MINOR REPLATS***

### **Sec. 126-109. ~~Definitions~~ Scope of division.**

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

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

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

(Ord. No. 11,363, § 1, 5-27-10)

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**Sec. 126-110. Platting procedures.**

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

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

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

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

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

(Ord. No. 11,363, § 1, 5-27-10; Ord. No. 12,986, § 11, 10-8-15)

Note(s)—It should be noted that § 11 of Ord. No. 12,986, adopted Oct. 8, 2015, has an effective date of Jan. 1, 2016.

### **Sec. 126-111. Review by the commission.**

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

(Ord. No. 11,363, § 1, 5-27-10)

### **Sec. 126-112. Limitation.**

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

(Ord. No. 11,363, § 1, 5-27-10)

### **Secs. 126-113, 126-114. Reserved.**

## ***DIVISION 3.7. AMENDING PLATS***

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## **Sec. 126-115. ~~Definitions~~ Scope of division.**

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

*Amending plat* means an amendment to a plat, previously approved by the commission and duly recorded, which is submitted to the commission for approval and recording, which is signed by the applicants and is solely for one or more of the purposes enumerated in section 126-116. An amending plat is not to be considered as a replat or resubdivision and may not contain any changes or additions to the physical characteristics of the original subdivision, but is intended only to correct errors or miscalculations.

(Ord. No. 8815, § 2, 1-27-00; Ord. No. 14,175 , § 7, 9-26-19)

## **Sec. 126-116. Purpose of amending plat.**

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

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

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- b. The changes do not attempt to amend or remove any covenants or restrictions; and
  - c. The area covered by the changes is located in an area that the municipal planning commission or other appropriate governing body of the municipality has approved, after a public hearing, as a residential improvement area; or
- (11) To replat one or more lots fronting on an existing street if:
- a. The owners of all those lots join in the application for amending the plat;
  - b. The amendment does not attempt to remove recorded covenants or restrictions;
  - c. The amendment does not increase the number of lots; and
  - d. The amendment does not create or require the creation of a new street or make necessary the extension of municipal facilities.

(Ord. No. 8815, § 2, 1-27-00; Ord. No. 14,175 , § 8, 9-26-19)

### **Sec. 126-117. Platting procedures.**

- (a) *Submission of preliminary plat.* Application for the preliminary approval of an amending plat shall be made by the applicants or their authorized agent and shall be made on a form prescribed by the director of planning and community development. The application shall be accompanied by five copies of ~~the~~ preliminary development plan of the entire development drawn to scale and showing streets or drives, utility easements, and lots. A boundary survey or a certified boundary description by a registered public surveyor shall also be submitted.
- (b) *Application fee.* An application fee in the amount prescribed in section 2-595 shall accompany every application for an amending plat.
- (c) *Administrative review.* The director of planning and community development shall review the proposed amending plat to ensure compliance with all appropriate requirements of the Code. The director of planning and community development may submit the amending plat to other departments for review and comment, as the director deems necessary. Within ten business days after the date of the application, the amending plat shall be returned to the applicant along with written analysis detailing the items which must be addressed in order to comply with the Code.
- (d) *Submission and approval of final plat.* Within ten business days of receipt of the written analysis, the applicant shall submit to the director of planning and community development its final plat which shall include the following items:
  - (1) A reproducible mylar of the final plat, and the copies of the original submittal with staff analysis and commentary;
  - (2) Five true to scale 18-inch by 24-inch copies of the final plat;
  - (3) Tax certificates stating that no taxes are delinquent against the property; and
  - (4) The appropriate fees for filing the plat with the county clerk.

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

- (e) *Expiration of preliminary plat.* If the items listed in subsection (d) of this section are not submitted within ten business days of the applicant's receipt of the written analysis or if the issues and corrections have not been addressed as required by the Code as determined by the director of planning and community development



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within such period of time, the amending plat application along with the amending plat shall automatically expire and the applicant will be required to submit a new application for the amending plat.

(Ord. No. 8815, § 2, 1-27-00; Ord. No. 12,986, § 12, 10-8-15)

Note(s)—It should be noted that § 12 of Ord. No. 12,986, adopted Oct. 8, 2015, has an effective date of Jan. 1, 2016.

#### **Sec. 126-118. Review by the commission.**

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

(Ord. No. 8815, § 2, 1-27-00)

#### **Secs. 126-119—126-~~124~~. Reserved.**

### ***DIVISION 4. SUBDIVISION PLAT ~~REVIEW PROCEDURE~~***

#### **Subdivision I. In General**

##### **Sec. 126-125. Scope of division.**

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

##### **Sec. 126-126. ~~Process~~ Platting procedure.**

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

(Code 1967, § 27-18; Ord. No. 3655, § 3, 7-28-83; Ord. No. 5263, § 1, 4-27-89; Ord. No. 7693, § 1, 5-9-96; Ord. No. 14,175, § 9, 9-26-19)

#### **Secs. 126-127—126-145. Reserved.**

#### **Subdivision II. Departmental Review**

##### **Sec. 126-146. Pre-application conference and ~~Plot~~ General plan and information required.**

The owner of the proposed subdivision or his authorized agent shall submit to the department of planning and community development a ~~plot~~-general plan, drawn to a scale of not less than one inch equals 100 feet (preferably the scale of one inch equals 20 feet or one inch equals 60 feet). The developer and the planning staff

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shall meet together and determine whether the applicable requirements of this Code have been complied with. If there is disagreement on this issue, the applicant, by request, or the staff may take this pre-preliminary information to the commission for its determination. If the staff and applicant reach a satisfactory agreement, the applicant may proceed to prepare data for ~~stage two~~, preliminary approval.

(Code 1967, § 27-18(a); Ord. No. 3655, § 3, 7-28-83; Ord. No. 5263, § 1, 4-27-89; Ord. No. 7693, § 1, 5-9-96)

### **Sec. 126-147. Preliminary approval application.**

Application for preliminary approval of the subdivision plat shall be made by the owner or his authorized agent of all affected property and shall be submitted on a form prescribed by the city planning staff and submitted with the planning and community development department. The application shall be accompanied by a fee prescribed in the fee schedule, section 126-36, and shall be accompanied by the following information:

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

(Code 1967, § 27-18(b); Ord. No. 3655, § 3, 7-28-83; Ord. No. 5263, § 1, 4-27-89; Ord. No. 7693, § 1, 5-9-96; Ord. No. 14,175, § 10, 9-26-19)

### **Sec. 126-148. Submission of required data.**

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

(Code 1967, § 27-18(c); Ord. No. 3655, § 3, 7-28-83; Ord. No. 5263, § 1, 4-27-89; Ord. No. 7693, § 1, 5-9-96; Ord. No. 8649, § 2, 8-12-99)

### **Secs. 126-149—126-165. Reserved.**

## **Subdivision III. Preliminary Approval**

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## **Sec. 126-166. Procedures.**

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

(Code 1967, § 27-19; Ord. No. 3655, § 3, 7-28-83)

## **Sec. 126-167. Engineering report.**

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

(Code 1967, § 27-20.1; Ord. No. 3655, § 3, 7-28-83; Ord. No. 5004, § 2, 5-12-88)

## **Secs. 126-168—126-185. Reserved.**

## **Subdivision IV. Final Approval**

### **Sec. 126-186. Commission review; extension of time.**

- (a) Within 1,095 days after preliminary subdivision plat approval and within 30 days of submission of the final plan, the commission shall examine such plat and determine whether it conforms to all applicable criteria and standards and whether it conforms in all substantial respects to the previously approved plat. The developer or his engineer shall be present at the meeting.
- (b) When the developer believes that an extension of time is needed beyond the time allowed in subsection (a) of this section, the developer may appeal in writing to the director of planning and community development for additional time and must specify the reasons therefor. The director of planning and community development may extend the 1,095 days by up to 90 days, which shall not be more than 1,185 days from preliminary approval action by the commission, if the director of planning and community development finds that the requested extension of time is not caused, directly or indirectly, by any action or omission of the developer, his engineer, or their respective officers, agents or employees or by the diligent pursuit thereof by such persons.

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(c) When the developer believes that an extension of time is needed beyond the time allowed in subsections (a) and (b) of this section, the developer may appeal in writing to the commission for additional time and must specify the reasons therefor. The commission then may grant an additional extension of time not to exceed:

- (1) Ninety days from the extension granted pursuant to subsection (b) of this section, or
- (2) One hundred eighty days if no extension was granted pursuant to subsection (b) of this section,

if the commission finds that the requested extension of time is not caused, directly or indirectly, by any action or omission of the developer, his engineer, or their respective officers, agents or employees or by the diligent pursuit thereof by such persons.

(d) When the developer believes that an extension of time is needed beyond the time allowed in subsections (a), (b) and (c) of this section, the developer may appeal in writing to the city council for additional time and must specify the reasons therefor. The city council then may grant an additional extension of time not to exceed:

- (1) One hundred eighty days from the extensions granted pursuant to subsections (b) and (c) of this section,
- (2) Two hundred seventy days if an extension was granted pursuant to subsection (b) or (c) of this section, but not both, or
- (3) Three hundred sixty days if no extension was granted pursuant to subsections (b) and (c) of this section,

if the city council finds that the requested extension of time is not caused, directly or indirectly, by any action or omission of the developer, his engineer, or their respective officers, agents or employees or by the diligent pursuit thereof by such persons.

(Code 1967, § 27-20.2(a); Ord. No. 3655, § 3, 7-28-83; Ord. No. 5263, § 2, 4-27-89; Ord. No. 7693, § 2, 5-9-96; Ord. No. 8973, § 1, 8-24-00)

### **Sec. 126-187. Submission of plat to director.**

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

(Code 1967, § 27-20.2(b); Ord. No. 3655, § 3, 7-28-83; Ord. No. 5263, § 2, 4-27-89; Ord. No. 7693, § 2, 5-9-96; Ord. No. 8649, § 3, 8-12-99)

### **Sec. 126-188. Engineering report.**

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

(Code 1967, § 27-20.2(c); Ord. No. 3655, § 3, 7-28-83; Ord. No. 5263, § 2, 4-27-89; Ord. No. 7693, § 2, 5-9-96; Ord. No. 9544, § 1, 4-10-03)

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**Sec. 126-189. Contents of final plat; construction approval.**

- (a) The final plat of the subdivision shall show or be accompanied by the following data:
- (1) Plats shall be drawn upon sheets 24 inches by 36 inches to the scale of 100 feet to the inch, unless another scale is approved by the director of planning and development services;
  - (2) A title, including the name of the subdivision, the owner and the certification of a registered public surveyor responsible for the plat; and the scale and location of the subdivision with reference to original land grants or surveys, the data and north point;
  - (3) A certificate of ownership and dedication of all streets, easements, parks and playgrounds to public use forever, signed and acknowledged before a notary public by the owner and lienholder of the land;
  - (4) An accurate on-the-ground boundary survey of the property with bearings and distances and showing the lines of all adjacent land, streets and easements with their names and width. Streets and lot lines in an adjacent subdivision shall be shown dotted. All necessary data to reproduce the plat on the ground must be shown on the plat, including building lines;
  - (5) A certificate of approval to be signed by the chairman and secretary of the commission shall be placed on the face of the plat;
  - (6) A certificate of approval from the county flood control district shall be placed on the face of the plat when one of its facilities is immediately adjacent or dedication to it is required;
  - (7) Two copies of the proposed deed restrictions; and
  - (8) If any part of the plat lies in a flood hazard area, one-foot contour lines shall be drawn with a very heavy line and designated. The plat shall also show the following statement in print equal in size to the certificates of approval:  
  
"Parts of this plat lower than the 100-year flood elevation have a one percent chance each year of being inundated by flooding."
- (b) All construction shall be inspected while in progress by the city engineering department and must receive final approval upon completion by the city engineer. A letter by such officers stating that the construction conforms to the specifications and standards contained in or referred to in this division must be presented to the planning and development services department prior to filing the final plat unless a security is submitted in accordance with subsection (c) hereof.
- (c) If the subdivider chooses to file security in lieu of completing construction prior to final plat filing, he may utilize one of the methods of posting security detailed herein based upon the type of development.
- (1) For all developments except for those listed in subsection (c)(2) and (c)(3) of this section, a subdivider may only file security in lieu of completing construction if all water lines, sanitary sewer lines, and stormwater systems are completed and approved by the city engineer and if at least 50 percent of all required improvements, including streets, sidewalks, and lift stations, if any, have been completed. If these requirements are met, the subdivider may:
    - a. File with the department of planning and development services a bond executed by a surety company licensed to do business in the state and acceptable to the city, on the form provided by the city, in an amount equal to 110 percent of the estimated cost of the improvements required by this chapter and conditioned upon the satisfactory completion of all required improvements, including streets and lift stations, if any, in full compliance with the Code within the time for completion as established by the city engineer. The estimated cost shall be approved by the city

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engineer, and the performance bond shall be approved as to form and legality by the city attorney;

- b. Place on deposit in a bank or trust company in the name of the city and approved by the city and file a copy of such with the department of planning and development services in a trust account a sum of money equal to 110 percent of the estimated cost of all improvements required by this chapter, which account shall be conditioned upon the satisfactory completion of all required improvements, including streets and lift stations, if any, in full compliance with the Code within the time for completion as established by the city engineer. The estimated cost shall be approved by the city engineer. Selection of the trustee shall be subject to approval by the city, and the trust agreement shall be executed on the form provided by the city and approved as to form and legality by the city attorney;
  - c. File with the department of planning and development services a letter, on the form provided by the city, signed by a principal officer of a bank or federally insured savings and loan association or other financial institution acceptable to the city, agreeing to pay to the city, on demand, a stipulated sum of money equal to 110 percent of the estimated cost of improvements required by this chapter to apply to the costs of installation of all improvements for which the subdivider or developer is responsible under this chapter. The time for completion shall be established by the city engineer and the guarantee payment sum shall be the estimated costs as approved by the city engineer. The letter shall state the name of the subdivision and shall list the improvements and amounts which the subdivider or developer is required to provide; or
  - d. File with the department of planning and development services a cashier's or certified check payable to the city in an amount equal to 110 percent of the estimated cost of the improvements required by this chapter.
- (2) For developments located within an area annexed for limited purposes by the city, a subdivider may file security in lieu of completing construction of water lines, sanitary sewer lines, stormwater systems, and required improvements, including streets, sidewalks, and lift stations, if any, if the development:
- a. Is located within a light industrial (LI) or heavy industrial (HI) zoning district; or
  - b. Is comprised of only commercial uses, one of which has a building footprint in excess of 100,000 square feet.
- The security may be in any of the forms referenced in subsection (c)(1)a. through (c)(1)d. of this section.
- (3) For developments located within the corporate limits of the city, a subdivider may file for final plat prior to completing construction of water lines, sanitary sewer lines, stormwater systems, and required improvements, including streets, sidewalks, and lift stations, if any, if:
- a. The subdivider has entered into a cost-share agreement with the city regarding the construction of all or a portion of the required improvements;
  - b. The subdivider has rendered its share of the cost of the required improvements to the city in accordance with the cost-share agreement;
  - c. The cost-share agreement provides for the dedication of any easements or rights-of-way not shown on the final plat; and
  - d. Either:
    - 1. The development is comprised of only commercial uses, one of which has a building footprint in excess of 100,000 square feet; or
    - 2. The development is comprised of only commercial uses consisting of at least 30 acres.

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

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

- (d) After final inspection, the city engineer shall notify the subdivider and the director of planning and development services in writing as to his acceptance or rejection of the construction. If accepted, the security is released. He shall reject such construction only if it fails to comply with the standards and specifications contained or referred to in this chapter. If he rejects such construction, the city attorney shall proceed to enforce the guarantees provided in this section. The city engineer may approve partial releases of the security retained by the city upon partial acceptance by the city engineer of required improvements. Where good cause exists, the city engineer may extend the period of time for completion under subsection (b) of this section. Such extension of time shall be reported to the department of planning and development services. No such extension shall be granted unless security as provided in subsection (b) of this section has been provided by the subdivider covering the extended period of time.

(Code 1967, § 27-20.2(d); Ord. No. 3655, § 3, 7-28-83; Ord. No. 5263, § 2, 4-27-89; Ord. No. 7693, § 2, 5-9-96; Ord. No. 9284, § 1, 12-13-01; Ord. No. 11,979, § 1, 7-26-12; Ord. No. 11,980, § 3, 7-26-12; Ord. No. 12,647, § 1, 9-25-14; Ord. No. 14,175, § 11, 9-26-19)

**Secs. 126-190—126-215. Reserved.**

## ***DIVISION 5. SUBDIVISION VARIANCES***

### **~~Sec. 126-216. Criteria for issuance.~~**

~~The commission may authorize a variance from this chapter when, in its opinion, undue hardship will result from requiring strict compliance. In granting a variance, the commission shall prescribe any condition it deems necessary or desirable considering the public interest. In making the findings required in this division, the commission shall take into consideration the following:~~

- ~~(1) The nature of the proposed use of the land involved and existing uses of land in the vicinity;~~
- ~~(2)(1) The number of persons who will reside or work in the proposed subdivision;~~
- ~~(3)(1) The probable effect of such variance upon traffic conditions and upon the public health, safety, convenience and welfare of the vicinity; and~~
- ~~(4)(1) Any and all other facts the commission may deem relevant.~~

~~(Code 1967, § 27-62(a); Ord. No. 3655, § 3, 7-28-83; Ord. No. 6149, § 2, 2-13-92)~~

### **~~Sec. 126-217. Findings.~~**

- ~~(a)(1) No variance from this chapter shall be granted unless the commission finds:~~
- ~~(1)a. There are special circumstances or conditions affecting the land involved, such that the strict application of this chapter would deprive the applicant of the reasonable use of his land;~~
  - ~~(2)a. The granting of the variance will not be detrimental to the public health, safety, welfare or will be injurious to other property in the area; and~~

~~(3)a. The granting of the variance will not have the effect of preventing the orderly subdivision of other land in the area in accordance with this chapter.~~

~~(b)(1) Such findings of the commission, together with the specified facts upon which such findings are based, shall be incorporated into the official minutes of the commission meeting at which such variance is granted. Variances may be granted only when in harmony with the general purpose and intent of this chapter so that the public health, safety and welfare may be secured and substantial justice done. Pecuniary hardship to the subdivider, standing alone, shall not be deemed to constitute hardship requiring variance under this division.~~

~~(Code 1967, § 27-62(b); Ord. No. 3655, § 3, 7-28-83; Ord. No. 6149, § 2, 2-13-92)~~

### **~~Sec. 126-218. Denial for certain conditions; design elements.~~**

~~(1) No variance shall be granted pursuant to this division as to required improvements, minimum lot sizes, flood hazard area regulations, bond requirements or utilization. However, a variance may be granted for drainage improvements in a subdivision located wholly outside the corporate city limits by the commission.~~

~~(2)(1) Nothing in this division is to be construed as prohibiting either the commission or city council from granting a variance from the design elements of required improvements. The term "design elements" refers to the minimum and maximum criteria set forth in this chapter for designing the length, width or configuration of required improvements, such as the maximum length of dead end roadways or easements, the minimum radius of curves, the minimum width of rights of way, etc.~~

~~(Code 1967, § 27-62(c); Ord. No. 3655, § 3, 7-28-83; Ord. No. 6149, § 2, 2-13-92)~~

### **~~Sec. 126-219. Subdivisions outside city limits.~~**

~~Variances to this chapter may be granted as to all required improvements in subdivisions located wholly outside the city, but within its extraterritorial jurisdiction, provided the subdivision complies with the minimum standards set by the appropriate county governing body.~~

~~(Code 1967, § 27-62(d); Ord. No. 3655, § 3, 7-28-83; Ord. No. 6149, § 2, 2-13-92)~~

### **~~Sec. 126-220. Applicability to 100-year storm requirements.~~**

~~The granting of a variance from this chapter shall not relieve the developer from meeting the 100-year storm runoff requirements.~~

~~(Code 1967, § 27-62(e); Ord. No. 3655, § 3, 7-28-83; Ord. No. 6149, § 2, 2-13-92)~~

### **~~Sec. 126-221. Submission of requests.~~**

~~All requests for a variance from this chapter shall be submitted in writing to the commission with preliminary approval. The request shall state why the developer feels his project meets the variance requirements.~~

~~(Code 1967, § 27-62(f); Ord. No. 3655, § 3, 7-28-83; Ord. No. 6149, § 2, 2-13-92)~~

**Secs. 126-222—126-250. Reserved.**

## ***DIVISION 6. SPECIAL DEVELOPMENTS & SUBDIVISIONS-ARTICLE III.***

### Subpart B – LAND DEVELOPMENT CODE

#### Chapter 126 - SUBDIVISIONS

(Supp. No. 75)



## **SPECIAL DEVELOPMENT ~~+DIVISION~~. IN GENERAL**

### **Sec. 126-251. Requirements for developments falling outside existing categories.**

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

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

(Code 1967, § 27-36; Ord. No. 6983, § 2, 4-14-94)

### **Sec. 126-252. Floodprone areas.**

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

(Code 1967, § 27-61; Ord. No. 3655, § 3, 7-28-83)

Cross reference(s)—Floods generally, ch. 110.

### **Sec. 126-253. Gate design for emergency access.**

- (a) *Approval.* The construction plans of the design of any gate constructed in the development of commercial properties, industrial properties or private subdivisions must be submitted to and approved by the chief of the fire department as well as the city engineer.

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

(Ord. No. 10,683, § 1, 8-23-07)

**Secs. 126-254—126-280. Reserved.**

## **RESIDENTIAL SUBDIVISIONS ~~DIVISION~~ 2.**

### **Subdivision I. In General**

#### **Sec. 126-281. Location of fire hydrants.**

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

(Ord. No. 10,683, § 2, 8-23-07)

**Secs. 126-282—126-300. Reserved.**

Subpart B - LAND DEVELOPMENT CODE  
Chapter 126 - SUBDIVISIONS  
ARTICLE III. - DEVELOPMENTS  
DIVISION 2. - RESIDENTIAL  
Subdivision II. Reserved

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**Subdivision II. Reserved<sup>3</sup>**

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<sup>3</sup>Editor's note(s)—Ord. No. 10,287, § 1, adopted March 23, 2006, repealed Subdiv. II, §§ 126-301—126-304, which pertained to planned unit developments and derived from Code 1967, § 27-31(a)—(d), Ord. No. 3655, § 3, adopted July 28, 1983.

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**Secs. 126-301—126-320. Reserved.**

**Condominium - Subdivision III.**

**Sec. 126-321. Definitions.**

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

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

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

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

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

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

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

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

*General common elements* means and includes the following:

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

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

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

(Code 1967, § 27-32(b); Ord. No. 3655, § 3, 7-28-83)

Cross reference(s)—Definitions generally, § 1-2.

#### **Sec. 126-322. Commission approval required.**

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

(Code 1967, § 27-32(a); Ord. No. 3655, § 3, 7-28-83)

#### **Sec. 126-323. Townhouse-type dwelling units.**

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

(Code 1967, § 27-32(c); Ord. No. 3655, § 3, 7-28-83)

#### **Sec. 126-324. Apartment-type dwelling units.**

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

(Code 1967, § 27-32(d); Ord. No. 3655, § 3, 7-28-83)

#### **Sec. 126-325. Procedure for approval.**

- (a) Every developer, sole owner or the co-owners of a building or proposed building within the city or its extraterritorial jurisdiction who expressly declares, through the recordation of a master deed, lease or declaration, the desire to submit the property to a condominium regime shall file a plat of such land with the

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commission for its approval in conformance with the standard rules of such commission and dedicating public streets, easements and all other dedications and covenants required in this subdivision.

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

(Code 1967, § 27-32(e); Ord. No. 3655, § 3, 7-28-83)

## **Secs. 126-326—126-345. Reserved.**

## **Townhouse Subdivisions - Subdivision IV.**

### **Sec. 126-346. Definitions.**

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

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

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

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

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

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

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

(Code 1967, § 27-33(a); Ord. No. 3655, § 3, 7-28-83; Ord. No. 3899, § 1, 7-12-84)

Cross reference(s)—Definitions generally, § 1-2.

### **Sec. 126-347. Requirements generally.**

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

(Code 1967, § 27-33(b); Ord. No. 3655, § 3, 7-28-83; Ord. No. 3899, § 1, 7-12-84)

### **Sec. 126-348. Streets.**

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

(Code 1967, § 27-33(b)(1); Ord. No. 3655, § 3, 7-28-83; Ord. No. 3899, § 1, 7-12-84)

### **Sec. 126-349. Reserved.**

Editor's note(s)—Section 1 of Ord. No. 11,607, adopted March 24, 2011, repealed § 126-349, which pertained to building setback lines. See the Code Comparative Table for a complete derivation.

### **Sec. 126-350. Lots.**

- (a) Lot area in a townhouse subdivision shall be a minimum of 2,500 square feet, except as provided in this section.
- (b) Lot width shall be a minimum of 24 feet, except as provided in this section.

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

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

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

(Code 1967, § 27-33(b)(3); Ord. No. 3655, § 3, 7-28-83; Ord. No. 3899, § 1, 7-12-84)

#### **Sec. 126-351. Reserved.**

Editor's note(s)—Section 1 of Ord. No. 11,607, adopted March 24, 2011, repealed § 126-351, which pertained to density standard. See the Code Comparative Table for a complete derivation.

#### **Sec. 126-352. Screening walls.**

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

(Code 1967, § 27-33(b)(5); Ord. No. 3655, § 3, 7-28-83; Ord. No. 3899, § 1, 7-12-84)

#### **Secs. 126-353—126-380. Reserved.**

### **COMMERCIAL DEVELOPMENTS ~~DIVISION 3~~**

#### **Sec. 126-381. Definitions.**

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

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



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

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

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

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

(Code 1967, § 27-34(a); Ord. No. 3655, § 3, 7-28-83; Ord. No. 3836, § 1, 4-26-84; Ord. No. 6149, § 1, 2-13-91)

Cross reference(s)—Definitions generally, § 1-2.

### **Sec. 126-382. Plat required.**

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

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

(Code 1967, § 27-34(b)(1); Ord. No. 3655, § 3, 7-28-83; Ord. No. 3836, § 1, 4-26-84; Ord. No. 6149, § 1, 2-13-91; Ord. No. 8771, § 1, 11-23-99; Ord. No. 10,683, § 3, 8-23-07; Ord. No. 10,984, § 1, 10-9-08)

### **Sec. 126-383. Plat contents, preparation and filing.**

- (a) The plat required in section 126-382(a) shall accurately describe the entire area or tract of land upon which the buildings are to be located and shall indicate the location of all public streets, fire lane easements, buildings, easements and fire hydrants. Such plat shall be prepared in conformance with the requirements in this division and with rules of the commission and shall be submitted according to the plat submittal

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procedure and requirements. Upon final approval of the commission, the plat shall be recorded in the map records of the county wherein the land is situated.

- (b) The easement required in section 126-382(b) shall accurately describe by a metes and bounds description the location of the fire lane easement. Such easement shall be prepared in conformance with the requirements in this division and with rules of the planning department for the written approval of the ~~planning director~~Planning & Development Director. Upon approval by the ~~planning director~~Planning & Development Director, the owner shall tender to the city an amount sufficient for the city to record the easement; and the easement shall be recorded in the deed records of the county wherein the land is situated.
- (c) Building permits may be issued only upon satisfactory compliance with this division.
- (d) If a fire lane is required by this Code, the planning and zoning commission may approve a final plat only if the plat dedicates the required fire lane or if a fire lane easement has been approved by the ~~planning director~~Planning & Development Director and funds have been tendered to the city for the recording of the same.

(Code 1967, § 27-34(b)(2); Ord. No. 3655, § 3, 7-28-83; Ord. No. 3836, § 1, 4-26-84; Ord. No. 6149, § 1, 2-13-91; Ord. No. 10,984, § 2, 10-9-08)

#### **Sec. 126-384. Waiver of final plat.**

- (a) Notwithstanding the general requirements in sections 126-382 and 126-383, the director of planning and community development may, upon review of the preliminary plat submittal as required, not require the filing of a final plat in the county records provided the following specific conditions are met:
  - (1) A fire lane or utility easement will not be required due to the location and accessibility of the building with respect to the existing public street system;
  - (2) Density requirements are not exceeded;
  - (3) All structures lie within 150 feet of a dedicated and improved street;
  - (4) No conflict exists with the major thoroughfare plan; and
  - (5) No street right-of-way dedication is required.
- (b) This action does not release the developer from meeting drainage requirements.

(Code 1967, § 27-34(b)(3); Ord. No. 3655, § 3, 7-28-83; Ord. No. 3836, § 1, 4-26-84; Ord. No. 6149, § 1, 2-13-91; Ord. No. 10,683, § 4, 8-23-07)

#### **Sec. 126-385. Location of structures; fire hydrants; fire lane easements.**

- (a) Approved fire apparatus access roads as defined in the city's fire prevention code adopted in section 38-61, including fire lanes, shall be provided for every structure or portion thereof in a commercial or industrial development within the city or its extraterritorial jurisdiction. The exterior walls of the first story of a building in a commercial or industrial development shall be located within a 150-foot travel distance from a dedicated, accessible, and approved public street or fire access lane easement. The fire chief is authorized to increase the distance of 150 feet in accordance with the city's fire prevention code adopted in section 38-61.
- (b) Fire hydrants shall be spaced no further than 300 feet apart along access ways in commercial and industrial developments. In commercial and industrial developments, fire hydrants shall be required in accordance with the city's fire prevention code adopted in section 38-61.
- (c) A fire lane easement shall have a minimum width of 24 feet of paved roadway. Fire lane easements shall

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receive primary access from a dedicated and improved public street of not less than 50 feet of right-of-way.

- (d) Fire lane easements that curve, turn or change directions shall meet the following standards:
  - (1) All curves, turns or changes in direction shall have a minimum centerline curve radius of 35 feet.
  - (2) All reverse curves shall have a minimum tangent length of 50 feet between points of curve.
- (e) Dead-end fire apparatus access roads as defined in the city's fire prevention code adopted in Section 38-61, including fire lanes, in excess of 150 feet in length shall be provided with an approved area for turning around fire apparatus, in accordance with the city's fire prevention code adopted in section 38-61.
- (f) Fire lanes and access to buildings shall comply with the specifications of the fire prevention code adopted by the city dealing with access to buildings by fire apparatus.
- (g) Dead-end fire lane easements in excess of 300 feet in length must be approved by the fire chief.

(Code 1967, § 27-34(c)(1); Ord. No. 3655, § 3, 7-28-83; Ord. No. 3836, § 1, 4-26-84; Ord. No. 6149, § 1, 2-13-91; Ord. No. 8555, § 1, 4-8-99; Ord. No. 10,683, § 5, 8-23-07)

### **Sec. 126-386. Site standards.**

- ~~(a) Under this division, a residential development designed for rental occupancy shall not exceed 20 dwelling units per parcel acre except that:
  - ~~(1) In computing the developer's parcel acreage, credit may be given for up to one half of any abutting permanent open space as determined by the commission.~~
  - ~~(2) In no case shall open space be utilized to permit densities in excess of 150 percent of those otherwise permitted.~~~~
- ~~(b) On-site parking shall be provided for residential development designated for rental occupancy at the rate of 2½ spaces per dwelling unit.~~
- ~~(c) Controlled income and rent housing may be approved upon recommendation by the commission and approval of the city council, utilizing the following criteria:
  - ~~(0) The site must be approved by the federal agency responsible for financing, and the contemplated project must be subject to income limitations set forth in the federal regulations;~~
  - ~~(0) Density allowances will take into consideration family sizes and ages of intended occupants; and~~
  - ~~(0) Parking requirements may be adjusted by the commission with the approval of the city council to fit demonstrated demand in similar projects.~~~~

~~(Code 1967, § 27-34(d); Ord. No. 3655, § 3, 7-28-83; Ord. No. 3836, § 1, 4-26-84; Ord. No. 6149, § 1, 2-23-91)~~

### **Sec. 126-387. Off-street parking.**

- (a) The commission shall be responsible for off-street parking requirements for commercial developments that must be platted
- (b) The commission may grant an exception to the requirements of chapter 112 when in its opinion one or more of the following apply to the platted development:
  - (1) The exception is not inconsistent with the intent of the ordinance;
  - (2) The development of additional phases will include provisions for any shortage;
  - (3) The proposed development is shown to not fit existing categories; or

(4) The proposed structures include areas that will not be used as a part of the majority use proposed (Code 1967, § 27-34(e); Ord. No. 3655, § 3, 7-28-83; Ord. No. 3836, § 1, 4-26-84; Ord. No. 6149, § 1, 2-13-91; Ord. No. 11,866, § 24, 2-23-12)

**Secs. 126-388—126-415. Reserved.**

**~~DIVISION 4.~~ LARGE LOT ESTATE DEVELOPMENT**

**Sec. 126-416. Definitions.**

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

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

(Code 1967, § 27-35(1); Ord. No. 6983, § 1, 4-14-94)

Cross reference(s)—Definitions generally, § 1-2.

**Sec. 126-417. Scope.**

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

(Code 1967, § 27-35; Ord. No. 6983, § 1, 4-14-94)

**Sec. 126-418. Lot standards.**

(a) *Minimum area.*

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

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

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

- (1) Front yard, 40 feet;

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- (2) Rear yard, 20 feet; and
  - (3) Side yard, ten feet.
  - (c) *Street frontage*. The minimum street frontage shall be 60 feet.
  - (d) *Minimum width*. The minimum lot width shall be 120 feet, to be measured at the building setback line.
- (Code 1967, § 27-35(2); Ord. No. 6983, § 1, 4-14-94; Ord. No. 8934, § 1, 3-22-00)

Cross reference(s)—Table of property development standards, § 130-601.

### **Sec. 126-419. Streets.**

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

- (1) *Right-of-way*. The street right-of-way shall be a minimum of 60 feet;
- (2) *Asphalt streets*. Asphalt streets shall be constructed as follows:
  - a. The width shall be 22 feet of paved HMA surface;
  - b. Shoulders shall be four feet on each side paved with an asphaltic chip seal; and
  - c. The pavement and shoulders shall both have an eight-inch flexible base and a six-inch lime stabilized subgrade. The HMA surface shall be 1.5 inches thick.
- (3) *Concrete streets*. Concrete streets shall be constructed as follows:
  - a. The width shall be 22 feet of paved surface;
  - b. Shoulders shall not be required on concrete streets; and
  - c. The concrete pavement shall be a minimum of six inches thick with a six-inch lime stabilized subgrade that extends one foot beyond the edge of the pavement. The concrete pavement shall be constructed in accordance with specifications for such pavement provided for in article V of this chapter. The outer three feet of each side of the pavement shall have the steel reinforcement placed on 12-inch centers; and
- (4) *Roadside ditches*. Roadside ditches may be used for drainage if constructed as follows:
  - a. The maximum side slopes shall be 3:1; and
  - b. The maximum depth shall be five feet measured from the crown of the finished pavement.

(Code 1967, § 27-35(3); Ord. No. 6983, § 1, 4-14-94)

### **Sec. 126-420. Extension of utilities.**

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

(Code 1967, § 27-35(3)e; Ord. No. 6983, § 1, 4-14-94)

### **Secs. 126-421—126-430. Reserved.**

~~DIVISION 5.~~ PRIVATE SUBDIVISION DEVELOPMENT

**Sec. 126-431. Definitions.**

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

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

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

(Ord. No. 8452, § 1, 11-24-98)

**Sec. 126-432. Applicability of division.**

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

(Ord. No. 8452, § 1, 11-24-98)

**Sec. 126-433. Infrastructure requirements.**

- (a) *Private streets.* Improved portions of private streets shall comply with the specifications and design standards set forth in articles IV and V of this chapter. Private streets shall be owned and maintained by a corporation, community association or other legal entity established for this purpose.
- (b) *Sidewalks, driveways, curbs and gutters.* Cement or concrete sidewalks, driveways, curbs and gutters shall comply with the specifications and regulations contained in chapter 122. Deed restrictions shall be required to ensure sidewalks remain unobstructed. Sidewalks, curbs and gutters in a private subdivision shall be owned and maintained by a corporation, community association or other legal entity established for this purpose.
- (c) *Wheelchair ramps.*
  - (1) Wheelchair ramps shall be constructed at the entrance to all crosswalks where sidewalks exists or where otherwise required by section 122-91.
  - (2) Where sidewalks or curbs exist, wheelchair ramps shall be added at locations specified in subsection (1), above, whenever any work is proposed to existing driveways, curbs, or sidewalks. Also, wheelchair ramps shall be added wherever missing sidewalks or curb segments are added in front of any lot or block of subdivision.
  - (3) Wheelchair ramps shall conform to the design and construction standards of the city. Any deviation from the standards must be approved in writing by the director of public works in consultation with the director of human resources.
  - (4) Wheelchair ramps shall be owned and maintained by a corporation, community association or other legal entity established for this purpose.

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(Supp. No. 75)

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- (d) *Utilities.* All utility systems shall comply with the requirements of this chapter, chapter 98 and any other applicable regulations of the city. Water, sanitary sewer, and storm sewer systems within a private subdivision shall be dedicated to the public and maintained by the city in the same manner as its other water, sanitary sewer, and storm sewer systems. All utilities so dedicated within the city limits must be accepted in writing by the city prior to recording of the final plat.
  - (e) *Easements.* Publicly owned and/or maintained utilities shall be placed in public streets or easements dedicated to the public, which are a minimum of 16 feet in width unless a narrower width is approved by the city engineer.

(Ord. No. 8452, § 1, 11-24-98)

#### **Sec. 126-434. Infrastructure compliance.**

Upon completion of construction and prior to approval by the city engineer, the city engineer shall be provided with a written certification signed by a registered professional engineer certifying that all infrastructure enumerated in section 126-433 was designed and installed as required by the provisions of this chapter. The construction of all infrastructure detailed in section 126-433 shall be inspected while in progress by the city engineer and must receive final approval upon completion by the city engineer. The platting, review, approval and filing processes described in article II of this chapter shall govern all plats of private subdivisions.

(Ord. No. 8452, § 1, 11-24-98)

#### **Sec. 126-435. Common areas and facilities maintenance.**

- (a) *Responsibility for maintenance.* Adequate provision shall be made for a community association or other legal entity with direct responsibility to, and control by, the property owners involved to provide for the operation and maintenance of all common areas and facilities, including private streets and sidewalks which are a part of the private subdivision. The applicant shall submit a legal instrument establishing a plan for the use and permanent maintenance of the common areas/facilities and demonstrating that the community association is self-perpetuating and adequately funded to accomplish its purposes, and providing the city and other governmental authorities with written permission for access at any time without liability when on official business, and further to permit the city to remove obstructions if necessary for emergency vehicle access and assess the cost of removal to the owner of the obstruction. The instrument must be approved as to legal form by the city attorney prior to any plat recordation and shall be recorded at the same time as the plat.
- (b) *Inspections.* The city may periodically inspect private streets and sidewalks and require repairs necessary to ensure public health, safety and emergency access as specified in subsection (c), below.
- (c) *Repairs ordered by the city.* All repairs to and maintenance of private streets and sidewalks, which are ordered by the city engineer in writing and sent to the community association or other legal entity responsible for such repairs and/or maintenance as specified in the deed restrictions approved by the city attorney, must be completed within the time specified in the notice. Failure to timely complete the ordered repairs or maintenance may result in any one or more of the following, at the sole option of the city:
  - (1) Emergency services being withheld if emergency vehicles cannot safely access the emergency site; and/or
  - (2) The removal of all gates inhibiting access to the public and the dedication of the private streets, sidewalks, and rights-of-way to the public.

(Ord. No. 8452, § 1, 11-24-98)

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**Sec. 126-436. Lot size.**

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

(Ord. No. 8452, § 1, 11-24-98; Ord. No. 11,866, § 25, 2-23-12)

**Sec. 126-437. Streetlights and signs.**

Streetlights and street name signs shall be in compliance with sections 126-642 and 126-643 respectively. Furthermore, the entrances to all private streets from public ways must be marked with a sign stating that the street is a private street.

(Ord. No. 8452, § 1, 11-24-98)

**Sec. 126-438. Reserved.**

Editor's note(s)—Ord. No. 10,683, § 6, adopted Aug. 23, 2007, repealed § 126-438, which pertained to gate design for emergency access, and derived from Ord. No. 8452, § 1, adopted Nov. 24, 1998.

**Sec. 126-439. Location restrictions on private subdivisions.**

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

(Ord. No. 8452, § 1, 11-24-98)

**Sec. 126-440. Garbage collection.**

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

(Ord. No. 8452, § 1, 11-24-98)

**Sec. 126-441. Additional information on plat required.**

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

It shall be expressly understood and agreed by and between the owner of the subdivided property that the owner, its officers, agents and employees and/or its successors, assigns (collectively the "owner") shall defend, indemnify and hold the city, its officers, agents and employees (collectively the "city"), harmless against any and all claims, lawsuits, judgments, costs and expenses, including attorneys' fees, for personal injury, death, property damage or other harm for which recovery of damages is sought, suffered by any person, that may arise out of or be occasioned in any way by the repair, maintenance or condition of any



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utility, private street, sidewalk, streetlight, or street sign located within the subdivision or the gates and/or barriers restricting access to the private subdivision, where such injuries, death or damages are caused by the joint negligence of the city and the owner, and/or by the joint or sole negligence of the owner. It is the expressed intention of the parties hereto, both the owner and the city, that the indemnity provided for in this subsection is indemnity by the owner to indemnify, protect and defend the city from the consequences of the city's own negligence where that negligence is a concurring cause of the injury, death or damage with that of the owner's joint and sole negligence. Furthermore, the indemnity provided for in this subsection shall have no application to any claim, loss, damage, cause of action, suit and liability where the injury, death or damage results from the sole or concurrent negligence of the city unmixed with the fault of the owner. If any action or proceeding is brought against the city by reason of any of the private subdivision in any way, the owner further agrees and covenants to defend the action or proceeding by legal counsel acceptable to the city, such acceptance not to be unreasonably withheld.

- (b) *Dedication to public.* The final subdivision plat shall also include verbiage approved by the city attorney which results in the private streets, sidewalks and/or other common areas noted thereon being dedicated, without consideration, to the public at the option of the city should the private streets or sidewalks, or access to the same fail to comply with this division.

(Ord. No. 8452, § 1, 11-24-98)

### **Sec. 126-442. Notice to purchasers.**

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

The real property, described below, that you are about to purchase is located within a private subdivision as defined by Chapter 126 of the Code of Ordinances of the City of Baytown, Texas. The streets, sidewalks, driveways, curbs and gutters within the private subdivision are not maintained by the City of Baytown, but by a corporation, community association or other legal entity, with direct responsibility to, and controlled by, the property owners of property within the private subdivision. Such corporation, community association or other legal entity solely has the obligation to provide for the operation and maintenance of all streets, sidewalks, driveways, curbs, gutters, and other common areas within the subdivision.

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

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

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

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

\_\_\_\_\_  
Signature of Seller

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

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

\_\_\_\_\_  
Signature of Purchaser

- (d) The notice required by this section shall be given to the prospective purchaser prior to execution of a binding contract of sale and purchase either separately or as an addendum or paragraph of a purchase contract. If, however, the seller fails to furnish the required notice at or prior to closing the purchase and sale contract and the purchaser closes on the property, it shall be conclusively presumed that the purchaser closed on such property with knowledge of all of the information contained in the notice.
- (e) At the closing of purchase and sale, a separate copy of such notice shall be executed by the seller and purchaser, acknowledged, and thereafter recorded in the deed records of the county in which the property is located.
- (f) For the purposes of this section, an executory contract of purchase and sale having a performance period of more than six months shall be considered a sale under subsection (a), above.

(Ord. No. 8452, § 1, 11-24-98)

### **Sec. 126-443. Petition to convert to private streets.**

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

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

(Ord. No. 8452, § 1, 11-24-98; Ord. No. 9621, § 13, 9-11-03)

**Secs. 126-444—126-450. Reserved.**

~~**ARTICLE DIVISION 6. IMPROVEMENTS**~~

~~**DIVISION 1. GENERALLY**~~

**Sec. 126-451. Payment for required improvements.**

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

(Code 1967, § 27-51; Ord. No. 3655, § 3, 7-28-83)

**Sec. 126-452. Construction contracts.**

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

(Code 1967, § 27-52; Ord. No. 3655, § 3, 7-28-83)

**Sec. 126-453. Inspection.**

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

(Code 1967, § 27-53; Ord. No. 3655, § 3, 7-28-83; Ord. No. 14,605, § 20, 12-10-20)

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**Sec. 126-454. As-built or record plans.**

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

(Code 1967, § 27-54; Ord. No. 3655, § 3, 7-28-83; Ord. No. 10,159, § 4, 9-27-05; Ord. No. 12,986, § 13, 10-8-15; Ord. No. 14,605, § 21, 12-10-20)

**Sec. 126-455. Final acceptance.**

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

(Code 1967, § 27-55; Ord. No. 3655, § 3, 7-28-83; Ord. No. 14,605, § 22, 12-10-20)

**Sec. 126-456. Guarantee.**

- (a) This section shall be applicable to:
- (1) All subdivisions within the city limits; and
  - (2) All subdivisions within the extraterritorial jurisdiction of the city if:
    - a. The property is within an area listed in the city's annexation plan to be annexed during the guarantee period specified in subsection (b) of this section; or
    - b. The property is otherwise scheduled to be annexed within the guarantee period specified in subsection (b) of this section.
- (b) The subdivider or developer shall guarantee that all materials and workmanship in connection with the improvements required under this chapter are free of defects for a period of one year after acceptance of the improvements by the city engineer. The subdivider or developer, if using construction contractors for furnishing the materials or installing the improvements required under this chapter, shall require that all contracts include such a guarantee. If the subdivider fails to perform the necessary work to correct defects during the guarantee period, the city will make necessary repairs and bill the subdivider for the total cost of the repair work.

(Code 1967, § 27-56; Ord. No. 3655, § 3, 7-28-83; Ord. No. 9151, § 1, 4-26-01)

**Sec. 126-457. Governmental liens.**

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

(Code 1967, § 27-57; Ord. No. 3655, § 3, 7-28-83)

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### **Sec. 126-458. Traffic control devices.**

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

(Code 1967, § 27-58; Ord. No. 3655, § 3, 7-28-83; Ord. No. 14,605, § 23, 12-10-20)

### **Sec. 126-459. Cluster box mail service locations.**

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

(Code 1967, § 27-59; Ord. No. 3655, § 3, 7-28-83)

### **Sec. 126-460. Sidewalks.**

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

(Ord. No. 11,980, § 4, 7-26-12)

### **Secs. 126-461—126-485. Reserved.**

## **~~DIVISION 2.~~ DESIGN STANDARDS**

### **~~Subdivision I.~~ In General**

### **Sec. 126-486. Survey requirements.**

- (a) *Monuments.* Monuments, consisting of a three-fourths-inch iron rod or larger, 36 inches in length, shall be placed at all corners of the block lines, the point of intersection of curves and tangents of the subdivision, flush with the finished grade.
- (b) *Benchmarks.*
  - (1) *Required.* One benchmark per subdivision section shall be permanently installed in an approved manner at a location designated by the city engineer. The location and elevation of the benchmark shall be shown on the plat. Permanent benchmarks shall be five-foot-long concrete posts six inches in diameter with the top to be no more than three inches below the finished grade. All benchmarks shall be installed to survey-grade accuracy.
  - (2) *Deposit.* The subdivider or developer shall deposit \$500.00 per required benchmark. The deposit shall be:
    - a. Refunded upon submission of a data sheet which satisfies the requirements of subsection (b)(3) below and upon acceptance by the city engineer of the installation of the benchmarks; or
    - b. Shall be forfeited 90 days after the submission of the final plat.

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

(Code 1967, § 27-49; Ord. No. 3655, § 3, 7-28-83; Ord. No. 9544, § 2, 4-10-03; Ord. No. 10,079, § 1, 6-9-05)

### **Sec. 126-487. Park and playground sites.**

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

(Code 1967, § 27-48; Ord. No. 3655, § 3, 7-28-83)

### **Secs. 126-488—126-505. Reserved.**

## **Subdivision II. Streets**

### **Sec. 126-506. Circulation pattern.**

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

(Code 1967, § 27-41(a); Ord. No. 3655, § 3, 7-28-83)

### **Sec. 126-507. Principal arterials, minor arterials and collectors.**

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

(Code 1967, § 27-41(b), (c); Ord. No. 3655, § 3, 7-28-83; Ord. No. 14,605, § 24, 12-10-20)

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### **Sec. 126-508. Right-of-way width.**

In a subdivision, the right-of-way width shall be as described in article III of chapter 109 of this Code.  
(Code 1967, § 27-41(d); Ord. No. 3655, § 3, 7-28-83; Ord. No. 14,605 , § 25, 12-10-20)

### **Sec. 126-509. Curves.**

The design of curves in roadway alignments shall conform to the requirements of article III of chapter 109 of this Code.  
(Code 1967, § 27-41(e); Ord. No. 3655, § 3, 7-28-83; Ord. No. 14,605 , § 26, 12-10-20)

### **Sec. 126-510. Intersections.**

The design of intersections shall conform to the requirements of article III of chapter 109 of this Code.  
(Code 1967, § 27-41(f); Ord. No. 3655, § 3, 7-28-83; Ord. No. 14,605 , § 27, 12-10-20)

### **Sec. 126-511. Culs-de-sac.**

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

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

(Code 1967, § 27-41(g); Ord. No. 3655, § 3, 7-28-83)

### **Sec. 126-512. Partial or half-streets.**

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

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

(Code 1967, § 27-41(i); Ord. No. 3655, § 3, 7-28-83)

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### **Sec. 126-513. Block length.**

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

(Code 1967, § 27-41(h); Ord. No. 3655, § 3, 7-28-83)

### **Sec. 126-514. Reserves.**

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

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

(Code 1967, § 27-41(j); Ord. No. 3655, § 3, 7-28-83)

### **Sec. 126-515. Temporary right-of-way.**

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

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

(Code 1967, § 27-41(k); Ord. No. 3655, § 3, 7-28-83)

### **Sec. 126-516. Names.**

- (a) Proposed new street names shall be submitted to the ~~director of planning and community development~~ Planning & Development Director for approval prior to the submittal of the final plat of the subdivision.
- (b) Street names shall be continuations of existing street names adjacent to or on line with proposed streets.

(Code 1967, § 27-41(l); Ord. No. 3655, § 3, 7-28-83)

### **Secs. 126-517—126-545. Reserved.**

## **Subdivision III. Lots**



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**Sec. 126-546. Scope.**

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

(Code 1967, § 27-43(a); Ord. No. 3655, § 3, 7-28-83; Ord. No. 4183, § 1, 6-27-85; Ord. No. 14,605, § 28, 12-10-20)

**Sec. 126-547. Designation of purposes.**

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

(Code 1967, § 27-43(b); Ord. No. 3655, § 3, 7-28-83; Ord. No. 4183, § 1, 6-27-85)

**Sec. 126-548. Side lot lines.**

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

(Code 1967, § 27-43(c); Ord. No. 3655, § 3, 7-28-83; Ord. No. 4183, § 1, 6-27-85)

**Sec. 126-549. Double fronts**

Double front lots are prohibited in a subdivision.

(Code 1967, § 27-43(e); Ord. No. 3655, § 3, 7-28-83; Ord. No. 4183, § 1, 6-27-85)

**Sec. 126-550. Rear and side driveway access.**

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

(Code 1967, § 27-43(d); Ord. No. 3655, § 3, 7-28-83; Ord. No. 4183, § 1, 6-27-85)

**Sec. 126-551. Minimum sizes.**

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

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

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(Code 1967, § 27-43(f); Ord. No. 3655, § 3, 7-28-83; Ord. No. 4183, § 1, 6-27-85; Ord. No. 8151, § 8, 12-16-97; Ord. No. 9346, § 1, 4-25-02)

Cross reference(s)—Zoning, ch. 130.

**Sec. 126-552. Land to be used for other than residential purposes.**

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

(Code 1967, § 27-44; Ord. No. 3655, § 3, 7-28-83)

**Sec. 126-553. Numbering.**

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

(Code 1967, § 27-45; Ord. No. 3655, § 3, 7-28-83)

**Sec. 126-554. Building lines**

- (a) Residential building lines in a subdivision shall be as follows:
  - (1) The minimum building line shall be 15 feet on the front of all lots, ten feet on the side of corner lots, and five feet on the side of interior lots; and
  - (2) Lots adjacent to interstates or expressways, principal arterials and minor arterials shall have a minimum 35-foot front building line when lots are facing or a minimum 20-foot side building line when lots are siding on streets.
- (b) Transitional building lines having a minimum angle of 45 degrees are to be provided where an offset in building lines is greater than five feet.

(Code 1967, § 27-46; Ord. No. 3655, § 3, 7-28-83)

Cross reference(s)—Table of property development standards, § 130-601.

**Secs. 126-555—126-580. Reserved.**

**~~Subdivision~~ IV. Easements**

**Sec. 126-581. Drainage easement.**

- (a) The location and width of a drainage easement in a subdivision shall be determined by the city engineer for plats within the city limits and by the county flood control engineer for plats outside the city or within the city adjacent to bayous or other major drainage facilities for which flood control is primarily responsible.

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- (b) An easement for drainage adjacent to lots, tracts, or reserves shall be noted: "This easement shall be kept clear of fences, building, planting and other obstructions to the operations and maintenance of drainage facility, and abutting property shall not be permitted to drain into this easement except by means of an approved drainage structure."
  - (c) The dedication of any drainage structure or facility used for the retention or detention of stormwater shall be accepted only at the city's option.
  - (d) Drainage easements shall meet the requirements of article II of chapter 109 of this Code.

(Code 1967, § 27-47(a); Ord. No. 3655, § 3, 7-28-83; Ord. No. 14,605 , § 29, 12-10-20)

### **Sec. 126-582. Utility easements.**

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

(Code 1967, § 27-47(b); Ord. No. 3655, § 3, 7-28-83; Ord. No. 14,605 , § 30, 12-10-20)

### **Sec. 126-583. Private easements.**

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

- (1) A copy of the instrument establishing any private easement shall be submitted with the preliminary plat;
- (2) Easement boundaries must be tied by dimension to adjacent lot and tract corners. Where the private easement has no defined location or width, an effort shall be made to reach an agreement on a defined easement. Where no agreement can be reached, pipelines, electrical lines or other facilities shall be accurately located and tied to lot lines, and building setback lines shall be shown at a distance of ten feet from and parallel to the centerline of the pipeline;
- (3) Prior to approval of the final plat, the developer or dedicator of any subdivision plat wherein public streets or easements are shown crossing private easements or fee strips shall, by letter to the city engineer, assume responsibility for seeing that any adjustments and protection of existing pipelines, electrical transmission lines or other facilities shall be planned and provided for to the satisfaction of the holder of the private easements or fee strips and the city engineer prior to the filing of the plat for record; and
- (4) Prior to filing of the final plat for record, the following requirements shall be met:
  - a. The developer or dedicator of any plat shall obtain from the holder of any private easement or fee strip within the plat crossed by proposed streets or other public easements an instrument granting to the public the use of the public streets or easements over and across the private easements or fee strips for construction, operation and maintenance of those public facilities normally using the type of public streets and easements indicated. This instrument shall be delivered to the director of planning and community development to be recorded along with the plat.
  - b. The developer shall furnish the director of planning and community development with a letter from the holder of the private easements or fee strips in question stating that arrangements in pipelines, electric transmission lines or other similar facilities have been made to the satisfaction of the holder of the easement.

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(5) All other easements shall meet the requirements set forth in article II of chapter 109 of this Code.  
(Code 1967, § 27-47(c); Ord. No. 3655, § 3, 7-28-83; Ord. No. 14,175, § 12, 9-26-19; Ord. No. 14,605, § 31, 12-10-20)

**Secs. 126-584—126-610. Reserved.**

## **~~ARTICLE V~~DIVISION 7. ENGINEERING AND CONSTRUCTION STANDARDS**

### **~~DIVISION 1. GENERALLY~~**

#### **Sec. 126-611. Engineering data.**

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

- (1) *Streets*. Centerline survey data for rights-of-way shall be provided as follows:
  - a. Complete curve data chord length and bearing, radius, arc length, tangent, point of curvature, point of tangency and delta;
  - b. The length and bearings of all tangents; and
  - c. The dimensions from all angle points and points of curve to an adjacent side lot line.
- (2) *Lots*. Complete bearings and distances for front, rear and side lot lines shall be provided.
- (3) *Watercourses and easements*. Data for watercourses and easements shall be provided as follows:
  - a. Distances along the side lot lines from the front lot line to the point where the sideline crosses the drainage easement line or the high bank of a stream; and
  - b. The traverse line along the edges of all large watercourses in a convenient location, preferably along a utility easement if paralleling the drainage easement or stream.

(Code 1967, § 27-41(m); Ord. No. 3655, § 3, 7-28-83; Ord. No. 14,605, § 32, 12-10-20)

**Secs. 126-612—126-640. Reserved.**

## ***STREETS***

#### **Sec. 126-641. Standards.**

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

(Code 1967, § 27-71; Ord. No. 3655, § 3, 7-28-83; Ord. No. 7904, § 1, 2-27-97; Ord. No. 8296, § 1, 5-28-98; Ord. No. 8852, § 1, 3-9-00; Ord. No. 9053, §§ 2, 3, 12-14-00; Ord. No. 10,770, § 1, 12-13-07; Ord. No. 11,866, § 26, 2-23-12; Ord. No. 14,605, § 33, 12-10-20)

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**Sec. 126-642. Streetlights.**

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

(Code 1967, § 27-74; Ord. No. 3655, § 3, 7-28-83; Ord. No. 14,605 , § 33, 12-10-20)

**Sec. 126-643. Street name signs.**

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

(Code 1967, § 27-75; Ord. No. 3655, § 3, 7-28-83; Ord. No. 14,605 , § 33, 12-10-20)

**Sec. 126-644. Access management.**

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

(Ord. No. 11,419, § 2, 8-26-10; Ord. No. 14,605 , § 33, 12-10-20)

**Secs. 126-645—126-670. Reserved.***STORMWATER DRAINAGE<sup>4</sup>***Sec. 126-671. Drainage facilities.**

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

( Ord. No. 14,605 , § 34, 12-10-20)

**Sec. 126-672. Detention facilities.**

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

( Ord. No. 14,605 , § 34, 12-10-20)

**Secs. 126-673—126-705. Reserved.**

<sup>4</sup>Editor's note(s)—Ord. No. 14,605 , § 34, adopted Dec. 10, 2020, amended div. 3 in its entirety to read as herein set out. Former div. 3, §§ 126-671—126-675, pertained to similar subject matter, and derived from the 1967 Code, § 27-72; Ord. No. 3655, § 3, adopted July 28, 1983; and Ord. No. 4000, § 1, adopted Nov. 8, 1984.

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## *UTILITIES<sup>5</sup>*

### **Sec. 126-706. Utility systems.**

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

( Ord. No. 14,605 , § 35, 12-10-20)

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<sup>5</sup>Editor's note(s)—Ord. No. 14,605 , § 35, adopted Dec. 10, 2020, amended div. 4 in its entirety to read as herein set out. Former div. 4, §§ 126-706—126-711, pertained to similar subject matter, and derived from the 1967 Code, §§ 27-73, 27-76; Ord. No. 1764, § 1, adopted March 13, 1975; Ord. No. 3655, § 3, adopted July 28, 1983; Ord. No. 5117, §§ 1, 2, adopted Oct. 13, 1988; Ord. No. 5263, § 3, adopted April 27, 1989; and Ord. No. 7256, § 1, adopted March 9, 1995.

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



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Subpart B - LAND DEVELOPMENT

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**ARTICLE V. 118. SIGNS**

**~~Chapter 118 SIGNS~~<sup>1</sup>**

***Division I. IN GENERAL***

**Sec. 118-1. Definitions.**

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

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

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

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

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

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

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

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

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

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

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<sup>1</sup>Cross reference(s)—Buildings and building regulations, ch. 18; master sign electrician, § 18-336 et seq.; businesses, ch. 20; signs or decorations in parks, § 70-16; streets and sidewalks, ch. 122; subdivisions, ch. 126; zoning, ch. 130.



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

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

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

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

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

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

(Code 1967, § 25½-2; Ord. No. 3593, § 1, 4-14-83; Ord. No. 7762, § 1, 7-25-96; Ord. No. 7982, § 1, 5-22-97; Ord. No. 8002, § 1, 6-12-97; Ord. No. 12,734, § 1, 12-11-14)

Cross reference(s)—Definitions generally, § 1-2.

## **Sec. 118-2. Scope.**

This chapter shall apply to:

- (1) All signs, as that term is defined in section 118-1, within the city limits, and
- (2) All signs, which are classified as off-premises signs and either spectacular signs or digital billboard, as those terms are defined in section 118-4, within the city limits and the city's extraterritorial jurisdiction.

(Code 1967, § 25½-1; Ord. No. 3593, § 1, 4-14-83; Ord. No. 5472, § 1, 2-22-90; Ord. No. 10,894, § 1, 5-19-08; Ord. No. 12,762, § 1, 1-8-15)

## **Sec. 118-3. Violations and penalties.**

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

(Code 1967, § 25½-4(d); Ord. No. 3593, § 1, 4-14-83; Ord. No. 5472, § 2, 2-22-90)

## **Sec. 118-4. Classification.**

- (a) *On-premises and off-premises signs.* For the purpose of this chapter, a sign shall be first classified as either an "on-premises sign" or an "off-premises sign" as follows:

- (1) *On-premises sign* means any sign identifying or advertising the business, person, activity, goods, products or services primarily sold or offered for sale on the premises where the sign is installed and

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- maintained, when such premises is used for business purposes, or that conveys information or messages.
- (2) *Off-premises sign* means any sign advertising a business, person, activity, goods, products or services not usually located on the premises where the sign is installed and maintained or that directs persons to any location not on the premises.
- (b) *Types of signs.* All signs shall further be classified into one of the following types of signs:
- (1) *Ground sign* means a sign that is supported by uprights or braces in or upon the ground, including portable signs as defined in subsection (c)(2) of this section.
- (2) *Marquee sign* means a projecting sign attached to or hung from a canopy or covered structure projecting from and supported by a frame or pipe support extending beyond a building.
- (3) *Projecting sign* means any sign that is affixed to any building wall or structure and that extends beyond the building wall or structure more than 12 inches.
- (4) *Roof sign* means any sign erected, constructed or maintained above the roof of any building.
- (5) *Wall sign* means any sign affixed to or painted upon the wall of any building.
- (c) *Special function signs.* Any on-premises or off-premises sign of any type may also be included within one or more of the following additional classifications, according to special functions:
- (1) *Electrical sign* means any sign containing electrical wiring or utilizing electric current, but not including signs illuminated by an exterior light source.
- (2) *Portable sign* means any sign designed or constructed to be easily moved from one location to another, including signs mounted upon or designed to be mounted upon a trailer, bench, wheeled carrier or other nonmotorized mobile structure; a portable sign that has its wheels removed shall still be considered a portable sign. For the purpose of this chapter, trailer signs and signs on benches are portable signs.
- (3) *Spectacular sign* means any sign, other than a digital billboard, that:
- Has automatically changing advertising;
  - Is equipped with glaring or rotating strobe lights or spotlights;
  - Uses flashing intermittent or moving lights;
  - Uses an electronic image on a digital display device capable of changing messages or copy by programmable electronic or mechanical processes; or
  - Has any moving message whatsoever, including animated, moving video and scrolling displays, such as an LED (light emitting diode) screen or any other type of video display, even if the message is stationary.
- (4) *Temporary sign* means any sign constructed of cloth, canvas, light fabric, cardboard, wallboard or other light materials, not to exceed six square feet in size. A portable sign shall not be considered a temporary sign.
- (5) *Digital billboard* means an off-premises sign, display, or device, which changes the "static" message or copy on the sign by electronic means.

(Code 1967, § 25½-3; Ord. No. 3593, § 1, 4-14-83; Ord. No. 10,894, § 2, 5-19-08; Ord. No. 12,734, § 2, 12-11-14)

**Secs. 118-5—118-30. Reserved.**

*Division II. ADMINISTRATION<sup>2</sup>*

**GENERALLY**

**Sec. 118-31. Sign committee.**

- (a) The mayor shall appoint a five-member committee on sign control. The sign committee shall be composed of:
  - (1) Two real estate appraisers, each of whom must be a member in good standing of a nationally recognized professional appraiser society or trade organization that has an established code of ethics, educational program and professional certification program;
  - (2) One person engaged in the sign business in the city;
  - (3) One employee of the state department of transportation who is familiar with real state valuations in eminent domain proceedings; and
  - (4) One architect or landscape architect licensed by the state.
- (b) A member of the committee is appointed for a term of two years.

(Code 1967, § 25½-2; Ord. No. 3593, § 1, 4-14-83; Ord. No. 7762, § 1, 7-25-96; Ord. No. 7982, § 1, 5-22-97)

Cross reference(s)—Boards and commissions, § 2-256 et seq.

**Secs. 118-32—118-60. Reserved.**

**SIGN ADMINISTRATOR<sup>3</sup>**

**Sec. 118-61. Duties generally.**

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

(Code 1967, § 25½-4(a); Ord. No. 3593, § 1, 4-14-83; Ord. No. 5472, § 2, 2-22-90)

**Sec. 118-62. Enforcement responsibility.**

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

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<sup>2</sup>Cross reference(s)—Administration, ch. 2.

<sup>3</sup>Cross reference(s)—Officers and employees, § 2-26 et seq.

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and other applicable law if such inspection discloses any instance of noncompliance. The sign administrator shall investigate thoroughly any complaints of alleged violations of this chapter.

(Code 1967, § 25½-4(b); Ord. No. 3593, § 1, 4-14-83; Ord. No. 5472, § 2, 2-22-90)

### **Sec. 118-63. Powers.**

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

- (1) Every sign for which a permit is required shall be subject to the inspection and approval of the sign administrator. When deemed advisable by the sign administrator, a sign may be inspected at the point of manufacture, if such point is within or adjacent to the city.
- (2) Upon presentation of proper identification to the owner, agent or tenant in charge of such property, the sign administrator may enter, for the purpose of inspecting and investigating signs or sign structures, any building, structure, or other premises or property between the hours of 8:00 a.m. and 5:00 p.m., Monday through Friday. However, in an emergency where extreme hazards are known to exist that may involve imminent injury to persons, loss of life or severe property damage and when the owner, agent or tenant in charge of the property is not available after the sign administrator has made a good faith effort to locate him, the sign administrator may enter such structures and premises at any time upon presentation of proper identification to any other person on the premises. Whenever the sign administrator shall enter upon private property, under any circumstances, for the purpose of inspecting or investigating signs or sign structures, which property has management in residence, such management or the person then in charge shall be notified of his presence and shown his proper and official credentials. The sign administrator, when on private property, shall observe the establishment's rules and regulations concerning safety, internal security and fire protection. Whenever the sign administrator is denied admission to inspect any premises, inspection shall be made only under authority of a warrant issued by a magistrate authorizing the inspection for violations of this chapter. In applying for such warrant, the sign administrator shall submit to the magistrate his affidavit setting forth his belief that a violation of this chapter exists with respect to the place sought to be inspected and his reasons for such belief. Such affidavit shall designate the location of such place and the name of the person believed to be the owner, operator or occupant thereof. If the magistrate finds that probable cause exists for a search of the premises in question, he shall issue a warrant authorizing the search, such warrant describing the premises with sufficient certainty to identify the premises. Any warrant so issued shall constitute authority for the sign administrator to enter upon and inspect the premises described therein.
- (3) Upon notice and issuance of a stop order from the sign administrator, work on any sign that is being conducted shall be immediately stopped. Such notice and order shall be in writing and shall be given to the owner of the property or to his agent or to the person doing the work and shall state the conditions under which work may be resumed. Where an emergency exists, written notice shall not be required to be given by the sign administrator. Following the issuance of a stop order, the sign administrator shall initiate proceedings to revoke any permit issued for the work covered by such stop order, consistent with subsection (4) of this section, unless the cause of the stop order is resolved to the sign administrator's satisfaction. It shall be unlawful for a person to intentionally or knowingly work upon a sign for which a written stop order is issued by the sign administrator.
- (4) The sign administrator shall have the power and authority to revoke any and all permits authorized by this chapter for violation of the terms of this chapter, provided that the sign administrator shall conduct a hearing prior to the revocation of any permit authorized under this chapter to determine the facts incident to the pending revocation. The person whose permit is under consideration shall be

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given at least ten calendar days' written notice of the hearing and shall be permitted to present relevant facts and legal argument regarding the pending revocation. Following such hearing, the sign administrator shall consider the merits of the case and shall present a written opinion prior to any action. However, if in the opinion of the sign administrator the health, safety or welfare of the citizens of the city is endangered by any violation of this chapter, the sign administrator may immediately revoke any or all permits authorized by this chapter and shall conduct the necessary hearing as soon as possible thereafter, but in no case later than three business days after the effective date of the revocation unless the affected permittee shall request in writing a later date.

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

(Code 1967, § 25½-4(c); Ord. No. 3593, § 1, 4-14-83; Ord. No. 5472, § 2, 2-22-90)

### **Sec. 118-64. Appeals.**

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

(Code 1967, § 25½-4(e); Ord. No. 3593, § 1, 4-14-83; Ord. No. 5472, § 2, 2-22-90)

### **Secs. 118-65—118-90. Reserved.**

## **VARIANCES**

### **Sec. 118-91. Submission of request.**

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

(Code 1967, § 25½-4(f)(6); Ord. No. 3593, § 1, 4-14-83; Ord. No. 5472, § 2, 2-22-90)

### **Sec. 118-92. Criteria.**

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

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

(Code 1967, § 25½-4(f)(1); Ord. No. 3593, § 1, 4-14-83; Ord. No. 5472, § 2, 2-22-90; Ord. No. 8002, § 2, 6-12-97)

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### **Sec. 118-93. Issuance.**

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

(Code 1967, § 25½-4(f)(4); Ord. No. 3593, § 1, 4-14-83; Ord. No. 5472, § 2, 2-22-90)

### **Sec. 118-94. Appeals.**

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

(Code 1967, § 25½-4(f)(2); Ord. No. 3593, § 1, 4-14-83; Ord. No. 5472, § 2, 2-22-90)

### **Sec. 118-95. Conditions for granting.**

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

(Code 1967, § 25½-4(f)(3); Ord. No. 3593, § 1, 4-14-83; Ord. No. 5472, § 2, 2-22-90)

### **Sec. 118-96. Nonconformities.**

If a sign built in nonconformance with this chapter as a result of a variance granted by the chief building official or city council is blown or knocked down or a substantial part of such sign is destroyed, damaged or taken down or removed for any purpose other than maintenance operations or for changing the letters, symbols or other matter on such sign, such sign shall not be reerected, reconstructed or rebuilt, except in full conformance with this chapter, unless another variance is requested by the owner and granted by the chief building official or the city council in conformance with this chapter.

(Code 1967, § 25½-4(f)(5); Ord. No. 3593, § 1, 4-14-83; Ord. No. 5472, § 2, 2-22-90)

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**Secs. 118-97—118-125. Reserved.**

**PERMITS**

**Sec. 118-126. Violations and penalties.**

- (a) *Generally.* An offense under section 118-127 is a violation, and any person adjudged guilty shall be punished as provided in section 1-14. Each day such sign is erected, constructed, reconstructed, built, altered or maintained without a building permit or operated, used, or maintained without an operating permit shall constitute a separate offense. In addition, the city attorney is authorized to take all actions, both legal and equitable, civilly and criminally, necessary to ensure compliance with this chapter. However, it is an affirmative defense to prosecution under section 118-127 if a sign is excepted from having a permit under subsection (b), below.
- (b) *Exceptions.* No permit shall be required under this chapter for on-premises signs of the following descriptions, unless any such sign is a spectacular sign. Any sign listed hereunder shall be erected and maintained in a safe condition in conformity with the building code as well as the fire prevention code and rules and regulations for fire safety promulgated by the fire marshal, as applicable.
  - (1) Signs painted on glass surfaces, windows or doors;
  - (2) Wall signs not over 100 square feet in area;
  - (3) Signs erected by the city, state (including its political subdivisions, such as counties and school districts), or the federal government or the lessees of such governmental entities for a public purpose;
  - (4) Railroad signs placed or maintained in reference to the operation of the railway;
  - (5) Legal notices and house numbers;
  - (6) Ground signs that do not exceed four square feet in area and four feet in total height setting forth information concerning a building or other structure under repair or construction or advertising the sale or rental of the premises;
  - (7) Signs marking utility or underground communication or transmission lines and hazards as required by law;
  - (8) Temporary signs, provided the number of such signs on any premises does not exceed two in number and provided such signs are displayed on consecutive days, and for only a maximum of seven days in any 30-day period;
  - (9) Signs setting forth the location of or directions to parking or buildings located on the premises, warning of on-premises obstacles or overhead clearances, or regulating the flow of on-premise traffic, including entrance and exit signs. Such directional signs may be lighted, consistent with other requirements for electrical signs in the code and all codes adopted thereby;
  - (10) Signs displayed upon an operable motor vehicle or trailer; provided that such vehicle or trailer is not parked or located for the primary purpose of displaying the sign and is not parked on a site for a continuous period exceeding 72 hours;
  - (11) Signs displayed upon an operable lighter-than-air or heavier-than-air aircraft; or
  - (12) Signs which are mounted on the face of a building no higher than the roofline or form an integral part of a canopy or marquee entrance and are not over 100 square feet in area, provided that the number of such signs shall not exceed the number of entrances to such building; and

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- (13) Holiday displays or similar temporary displays erected without advertising; provided that such displays are erected no more than 45 days before and removed no later than 14 days after the national holiday.

(Code 1967, § 25½-5(C), (D); Ord. No. 3593, § 1, 4-14-83; Ord. No. 3705, § 1, 10-27-83; Ord. No. 4123, § 2, 4-11-85; Ord. No. 5360, § 1, 9-14-89; Ord. No. 5493, §§ 1, 2, 3-8-90; Ord. No. 7215, § 1, 1-26-95; Ord. No. 7746, §§ 1, 2, 7-11-96; Ord. No. 8241, § 1, 3-26-98; Ord. No. 8408, § 1, 9-24-98)

### **Sec. 118-127. Required.**

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

(Code 1967, § 25½-5(A); Ord. No. 3593, § 1, 4-14-83; Ord. No. 3705, § 1, 10-27-83; Ord. No. 4123, § 2, 4-11-85; Ord. No. 5360, § 1, 9-14-89; Ord. No. 5493, §§ 1, 2, 3-8-90; Ord. No. 7215, § 1, 1-26-95; Ord. No. 7746, §§ 1, 2, 7-11-96)

### **Sec. 118-128. Operating permit application procedure.**

- (a) The application for an operating permit required under this division shall be submitted in such form as the sign administrator may prescribe and shall be accompanied by drawings and descriptive data to verify compliance with this chapter. Permit applications for new ground signs when erected or constructed to heights exceeding 30 feet above the ground level or for new roof signs when erected or constructed to heights exceeding 30 feet above the ground level or for new roof signs when erected 30 feet above the roof level shall be accompanied by a drawing of the sign structure and the sign prepared by and certified by a professional engineer registered in the state. The sign administrator, at his option, may also require similar certification by a registered professional engineer where any unusual structural provisions of a proposed sign indicate such certification is necessary in the interest of public safety.
- (b) Every initial application for an off-premises sign shall be executed and verified under oath by both the owner of the premises upon which the sign is to be or has been constructed or the authorized lessee of such premises and the sign company. The applicant shall state in such application that the sign is authorized to be erected or to be thereafter maintained on the premises, and the application shall contain the sworn affidavit of the owner or lessee and the sign company that the sign does not violate any applicable deed restrictions or other similar restriction on the premises. Subsequent renewal applications for off-premises signs do not require the affidavit or signature of the landowner.
- (c) If the location, plans and specifications set forth in any application for a permit conform to all of the requirements of this chapter and other applicable provisions of the building code, the sign administrator shall issue the permit.

(Code 1967, § 25½-5(E); Ord. No. 3593, § 1, 4-14-83; Ord. No. 3705, § 1, 10-27-83; Ord. No. 4123, § 2, 4-11-85; Ord. No. 5360, § 1, 9-14-89; Ord. No. 5493, §§ 1, 2, 3-8-90; Ord. No. 7215, § 1, 1-26-95; Ord. No. 7746, §§ 1, 2, 7-11-96)

### **Sec. 118-129. Fees.**

- (a) *Required.* Fees for the permits required under this division shall be paid to the inspections division as follows:



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- (1) *Construction permit.* The fee for a construction permit shall be \$0.60 per square foot for a permanent sign construction permit.
  - (2) *Operating permit.* The fee for an operating permit shall be \$25.00 plus \$0.25 for each square foot or fraction thereof to the sign face in excess of 100 square feet.
  - (b) *Refund.* The applicant for a permit or holder of a permit shall not be entitled to a refund of any fee paid if the permit is revoked.
- (Code 1967, § 25½-5(K), (L); Ord. No. 3593, § 1, 4-14-83; Ord. No. 3705, § 1, 10-27-83; Ord. No. 4123, § 2, 4-11-85; Ord. No. 5360, § 1, 9-14-89; Ord. No. 5493, §§ 1, 2, 3-8-90; Ord. No. 7215, § 1, 1-26-95; Ord. No. 7746, §§ 1, 2, 7-11-96)

### **Sec. 118-130. Bond; insurance.**

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

(Code 1967, § 25½-5(M), (N); Ord. No. 3593, § 1, 4-14-83; Ord. No. 3705, § 1, 10-27-83; Ord. No. 4123, § 2, 4-11-85; Ord. No. 5360, § 1, 9-14-89; Ord. No. 5493, §§ 1, 2, 3-8-90; Ord. No. 7215, § 1, 1-26-95; Ord. No. 7746, §§ 1, 2, 7-11-96; Ord. No. 8193, § 1, 2-12-98; Ord. No. 8708, § 6, 9-23-99)

### **Sec. 118-131. Conditions for issuing operating permit.**

- (a) Every sign must have an operating permit.
- (b) In order to receive an operating permit, every sign existing on April 14, 1983, must conform to the requirements of division 2 of article III of this chapter and sections 118-167 through 118-178 when an operating permit is issued. With reference to the remainder of this chapter, all signs existing on April 14, 1983, must conform to the requirements of this chapter as follows:
  - (1) Existing portable signs must conform with the requirements of section 118-166 at the time an operating permit is issued.
  - (2) All other existing signs need not conform if they were legally and properly permitted or legally and properly exempt from having a permit prior to April 14, 1983, provided that when constructed such signs were built in accordance with the building code. If such existing signs were not legally erected and maintained prior to April 14, 1983, they shall conform to the requirements of this chapter before an operating permit may be issued.

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- (3) Signs previously erected or in the process of being erected in an unincorporated area and the area is thereafter annexed by the city shall be considered as existing sign under this subsection. However, the date of the first publication of notice for a public hearing, as required by V.T.C.A., Local Government Code §§ 43.052 and 43.053, regarding the proposed annexation of the area wherein such signs are located shall, for the purposes of this chapter, be considered the date of passage of this chapter to determine the applicability of this chapter to such signs. Any sign required by any proper authority to be licensed or permitted in an unincorporated area and not so licensed or permitted when such area is annexed by the city shall not be considered to have been legally permitted for the purposes of this subsection.
- (c) When any sign or a substantial part of a sign is destroyed, damaged or taken down or removed for any purpose other than maintenance operations or for changing the letters, symbols or other matter on such sign, it shall not be reerected, reconstructed or rebuilt, except in full conformance with this chapter. A sign or substantial part of it is considered to have been destroyed only if the cost of repairing the sign is more than 60 percent of the cost of erecting a new sign of the same type at the same location.
- (Code 1967, § 25½-5(G); Ord. No. 3593, § 1, 4-14-83; Ord. No. 3705, § 1, 10-27-83; Ord. No. 4123, § 2, 4-11-85; Ord. No. 5360, § 1, 9-14-89; Ord. No. 5493, §§ 1, 2, 3-8-90; Ord. No. 7215, § 1, 1-26-95; Ord. No. 7746, §§ 1, 2, 7-11-96)

### **Sec. 118-132. Term and renewal of operating permit.**

Each operating permit issued under this division shall be effective for a period of two years. Not less than 30 days or more than 60 days prior to the conclusion of each two-year period, application may be made for a new permit. Such application shall be submitted in such form as the sign administrator may prescribe, accompanied by payment of applicable fees, and shall be executed, verified and shall contain the sworn affidavit described in subsection 118-128(b). If the application for extension of the permit fully meets the requirements of applicable law in effect at the time of such application, the sign administrator shall issue a new permit for a two-year period or such other time as may be required by law. Operating permits shall be obtained from the sign administrator not later than three days after final structural approval.

(Code 1967, § 25½-5(F); Ord. No. 3593, § 1, 4-14-83; Ord. No. 3705, § 1, 10-27-83; Ord. No. 4123, § 2, 4-11-85; Ord. No. 5360, § 1, 9-14-89; Ord. No. 5493, §§ 1, 2, 3-8-90; Ord. No. 7215, § 1, 1-26-95; Ord. No. 7746, §§ 1, 2, 7-11-96)

### **Sec. 118-133. Subterfuge.**

Any permit required under this division that, in the opinion of the sign administrator, has been secured through subterfuge and not in full compliance with this chapter shall be revoked by the sign administrator. Such revocation shall conform with subsection 118-63(4) regarding notice and hearing.

(Code 1967, § 25½-5(H); Ord. No. 3593, § 1, 4-14-83; Ord. No. 3705, § 1, 10-27-83; Ord. No. 4123, § 2, 4-11-85; Ord. No. 5360, § 1, 9-14-89; Ord. No. 5493, §§ 1, 2, 3-8-90; Ord. No. 7215, § 1, 1-26-95; Ord. No. 7746, §§ 1, 2, 7-11-96)

### **Sec. 118-134. Identification of signs.**

Under this division, every sign for which a permit is required shall be plainly marked with the name and address of the owner, lessee or the sign company erecting and maintaining the sign and shall have affixed on the front thereof or on some other location so as to be conspicuous and easily identifiable from an adjacent public street an individually numbered sticker, tag or token provided by the city.

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(Code 1967, § 25½-5(I); Ord. No. 3593, § 1, 4-14-83; Ord. No. 3705, § 1, 10-27-83; Ord. No. 4123, § 2, 4-11-85; Ord. No. 5360, § 1, 9-14-89; Ord. No. 5493, §§ 1, 2, 3-8-90; Ord. No. 7215, § 1, 1-26-95; Ord. No. 7746, §§ 1, 2, 7-11-96)

### **Sec. 118-135. Time limits for completion of construction.**

Any permit for a sign shall become null and void unless construction of the sign is completed within 180 days or the permit is renewed for an additional 180 days, in which case an additional fee shall be payable equal to one-half the original fee paid, and the proposed sign shall meet all of the requirements of this chapter on the date of renewal.

(Code 1967, § 25½-5(J); Ord. No. 3593, § 1, 4-14-83; Ord. No. 3705, § 1, 10-27-83; Ord. No. 4123, § 2, 4-11-85; Ord. No. 5360, § 1, 9-14-89; Ord. No. 5493, §§ 1, 2, 3-8-90; Ord. No. 7215, § 1, 1-26-95; Ord. No. 7746, §§ 1, 2, 7-11-96)

### **Sec. 118-136. Electrical signs.**

Any electrical sign shall conform fully to the requirements of the city electrical code and shall receive a permit under article III of chapter 18.

(Code 1967, § 25½-5(O); Ord. No. 3593, § 1, 4-14-83; Ord. No. 3705, § 1, 10-27-83; Ord. No. 4123, § 2, 4-11-85; Ord. No. 5360, § 1, 9-14-89; Ord. No. 5493, §§ 1, 2, 3-8-90; Ord. No. 7215, § 1, 1-26-95; Ord. No. 7746, §§ 1, 2, 7-11-96)

### **Sec. 118-137. Church signs.**

Any sign owned by a church shall be required to meet all appropriate sections of this chapter, except that the sign shall be exempt from the renewal operating permit fee required in section 118-132.

(Code 1967, § 25½-5(P); Ord. No. 3593, § 1, 4-14-83; Ord. No. 3705, § 1, 10-27-83; Ord. No. 4123, § 2, 4-11-85; Ord. No. 5360, § 1, 9-14-89; Ord. No. 5493, §§ 1, 2, 3-8-90; Ord. No. 7215, § 1, 1-26-95; Ord. No. 7746, §§ 1, 2, 7-11-96)

### **Sec. 118-138. Temporary use directional signs.**

No permit shall be required under this chapter for a temporary use directional sign, which may be located within the rights-of-way along city streets, provided that such signs do not cause a visual obstruction as stated in section 122-3 and are not located in a median. Temporary use directional signs may be displayed from 12:00 noon Friday until 12:00 noon the following Monday only. Such signs shall not exceed 24 inches by 30 inches in size and shall not be installed more than four feet above grade. Such signs shall have a minimum separation of 25 feet and signs for any one advertiser must be at least 200 feet apart. A temporary use directional sign not erected in strict conformity with this section is a violation hereof and, therefore, subject to the penalties stated in section 118-3.

(Code 1967, § 25½-5(Q); Ord. No. 3593, § 1, 4-14-83; Ord. No. 3705, § 1, 10-27-83; Ord. No. 4123, § 2, 4-11-85; Ord. No. 5360, § 1, 9-14-89; Ord. No. 5493, §§ 1, 2, 3-8-90; Ord. No. 7215, § 1, 1-26-95; Ord. No. 7746, §§ 1, 2, 7-11-96; Ord. No. 8408, § 2, 9-24-98)

### **Sec. 118-139. Political signs.**

- (a) *Private property.* No permit shall be required under this chapter for a sign that contains primarily a political message and that is located on private real property with the consent of the property owner, provided that such sign:

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- (1) Does not have a surface area greater than 36 feet, excluding the sign structure;
  - (2) Is not more than eight feet high;
  - (3) Is not illuminated; and
  - (4) Has no moving elements.

As used in this subsection, "private real property" does not include real property subject to an easement or other encumbrance that allows the city to use the property for a public purpose.

(b) *Public property.*

- (1) *Prohibited.* Except as provided in subsection (b)(2) of this section, a sign that contains primarily a political message is prohibited on public property, including the rights-of-way.
- (2) *Exception.* A sign that contains primarily a political message may be located in a designated area at least 100 feet from the main entrance to a polling place during a voting period at such polling place. An area may be designated by the city manager when a city facility is used as a polling place or by an official of another governmental entity when such entity's facility is used as a polling place. As used in this subsection, "voting period" means the continuous period beginning on the date that the polls are open for voting and ending on the date when the polls at such location are closed or the last voter has voted, whichever is later.
- (3) *Removal.* The sign administrator may remove and dispose of any political sign placed on public property or within the public rights-of-way.

(Ord. No. 8408, § 3, 9-24-98; Ord. No. 8580, § 1, 5-13-99; Ord. No. 12,318, § 1, 8-22-13)

**Secs. 118-140—118-165. Reserved.**

*Division III. REGULATIONS*

**GENERALLY**

**Sec. 118-166. Portable signs.**

- (a) It shall be unlawful to place or maintain a portable sign at any location, unless the sign has a permit as described in division 4 of article III of this chapter.
- (b) A person applying for an operating permit for a portable sign must meet the following requirements to be given a permit; after receiving a permit, failure to maintain a portable sign in compliance with the following requirements shall be cause for the sign administrator to revoke the permit for the sign:
  - (1) Every portable sign mounted on a trailer shall be equipped with a trailer hitch and locking device approved by the sign administrator to hold the trailer in a securely locked position during transport. All such hitching equipment shall also comply with all applicable federal, state and local laws regulating such;
  - (2) Every portable sign not in transit shall be securely anchored to the ground by cables, ground supports or other means acceptable to the sign administrator to prevent such sign from being blown from the site. The sign shall be constructed in a manner to prevent letters or pieces of the sign from falling off the sign or from being blown off the sign by wind;
  - (3) Portable signs shall, for the purposes of this chapter, be considered nonmobile, nonportable ground signs and thereby are subject to all sections of this chapter, including the structural requirements, spacing requirements, permitting and fee requirements, on-premises sections, and all other sections of

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this chapter applicable to ground signs, unless a section which applies by its terms to portable signs is in conflict with a section applying to ground signs, in which case the section applying specifically to portable signs would control;

- (4) Portable signs are prohibited from having any flashing or blinking lights; and
- (5) All electrically illuminated portable signs must be wired through operable ground-fault circuit interrupters.
- (c) A portable sign operating permit is nontransferable, i.e., a permit issued for one sign cannot be used on another sign.

(Code 1967, § 25½-12; Ord. No. 3593, § 1, 4-14-83; Ord. No. 4123, § 7, 4-11-85)

### **Secs. 118-167, 118-168. Reserved.**

Editor's note(s)—Ord. No. 8408, §§ 4, 5, adopted Sept. 24, 1998, repealed §§ 118-167 and 118-168 which pertained to Christmas displays and political signs, respectively, and derived from Code 1967, § 25½-11(a) and Ord. No. 3593, § 1, adopted April 14, 1983.

### **Sec. 118-169. Location on public rights-of-way.**

- (a) It shall be unlawful to place a sign upon a public street, public sidewalk, public alley, public right-of-way, public curb or other public improvement in any public street or grounds; on any public bridge or part of a bridge; on any public building or structure of any kind belonging to the city; or in any public place or on any public improvement unless express consent therefor shall have been first granted by the city council. However, coin-operated devices used to display and vend newspapers may be so placed, so long as they are not placed to impede vehicular or pedestrian traffic. This subsection does not apply to public property leased for private business purposes or to permitted garage sale signs, temporary directional signs, political signs and off-premises signs for city sponsored or co-sponsored events erected in accordance with this chapter.
- (b) Signs placed in violation of this section are abandoned trash at the time of posting and are hereby declared a nuisance to the public health, safety and welfare and may be confiscated and disposed of immediately and without notice.
- (c) The sign administrator, employees of the police department, the department of public works, the department of planning and community development, the department of parks and recreation, and the department of health are authorized, without notice, to confiscate, remove, and discard any sign found placed in violation of this section.
- (d) The primary beneficiary of any sign installed in violation of this section is presumed to have authorized or caused the installation, use, or maintenance of the sign in violation of this section and commits an offense.

(Code 1967, § 25½-11(c); Ord. No. 3593, § 1, 4-14-83; Ord. No. 13,751, § 1, 4-26-18)

### **Sec. 118-170. Location on private property.**

It shall be unlawful for a person to intentionally or knowingly erect or maintain a sign on or above private property he has no right to occupy without the written consent of the owner of such property.

(Code 1967, § 25½-11(d); Ord. No. 3593, § 1, 4-14-83)

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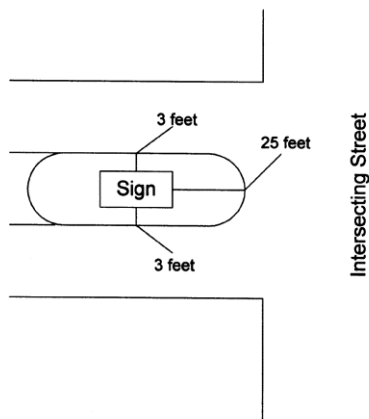
## Sec. 118-171. Resemblance to official signs.

No sign shall be constructed that resembles any official marker erected by the city, state or any governmental agency or that, because of position, shape or color, would conflict with the proper functioning of any traffic sign, signal or that, by its shape or color, would conflict with or be confused with emergency vehicle lights, especially blinking lights. Use of a word such as "stop," "look," "danger," or any other word, phrase, symbol or character in such a manner as to interfere with, mislead or confuse traffic is prohibited.

(Code 1967, § 25½-11(e); Ord. No. 3593, § 1, 4-14-83)

## Sec. 118-172. Location on traffic islands.

- (a) Signs are prohibited on traffic islands, being areas less than 5,000 square feet entirely bounded by or located within the curblines of a public street. Signs are prohibited on any area having a minimum distance of less than 50 feet between the curblines of any street.
- (b) It shall be an exception to subsection (a) of this section if:
  - (1) The sign:
    - a. Denotes the entrance to a platted and recorded subdivision;
    - b. Does not contain commercial advertising or other signs;
    - c. Is located on property owned by the homeowners' association of the platted and recorded subdivision;
    - d. Is maintained by the homeowners' association;
    - e. Is set back at least three feet from each curbline of the width of the traffic island and at least 25 feet from the curbline of the traffic island closest to the intersecting street, and depicted as follows:



### traffic island

- f. Is not within a public right-of-way;
- g. Does not create a visual obstruction as described in section 122-3 of this Code; and
- h. Complies with all other provisions of this Code; and

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- (2) The final plat of the subdivision includes verbiage approved by the city attorney which results in the traffic median being dedicated, without consideration, to the public at the option of the city should the sign or traffic island fail to be maintained or cause a visual obstruction; and
- (3) A person who sells or conveys property in the platted and recorded subdivision tenders written notice to the purchaser as prescribed in subsection (c) of this section.

- (c) The notice in subsection (b)(3) shall be executed by the seller and purchaser and shall read as follows:

The real property, described below, that you are about to purchase is located within a platted and recorded subdivision, whose homeowners' association owns and is responsible for the maintenance of the traffic island and the sign thereon. Failure to maintain the traffic island or the sign in a timely manner as determined by the city may result in the dedication of the traffic island and sign to the public without further consideration. Additionally such dedication to the public may occur if the sign creates a visual obstruction as determined by the city.

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

Signed this the \_\_\_\_ day of \_\_\_\_, 20\_\_.

Signature of Seller

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

Signed this the \_\_\_\_ day of \_\_\_\_, 20\_\_.

Signature of Purchaser

- (d) The notice in subsection (b)(3):
- (1) Shall be applicable to executory contract of purchase and sale having a performance period of more than six months;
- (2) Shall not be applicable to:
- a. Transfers of title under any type of lien foreclosure;
  - b. Transfers of title by deed in cancellation of indebtedness secured by a lien upon the property conveyed; or
  - c. Transfers of title by reason of a will or probate proceedings.
- (3) Be executed and acknowledged at or before closing by the seller and the purchaser and recorded in the deed records of the county in which the property is located.
- (e) The determination regarding the proper maintenance and regarding the creation of a visual obstruction shall be made by the city manager.

(Code 1967, § 25½-11(f); Ord. No. 3593, § 1, 4-14-83; Ord. No. 9493, § 1, 1-9-03)

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**Sec. 118-173. Obstructions.**

- (a) No sign shall be erected, constructed or maintained so as to obstruct any means of egress or any opening necessary for required light, ventilation or firefighting or for escape from the premises or so as to prevent free passage from one part of a roof to any other part thereof.
- (b) No sign shall be attached to any exterior stairway, fire escape, fire tower balcony or balcony serving as a horizontal exit.
- (c) No sign shall be erected, constructed or maintained so as to interfere with the free operation of a counterbalanced section of a fire escape, and no projecting sign shall be erected, constructed or maintained without a minimum of seven feet of clearance over any such counterbalanced section.
- (d) No sign shall obstruct the free use of any window above the first story.

(Code 1967, § 25½-11(g); Ord. No. 3593, § 1, 4-14-83)

**Sec. 118-174. Use of motion picture machines.**

No sign shall employ a stereopticon, motion picture machine or other type of video display capable of displaying moving video, even if the message is stationary.

(Code 1967, § 25½-11(h); Ord. No. 3593, § 1, 4-14-83; Ord. No. 10,894, § 3, 5-19-08)

**Sec. 118-175. Creation of easement.**

No permit for a sign extending beyond private property onto a public street, public sidewalk or public alley shall constitute a permanent easement, and every such permit shall be revocable at any time by action of the city council. The city shall not be liable for any damages to the owner because of such revocation.

(Code 1967, § 25½-11(i); Ord. No. 3593, § 1, 4-14-83)

**Sec. 118-176. Change of ornamental features, electric wiring or advertising display.**

No sign permit is required for the change of any of the ornamental features or devices or the advertising display of a sign previously permitted. This section shall not release a person from complying with all other applicable permitting requirements of the city, including those of the city building code and the city electrical code.

(Code 1967, § 25½-11(j); Ord. No. 3593, § 1, 4-14-83 Ord. No. 12,734 , § 3, 12-11-14)

**Sec. 118-177. Obscuring or interfering with view.**

Signs may not be located or illuminated in such a manner as to:

- (1) Obscure or otherwise interfere with the effectiveness of an official traffic sign, signal or device;
- (2) Obstruct or interfere with the view of a driver of approaching, emerging or intersecting traffic from any street or driveway;
- (3) Prevent any traveler on any street from obtaining a clear view of approaching, emerging or intersecting traffic from any street or driveway; or



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- (4) Prevent any traveler on any street or driveway from obtaining a clear view of approaching vehicles for a distance of 250 feet along the street.

(Code 1967, § 25½-11(k); Ord. No. 3593, § 1, 4-14-83)

Cross reference(s)—Visibility triangle, § 118-362.

### **Sec. 118-178. Shielding of lighted signs.**

A sign containing lights that are not effectively shielded as to prevent beams or rays of light from being directed at any portion of the traveled way from which the sign is primarily viewed and that are of such intensity or brilliance as to cause glare or to impair the vision of the driver of any motor vehicle or that otherwise interferes with any driver's operation of a motor vehicle is prohibited.

(Code 1967, § 25½-11(l); Ord. No. 3593, § 1, 4-14-83)

### **Sec. 118-179. Spectacular signs.**

The following types of spectacular signs are prohibited:

- (1) Signs with strobe, rotating strobe, or blinking strobe lights;
- (2) Signs with flashing spotlights, rotating spot lights or blinking spotlights;
- (3) Automatically changeable advertising signs which display more than one message every three seconds;
- (4) Flashing lights with bulbs of greater than 15 watts;
- (5) Signs employing a stereopticon, motion picture machine or other type of video display capable of displaying moving video, even if the message is stationary;
- (6) Signs consisting of a static image projected upon a stationary object;
- (7) Signs which move or contain visible moving parts, including television signs with rotating slat messages; and
- (8) Signs placed perpendicular to the roadway with the exception of automatically changeable advertising which display no more than one message every three seconds.

(Code 1967, § 25½-11(m); Ord. No. 3593, § 1, 4-14-83; Ord. No. 9043, § 1, 11-30-00; Ord. No. 10,894, § 4, 5-19-08)

### **Secs. 118-180—118-205. Reserved.**

## **MAINTENANCE AND REMOVAL**

### **Sec. 118-206. Maintenance.**

All signs shall be kept in good repair and, unless of galvanized or noncorroding metal or treated with appropriate wood preservative, shall be thoroughly painted as often as is necessary, consistent with good maintenance. All braces, belts, clips, supporting frames and fastenings shall be free from deterioration, termite infestation, rot or loosening. All signs shall be able to withstand safely at all times the wind pressure specified in this chapter. If any sign is not so maintained, the sign administrator shall give written notice to the owner or lessee thereof to so maintain the sign or to remove the sign.

(Code 1967, § 25½-6(a); Ord. No. 3593, § 1, 4-14-83; Ord. No. 5493, § 3, 3-8-90)

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**Sec. 118-207. Unsafe signs.**

If any sign, in the opinion of the sign administrator, becomes insecure or in danger of falling or otherwise unsafe, the sign administrator shall give written notice of the condition of the sign to the person owning, leasing or responsible for the sign. The person so notified shall correct the unsafe condition of the sign in a manner to be approved by the sign administrator in conformity with this chapter.

(Code 1967, § 25½-6(b); Ord. No. 3593, § 1, 4-14-83; Ord. No. 5493, § 3, 3-8-90)

**Sec. 118-208. Unlawful signs.**

If any sign shall be installed, erected, constructed or maintained in violation of any of the terms of this chapter, the sign administrator shall give written notice to the owner, lessee or person responsible for the sign, ordering the owner, lessee or person to alter the sign so as to comply with this chapter or to remove the sign.

(Code 1967, § 25½-6(c); Ord. No. 3593, § 1, 4-14-83; Ord. No. 5493, § 3, 3-8-90)

**Sec. 118-209. Abandonment of sign structures.**

Any sign structure lawfully erected and maintained that has no copy, transcript, reproduction, model, likeness, image, advertisement or written material for a period of 120 consecutive days is declared to be a violation of this division and as such shall be restored to use or removed by the owner or permittee within 30 days after notice by the sign administrator of such violation. If the owner or permittee fails to restore the sign structure to use or to remove the abandoned sign structure within the specified 30 days, the sign administrator shall remove the abandoned sign structure at the property owner's expense.

(Code 1967, § 25½-6(d); Ord. No. 3593, § 1, 4-14-83; Ord. No. 5493, § 3, 3-8-90)

**Sec. 118-210. Removal.**

Any written notice to alter or to remove a sign shall be given by the sign administrator by certified mail or written notice served personally upon the owner, lessee or person responsible for the sign or the owner's agent. If compliance with such order is not completed within ten days, the sign administrator shall initiate proceedings under subsection 118-63(4) to revoke the permit and remove the sign at the expense of the owner, lessee or person responsible therefor.

(Code 1967, § 25½-6(e); Ord. No. 3593, § 1, 4-14-83; Ord. No. 5493, § 3, 3-8-90)

**Sec. 118-211. Maintaining sign after notice of violation.**

It shall be unlawful for a person to intentionally or knowingly maintain a sign in violation of this division for which a written notice is issued by the sign administrator citing such violation.

(Code 1967, § 25½-6(f); Ord. No. 3593, § 1, 4-14-83; Ord. No. 5493, § 3, 3-8-90)

**Sec. 118-212. Obsolete signs.**

Any on-premises sign that no longer advertises a bona fide business or that has become dysfunctional due to closing of a business or for any other reason that renders the sign nonapplicable to the property involved is

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considered an obsolete sign. The sign administrator may require that all obsolete signs be removed or rendered blank by the property owner within 30 days from the date of the action that caused the sign to be considered obsolete. If the owner fails to remove or render blank the sign within the 30 days, the sign administrator shall notify the owner by certified mail to correct the violation within ten days after receipt of notification of violation. If the owner does not correct the violation, the sign administrator shall remove the sign at the property owner's expense.

(Code 1967, § 25½-6(g); Ord. No. 3593, § 1, 4-14-83; Ord. No. 5493, § 3, 3-8-90)

**Secs. 118-213—118-240. Reserved.**

**CONSTRUCTION AND STRUCTURAL REQUIREMENTS**

**Sec. 118-241. Design.**

- (a) *Generally.* All signs and sign structures shall be designed and constructed to resist wind forces as specified in this division. All bracing systems shall be designed and constructed to transfer lateral forces to the foundations. For signs on buildings, the dead and lateral loads shall be transmitted through the structural frame of the building to the ground in such manner as not to overstress any of the elements thereof. The overturning movement produced from lateral forces shall in no case exceed two-thirds of the dead-load resisting moment for all signs. Uplift due to overturning shall be adequately resisted by proper anchorage to the ground or to the structural frame of the building for all signs. The weight of earth superimposed over footings may be used in determining the dead-load resisting moment. Such earth shall be carefully placed and thoroughly compacted. The allowable stresses in wire ropes and steel guy rods and their fastenings shall not exceed one-fourth of their rated tensile strength.
- (b) *Wind loads.* All signs and sign structures shall be designed to resist wind loads as follows:

WIND LOAD PRESSURES FOR ALL SIGNS

Height Above Ground (In Feet)*	Pressure (In Pounds per Square Foot)
0—30	20
31—50	25
51—99	35
100—199	45
200—299	50
300—399	55
400—500	60
501—800	70
Over 800	77

\*Measured above the average level of the ground adjacent to the structure.

- (c) *Vertical design loads.* Vertical design loads, except roof live loads, shall be assumed to be acting simultaneously with the wind loads.
- (d) *Working stresses.* All signs shall be designed to conform with the requirements of the building code regarding allowable working stresses. The working strength of chains, cables, guys or steel rods shall not exceed one-fifth of the ultimate strength of such chains, cables, guys or steel rods.

(Code 1967, § 25½-7(A); Ord. No. 3593, § 1, 4-14-83; Ord. No. 4123, § 3, 4-11-85; Ord. No. 6047, §§ 1, 2, 10-22-91)

## Sec. 118-242. Construction.

- (a) *Generally.* The supports for all signs or sign structures shall be placed in or upon private property and shall be securely built, constructed and erected in conformance with the requirements of the building code and this chapter. If any inconsistency occurs between this chapter and the building code, this chapter controls.
- (b) *Materials.* Materials for construction of all signs and sign structures shall be of the quality and grade as specified for buildings in the building code and consistent with the fire prevention code.
- (c) *Nonstructural trim.* Nonstructural trim and portable display surfaces may be of wood, metal, approved plastics or any combination thereof, consistent with the fire prevention code.
- (d) *Anchorage.* Members supporting unbraced signs shall be so proportioned that the bearing loads imposed on the soil in either direction, horizontal or vertical, shall not exceed the safe values stated in subsection 118-241(a). All ground signs shall be anchored to resist the wind load specified in subsection 118-241(b) acting in any direction. Anchors and supports shall be designed for safe bearing loads on the soil and for an effective resistance to pullout amounting to a force 25 percent greater than the required resistance to overturning.
- (e) *Signs attached to masonry.* Signs attached to masonry, concrete or steel shall be safely and securely fastened thereto by means of metal anchors, bolts or approved expansion screws of sufficient size and anchorage to safely support the loads applied.
- (f) *Wooden blocks.* No wooden blocks or plugs or anchors with wood used in connection with screws or nails shall be considered proper anchorage, except for signs attached to wood framing. Whenever anchors or supports consist of wood embedded in the soil, the wood shall be pressure treated with a preservative approved by the sign administrator.
- (g) *Unbraced parapet wall.* No anchor or support of any sign will be connected to or supported by an unbraced parapet wall, unless such wall is designed in accordance with the requirements for parapet walls specified in the building code.
- (h) *Display surfaces.* Display surfaces in all types of signs may be made of metal, wood, glass or approved plastics as noted in section 118-244, unless otherwise prohibited in this division or prohibited by the fire prevention code. A sign designed so that the message can be changed by the use of removable letters shall be constructed in a manner to prevent letters or pieces of the sign from falling off the sign or from being blown off the sign by wind.
- (i) *Glass.* Glass thickness and area limitations shall be as follows:

SIZE, THICKNESS AND TYPE OF  
GLASS PANELS IN SIGNS

Maximum Size of Exposed Glass Panel (Any Dimension Area)			
In Inches	In Square Inches	Minimum Thickness of Glass (In Inches)	Type of Glass
30	500	¾	Plain, Plate or W
45	700	3/16	Plain, Plate or W
144	3,600	¾	Plain, Plate or W
Over 144	Over 3,600	¾	Plain, Plate or W

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(Code 1967, § 25½-7(B); Ord. No. 3593, § 1, 4-14-83; Ord. No. 4123, § 3, 4-11-85; Ord. No. 6047, §§ 1, 2, 10-22-91)

### **Sec. 118-243. Electrical requirements.**

- (a) All electrical fixtures, equipment and appurtenances installed in conjunction with a sign shall be designed and installed in accordance with the electrical code.
- (b) With the exception of electrical signs covered by subsection 118-334(3), all electrical signs shall be limited to bulbs of 150 watts for bulbs located in the face of the sign, shall be limited to lighting circuits of 270 volts, shall contain a sunshade screen dimmer and shall not use reflectorized lights as part of the face of the sign. For the purpose of this subsection, reflectorized lights shall mean any lamp constructed with reflector-type materials so as to focus, intensify, flood or spot such lamp in a certain direction, including but not limited to lamps designated by the manufacturers as flood, spot, reflector or flood, reflector light or clear reflector.

(Code 1967, § 25½-7(C); Ord. No. 3593, § 1, 4-14-83; Ord. No. 4123, § 3, 4-11-85; Ord. No. 6047, §§ 1, 2, 10-22-91)

### **Sec. 118-244. Use of plastic materials.**

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

*Display surface* means the entire surface of a sign, on one side, devoted to exhibiting or contrasting exhibits of advertising. The display surface shall generally include the entire sign surface except for the sign frame and incidental supports thereto.

*Sign facing or facing* means a separate and distinguishable portion of the overall display surface.

- (b) Notwithstanding any other section of this Code, plastic materials that burn at a maximum rate of 2½ inches per minute, in sheets of 0.060 thickness when tested in accordance with the Test for Flammability of Rigid Plastics Over 0.050 Inches in Thickness, ASTM D635-1974, shall be deemed "approved plastics" for the purposes of this chapter and may be used as the display surface material and for the letters, decorations and facings on signs, provided that the structure of the sign in which the plastic is mounted or installed in noncombustible.
- (c) Individual plastic facings of electrical signs shall not exceed 200 square feet in area. If the area of a display surface exceeds 200 square feet, the area occupied or covered by approved plastics shall be limited to 200 square feet plus 50 percent of the difference between 200 square feet and the total square footage area of the sign.
- (d) The area of plastic on the display surface shall not in any case exceed 550 square feet.
- (e) Letters and decorations mounted upon an approved plastic facing or display surface shall be made of approved plastics.

(Code 1967, § 25½-7(D); Ord. No. 3593, § 1, 4-14-83; Ord. No. 4123, § 3, 4-11-85; Ord. No. 6047, §§ 1, 2, 10-22-91)

### **Sec. 118-245. Height limitations.**

- (a) *Generally.* Except as stated in this section, no ground sign shall be established, constructed or erected that exceeds an overall height of 42½ feet, including cutouts extending above the rectangular border, measured from the highest point on the sign to the grade level of the ground surface in which the sign supports are placed. Signs located immediately adjacent to an overpass or elevated roadway may be constructed in excess

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of the limitation of 42½ feet, but the highest point of the sign may not be greater than 25 feet above the road level of such overpass or elevated roadway, such measurement to be made from the closest point of the roadway to such sign. A roof sign having a tight or solid surface shall not at any point exceed 24 feet above the roof level. Projecting signs shall be a minimum of 14 feet in height above grade. These height limitations shall not apply to on-premises signs lawfully permitted or lawfully erected on April 14, 1983.

- (b) *Exception.* On-premises signs may be constructed 80 feet in height if located within 200 feet of the interstate highway system. Only one 80-foot sign shall be permitted on one parcel of property.

(Code 1967, § 25½-7(E); Ord. No. 3593, § 1, 4-14-83; Ord. No. 4123, § 3, 4-11-85; Ord. No. 6047, §§ 1, 2, 10-22-91; Ord. No. 8002, § 3, 6-12-97)

### **Sec. 118-246. Size limitations.**

- (a) *Generally.* Except as stated in this section, no on-premises sign other than an on-premises wall sign shall be established, constructed or erected that has a face area exceeding 300 square feet, including cutouts, but excluding uprights, or that has face dimensions that exceed 15 feet in height or 30 feet in width. No off-premises sign shall be established, constructed or erected that has a face area exceeding 672 square feet, including cutouts, but excluding uprights. No double-faced off-premises sign shall be established, constructed or erected unless each face is 75 square feet or less and the faces are abutting on one edge. Temporary space extensions may be added to off-premises signs for a period not to exceed 90 days. These size limitations shall not apply to signs lawfully permitted or lawfully erected on April 14, 1983.
- (b) *Multioccupancy.* An on-premises sign located within 200 feet of the interstate and freeway primary system and advertising multioccupancy shall not exceed 600 square feet. None of the multioccupancy signs shall exceed 300 square feet.

(Code 1967, § 25½-7(F); Ord. No. 3593, § 1, 4-14-83; Ord. No. 4123, § 3, 4-11-85; Ord. No. 6047, §§ 1, 2, 10-22-91)

### **Sec. 118-247. Method of determining area.**

In determining the area of any sign, the dimensions of the rectangle enclosing the signboard, excluding the supporting structure, shall be used. If the sign includes cutouts or facings extending beyond the dimensions of the rectangular signboard, the measurement of sign area shall include the actual area of the cutout or extended facing. For signs of a double-faced, back-to-back or V-type nature, each face shall be considered as separate signs in computing the face area.

(Code 1967, § 25½-7(G); Ord. No. 3593, § 1, 4-14-83; Ord. No. 4123, § 3, 4-11-85; Ord. No. 6047, §§ 1, 2, 10-22-91)

### **Sec. 118-248. Clearances.**

- (a) Signs shall be located a minimum distance of eight feet measured horizontally and 12 feet measured vertically from overhead electric conductors that are energized in excess of 750 volts. The term "overhead conductors," as used in this subsection, means any electrical conductor, either bare or insulated, installed above the ground.
- (b) No portion of a sign or sign structure shall project into any public alley, unless the portion is a minimum of 14 feet in height above grade.

(Code 1967, § 25½-7(H); Ord. No. 3593, § 1, 4-14-83; Ord. No. 4123, § 3, 4-11-85; Ord. No. 6047, §§ 1, 2, 10-22-91)

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## **Sec. 118-249. Fire prevention requirements.**

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

*Combustible material* means material more flammable than metal, but no more flammable than wood or approved plastic, as that term is defined in subsection 118-244(b). No material more flammable than wood or approved plastic shall be used in any sign.

*Noncombustible material* means material no less flammable than steel, iron or other similar metal, or as the term shall be otherwise defined by the city fire or building code or by the sign administrator; noncombustible materials include incombustible material.

- (b) When signs are required in this chapter to be constructed of noncombustible material, all parts of such signs, including the sign structures, shall be of noncombustible material, except that the following parts made out of combustible material shall be permitted:
- (1) Small ornamental moldings, battens, cappings and nailing strips;
  - (2) Individual letters, symbols, figures and insignia supported by or within a noncombustible frame or a permitted combustible facing as permitted by this division;
  - (3) Portions of each face of a sign, up to but not exceeding 100 square feet of facing, as long as the total area of facing for such sign does not exceed 200 square feet; and
  - (4) Wood posts and braces for signs whose surface is no more than ten feet six inches in height when such signs are determined to be nonhazardous by the sign administrator, based on health and safety considerations, including but not limited to their location, their proximity to other flammable materials, their proximity to occupied structures and their proximity to necessary firefighting equipment.
- (c) Subject to the specific exceptions stated in this division or as otherwise stated in this chapter, all roof signs, projecting signs and marquee signs shall be constructed of noncombustible materials.

(Code 1967, § 25½-7(I); Ord. No. 3593, § 1, 4-14-83; Ord. No. 4123, § 3, 4-11-85; Ord. No. 6047, §§ 1, 2, 10-22-91)

## **Sec. 118-250. Ground signs.**

- (a) Lighting reflectors on ground signs may project beyond the face of the sign.
- (b) Every ground sign shall provide rigid construction to withstand wind action in all directions.
- (c) Any person, including the owner, lessee or other person, using any vacant lot or premises for the location of a ground sign shall keep such premises clean, sanitary, inoffensive and free and clear of all obnoxious substances, unsightly conditions and remnants of replaced sign faces on the ground in the vicinity of such ground signs.

(Code 1967, § 25½-7(J); Ord. No. 3593, § 1, 4-14-83; Ord. No. 4123, § 3, 4-11-85; Ord. No. 6047, §§ 1, 2, 10-22-91)

## **Sec. 118-251. Wall signs.**

- (a) Wall signs attached to exterior walls of solid masonry, concrete or stone shall be safely and securely attached to such by means of metal anchors, bolts or expansion screws of not less than three-eighths-inch in diameter and shall be embedded at least five inches. Wood blocks shall not be used for anchorage, except for wall

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signs attached to buildings with walls of wood. A wall sign shall not be supported by anchorages secured to an unbraced parapet wall.

- (b) The surface face of all sign bulletins must be of sheet metal.

(Code 1967, § 25½-7(K); Ord. No. 3593, § 1, 4-14-83; Ord. No. 4123, § 3, 4-11-85; Ord. No. 6047, §§ 1, 2, 10-22-91)

### **Sec. 118-252. Roof signs.**

- (a) All roof signs shall be so constructed as to leave a clear space of not less than six feet between the roof level and the lowest part of the sign and shall have at least five feet of clearance between the vertical supports thereof; provided, however, no portion of any roof sign structure shall project beyond an exterior wall.
- (b) Every roof sign shall be constructed entirely of steel, including the upright supports and braces.
- (c) The bearing plates of all roof signs shall distribute the load directly to or upon masonry walls, steel roof girders, columns or beams. The building shall be designed to avoid overstress of these members.
- (d) All roof signs shall be thoroughly secured to the building upon which they are installed, erected or constructed by iron, metal anchors, bolts, supports, chains, stranded cables, steel rods or braces, and they shall be maintained in good condition as set forth in section 118-206.

(Code 1967, § 25½-7(L); Ord. No. 3593, § 1, 4-14-83; Ord. No. 4123, § 3, 4-11-85; Ord. No. 6047, §§ 1, 2, 10-22-91)

### **Sec. 118-253. Projecting signs.**

- (a) All projecting signs shall be constructed entirely of metal or other noncombustible material and shall be securely attached to a building or structure by metal supports such as bolts, anchors, supports, chains, guys or steel rods. Staples or nails shall not be used to secure any projecting sign to any building or structure.
- (b) The dead load of projecting signs, not parallel to the building or structure, and the load due to wind pressure shall be supported with chains, guys or steel rods having a net cross sectional dimension of not less than three-eighths-inch in diameter. Such supports shall be erected or maintained at an angle of at least 45 degrees with the horizontal to resist the dead load and at an angle of 45 degrees or more with the face of the sign to resist the specified wind pressure. If such projecting sign exceeds 30 square feet in one facial area, there shall be provided at least two such supports on each side of the sign not more than eight feet apart to resist the wind pressure.
- (c) All supports shall be secured by an expansion shield to a bolt or expansion screw of such size that will develop the strength of the supporting chain, guys or steel rods, with a minimum five-eighths-inch bolt or lag screw. Turnbuckles shall be placed in all chains, guys or steel rods supporting projecting signs.
- (d) Chains, cables, guys or steel rods used to support the live or dead load of projecting signs may be fastened to solid masonry walls with expansion bolts or by machine screws in or on supports, but such supports shall not be attached to an unbraced parapet wall. Where the supports must be fastened to walls made of wood, the supporting anchor bolts must go through the wall and be plated and fastened on the wall in a secure manner.
- (e) A projecting sign shall not be erected on the wall of any building so as to project above the roof or cornice wall or above the roof level where there is no cornice wall.
- (f) A projecting sign shall have a clearance of 14 feet above the right-of-way and may not extend more than ten feet from the building wall or structure or within two feet of a curbline.



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- (g) If a curbline is altered, such projecting sign that fails to meet the requirements of this section shall be altered or removed at the owner's expense.

(Code 1967, § 25½-7(M); Ord. No. 3593, § 1, 4-14-83; Ord. No. 4123, § 3, 4-11-85; Ord. No. 6047, §§ 1, 2, 10-22-91)

### **Sec. 118-254. Marquee signs.**

Marquee signs shall be constructed entirely of metal or noncombustible material and may be attached to or hung from a marquee. The lowest point of a sign hung from a marquee shall be at least ten feet above the sidewalk or ground level, and such signs shall not extend or project beyond the corners of the marquee. Marquee signs may be attached to the sides and front of a marquee, and a sign may extend the entire length and width of the marquee, provided that no sign shall extend more than six feet above or one foot below such marquee or have a vertical dimension greater than eight feet.

(Code 1967, § 25½-7(N); Ord. No. 3593, § 1, 4-14-83; Ord. No. 4123, § 3, 4-11-85; Ord. No. 6047, §§ 1, 2, 10-22-91)

### **Sec. 118-255. V-type or back-to-back construction.**

- (a) The angle between the faces of V-type signs shall be no greater than 45 degrees measured back to back, and if the area of each face is 300 square feet or less, the maximum distance at the nearest point between the two backs, as measured at the apex, shall not exceed 1½ feet. If the area of either face exceeds 300 square feet, the maximum distance between the two backs, as measured at the apex, shall not exceed 3½ feet.
- (b) Back-to-back signs must be on common supports. If the area of each is 300 square feet or less, the nearest point between the two backs shall not exceed five feet, plus the diameter of the intervening upright or support.

(Code 1967, § 25½-7(O); Ord. No. 3593, § 1, 4-14-83; Ord. No. 4123, § 3, 4-11-85; Ord. No. 6047, §§ 1, 2, 10-22-91)

### **Secs. 118-256—118-285. Reserved.**

#### **LOCATION**

##### **Subdivision I. In General**

### **Secs. 118-286—118-305. Reserved.**

##### **Subdivision II. Scenic or Historic Areas**

### **Sec. 118-306. Applicability.**

- (a) This subdivision shall govern the designation of scenic or historic rights-of-way or districts within the city limits.
- (b) This subdivision shall not apply to signs lawfully erected and lawfully existing on April 14, 1983, that are on the federal aid primary system and subject to regulation under the Texas Litter Abatement Act, V.T.C.A., Transportation Code § 391.001 et seq., including all amendments (the state act), or that are subject to regulation under the Federal Highway Beautification Act, 23 USC 131 et seq., including all amendments (the federal act).

(Code 1967, § 25½-8; Ord. No. 3593, § 1, 4-14-83; Ord. No. 8002, § 4, 6-12-97)

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### **Sec. 118-307. Petition.**

Citizens of the city may petition the city council to designate any area or any public right-of-way within the city as a scenic or historic right-of-way or district. Any such petition must meet the requirements of this section to be considered by the city council. The petition shall:

- (1) Contain the signatures of property owners whose property fronts on either side of the right-of-way proposed for designation or who own property in the area proposed for designation as a district and who represent 51 percent of the total front footage along the right-of-way or 51 percent of the total area;
- (2) Contain the signatures of at least 1,000 citizens of the city, each of whom was above the age of 18 years old when signing the petition;
- (3) Indicate that the signatures thereon were collected within a 60-calendar-day period; and
- (4) Indicate that the signatories thereon desire the area or right-of-way to be designated a scenic or historic right-of-way or district.

(Code 1967, § 25½-8(a); Ord. No. 3593, § 1, 4-14-83)

### **Sec. 118-308. Hearing date.**

Any petition as required in section 118-307 must be submitted to the city council within 90 calendar days of the date of the first signature thereon. Following the filing of any such petition with the city clerk, the city council shall, within 45 days of the date of filing, conduct a public hearing to consider the merits of the petition.

(Code 1967, § 25½-8(b); Ord. No. 3593, § 1, 4-14-83)

### **Sec. 118-309. Notices of hearing.**

Under this subdivision, the city clerk shall give notice as to the filing of any such petition and the date, time and place of the city council hearing by posting such, at least 14 days in advance of the hearing, at a place convenient to the public in the city hall. Any interested person shall have the opportunity to participate in any hearing conducted under this subdivision and to present any relevant evidence and testimony.

(Code 1967, § 25½-8(c); Ord. No. 3593, § 1, 4-14-83)

### **Sec. 118-310. Decision of city council.**

As a result of the hearing held pursuant to this subdivision, the city council shall determine whether or not:

- (1) The petition complies with the requirements of this section;
- (2) The proposed right-of-way or area has scenic or historic significance;
- (3) The proposed right-of-way or area has scenic or historic significance sufficient to justify preservation; and
- (4) Designation of the proposed right-of-way or area would best serve the health, safety, welfare and public convenience and necessity for the citizens of the city.

(Code 1967, § 25½-8(d); Ord. No. 3593, § 1, 4-14-83)

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**Sec. 118-311. Approval by city council.**

If a majority of the city council decides that the proposed right-of-way or area meets all the criteria stated in this subdivision, the city council shall designate the proposed area or right-of-way as a scenic or historic right-of-way or district. Any such designation shall not affect existing signs; such signs may remain as long as they are permitted and comply with the other sections of this chapter, including subsection 118-131(3). No new off-premises signs and only on-premises signs conforming with section 118-334 shall be permitted in an area or on a right-of-way after designation as a scenic or historic right-of-way or district.

(Code 1967, § 25½-8(e); Ord. No. 3593, § 1, 4-14-83)

**Sec. 118-312. Disapproval by city council.**

If a majority of the city council decides that the proposed right-of-way or area does not meet the criteria stated in section 118-310, the proposed area or right-of-way shall not be designated as a scenic or historic right-of-way. No subsequent petition seeking designation of any portion of a right-of-way or area under this subdivision under a prior petition shall be considered by the city council until one year has elapsed from the date of the filing of the prior petition.

(Code 1967, § 25½-8(f); Ord. No. 3593, § 1, 4-14-83)

**Sec. 118-313. Designation by council.**

This subdivision shall not be construed to limit the authority of the city council, consistent with this subdivision, to designate other areas as scenic or historic rights-of-way or districts without a public petition.

(Code 1967, § 25½-8(g); Ord. No. 3593, § 1, 4-14-83)

**Secs. 118-314—118-330. Reserved.****Subdivision III. On-Premises Signs****Sec. 118-331. Definitions.**

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

*General right-of-way* means a right-of-way that is not classified as a predominantly residential right-of-way or scenic or historic right-of-way or district and that is owned, leased or otherwise legally controlled by the person placing a sign thereon.

*Predominately residential right-of way* means a public right-of-way between two intersecting public streets in which a majority of the total front footage is used for residential purposes.

(Code 1967, § 25½-9(A); Ord. No. 3593, § 1, 4-14-83; Ord. No. 4123, §§ 4, 5, 4-11-85)

Cross reference(s)—Definitions generally, § 1-2.

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### **Sec. 118-332. Applicability.**

This subdivision shall apply only to on-premises signs, as that term is defined in subsection 118-4(a)(1), within the city limits.

(Code 1967, § 25½-9; Ord. No. 3593, § 1, 4-14-83; Ord. No. 4123, §§ 4, 5, 4-11-85)

### **Sec. 118-333. Signs adjacent to general rights-of-way.**

Signs adjacent to general rights-of-way shall be subject to the following limitations:

- (1) No business shall have more than a total of five on-premises signs; provided, however, that each business may select any combination of the signs described in this subsection to reach that total. Each business shall place no more than the following:
  - a. Two on-premises ground signs, no more than one of which may be a portable sign;
  - b. Three on-premises wall signs, which shall not occupy more than 50 percent of the total wall surface;
  - c. Three on-premises roof signs, designed to be architecturally compatible with the building;
  - d. Three on-premises projecting signs, which shall not extend above the uppermost portion of the building to which it is attached except as provided in subsection 118-253(e); and
  - e. Three on-premises marquee signs.
- (2) With the exception of on-premises signs lawfully permitted and erected on April 14, 1983, all on-premises signs and sign structures shall be contained wholly within the premises upon which they are located and shall not extend onto the public right-of-way. However, on-premises projecting signs may extend up to ten feet outward from the building to which they are attached as long as such extension is no closer than two feet behind the curblane, and such signs shall have a clearance of 14 feet above the public right-of-way.
- (3) Spectacular signs shall be prohibited, except for automatically changeable advertising signs which display no more than one message every three seconds.

(Code 1967, § 25½-9(B); Ord. No. 3593, § 1, 4-14-83; Ord. No. 4123, §§ 4, 5, 4-11-85; Ord. No. 9043, § 2, 11-30-00)

### **Sec. 118-334. Residential rights-of-way; scenic and historic rights-of-way and districts.**

All on-premises signs on residential rights-of-way and scenic and historic rights-of-way and districts shall conform in all respects to the requirements set forth in section 118-333 for general rights-of-way and shall be subject to the following additional restrictions:

- (1) Ground signs shall not exceed 12 feet in height or 75 square feet in size;
- (2) Spectacular signs and portable signs shall be prohibited; and
- (3) Electrical signs shall be limited to not more than ten bulbs of 100 watts or less, shall be limited to 120 volts in the lighting circuit and may be illuminated only indirectly.

(Code 1967, § 25½-9(C); Ord. No. 3593, § 1, 4-14-83; Ord. No. 4123, §§ 4, 5, 4-11-85; Ord. No. 9043, § 3, 11-30-00)

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## **Sec. 118-335. Business purpose required.**

An on-premises sign must be erected in connection with a business purpose or for information or message purposes, as defined in this chapter. Any sign not connected with a business purpose or that is not an information or message sign shall be considered an off-premises sign.

(Code 1967, § 25½-9(D); Ord. No. 3593, § 1, 4-14-83; Ord. No. 4123, §§ 4, 5, 4-11-85)

## **Secs. 118-336—118-355. Reserved.**

### **Subdivision IV. Off-Premises Signs**

## **Sec. 118-356. Definitions.**

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

*Commercial or industrial activity* means property that is devoted to use for commercial or industrial purposes, and not for residential purposes. Commercial or industrial activity shall not include the following:

- (1) Signs;
- (2) Agricultural, forestry, ranching, grazing, farming and related activities, including but not limited to temporary wayside fresh produce stands;
- (3) Activities not housed in a permanent building or structure;
- (4) Activities not visible from the traffic lanes of the main-traveled way; or
- (5) Railroad right-of-way.

*Primarily residential area* means the right-of-way and adjoining property area between two public streets intersecting such right-of-way in which a majority of the total front footage is used for residential purposes.

(Code 1967, § 25½-10(A); Ord. No. 3593, § 1, 4-14-83; Ord. No. 4123, § 6, 4-11-85; Ord. No. 7735, § 1, 6-27-96; Ord. No. 7771, § 1, 8-8-96)

Cross reference(s)—Definitions generally, § 1-2.

## **Sec. 118-357. Applicability.**

This subdivision shall apply only to off-premises signs, as that term is defined in section 118-4, within the city limits and to off-premises signs, as that term is defined in section 118-4, which are also spectacular signs, as that term is defined in section 118-4, within the city limits and the extraterritorial jurisdiction of the city.

(Code 1967, § 25½-10; Ord. No. 3593, § 1, 4-14-83; Ord. No. 4123, § 6, 4-11-85; Ord. No. 7735, § 1, 6-27-96; Ord. No. 7771, § 1, 8-8-96; Ord. No. 10,894, § 5, 5-19-08)

## **Sec. 118-358. New signs.**

- (a) *New off-premises signs prohibited.* Except as provided for in subsections (c), (e), or (g) of this section, from and after June 27, 1996, no new construction permits shall be issued for off-premises signs and no new off-premises signs shall be allowed within the city limits. This prohibition shall apply to all classifications of signs,

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types of signs, and special function signs and all other signs used as off-premises signs, including portable signs.

- (b) *New off-premises, spectacular signs prohibited.* From and after May 29, 2008, no new off-premises signs which are classified as spectacular signs and no upgrades of existing off-premises signs to spectacular signs shall be allowed in the city limits or in the extraterritorial jurisdiction of the city.
- (c) *Exceptions.*
- (1) Construction permits may be issued for off-premises signs proposed to be constructed within 200 feet of the interstate highway system if all other applicable requirements have been satisfied.
  - (2) New signs may be attached, painted, or fastened on off-premises signs which were properly permitted on June 27, 1996, and have continuously remained permitted from and after such date; provided that such new sign does not change the classification of the off-premises sign.
  - (3) Temporary use directional signs shall be allowed only if in conformity with section 118-138.
  - (4) Political signs shall be allowed only if in conformity with section 118-139.
  - (5) Other off-premises signs may be allowed only if such signs are:
    - a. Erected solely for and relating to a city sponsored or co-sponsored event, which is designated by resolution of the city council as an event for which off-premises signs may be placed on city property;
    - b. Erected on properties owned by the city for which council has designated by resolution as appropriate for the advertising of the city sponsored or cosponsored event; provided that there may be only one sign per property unless otherwise specified in the resolution designating the event;
    - c. Erected for a period commencing 14 days prior to and three days following the city sponsored or co-sponsored event advertised by the sign, unless a different period of time is specified in the resolution designating the event;
    - d. Limited to a size no greater than four feet by eight feet or, if an overhead street banner, to the size necessary to fit the hardware on the lighting standards to which it will be attached;
    - e. Limited to providing information concerning the event, which shall include the event's name, activities, along with the time, date, places of the same; however, no business or sponsor advertising shall be allowed; and
    - f. In compliance with all other requirements of this chapter and of the director of parks and recreation in consultation with the city manager and other city staff.
- (d) *Application.* In order for an event to be designated by the city council in accordance with subsection (c)(5), a person must submit an application in writing on a form prescribed by the city clerk. The application must be filed with the city clerk at least 30 days before the scheduled event and shall include, but shall not be limited to, the following:
- (1) The name, address and telephone number of the applicant;
  - (2) If the applicant is a corporation, the name and address of the major officers of the corporation and the major stockholders;
  - (3) If a partnership, the names and addresses of partners;
  - (4) If a sole proprietorship, the name and address of the owner;
  - (5) The name of the manager or other officer in charge of the event;
  - (6) The date of the event;

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- (7) The number of signs requested to be placed on city property;
  - (8) The name and description of the event, which shall state in detail the different component parts of the event, including, but not limited to, all concessions, shows, amusements, businesses exhibiting at the event, location of the event, the times of the event, along with a description of the products and services to be sold at the event;
  - (9) An agreement whereby the applicant agrees:
    - a. To purchase, install and remove any signs which may be authorized to be placed on city property at no cost to the city; and
    - b. To remove all signs which may be authorized to be placed on city property within three days following the event or face criminal penalties for the failure to do so; and
  - (10) A sworn statement by the applicant that the information provided in the application is true and correct;
- (e) *Signs advertising city-sponsored events.* For purposes of this section, a sign advertising a city sponsored or co-sponsored event located on the property of a sponsor or co-sponsor of a city sponsored or co-sponsored event shall not be construed as an off-premises sign so long as:
- (1) The sign does not advertise another business, person, activity, good, product or service not located on the sponsor or co-sponsor's premises;
  - (2) The sign is erected for a period commencing 14 days prior to and three days following the city sponsored or co-sponsored event advertised by the sign;
  - (3) The sign is limited to a size no greater than four feet by eight feet;
  - (4) There is not more than one such sign on the premises of the sponsor or cosponsor; and
  - (5) The sign meets all other requirements of this chapter.
- (f) *Permit not required for certain signs.* No permit as required in division 4 of this article shall be required for a sign satisfying the requirements referenced in subsection (c)(5) or subsection (e) herein; provided that such sign is erected and maintained in a safe condition in conformity with the building code as well as the fire prevention code and rules and regulations for fire safety promulgated by the fire marshal.
- (g) *Digital billboards.* Digital billboards are prohibited within the city limits and the extraterritorial jurisdiction of the city, provided however, that the sign administrator may issue digital billboard sign permits for the construction of new off-premises sign faces or the conversion and reconstruction of existing off-premises sign faces as authorized by this subsection upon the submission of a completed application if (i) the same are located within 200 feet of the interstate highway system, (ii) four square feet of existing off-premises sign area from existing permitted off-premises signs are removed from within the city limits for each square foot of digital billboard sign area proposed, and (iii) if all other applicable requirements have been satisfied. All such digital billboards shall be subject to this section and all other relevant provisions of this chapter. In determining the square feet of existing off-premises sign area necessary to be removed to meet the four-to-one conversion ratio specified in this subsection, the square footage of any off-premises sign removed within 200 feet of the interstate highway system will not be counted.
- (1) *Application.* An applicant for a digital billboard must file a building permit application in accordance with section 118-127 and obtain an operating permit in accordance with section 118-128. The building permit application must identify the demolition permit numbers for existing off-premises signs. The building permit for a digital billboard may be issued only after removal of the existing permitted off-premises signs in accordance with the four-to-one conversion ratio specified in this section. In the application for a digital billboard, the sign administrator may request information necessary to ensure compliance with this subsection and shall require a certificate of compliance be included in each

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application for an operating permit. In the certificate of compliance, the sign operator shall warrant that it is in full compliance with this chapter.

(2) *Requirements.* Sign operators installing, testing, or maintaining off-premises digital billboards shall comply with the following requirements:

- a. *Static messages.* The digital billboard shall contain static messages only, and not have animation, movement, or the appearance or optical illusion of movement, of any part of the sign structure. Each static message shall not include flashing or the varying of light intensity.
- b. *Dwell time.* The dwell time shall be at least eight seconds, and a change of message must be accomplished within one second or less.
- c. *Display upon malfunction.* The digital billboard shall be operated with systems and monitoring in place to either turn the display off or freeze the display image in one position in the event of a malfunction.
- d. *Brightness level.* The digital billboard may not display light of such intensity or brilliance to cause glare or otherwise impair the vision of the driver, or results in a nuisance to the driver and is subject to all existing restrictions on light intensity, brilliance, or glare contained in the section 3.08(d)(I), (4), and (5) of the Unified Land Development Code.
  1. Digital billboards shall not operate at brightness levels of more than 0.3 foot candles above ambient light, as measured using a foot candle meter the following pre-set distances:

Nominal Face Size	Distance from which to be Measured
12' x 25'	150'
10'6" x 36'	200'
14' x 48'	250'

2. Prior to the issuance of a permit under this chapter, the applicant shall provide written certification from the sign manufacturer that the light intensity has been factory pre-set not to exceed the brightness level specified in subsection (g)(2)d.1. and that the intensity level is protected from end-user manipulation by password-protected software or other method as deemed appropriate by the sign administrator.
- e. *Dimmer.* A digital billboard must be equipped with both a dimmer control and a photocell, which automatically adjusts the display's intensity according to natural ambient light conditions.
- f. *No resemblance to traffic control device.* The digital billboard shall not be configured to resemble a warning or danger signal, to simulate any lights or official signage used to control traffic, or to cause a driver to mistake the digital billboard for a warning or danger signal.
- g. *Dimensions.* Off-premises digital billboard sign area may have dimensions of up to six hundred seventy-two (672) square feet and otherwise subject to section 118-246.
- h. *Spacing requirements.*
  1. A digital billboard may not be located within 1,500 feet of another digital billboard facing the same traveled way or within the distance specified in section 118-359(4) of another off-premises sign, which is facing the same traveled way and is not classified as a digital billboard.
  2. Notwithstanding subsection (g)(2)h.1., a digital billboard may be located on the same sign structure as another digital billboard or off-premises sign if each sign face is visible only



from a different direction of travel; provided, there are no more than two sign faces on a single sign structure.

- i. *Public safety/emergency notices.* The city, through appropriate personnel, may exercise its police powers to protect public health, safety, and welfare by requiring emergency information to be displayed via digital billboards. Emergency information includes, but is not limited to, AMBER Alerts, FBI wanted messages, dangerous criminal alerts, fugitives from justice, weather alerts, and emergency management information. Upon notification and at no cost to the city, the sign operator shall exclusively display the emergency alert for the period of one hour, which may be extended by the city. Thereafter, emergency alerts are to remain in rotation according to the designated issuing agencies protocols.

(Code 1967, § 25½-10(B); Ord. No. 3593, § 1, 4-14-83; Ord. No. 4123, § 6, 4-11-85; Ord. No. 7735, § 1, 6-27-96; Ord. No. 7771, § 1, 8-8-96; Ord. No. 7982, § 2, 5-22-97; Ord. No. 10,051, § 1, 4-14-05; Ord. No. 10,894, § 6, 5-19-08; Ord. No. 12,734, § 4, 12-11-14; Ord. No. 12,762, § 2, 1-8-15; Ord. No. 13,104, § 1, 1-14-16)

### **Sec. 118-359. General location.**

To the extent off-premises signs are allowed within the city, the following shall apply:

- (1) All off-premises signs shall be located within 800 feet of a commercial or industrial activity;
- (2) No off-premises sign shall be located in OR, SFE, SF1, SF2, MF1, MF2, MF3, ACE, UN, and LC zoning districts;
- (3) No off-premises sign shall be erected, constructed or established such that the face of the structure may be viewed from a scenic or historic right-of-way district; and
- (4) All off-premises signs shall be subject to the following spacing requirements from other off-premises signs on the same side of the public right-of-way:
  - a. No off-premises sign having a face area in excess of 300 square feet shall be located within 400 feet of another off-premises sign;
  - b. No off-premises sign having a face area from 100 to 300 square feet shall be located within 200 feet of another off-premises sign;
  - c. No off-premises sign having a face area up to 100 square feet shall be located within 100 feet of another off-premises sign; and
  - d. No off-premises sign to be constructed within 200 feet of the interstate highway system shall be located within 1,200 feet of another off-premises sign.

#### *Spacing of Off-Premises Signs*

Face Area of Sign	Distance to Other Signs (in Feet)
In excess of 300 square feet	400
100—300 square feet	200

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Less than 100 square feet	100
All signs within 200 feet interstate highway system	1,200

- (5) Each double-faced, back-to-back or V-type sign shall be considered as a single off-premises sign for spacing purposes. The largest face on a double-faced, back-to-back or V-type sign will govern spacing requirements.
- (6) In computing the distance between off-premises signs, all measurements shall be made parallel to the edge of the street and on the same side of the street. In measuring the distance from back-to-back and V-type signs, the measurements shall be made from the street end of the nearest sign on the back-to-back or V- type structure.
- (7) No portable sign may be erected or placed as an off-premises sign.

(Code 1967, § 25½-10(C); Ord. No. 3593, § 1, 4-14-83; Ord. No. 4123, § 6, 4-11-85; Ord. No. 7735, § 1, 6-27-96; Ord. No. 7771, § 1, 8-8-96; Ord. No. 8002, § 5, 6-12-97; Ord. No. 14,031 , § 1, 3-14-19)

### **Sec. 118-360. Location on property.**

All off-premises signs and sign structures shall be within the deeded front building line or, if no such line exists, within the property line, but in no event closer than 20 feet to the curbline of any public street.

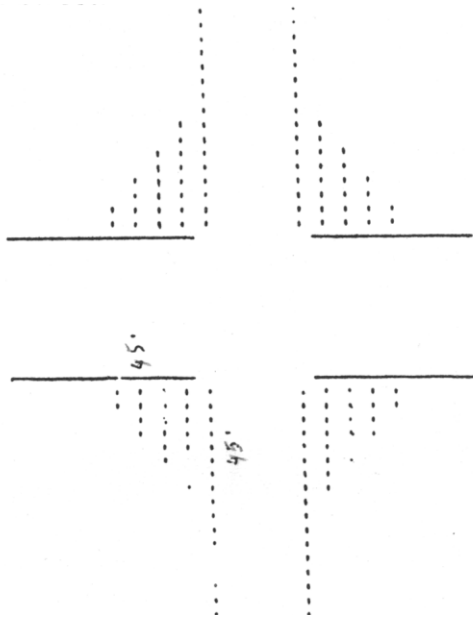
(Code 1967, § 25½-10(D); Ord. No. 3593, § 1, 4-14-83; Ord. No. 4123, § 6, 4-11-85; Ord. No. 7735, § 1, 6-27-96; Ord. No. 7771, § 1, 8-8-96)

### **Sec. 118-361. Construction of certain structures.**

All off-premises sign structures constructed, established or erected after May 1, 1975, which are not located on the interstate highway system shall be supported by columns spaced a minimum of eight feet apart.

(Code 1967, § 25½-10(E); Ord. No. 3593, § 1, 4-14-83; Ord. No. 4123, § 6, 4-11-85; Ord. No. 7735, § 1, 6-27-96; Ord. No. 7771, § 1, 8-8-96; Ord. No. 8002, § 6, 6-12-97)

**Sec. 118-362. Visibility triangle.**



**VISIBILITY TRIANGLE**

(Code 1967, § 25½-10(F); Ord. No. 3593, § 1, 4-14-83; Ord. No. 4123, § 6, 4-11-85; Ord. No. 7735, § 1, 6-27-96; Ord. No. 7771, § 1, 8-8-96)

Cross reference(s)—Obscuring or interfering with view, § 118-177.

**Sec. 118-363. Lists.**

Each person engaging in the off-premises sign business shall file with the sign administrator a certified list of all off-premises sign structures owned by him as of January 1 of each year. This list shall be filed on or before January 1 of each year and shall describe the location of an off-premises sign. The owner shall give the street address of the sign location and the facing direction or the owner shall first reference the sign structure to the street from which the sign is to be primarily viewed, then the side of such street, then the distance in feet to the nearest intersecting street on the same side of the primary street as the sign structure is located, then reference is to be made to the direction the sign faces. For example: 303 X Street, west facing on X Street, north line, 120 feet east of Y Street, west facing (303 X Street NL 120' E Y Street WF).

(Code 1967, § 25½-10(G); Ord. No. 3593, § 1, 4-14-83; Ord. No. 4123, § 6, 4-11-85; Ord. No. 7735, § 1, 6-27-96; Ord. No. 7771, § 1, 8-8-96)

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## ARTICLE VI. DEFINITIONS

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

*Abandonment* means a use or structure that is determined to be abandoned by the nonconformities section of this ULDC.

*Abattoir* means a building used for the slaughtering of animals and includes the processing and storage of animal products and waste that results from the slaughtering process.

*Accessory dwelling unit* means a secondary dwelling unit established in conjunction with a primary dwelling unit, clearly subordinate to that primary unit. Accessory dwelling units are commonly referred to as granny flats. Accessory dwelling units are not intended for sale or to be rented.

*Accessory structure* is used to serve the primary function on the same premises; is subordinate in area, extent and purpose to the primary use or structure served; contributes to the comfort, convenience or necessity of occupants of the principal use or structure served; and is located on the same lot and in the same district as the primary use.

*Accessory use* means a use incidental and subordinate to the principal use, located on the same lot as the principal use and in the same zoning district.

*Agriculture* refers to use of land that is actively used in the production of food or fiber, including the plowing, tillage, cropping, installing best management practices, seeding, cultivating, harvesting and storing food or fiber produced on site. This term also includes the raising of grazing animals, including but not limited to cattle, horses, sheep, goats or other exotic grazing animals, but excludes swine. This use does not include feedlots, animal hospital, kennel/boarding facility, pet store, livestock distribution, meat packing/processing operations and related uses such as abattoir, slaughterhouse, or rendering plant, stockyard or similar confined animal feeding and holding operations.

*Amending plat* means an amendment to a plat, previously approved by the commission and duly recorded, which is submitted to the commission for approval and recording, which is signed by the applicants and is solely intended to correct errors or miscalculations.

*Animal hospital* means a building in which animals and pets are given medical treatment and are cared for during the time of such treatment. Use as a kennel shall be limited to short-time boarding and such boarding shall be incidental to the hospital use.

*Animals* include all nonhuman members of the animal kingdom including domestic, exotic, and livestock. This term also includes pet/companion animal operations such as animal hospital, kennel/boarding facility, or pet store and/or live outdoor exhibitions.

*Approved* means as approved by the City of Baytown authority having jurisdiction.

*Appurtenances* means the visible, functional, or ornamental objects accessory to and part of a building.

"Appurtenance" shall include lighting, a generator, a tank, or any structure or equipment, which supports the drilling, oil or gas operations and which is three feet or more in height measured from finished grade.

*Arterial street* means a high volume, medium speed (up to 45 mph) medium capacity street usually shown on the major thoroughfare plan map.

*Assisted living facility* means a facility regulated by V.T.C.A. Health and Safety Code ch. 247 that provides room, board, and personal care services to its residents within a structure containing multiple living quarters for seven or more elderly or disabled persons who are unrelated to the owner of the establishment by blood or marriage. Assisted living facilities for six or fewer disabled persons are considered and regulated as group homes

Subpart B - LAND DEVELOPMENT CODE  
APPENDIX A - UNIFIED LAND DEVELOPMENT CODE  
ARTICLE ~~IV~~VI. DEFINITIONS

for disabled persons.

*Automobile repair, major* means repairs of a nature that usually cannot be done quickly and which will encompass more highly skilled work. Such repairs include removal of the engine head or pan, engine transmission or differential. Often this work is necessary because of a major component failure or an accident. These types of repairs cannot be done while the customer waits, and will often take more than one day to complete. Such repairs include, but are not limited to:

- Accident repairs;
- Automotive machine shops;
- Framework and frame straightening;
- Grinding valves, cleaning carbon or removing the head of engines or crankcases;
- Major engine repair, replacement, rebuilding or reconditioning;
- Paint and body work;
- Radiator re-coring and rebuilding;
- Replacement of body parts and fenders;
- Sandblasting as an accessory use only;
- Tire recapping;
- Transmission and differential repair, replacement, or rebuilding; and
- Welding.

*Automobile repair, minor* means repairs of a nature that can usually be done quickly with minimum noise, odor or other negative impacts. This includes preventative maintenance or replacement of easily accessible parts that routinely wear out. This does not include removal of the engine head or pan, engine transmission or differential. These types of repairs can be often done while the customer waits, and usually will not take more than one day to complete. Such repairs include but are not limited to:

- Air conditioning maintenance and refrigerant replacement;
- Audio installation and repairs;
- Brake pads, shoes, rotors and drums replacement;
- Chassis lubrication;
- Electrical components repair and replacement;
- Fuel injection systems and carburetor replacement;
- Fuel pumps and fuel lines;
- Ignition systems, sparkplugs, and batteries;
- Motor oil, engine cooling and lubrication, brake fluid, transmission and other fluid replacement;
- Mufflers, tailpipes, water hoses, fan belts, headlights and light bulbs, floor mats, seat covers, wipers and wiper blades, and replacement of grease retainers and wheel bearings;

Subpart B - LAND DEVELOPMENT CODE  
APPENDIX A - UNIFIED LAND DEVELOPMENT CODE  
ARTICLE ~~IV~~VI. DEFINITIONS

---

- Rustproofing;
- Sale of gasoline;
- Sandblasting as an accessory use only;
- Shock absorbers or other suspension systems replacement;
- Tire replacement, repair and servicing, but no recapping;
- Tuning engines, with the exception of grinding valves, cleaning carbon or removing the head of engines or crankcases;
- Washing, polishing and detailing;
- Wheel balancing and alignment;
- Windshield, window replacement; and
- Wiring repairs.

*Barn* means an accessory building used exclusively for the non-commercial storage of animal feed and/or the sheltering of livestock or farm equipment.

*Bars and lounges* means establishments that are devoted to the serving of alcoholic beverages for consumption by guests on the premises and in which the serving of food is only incidental to the consumption of those beverages, including, but not limited to, taverns, nightclubs, cocktail lounges, and cabarets.

*Berm* means a mound or embankment of earth, man made, usually two to six feet in height.

*Big box* means a single retail establishment consisting of 35,000 square feet or more of gross floor area, requiring high parking-to-building ratios, and having a regional sales market. The single retail establishment may include internal leased space for coffee shops, banking, photography, limited service food and other similar personal services.

*Boardinghouse* means a multifamily residential use providing room and board, common eating, and sanitary facilities for five or more persons, but not exceeding 20 persons, with two or more rooms that are rented or intended to be rented, but which rooms, individually or collectively, do not constitute separate dwelling units.

*Boat and boat parts and accessories sales* means a retail facility for marine vehicles 16 feet or greater in size and the accessories thereto.

*Boat and RV storage* means a facility which is used for the temporary location of boats and recreational vehicle for a fee. This may include a boat slip or boat yard where the storage is covered or uncovered dock space or enclosed dry dock storage.

*Brick* means kiln-fired clay or shale brick manufactured to ASTM C216 or C652, Grade SW. This includes concrete brick if the coloration is integral, shall not be painted, and it is manufactured to ASTM C1634. An applied brick veneer means a minimum thickness of two and one-quarter inches that does not include underfired clay or shale brick.

*Building envelope* means the three-dimensional space within which a structure is permitted to be built on a lot and which is defined by regulations governing building setbacks and maximum height.

*Building frontage* means the portion of a building oriented towards a street or public right-of-way.

Subpart B - LAND DEVELOPMENT CODE  
APPENDIX A - UNIFIED LAND DEVELOPMENT CODE  
ARTICLE ~~IV~~VI. DEFINITIONS

---

*Building, heating, plumbing, service contractors, or contractors in general* means a business involving the administration and implementation of multidiscipline projects. Requires vehicle and equipment parking and the storage and warehousing of supplies and materials including outdoor storage.

*Caliper* means the diameter of a tree at 18 inches above ground level.

*Campground* means an area on which campsites intended for occupancy overnight or longer by persons using a tent, recreational vehicle, motor home, or mobile trailer for dwelling, lodging or sleeping purposes and is held out as such to the public. Campground does not include any manufactured housing community.

*Clinic* means a facility used by licensed physicians, dentists, or other health care professionals for the purpose of providing medical, psychiatric, or surgical service for sick or injured persons exclusively on an out-patient basis where overnight lodging is not routine, including emergency treatment, diagnostic services, training, administration, and services to outpatients, employees, or visitors. Clinics include immediate care facilities where emergency treatment is the dominant form of care.

*Code of Ordinances* means the City of Baytown's Code of Ordinances as set forth at section 1-1 of the Code, constituting the "Code of Ordinances."

*Collector* means a street so indicated on the major thoroughfare plan, such plan being on file with the director of planning and community development. It is a relatively low volume street providing circulation within and between neighborhoods. They collect traffic from local streets and distribute them to arterials and may be shown on the major thoroughfare plan map.

*Commission* means the city planning and zoning commission.

*Commercial motor vehicle* means a motor vehicle or combination of motor vehicles used to transport passengers or property that: (1) has a gross combination weight rating of 26,001 or more pounds including a towed unit with a gross vehicle weight rating of more than 10,000 pounds; (2) has a gross vehicle weight rating of 26,001 or more pounds; or (3) is transporting hazardous materials and is required to be placarded under 49 C.F.R. Part 172, Subpart F.

*Commercial waste container* means a container, dumpster, collection receptacle, or compactor used to store or transport garbage and/or commercial waste, which is (i) totally enclosed; (ii) of adequate strength and design to prevent leakage of leachates and spillage of other waste during storage, transport and emptying or loading; and (iii) regularly replaced or cleaned to prevent offensive odor and harborage, feeding and propagation of vectors.

*Commercial waste enclosure* means a structure to be used for the screening and storage of commercial waste container(s) and brush.

*Community building* means a building to be used for entertainment, recreation, and management that is designed to serve the residential area (primarily townhouses and/or multifamily) in which it is located.

*Community service* means a use conducted by or a facility or structure owned or managed by the federal, state, county or city government or other government entity that provides a governmental function or service for public benefit, such as libraries, schools, post offices, police and fire stations, public utilizes but not including the operation of a public bar, restaurant or recreational facility as a commercial enterprise.

*Conditions* means a set of standards with which a property owner must comply in order to obtain any land development permit.

*Container* means a reusable transport and storage unit for moving products and raw materials between locations or countries, typically made of corrugated weathering steel with a fitted door at one end that is designed to allow multiple units to be craned, fitted and locked for stacking purposes.

*Country club* means a building or a campus that provides facilities for the purpose of recreation, athletic, and

Subpart B - LAND DEVELOPMENT CODE  
APPENDIX A - UNIFIED LAND DEVELOPMENT CODE  
ARTICLE ~~W~~VI. DEFINITIONS

---

social activities for paying members, their families and invited guests. The buildings and facilities are owned by a corporation operated as a non-profit.

*Day care* means a non-residential facility providing care for more than six children or six adults at one time and licensed by the state as a group day care center. Such a facility may also be known as a nursery school, day nursery, child care center, day care center for school aged children after school program, or a Head Start program center. It excludes public and private schools or any facility that offers care to individuals for any full 24-hour period.

*Decorative concrete block* means concrete block with a highly textured finish, such as split faced, indented, hammered, fluted, ribbed or similar architectural finish. The coloration shall be integral to the masonry material and shall not be painted on. Decorative concrete block includes light weight and featherweight concrete block or cinder block units and has a minimum thickness of three and five-eighths inches when applied as a veneer.

*Decorative precast concrete panels* means products often associated with tilt-up wall construction but is only considered decorative precast concrete panels if post-constructed wall areas have a highly textured finish, integral color or are covered by defined masonry materials that can be laid up unit by unit set in mortar and meet the required percentage of coverage as defined in this ULDC.

*Density* means the number of dwelling units permitted per net acre of land and is determined by dividing the number of units by the total area of land within the boundaries of a lot or parcel not including the street rights-of-way and land dedicated for public use, such as schools and public parks. In determination of the number of dwelling units permitted on a specific parcel of land, a fractional unit shall not entitle the applicant to an additional unit.

*Destroyed structure* refers to a structure which, upon determination by an appraisal, requires repairs exceeding 50 percent or more of the appraised value of the structure.

*Detention facility* means an excavated area that is designed by a professional engineer to temporarily hold and slowly drain excess stormwater in order to allow water levels in the receiving channel to recede. Detention facilities, which are often called "dry ponds" or "detention ponds" are not the same as retention facilities which are designed to hold water indefinitely.

*Developed land* means that portion of real property which has been altered from its natural landscape by the construction or reconstruction of any structure, parking lot, or other improvement.

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

*Development review committee or DRC* means that committee described in section 1-10 of this ULDC.

*Director* means the city's director of planning and development services.

*Disabled person* refers to a person that has one of the following: 1) a physical or mental impairment that substantially limits one or more of such person's major life activities so that such person is incapable of living independently; 2) a record of having such an impairment; or 3) being regarded as having such an impairment. The term "disabled" shall not include current illegal use of or addiction to a controlled substance.

*Dog run* means an enclosed outdoor area intended for exercise and containment of a dog.

*Dormitory* means a building that is owned and/or operated by an educational institution whose primary purpose is to provide living accommodations for individuals associated with the institution. The term "dormitory" shall not include for-profit facilities operated on or near a university campus that provide the same or similar services as a dormitory.

*Drilling, oil or gas operations* shall mean the drilling, completion or re-working of any type of oil, gas, disposal, exploratory or injection well or pipeline and subsequent life of a well or pipeline or any associated



Subpart B - LAND DEVELOPMENT CODE  
APPENDIX A - UNIFIED LAND DEVELOPMENT CODE  
ARTICLE ~~W~~VI. DEFINITIONS

---

appurtenances or operations, including changes to existing operations and all related equipment and structures, including associated non-residential temporary office structures.

*Drilling site* means the surface premises used for drilling, oil or gas operations.

*Driveway approach* means an improvement to provide vehicular access from the roadway to public or private property.

*Drive-through restaurant* means an establishment in which food or drink is served to customers within automobiles outside of the confines of the building and/or where the consumption of such food or drink is intended to occur off the premises.

*Dwelling unit* means a building or portion of a building, other than a mobile home, that is arranged, occupied or intended to be occupied as a residence and includes facilities for sleeping, cooking and sanitation. Dwelling units are further defined as follows:

- (1) Detached single-family dwelling means the use of a lot for one dwelling unit that has no physical connection to another dwelling unit or building;
- (2) Attached single-family dwelling means the use of a lot for one dwelling unit that is joined to another dwelling unit on an adjacent lot at one or more points by a party wall or abutting separate wall, including but not limited to row houses and townhomes; and
- (3) Duplex dwelling means the use of a lot for two dwelling units within a single building.

*Entertainment, interior* means establishments that are primarily enclosed within a building including motion picture theaters, comedy clubs, art galleries and studios, concert or music halls, (not including adult entertainment of any kind) and which may include such activity centers as indoor miniature golf courses, athletic and health clubs, billiard halls, bowling alleys, arcades, skating and similar uses, and such accessory uses as restaurants and bars.

*Entertainment, outdoor* means any commercial recreational land use conducted primarily outdoors whose main purpose is to provide the general public with an amusing or entertaining activity and where tickets are sold or fees are collected for the activity. Uses may include, but are not limited to, water parks, golf courses, miniature golf courses, country clubs, athletic fields, and amusement parks.

*Environmental analysis* means an analysis of predictable short and long-term environmental effects.

*Environmentally sensitive area ("ESA")* means an area which needs special protection because of its landscape, wildlife or historical value.

*Equipment sales and rental facility* means an establishment that is engaged in the sale or rental of tools, tractors, construction equipment, farm equipment, or other similar equipment. This includes the servicing of such equipment.

*Equipment storage* means the storage of any equipment outdoors. The term does not include equipment that is loaded on to a trailer. The term does not include new vehicles or new equipment that is advertised for sale as part of the primary use of the business, such as lawnmowers or playground equipment displayed outside of a retail goods establishment.

*Evergreen screen* means an arrangement of evergreen shrubs and/or trees that creates a continuous opaque visual screening device at least six feet in height as measured after the first full growing season.

*Evergreen tree* means a tree that retains some or all of its leaves throughout the year, which can be used for the purposes of providing a visual screen.

*Excavation* means any act by which soil, earth, clay, sand, gravel, rock, loam, caliche, dirt, humus or any other similar matter is dug, cut into, quarried, uncovered, removed, displaced, relocated or bulldozed over five feet in depth in the earth.

Subpart B - LAND DEVELOPMENT CODE  
APPENDIX A - UNIFIED LAND DEVELOPMENT CODE  
ARTICLE ~~IV~~VI. DEFINITIONS

---

*Existing tree* means a tree which is located on the property prior to a new construction permit being issued by the city.

*Extraterritorial jurisdiction* means that land within three and one-half miles of the corporate limits of the city or as otherwise established by state law.

*Facade* means that portion of any exterior elevation on the building extending from grade to top of the parapet, wall or eaves and the entire width of the building elevation.

*Family* means a group of two or more persons, each related to the other by blood, marriage, or adoption; or a group of not more than six persons not related by blood, marriage or adoption that are living together in a dwelling unit.

*Family home day care* means a dwelling in which a resident of the dwelling provides day care of children, meeting all requirements of state law, the administrative code and this ULDC.

*Fence* means a barrier of wood, masonry, stone, wire, metal, or other manufactured material or combination of materials or other materials defined in chapter 18 of the Code of Ordinances erected to enclose, screen, separate or decorate areas.

*Filed* means placed on the planning and zoning commission's posted agenda or forwarded to the director for final approval, which may occur only after the city has completed its administrative review of the submitted plat.

*Fire station* means a structure for storage of firefighting apparatus (i.e., fire engines and related vehicles), personal protective equipment, fire hose, fire extinguishers, and other fire extinguishing equipment. It may have dormitory living facilities and work areas such as meeting rooms, workshop, or laundry. Living areas are sometimes arranged above the garage bays.

*Food service establishment* is a facility where food is prepared for consumption on and/or off premises regardless of whether there is a charge for the food with the intent to distribute to persons rather than wholesale distribution.

*Footprint, building* means the horizontal area as seen in plain view and measured from the outside of all exterior walls and supporting columns. It includes residences, garages, covered carports and accessory structures for which a permit has been obtained. It does not include patios, porches, trellises and decks that are 30 inches or less above the ground.

*Frontage* means the horizontal distance between the side lot lines measured at the point where the side lot lines intersect the street right-of-way. All sides of a lot that abut a street shall be considered frontage. Reference the definition of radial lots for more information on where the frontage width of curvilinear lots is measured.

*Garage sale* means a sale as defined in section 82-201 of the Code of Ordinances.

*Gas well* means a well producing natural gas, including all of its constituent elements including gasoline, distillates, butanes, propane, and other hydrocarbons, and which produces less than one barrel of oil to each 100,000 cubic feet of gas.

*Gazebo* means a residential accessory structure that is a covered, free-standing structure used for outdoor gathering.

*General retail* means the sale of goods and/or services directly to the consumer where such goods are available for immediate purchase.

*Glazing* means a transparent part of a wall or door made of glass.

*Golf course* means land designed and built for the purpose of playing golf and may include a club house and a golf cart barn. The term does not include putt-golf, miniature golf, or driving ranges.

*Goose Creek Oil Field* means that area described by Lambert Coordinates in section 62-96 plus the following

Subpart B - LAND DEVELOPMENT CODE  
APPENDIX A - UNIFIED LAND DEVELOPMENT CODE  
ARTICLE ~~W~~VI. DEFINITIONS

described area:

Beginning at the most easterly boundary line of the field described in section 62-96 with the intersection of the south bank of Cedar Bayou Stream. Continuing along the south bank meandering in an easterly southerly direction to the north east point of TR 7C in the ABST 65 W Scott thence along the north boundary line in a southerly westerly direction approximately 2,811 feet to a point. Thence in a northwesterly direction approximately 140 feet to the easterly boundary line of the Goose Creek fields. Thence north along said boundary line to the beginning said point on Cedar Bayou Stream being approximate 172.96 acres herein described.

*Gravel pit* means an open land area where sand, gravel, dirt, and rock fragments are mined or excavated for sale or for off-site use.

*Grocery or drug store* means a single retail establishment that uses the premises to sell to the ultimate end user, food or drugs, including food and drugs which are manufactured on the premises as an integral part of the retail operation, and includes any such premises which may be described as a warehouse store, discount warehouse, or factory outlet, or a warehouse or wholesale club whose membership is open to other than institutions, government agencies and businesses. A minimum of 50 percent of the sales floor area is devoted to food items including, but not limited to, fresh produce, fresh meats, fresh dairy products, and packaged foods; and general merchandise is incidental.

*Groundcover* means a spreading plant including sods and grasses less than 18 inches in height that may be used for erosion control.

*Group home for substitute care* means a facility regulated by the state that provides for the placement of six or more children who are in the conservatorship of the state department of protective and regulatory services, the state department of family and protective services or another state-authorized agency in care outside the children's homes. The term includes group foster care homes, institutional care, adoption centers, or commitment to the state youth commission. Nothing in this ULDC shall be interpreted to restrict the right of a private homeowner to act as a placement option for a relative or to provide state regulated foster care for less than five or fewer children that are in the conservatorship of the state.

*Group home for the disabled* means a dwelling shared by no more than two resident staff and six disabled persons who are unrelated to the owner of the dwelling by blood or marriage, who live together as a single housekeeping unit in a long-term, family-like environment, in which staff persons provide care services, education and participation in community activities for the residents with the primary goal of enabling the resident to live as independently as possible. The term "group home for the disabled" shall not include alcoholism or drug treatment centers, work release facilities for convicts or ex-convicts or other housing facilities serving as an alternative to incarceration.

*Guest housing* means attached or detached building that provides living quarters for guests and contains no kitchen or cooking facility. It is a building that is clearly subordinate and incidental to the primary residence on the same lot.

*Guest parking* means a parking area used exclusively by the guest of residents of the townhouse or multifamily development in which it is located.

*Halfway house* means a state licensed home for inmates on release from more restrictive custodial confinement or initially placed in lieu of such more restrictive custodial confinement, wherein supervision, rehabilitation, and counseling are provided to mainstream residents back into society, enabling them to live independently. Such placement is pursuant to the authority of the state department of corrections.

*Heavy industrial* means a use engaged in the basic processing and manufacturing of materials or products predominantly from extracted or raw materials, including, but not limited to uses that have potentially significant external effects due to the involvement of hazardous materials or commonly recognized offensive conditions such

Subpart B - LAND DEVELOPMENT CODE  
APPENDIX A - UNIFIED LAND DEVELOPMENT CODE  
ARTICLE ~~W~~VI. DEFINITIONS

as the use of explosives, radioactive materials, poisons, pesticides, or herbicides.

*Home occupation* means work that is carried out in a dwelling by the resident thereof and is an incidental use to the primary use of the dwelling.

*Homeless shelter* means a building providing temporary shelter to indigent, homeless people.

*Horizontal mixed-use development* means a development consisting of two or more attached or detached buildings of differing use categories (e.g., residential and nonresidential) within the same project area.

*Hospital* means an institution that is licensed by a state agency to provide primary health services and medical or surgical care to persons, primarily in-patients, suffering from a variety of abnormal physical or mental conditions where overnight care is available. A hospital may include various medical support and accessory uses such as: laboratories; outpatient facilities; training facilities; short-term, on-site medical waste storage (not disposal); short-term warehousing and storage of medical-related equipment and supplies; garages; and other facilities commonly associated with medical institutions.

*Hotel* means a building with habitable suites/rooms for temporary occupancy by guest(s) who rent the suites/rooms on a daily basis. This term excludes rooming house or boarding house.

*Impervious surface area* means any surface area that prevents infiltration of water into the soil. Impervious surface may include, but not be limited to, those surfaces covered by asphalt, concrete, crushed stone, clay, bedrock, limestone and compacted soil.

*Industrialized housing* means a residential structure that is: 1) designed for the occupancy of one or more families; 2) constructed in one or more modules or constructed using one or more modular components built at a location other than the permanent site; and 3) designed to be used as a permanent residential structure when the module or the modular component is transported to the permanent site and erected or installed on a permanent foundation system.

*Interstate, expressway, or freeway* means a multilane divided street network, including the frontage streets that provide ingress and egress to controlled access lanes, as indicated on the major thoroughfare plan.

*Junk* shall have the meaning ascribed to it in section 82-131 of the Code of Ordinances.

*Junk dealer* shall have the meaning ascribed to it in section 82-131 of the Code of Ordinances.

*Junk or salvage yard* shall have the meaning ascribed to "junk yard" in section 82-161 of the Code of Ordinances.

*Kennel* means any lot, enclosure, premises, structure or building or outside feature where four or more dogs over the age of six months are kept or maintained for the purpose of boarding or breeding.

*Kitchen* means a room intended and designed to be used for food preparation and meeting the requirements of the International Building Code for the use for which it is intended (e.g., residential or non-residential).

*Landfill, sanitary* means a site for the burial of non-hazardous and non-medical farm, residential, institutional, commercial, municipal and industrial waste.

*Landscape reserve* means undeveloped property which is left in its natural state and is of sufficient size for the growth of plants and trees.

*Large tree* means a tree, under normal growth conditions, that reaches a mature height at or above 40 feet. A tree that, at the time of planting, is at least 12 feet tall above grade and has a minimum caliper of three inches.

*Laundry building* means a facility where residents of a multifamily dwelling development may wash and dry their personal laundry.

*Light industry* means a use engaged in the manufacture, predominately from previously prepared materials,

Subpart B - LAND DEVELOPMENT CODE  
APPENDIX A - UNIFIED LAND DEVELOPMENT CODE  
ARTICLE ~~IV~~VI. DEFINITIONS

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of finished products or parts, including processing, fabrication, assembly, treatment, incidental storage, sales and distribution of such products and excluding heavy industry. Light industry is capable of operating in such a manner as to control the external effects of the manufacturing process, such as smoke, noise, soot, dirt, particulates, light, vibration, odor and the like and does not pose significant risks from explosives, radioactive materials, poisons, pesticides, herbicides, or other hazardous materials in the manufacturing, packaging, fabricating, assembling, or distributing processes.

*Live outdoor exhibitions* means any live performance outdoors and includes such activities as exhibitions, carnivals, circuses in which humans, animals or machines perform. Such term means and includes those events that are regulated pursuant to chapter 42, article V of the Code of Ordinances.

*Livestock* means any grazing animal, including but not limited to cattle, horses, mules, asses, burros, sheep and goats.

*Loading dock* means a recessed bay (in a well) in a building or facility or on a raised slab where trucks are loaded and unloaded. They are commonly found on commercial and industrial buildings and warehouses in particular. The mere existence of an overhead door does not make a location a loading dock. Loading docks may be exterior, flush with the building envelope, or fully enclosed. They are part of a facility's service or utility infrastructure.

*Local street* means all other streets not otherwise indicated on the major thoroughfare plan, such plan being on file with the director of planning and community development.

*Lot* means a parcel of land recorded in the public records of the county, or a parcel described by metes and bounds, the description of which has been so recorded. This definition does not address the requirements of the subdivision regulations.

*Lot* means a parcel or portion of land in a subdivision or plat of land, separated from other parcels or portions by description as on a subdivision or record of survey map or by metes and bounds, for purpose of sale or lease to or separate use of another.

*Lot consolidation* means the incorporation of a number of lots into fewer lots, each of a larger size than the original lots.

*Lot coverage* means that portion of the lot that is covered by buildings, structures, or any other manmade improvement on the ground surface which are more impervious than the natural surface, such as paving, driveways, etc. Detention facilities lined with asphalt, concrete, rock or any other like materials are considered impervious surfaces for the purpose of calculating lot coverage.

*Lot line adjustment* means a minor change in lot line location.

*Lumber and other building materials, retail* means an establishment where lumber and other building materials such as brick, tile, cement, insulation, roofing materials, and the like are sold at retail. The sale of items such as heating and plumbing supplies, electrical supplies, paint, glass, and hardware is permitted since it is customarily incidental to the sale of lumber and other building materials.

*Major thoroughfare* means a designation of collector, minor arterial or principal arterial that may be set forth on the city's major thoroughfare plan.

*Management office, on site for multifamily and single-family dwellings* means a room or suite of rooms set aside for the use of persons who run the business of leasing or renting dwellings, running the homeowners association, or maintaining the grounds or buildings. Does not include the outside storage of lawnmowers and other equipment or materials for maintenance.

*Manufactured home* means a single-family detached dwelling that is built to the National Manufactured Housing Construction and Safety Standards Act of 1974 (42 USC Sec 5401).

Subpart B - LAND DEVELOPMENT CODE  
APPENDIX A - UNIFIED LAND DEVELOPMENT CODE  
ARTICLE ~~IV~~VI. DEFINITIONS

---

*Manufactured home park* shall have the meaning ascribed to it in section 58-1 of the Code of Ordinances.

*Manufacturing (custom)* means the on-site production or arrangement of goods that are of artistic quality or that involve handmade craftsmanship commonly associated with residential or commercial uses. The term includes the display, sale, and distribution of crafted goods, such as jewelry, pottery, beer, wine, portraits, and furniture.

*Manufacturing (heavy)* means the mechanical or chemical transformation, assembly, fabrication, packing or other industrial processing of products predominantly from extracted or raw materials, including, but not limited to uses that have potentially significant external effects due to the involvement of hazardous materials or commonly recognized offensive conditions such as the use of flammable, toxic, explosive, or radioactive materials. The term includes the incidental storage, sales, and distribution of such materials.

*Manufacturing (light)* means the mechanical or chemical transformation, predominately from previously prepared materials, of finished products or parts, including processing, fabrication, assembly, treatment, and packaging of such products; and incidental storage, sales, and distribution of such products.

*Masonry materials* means and includes that form of construction defined below and composed of clay brick, natural stone, decorative concrete block, stucco, glass block, tilt-wall, rock, synthetic stucco material meeting applicable windspeed requirements, exterior insulation and finish systems (EIFS) complying with ASTM-E 330 structural testing and ASTM-C 1093 fastening, or other materials of equal characteristics laid up unit by unit set in mortar. The following materials shall not qualify nor be defined as "masonry materials" in meeting the minimum requirements for exterior construction of buildings, unless specifically approved by variance: exterior plaster or mortar wash surface material; acrylic matrix, synthetic plaster, or other similar synthetic material; cementitious fiber board siding (such as "Hardy Plank" or "Hardy Board").

*Medical equipment storage and/or research facilities* means a facility whose primary function is the warehousing and storage of medical equipment or the conducting of medical-related research activities totally within an enclosed building.

*Medical services establishment* means a facility such as a clinic, hospital, laboratory, or medical waste storage and disposal, storage of medical equipment and research facilities.

*Medical waste storage and disposal center* means a facility whose primary function is to store and/or repack medical waste for transportation to a processing facility.

*Minor arterial* means a street so indicated on the major thoroughfare plan, such plan being on file with the director of planning and community development.

*Minor plat* means ~~shall be defined as~~ a plat of a tract of land, which includes four, or fewer lots, which also meets the following conditions defined in Article IV of the ULDC

*Minor replat* means ~~shall be defined as~~ a replat of a tract of land, which involves four, or fewer lots, which also meets the following conditions defined in Article IV of the ULDC

*Mixed-use building* means a building that contains at least one floor, or a portion thereof, devoted to permitted nonresidential uses, and at least one floor devoted to permitted residential uses.

*Monument sign* means any permanent low-profile sign built on a monument base as opposed to a pole base, solid from the ground up, and which has no clear space for the full width of the sign between the bottom of the sign and the ground. Poles or supports must be concealed

*Mulch* means various substances that are placed around plants to prevent evaporation, to control weeds and to control soil erosion. Mulch material includes, but is not limited to, organic substances and various forms and sizes of natural rocks.

*Multi-family* means the use of a lot or any residential dwelling complex consisting of five or more units



Subpart B - LAND DEVELOPMENT CODE  
APPENDIX A - UNIFIED LAND DEVELOPMENT CODE  
ARTICLE ~~W~~VI. DEFINITIONS

---

to include, but not be limited to, common accessory structures such as garages, laundry buildings, and guest parking.

*Multifamily complex* means any residential dwelling complex consisting of four or more units to include, but not be limited to common accessory structures such as garages, laundry buildings, and guest parking.

*Neighborhood* means: 1) a quarter-mile (approximately 1,300 feet) radius around the nonconforming condition; 2) in commercial areas, the area along a transportation corridor that is between the two closed signalized major thoroughfare intersections in opposite directions from the nonconforming condition and that has a depth at least back to the local streets paralleling the major thoroughfares; or 3) If in a residential subdivision, the residential subdivision of at least ten lots may also meet these criteria.

*New commercial permit* means a building permit required for the construction and/or development of all new nonresidential developments. Nonresidential means any use other than single-family or duplex dwelling use, and expressly includes, but is not limited to, uses associated with multi-family dwellings, manufactured home parks, mobile home parks, RV parks and commercial developments within the city.

*Nonconforming structure* means a structure in existence prior to the adoption of this ULDC that fails to meet one or more of the zoning standards in this Code applicable to such structure.

*Nonconforming use* means a land use in existence prior the date of adoption of this ULDC that fails to meet one or more of the zoning standards in this Code applicable to such use.

*Nursing home* means an institution licensed by the state that provides meals, resident care and services for persons who are generally admitted for periods of time exceeding 30 days. Such service includes custodial or attendant care, but may or may not provide for routine and regular medical and nursing services. The term nursing home includes care homes, homes for the aged, convalescent homes, rest homes, and other related institutions not otherwise defined in this section, where such persons are mostly incapable of self-preservation due to age, physical or mental disability, or because of security measures not under the occupants' control. The term "nursing home" excludes facilities that provide surgical or emergency medical services or that provide care for alcoholism, mental disease, drug addiction or communicable disease.

*Office* means administrative, executive, professional, research or similar facilities that have limited customers. An office may be a room, a suite of rooms, or a portion of a building.

*Oil well* shall have the meaning ascribed to it in section 62-26 of the Code of Ordinances.

*Opaque screening* means a method of visually shielding or obscuring one abutting or nearby land use from another nearby or abutting land use. The opaque screen shall be made of any combination of the following: a minimum six-foot-high berm, fence, wall or evergreen screening shrubs six foot high at the at the time of installation or to be six feet high at the end of the first growing season with no visible breaks between shrubs or any combination of the four.

*Open space* means land use for recreation, resource protection, and/or buffers; usually privately owned and maintained.

*Outdoor living area* means a common outdoor area designed to provide a more pleasant and healthful environment for the occupants of a dwelling unit and the neighborhood in which such dwelling unit is located. It includes natural ground areas, patios, terraces or similar areas developed for active or passive recreational activities. All areas designated for retention or detention facilities shall not be considered as qualifying under this definition.

*Outdoor storage* means a holding area for stockpiling, collecting, or displaying of any products, materials, equipment, appliances, and/or personal property of any kind on a stabilized surface or in a structure that includes a roof but has no side walls, or screening or walls without a roof. This term includes a lay-down yard but does not include containers, towing yards, vehicle storage, or vehicle and boat sales, rental or leasing facility.

Subpart B - LAND DEVELOPMENT CODE  
APPENDIX A - UNIFIED LAND DEVELOPMENT CODE  
ARTICLE ~~W~~VI. DEFINITIONS

---

*Outdoor storage (accessory)* means a holding area for the accessory use of stockpiling, collecting, or displaying of any products, materials, equipment, appliances, and/or personal property of any kind, which are neither noxious noncombustible, on an asphalt- or concrete-paved surface or in a structure that includes a roof but has no side walls, or screening or walls without a roof. This term includes a lay-down yard as an accessory use but does not include a container, towing yard, vehicle storage, or vehicle and boat sales, rental or leasing facility.

*Outside sales and display* is an unenclosed area used for retail sales and placement of products as an accessory use associated with the primary retail use on the same premises. This term does not include open air vendors as defined in section 74-26 of the Code.

*Overnight accommodations* means temporary living quarters provided for public convenience including hotels and motels.

*Package store (alcohol)* means an establishment which may sell liquor in unbroken original containers on or from the licensed premises at retail to consumers for off-premises consumption only and not for the purpose of resale, except that if the permittee is a hotel, the permittee may deliver unbroken packages of liquor to bona fide guests of the hotel in their rooms for consumption in their rooms. Reference V.T.C.A., Alcohol Code § 11.29.

*Packaging* means the placement of products into bulk containers or placing hazardous products in to containers of any kind for the purpose of transport to another location. Packaging does not include the placement of non-hazardous products into individual containers for shipment that are picked up on-site by the USPS, FedEx or similar carrier routinely allowed in residential areas.

*Park* means public land set aside for recreation, culture or passive recreation uses for residents and workers and may include neighborhood parks, community parks and regional parks, trails and sports fields.

*Parking, commercial* means a parcel of land or a structure used for the temporary parking of vehicles for a fee which may be charged regardless of any other fee for the premises. Structure: a facility with one or more floors used for the temporary storage of vehicles. Delivery of items is not considered commercial parking.

*Parking space* means a space used for parking a motor vehicle and satisfying all of the applicable requirements for off-street parking contained in chapter 112.

*Personal care home* means a residential facility where room and board and personal care services are provided within a dwelling unit to not more than six elderly persons, regardless of the relationship to the owner.

*Personal care services* means assistance with feeding, dressing, moving, bathing, or other personal needs or maintenance or general supervision or oversight of the physical and mental well-being of a person who needs assistance to maintain a private and independent residence in an assisted living environment or who needs assistance to manage the person's personal life, regardless of whether a guardian has been appointed for the person. Personal care services also include the administration of medication by a person licensed to administer medication, as defined by the V.T.C.A., Health and Safety Code § 247.002.

*Personal pleasure boat* means a vehicle designed for operation in water by oars, sails or internal combustion engine for personal use.

*Personal service* means an establishment engaged in the sale of frequent or recurring services on site such as hairdressing, barbershops, associated trade schools, and shoe repair. This does not include such services as real estate, attorney, accountant and the like which are categorized in office.

*Personal storage building* means a structure used for solely for the storage of inanimate objects that is not connected to a dwelling or other building and does not have water or sewer service.

*Pet kennel* means the temporary keeping of pets.

*Pets* means those animals and fowl normally domesticated in the United States, typically obtained at pet shops, and kept in or around the home for pleasure rather than utility, e.g., dogs, cats, canaries, mynahs, parrots,



Subpart B - LAND DEVELOPMENT CODE  
APPENDIX A - UNIFIED LAND DEVELOPMENT CODE  
ARTICLE ~~IV~~VI. DEFINITIONS

---

parakeets, fish, rabbits and rodents and excluding animals defined by state or federal regulations as wildlife, as set forth in state law and in chapter 14 of the Code of Ordinances.

*Pet store* means a retail store whose primary purpose is to sell products and services that support pets. The sale of pets, grooming and housing for pets shall be an accessory and incidental use in the pet store. Animal housed overnight shall be housed inside the pet store.

*Place of assembly* means a building or portions of a building in which facilities are provided for civic, educational, religious, deliberation or social purposes for regular or occasional use. Such facilities include theaters, lecture halls, places of worship, lodges, exhibit rooms, banquet facilities and other uses which meet the requirements for "places of assembly" or A1 through A5 occupancy under the International Building Code.

*Planning and zoning commission* means the body appointed by the city council to exercise the powers and duties set forth at section 2-326 of the Code of Ordinances.

*Plat* means a map or chart of the subdivision. It shall include a plan, plat or replat, in both singular and plural.

*Plot plan* means a site plan of the project area, which identifies residential boundaries where residential uses are proposed in this overlay district.

*Police station* means a building that accommodates police officers and members of staff. The building often contains offices and accommodations for personnel and vehicles, along with locker rooms, temporary holding cells and interview/interrigation rooms.

*Primary building(s)* means a structure that is developed along the street frontage that is subject to the front yard setback standards.

*Primary entrance(s)* means an ingress and egress point of a building or suite, which is designed for pedestrians, that is oriented towards the street frontage and usable open space.

*Principal or major arterial* means a street so indicated on the major thoroughfare plan, such plan being on file with the director of planning and community development.

*Private open space* means usable open space directly associated with a dwelling unit or part of a common area of a development and having clearly delineated boundaries.

*Private recreation space* means privately owned, maintained and operated outdoor space for the refreshment and relaxation of mind and body through active or passive use.

*Project area* means a single parcel or multiple parcels, planned and constructed as one, coordinated and unified project.

*Property line* means the line bounding a parcel, lot or tract.

*Public services* means a service or a facility provided by a local, state, regional or federal agency that provides a service, function or activity for direct public benefit. This term does not include prisons.

*Qualified applicant* means the party that meets all the requirements under this ULDC in order to make application under this ULDC.

*Radial lot* means any lot located along a curved road or at the end of cul-de-sac, and where the distance along the road frontage is less than the amount required per the ULDC for that district. The minimum lot width must be met at the front building line. Side property lines should be radial to the curve of the road or cul-de-sac.

*Recreational vehicle* means a portable vehicle built on a chassis and designed as a temporary dwelling for travel, recreation, and vacation use, which does not exceed eight feet in width and 40 feet in length, exclusive of tongue. The term recreational vehicle shall also include all portable structures which may be moved under their

Subpart B - LAND DEVELOPMENT CODE  
APPENDIX A - UNIFIED LAND DEVELOPMENT CODE  
ARTICLE ~~IV~~VI. DEFINITIONS

---

own power, towed, or transported by another vehicle, and for purposes of this chapter, shall also include other types of vehicles such as, but not limited to, trucks, vans and buses that have been converted to temporary dwellings for travel, recreation, and vacation use, regardless of size.

*Recreational vehicle park* means a lot used for the accommodation of recreational vehicles for vacation or short term transient lodging and which contains three or more of the following: on-site laundry, restaurant, recreation facilities such as swimming pools, fishing ponds, bicycle paths, a recreation hall or club house, or other similar features and does not contain facilities for the sale or repair of recreational or other mobile vehicles of any kind or for the sale of parts or accessories for such vehicles.

*Recycling collection center* means a facility at which fabricated paper, glass, metal and plastics are collected and bundled prior to shipment to end user.

*Regional commercial* means a large commercial development that offers services and products at a scale and function to serve a regional market. Regional market pertains to a broad geographic area rather than a single jurisdiction.

*Repair business* means an establishment that primarily provides services to individuals and households, rather than to businesses and excluding automotive repair, large equipment repair or activities involving hazardous materials. Typical uses include appliance, shoe, watch or jewelry, computer and musical instrument repair, and the like.

*Replacement oil or gas well* means an oil or gas well drilled so the well and its housing and other appurtenances are in the same place on the site plan and so located on the property as the well it is meant to replace. "To replace" means that a well has been operating until the time that the work to replace it is commenced. Work to install a new well where an inoperative well exists is not replacement.

*Residential proximity slope line* means a line that describes a relationship between non-residential setbacks where the non-residential building exceeds the height of the adjacent residential building from which the non-commercial building is required to setback.

*Resource extraction* means the extraction of minerals including solids (gravel, dirt) or non-solids (gas and oil). Extraction as defined herein also includes the operation, milling, crushing, washing or other preparation customarily performed at the extraction site.

*Resubdivision* means the division or alteration of a tract or parcel of an existing subdivision, except lot consolidation and lot line adjustment.

*Resubmitted* means placed on the planning and zoning commission's posted agenda or forwarded to the director for final approval, which may occur only after the city has determined that a response that satisfies each condition for the conditional approval or remedies each reason for disapproval is provided.

*Retail* means the activity of offering to sell or rent, or to sell or rent merchandise to a consumer who buys or rents the merchandise as the ultimate consumer or end user, being the last person in the chain of distribution, for personal consumption or use and not for further sale or rent. This term includes "general retail," "big box," "small discount box," and "grocery stores."

*Retention facility* means an excavated area that is designed by a professional engineer to capture and store stormwater on a permanent or semi-permanent basis, often indefinitely with the exception of the water volume lost to evaporation or absorption into the soils. Retention facilities, which are often called "wet ponds" or "retention ponds", are not the same as detention facilities which are designed to hold water temporarily and release their volume completely after or during the peak of the storm event.

*Roof pitch* means a roof having a slope or pitch determined by rise over run in direction of the slope or pitch of the roof, 1:4 slope for example.

Subpart B - LAND DEVELOPMENT CODE  
APPENDIX A - UNIFIED LAND DEVELOPMENT CODE  
ARTICLE ~~W~~VI. DEFINITIONS

---

*Scenic Corridor* means any street or freeway system that is on the Major Thoroughfare Plan.

*School* means an institution for the teaching of children or adults including primary and secondary schools, colleges, professional schools, dance schools, business schools, art schools and other similar schools.

*Screening* means an opaque separation between properties made of any combination of the following: six-foot-high berm, wall or fence, or evergreen shrubs. Evergreen shrubs shall be six foot high at the time of installation or shall be six foot high at the end of the first growing season after they are installed with no visible break between the shrubs or any combination of the four.

*Secondary building(s)* means a structure that is developed in the project area but does not have direct street frontage to the adjacent street due to a primary building that has been constructed along the street frontage.

*Secondary entrance(s)* means ingress and egress point(s) of a building or suite, which is designed for pedestrians, that is not the primary entrance(s).

*Self-storage* means a facility containing independent, fully enclosed bays that are leased to individuals exclusively for storage of their household goods, small business records, or personal property. The term does not include outdoor storage.

*Setback* means the unobstructed, unoccupied open space between a structure and the property line of the lot on which the structure is located. Setbacks are unobstructed open space from the ground to the sky and measured as the horizontal distance between a property line and the furthestmost projection of the structure, except in cases in which this ordinance specifically allows parking.

*Shade tree* means any self-supporting woody plant with one well-defined trunk and a distinct definite formed crown.

*Shrub* means a woody perennial plant differing from a perennial herb by its more woody stem and from a tree by its low stature and habit of branching from the base.

*Single-family dwelling use* means the use of a lot for one dwelling unit.

~~(6)~~ *Small box discount retail* means a single retail establishment consisting of 12,000 square feet or less of gross floor area, offering for sale an assortment of discounted general merchandise directly to the consumer. Such merchandise may include, but not be limited to, food and beverage for off-premises consumption, processed foods, household products, personal grooming and health products, clothing, and other consumer goods. This term does not include a retail establishment providing a prescription pharmacy, gasoline or diesel fuel, specialty gifts or food and beverage items intended for on-premises consumption.

Subpart B - LAND DEVELOPMENT CODE  
APPENDIX A - UNIFIED LAND DEVELOPMENT CODE  
ARTICLE ~~W~~VI. DEFINITIONS

---

*Small vet or home kennel* means an enclosed premises or building where three or less dogs are housed for medical treatment or for personal use as family pets.

*Small subdivision* means a subdivision of 12 or fewer lots

*Small tree* means a type of tree that, under normal growth conditions, that reaches a mature height between 20 and 40 feet. A tree that, at the time of planting, is at least six feet tall above grade and has a minimum caliper of two inches.

*Solar energy facility* means a device or combination of devices that use direct sunlight as a source of energy for the non-commercial direct use of the structure on the same lot with the system. Examples include photovoltaic systems, a solar hot water heater, solar panels, or a south-facing window.

*Spire* means a structure or formation, such as a steeple, that tapers to a point at the top.

*Sports court* means a space, indoor or outdoor, design used and maintained for basketball, racquetball, shuffleboard or other similar sports that use a court.

*Stable* means a building in which horses are sheltered and maintained as an accessory use to a principal residential use on the same lot.

*Stone* means naturally occurring granite, marble, limestone, slate, river rock, and other similar hard and durable all weather stone that is customarily used in exterior building construction. This includes cast or manufactured stone product, provided that such product yields a highly textured stone-like appearance, its coloration is integral to the masonry material and shall not be painted on, and it is demonstrated to be highly durable and maintenance free. Natural or manmade stone shall have a minimum thickness of two and five-eighths inches when applied as a veneer.

*Storage building* means an accessory structure used for materials, equipment and vehicles that are "in transit" or not in use.

*Streetscape* means the landscaping along the property adjacent to the street rights-of-way as required to be landscaped pursuant to this article.

*Stucco* means conventional three-step hard coat stucco with a minimum thickness of seven-eighths-inch.

*Studio* means a workshop, work place or work room for a person doing crafts, photography, woodworking, painting textiles for personal pleasure or production on a very small scale.

*Subdivision* means a division of a tract or parcel of land within the limits or in the extraterritorial jurisdiction of the city into two or more parts to lay out a subdivision of the tract, including an addition to the city, to lay out suburban, building, or other lots, or to lay out streets, alleys, squares, parks or other parts of the tract intended to be dedicated to public use or for the use of purchasers or owner of lots fronting on or adjacent to the streets, alleys, squares, parks, or other parts. A subdivision in this chapter includes a division regardless of whether it is made by using a metes and bounds description in a deed of conveyance or in a contract for a deed, by using a contract of sale or other executory contract to convey or by using any other method. The term "subdivision" includes a re-subdivision (replat) but does not include the following:

- (1) A division of land into parts greater than five acres, where each part has access and no public improvement is being dedicated as described hereinabove;
- (2) A division of land owned by the city;
- (3) A division of land created solely by the city's acquisition of a portion thereof; or
- (4) A division of land created by order of a court of competent jurisdiction.

Subpart B - LAND DEVELOPMENT CODE  
APPENDIX A - UNIFIED LAND DEVELOPMENT CODE  
ARTICLE ~~IV~~VI. DEFINITIONS

---

*Supply house* means an establishment at which wholesale customers or persons directly representing industry may purchase industrial supplies at wholesale or where such items are repaired or serviced. These establishments do not have retail customers.

*Tire sales* means a lot on which the principal business is the sale or installation of new, used or retread tires and tubes.

*Towing yard* shall mean a vehicle storage facility, as defined in section 102-136 of the Code of Ordinances.

*Transition buffer zone* means an area, which extends inward from the property line of a site, provides protection between land uses consisting of ground cover and trees as ascribed to it in [section 3.10.5 of the ULDC](#).

*Transitional housing* means shelter provided to the homeless for an extended period, often as long as 18 months and generally integrated with other social services and counseling programs to assist in the transition to self-sufficiency through the acquisition of a stable income and permanent housing.

*Travel center* means a facility associated with the refueling of domestic and commercial vehicles, including the retail sale of food and beverages, limited service restaurants, and general merchandise. A travel center does not include a truck stop or a facility associated with commercial vehicle washing and/or repairs of any vehicle type, showering, laundry, temporary sleeping, and/or overnight parking. This use may also be referred to as a travel plaza.

*Tree* means any self-supporting woody plant with one well-defined trunk two inches in diameter or greater.

*Truck stop* means a facility primarily for parking, refueling, washing and/or minor repair of commercial vehicles, and may include retail sales of food, beverages, and/or other items, full-service restaurant(s),

restroom/shower facilities, and/or temporary sleeping quarters. This use may also be referred to as transport stop or truck service/filling station; however, a truck stop does not include a travel center.

*Truck terminal* means an area and building where cargo is stored and where trucks, including tractor and trailer units, load and unload cargo on a regular basis. May include facilities for the temporary storage of loads prior to shipment. Includes rail to truck, truck to truck and dock to truck.

*ULDC* means this Unified Land Development Code.

*Usable open space* means [accessible hardscape or landscape areas, including, but not limited to, plazas, courtyards, pocket parks, and other publicly accessible amenities](#).

*Vegetative buffer zone* means an area, which extends inward from the property line of a site, provides protection between land uses, and contains plantings consisting of ground cover, shrubs and trees.

*Vehicle and boat sales, rental or leasing facility* means and includes a structure(s) and associated real property used for the sale, rental, and leasing of new or used, operable vehicles, including, but not limited to, tractors, tractor trailers, recreational vehicles, buses, boats, and similar size vehicles/equipment.

*Vehicle, commercial* means a motor vehicle or combination of motor vehicles used to transport passengers or property that: (1) has a gross combination weight rating of 26,001 or more pounds including a towed unit with a gross vehicle weight rating of more than 10,000 pounds; (2) has a gross vehicle weight rating of 26,001 or more pounds; or (3) is transporting hazardous materials and is required to be placarded under 49 C.F.R., Part 172, Subpart F.

*Vehicle fueling station* means a site used for the retail sale of vehicle fuels and oils for domestic vehicles, pre-packaged food items, and limited merchandise. A vehicle fueling station is meant to include fueling for vehicles that use alternative fuels or a combination of conventional and alternative fuels. This use may also be referred to as

Subpart B - LAND DEVELOPMENT CODE  
APPENDIX A - UNIFIED LAND DEVELOPMENT CODE  
ARTICLE ~~IV~~VI. DEFINITIONS

---

gas station, service station, filling station, or petrol station.

*Vehicle fueling station minimart* means a facility associated with the sale of vehicle fuels for domestic vehicles that also offers for sale food items and general merchandise. Hot beverages, fountain-type beverages, and food, prepackaged or prepared on-site, may be included in the food items for sale. The facility may be associated with another use but may not include automobile repair or service of any kind, or any services for commercial vehicles. A vehicle fueling station minimart is meant to include fueling for vehicles that use alternative fuels or a combination of conventional and alternative fuels. This use may also be referred to as gas/service/filling/petro station with: convenience store, corner store, food mart, or bodega.

*Vehicle, non-commercial* means a motor vehicle, including a motorcycle, or other device in or by which a person or property is or may be transported or drawn on a public highway, but is otherwise not considered a commercial vehicle, farm vehicle, farm equipment, or farm implement.

*Vehicle storage* means a room, structure or parking lot that is used to house or store vehicles. It includes structures, buildings, and rooms generally called garages, boathouses, and airplane hangars. This term excludes "parking commercial," "public service," "towing yards," "vehicle repair, major," "vehicle repair, minor" or "boat and RV storage."

*Wall* means a constructed solid barrier of concrete, stone, brick, tile, masonry, wood or similar material that encloses, borders or decorates an area.

*Warehouse and freight movement* means a use engaged in storing and distribution of manufactured products or equipment and typically characterized by heavy trucking or rail activity and outdoor storage.

Subpart B - LAND DEVELOPMENT CODE  
APPENDIX A - UNIFIED LAND DEVELOPMENT CODE  
ARTICLE ~~W~~V. DEFINITIONS

---

*Well* means a hole or bore to any sand, formation, strata, or depth which is drilled, bored, sunk, dug or put down for the purpose of either exploring or for ascertaining the existence of any oil, gas, or liquid hydrocarbon for the purposes of producing or recovering and oil, gas or liquid hydrocarbon.

*Wholesale and warehouse activities within an enclosed structure* means those retail activities typically conducted at facilities such as a "wholesale club," "warehouse store," "discount warehouse," "factory outlet," and other similar retail establishments that sell directly to the public.

*Wholesale trade* means to offer to sell or rent, or to sell or rent, merchandise other than at retail. Establishments engaged in selling merchandise to other wholesalers or to retailers, generally without transformation, and rendering services incidental to the sale of merchandise and normally operate from a warehouse or showroom/office. Wholesalers are organized to sell or arrange the purchase or sale of goods for resale (i.e., goods sold to other wholesalers or retailers), capital or durable non-consumer goods, or raw and intermediate materials and supplies used in production. The intent is to permit the warehousing of products, and to permit the packaging, sale to other wholesalers or to retailers, assembly or treatment of products within an enclosed structure.

*Wild animal* means a wild animal as defined in section 14-1 of the Code of Ordinances.

*Wine and beer retailer* means an establishment licensed by the state to sell ale, wine, and vinous liquors to consumers at retail on or from the licensed premises in unbroken original containers of not less than six ounces for off-premises consumption only and not for the purpose of resale.

~~(7)~~ *Window sign* means a sign affixed to the surface of a window with its message intended to be visible to and readable from the public way or from adjacent property.

*Working days or business days* means week days that are not holidays celebrated by the city.

*Yard, front* means the area situated between the front building line and the front lot line extending the full width of the lot.

*Yard, rear* means the area situated between the rear building line and a rear lot line, and extending the full width of the lot.

*Yard, side* means the area situated between the side building line and a side lot line, and extending from the front yard to the rear yard.

Subpart B - LAND DEVELOPMENT CODE  
APPENDIX A - UNIFIED LAND DEVELOPMENT CODE  
ARTICLE ~~IV~~VI. DEFINITIONS

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## **CITY COUNCIL MEETING**

**5. b.**

**Meeting Date:** 09/08/2022

**Subject:** Text Amendments to ULDC for Consolidating Land Development Ordinances

**Prepared for:** Martin Scribner, Planning and Development Services

**Prepared by:** Christopher Chavis  
Planning and Development Services

**Department:** Planning and Development Services

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### **Information**

#### **ITEM**

Consider an ordinance for the proposed text amendments to the Unified Land Development Code of the City of Baytown to consolidate certain land development ordinances.

#### **PREFACE**

After adopting its new Comprehensive Plan (the plan), the City of Baytown is preparing to update the Unified Land Development Code (ULDC) to assure that the ordinances for development will result in the longer-term changes that are suggested by the plan. Before pursuing the overhaul of the ULDC, the various land development ordinances must be put into one document.

The proposed text amendment will consolidate and coordinate the various development regulations. By reorganizing certain land development regulations into one section of the Code of Ordinances, staff will reduce conflicts and redundancies, while also improving the customer's ability to navigate and read the requirements of the Code of Ordinances. The text amendment adds the following sections of the Code of Ordinances to the ULDC:

- 1) Chapter 18 - Buildings and Building Regulation - Article XIV. Landscaping;
- 2) Chapter 112 - Off-street parking and Open Space Areas;
- 3) Chapter 118 - Signs
- 4) Chapter 126 - Subdivisions

The supporting documentation is attached to the previous item.

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### **Fiscal Impact**

**Fiscal Year:**

**Acct Code:**

**Source of Funds (Operating/Capital/Bonds):**

**Funds Budgeted Y/N:**

**Amount Needed:**

**Fiscal Impact (Additional Information):**

There is no fiscal impact associated with this item.

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**Attachments**

Ordinance - ULDC Text Amendments

P&Z Report

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AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BAYTOWN, TEXAS, AMENDING THE CODE OF ORDINANCES, BAYTOWN, TEXAS, APPENDIX A "UNIFIED LAND DEVELOPMENT CODE," ARTICLE I "GENERAL," DIVISION 1 "JURISDICTION AND AUTHORITY," TABLE 1-1, AND DIVISION 2 "REVIEW AND DECISION-MAKING BODIES" TABLE 1-2; AMENDING APPENDIX A "UNIFIED LAND DEVELOPMENT CODE," ARTICLE I "GENERAL," DIVISION 3 "ADMINISTRATION AND PROCEDURES," SECTION 1.12 "SIMULTANEOUS SUBMISSION OF RELATED APPLICATIONS," AMENDING APPENDIX A "UNIFIED LAND DEVELOPMENT CODE," ARTICLE I "GENERAL," DIVISION 3 "ADMINISTRATION AND PROCEDURES," TABLE 1-3 "SUMMARY OF NOTICE REQUIREMENTS," TABLE 1-4 "REQUIRED PUBLIC HEARINGS;" AMENDING APPENDIX A "UNIFIED LAND DEVELOPMENT CODE," ARTICLE I "GENERAL," DIVISION 3 "ADMINISTRATION AND PROCEDURES," SECTION 1.27 "NONCONFORMITIES," SECTION (D) "VARIANCES FOR THE EXPANSION OF NONCOMPLIANT STRUCTURES," SUBSECTION (4) "VARIANCE CREDITS" AND TABLE 1-4 "VARIANCE CREDITS" BY RENUMBERING IT AS TABLE 1-5; AMENDING APPENDIX A "UNIFIED LAND DEVELOPMENT CODE," ARTICLE I "GENERAL," DIVISION 3 "ADMINISTRATION AND PROCEDURES," SECTION 1.27 "NONCONFORMITIES" SUBSECTION (D)(4)c.(i)-(ii), AND SECTION 1.29 "ZONING VARIANCE PROCESS;" AMENDING APPENDIX A "UNIFIED LAND DEVELOPMENT CODE," ARTICLE I "GENERAL," DIVISION 3 "ADMINISTRATION AND PROCEDURES," TO ADD SECTION 1.29.5 "SUBDIVISION VARIANCE PROCESS;" AMENDING APPENDIX A "UNIFIED LAND DEVELOPMENT CODE," ARTICLE II "USE DISTRICTS," DIVISION 2 "ZONING DISTRICTS," SECTION 2.05 "RESIDENTIAL ZONING DISTRICTS;" AMENDING APPENDIX A "UNIFIED LAND DEVELOPMENT CODE," ARTICLE II "USE DISTRICTS," DIVISION 2 "ZONING DISTRICTS," SECTION 2.082 "SAN JACINTO OVERLAY DISTRICT;" AMENDING APPENDIX A "UNIFIED LAND DEVELOPMENT CODE," ARTICLE II "USE DISTRICTS," DIVISION 2 "ZONING DISTRICTS," SECTION 2.082 "SAN JACINTO OVERLAY DISTRICT;" AMENDING APPENDIX A "UNIFIED LAND DEVELOPMENT CODE," ARTICLE II "USE DISTRICTS," DIVISION 3 "LAND USE TABLES AND CONDITIONS," SECTION 2.10 "LAND USE CONDITIONS;" AMENDING APPENDIX A "UNIFIED LAND DEVELOPMENT CODE," ARTICLE III "DESIGN AND COMPATIBILITY STANDARDS," DIVISION 1 "PROPERTY DEVELOPMENT STANDARDS," SECTION 3.02 "SETBACKS;" AMENDING APPENDIX A "UNIFIED LAND DEVELOPMENT CODE," ARTICLE III "DESIGN AND COMPATIBILITY STANDARDS," DIVISION 2 "OPERATIONAL PERFORMANCE STANDARDS," SECTION 3.08 "STANDARDS;" AMENDING APPENDIX A "UNIFIED LAND DEVELOPMENT CODE," ARTICLE III "DESIGN AND COMPATIBILITY STANDARDS," DIVISION 3 "NON-RESIDENTIAL ZONES," SECTION 3.10 "APPLICABILITY;" AMENDING APPENDIX A "UNIFIED LAND DEVELOPMENT CODE," ARTICLE III "DESIGN AND COMPATIBILITY STANDARDS," DIVISION 3 "NON-RESIDENTIAL ZONES" TO ADD SECTION 3.10.5 "LANDSCAPING REQUIREMENTS" AND SECTION 3.10.7 "OFF-STREET PARKING & OPEN SPACE AREAS;" AMENDING APPENDIX A "UNIFIED LAND DEVELOPMENT CODE," ARTICLE III "DESIGN AND COMPATIBILITY STANDARDS," DIVISION 4 "RESIDENTIAL ZONES," SECTION 3.12 "APPLICABILITY, BUILDINGS WITH MULTIPLE UNITS;" AMENDING APPENDIX A "UNIFIED LAND DEVELOPMENT CODE," ARTICLE III "DESIGN AND COMPATIBILITY STANDARDS," DIVISION 4 "RESIDENTIAL ZONES" TO ADD SECTION 3.13.5 "RESIDENTIAL OFF-STREET

PARKING;" AMENDING APPENDIX A "UNIFIED LAND DEVELOPMENT CODE," ARTICLE III "DESIGN AND COMPATIBILITY STANDARDS," DIVISION 5 "DISTRICT COMPATIBILITY STANDARDS," SECTION 3.14 "COMPATIBILITY STANDARDS;" AMENDING APPENDIX A "UNIFIED LAND DEVELOPMENT CODE," TO RENUMBER ARTICLE IV "DEFINITIONS" AS ARTICLE VI AND ADDING THE DEFINITIONS OF "AMENDING PLAT," "CALIPER," "DEVELOPED LAND," "DRIVE-THROUGH RESTAURANT," "EVERGREEN TREE," "EXISTING TREE," "FILED," "GROUND COVER," "HORIZONTAL MIXED-USE DEVELOPMENT," "IMPERVIOUS SURFACE," "INTERSTATE, EXPRESSWAY, OR FREEWAY," "LANDSCAPE RESERVE," "LARGE TREE," "LOCAL STREET," "LOT CONSOLIDATION," "LOT LINE ADJUSTMENT," "MINOR ARTERIAL," "MINOR PLAT," "MINOR REPLAT," "MIXED-USE BUILDING," "MONUMENT SIGN," "MULCH," "MULTI-FAMILY," "OUTDOOR LIVING AREA," "PARKING SPACE," "PLAT," "PLOT PLAN," "PRIMARY BUILDING(S)," "PRIMARY ENTRANCE(S)," "PRINCIPAL OR MAJOR ARTERIAL," "PROJECT AREA," "RESUBDIVISION," "RESUBMITTED," "SECONDARY BUILDING(S)," "SECONDARY ENTRANCE(S)," "SHADE TREE," "SHRUB," "SINGLE-FAMILY DWELLING," "SMALL BOX DISCOUNT RETAIL," "SMALL SUBDIVISION," "SMALL TREE," "STREETSCAPE," "SUBDIVISION," "SUBDIVISION PLAT," "TREE," AND "USABLE OPEN SPACE"; AMENDING APPENDIX A "UNIFIED LAND DEVELOPMENT CODE," TO ADD ARTICLE IV "SUBDIVISIONS" AND ADD DIVISION 1 "GENERAL," DIVISION 2 "ADMINISTRATION," DIVISION 3 "LOT CONSOLIDATION," "DIVISION 3.25 SMALL SUBDIVISION," DIVISION 3.50 "MINOR PLATS," DIVISION 3.60 MINOR REPLATS," DIVISION 3.70 "AMENDING PLATS," DIVISION 4 "SUBDIVISION PLAT," DIVISION 5 "SUBDIVISION VARIANCE," DIVISION 6 "SPECIAL DEVELOPMENTS AND SUBDIVISIONS," AND DIVISION 7 "ENGINEERING AND CONSTRUCTION STANDARDS;" AMENDING APPENDIX A "UNIFIED LAND DEVELOPMENT CODE," TO ADD ARTICLE V "SIGNS" AND ADD DIVISION 1 "IN GENERAL," DIVISION 2 "ADMINISTRATION, AND DIVISION 3 "REGULATIONS; "PROVIDING A REPEALING CLAUSE; CONTAINING A SAVINGS CLAUSE; PRESCRIBING A MAXIMUM PENALTY OF TWO THOUSAND AND NO/100 DOLLARS (\$2,000.00); AND PROVIDING FOR THE PUBLICATION AND EFFECTIVE DATE THEREOF.

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BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BAYTOWN, TEXAS:

Section 1: That the Code of Ordinances, Baytown, Texas, Appendix A "Unified Land Development Code," is hereby amended to include the regulations attached hereto as Exhibit "A" and incorporated herein for all intents and purposes.

Section 2: That Appendix A "Unified Land Development Code," Article I "General," Division 1 "Jurisdiction and Authority," Table 1-1 is hereby amended to read as follows:

## **APPENDIX A. UNIFIED LAND DEVELOPMENT CODE**

### **ARTICLE I. GENERAL**

#### **DIVISION 1. JURISDICTION AND AUTHORITY**

....

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

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

Section 3: That Appendix A "Unified Land Development Code," Article I "General," Division 2 "Review and Decision-Making Bodies" Table 1-2 is hereby amended to read as follows:

**APPENDIX A. UNIFIED LAND DEVELOPMENT CODE**

**ARTICLE I. GENERAL**

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

....

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

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

R = Reviewer and/or Recommender

DM = Decision Maker

Section 4: That Appendix A "Unified Land Development Code," Article I "General," Division 3 "Administration and Procedures," Section 1.12 "Simultaneous Submission of Related Applications," is

hereby amended to read as follows:

**APPENDIX A. UNIFIED LAND DEVELOPMENT CODE**

**ARTICLE I. GENERAL**

**DIVISION 3. ADMINISTRATION AND PROCEDURES**

....

**Sec. 1.12 Simultaneous submission of related applications.**

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

1. Comprehensive plan amendments;
2. Zoning map amendments;
3. Special use permit;
4. Drilling permit;
5. Preliminary plat;
6. Engineering report for public improvements;
7. Final plat;
8. Special exceptions;
9. Zoning variances;
10. Subdivision variances;
11. Site plan review;
12. Floodplain permits;
13. Stormwater permits;
14. Watershed protection permits; and
15. Inspections.

Section 5: That Appendix A "Unified Land Development Code," Article I "General," Division 3 "Administration and Procedures," Table 1-3 "Summary of Notice Requirements," and Table 1-4 "Required Public Hearings," are hereby amended to read as follows:

**APPENDIX A. UNIFIED LAND DEVELOPMENT CODE**

**ARTICLE I. GENERAL**

**DIVISION 3. ADMINISTRATION AND PROCEDURES**

....

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

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

X = Notice required

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

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

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

X = Public hearing required

Section 6: That Appendix A "Unified Land Development Code," Article I "General," Division 3 "Administration and Procedures," Section 1.27 "Nonconformities," Section (d) "Variances for the expansion of noncompliant structures," Subsection (4) "Variance credits" and Table 1-4 "Variance Credits," is hereby amended to be renumbered Table 1-5 as follows:

**APPENDIX A. UNIFIED LAND DEVELOPMENT CODE**

**ARTICLE I. GENERAL**

**DIVISION 3. ADMINISTRATION AND PROCEDURES**

....



Sec. 1.27 Nonconformities.

....

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

....

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

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

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

Section 7: That Appendix A "Unified Land Development Code," Article I "General," Division 3 "Administration and Procedures," Section 1.27 "Nonconformities," Subsection (d)(4)c.(i)-(ii)," and Section 1.29 "Zoning variance process" are hereby amended to be read as follows:

**APPENDIX A. UNIFIED LAND DEVELOPMENT CODE**

**ARTICLE I. GENERAL**

**DIVISION 3. ADMINISTRATION AND PROCEDURES**

....

**Sec. 1.27 Nonconformities.**

....

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

(4) *Variance credits...*

- c. The applicant for a variance shall then choose any of the following credits that match the number of required credits for the project, subject to the approval of the director or the board of adjustment as applicable to the case:
  - i. Installation of a streetscape along the street at which the project is addressed following the standards that are set forth in section 3.10.5(4) of the Code of Ordinances;
  - ii. Installation of parking lot landscaping to the percent of required landscaping that equals or exceeds the extent of the expansion requested in the variance based upon section 3.10.5(4)(h) of the Code of Ordinances;

....

Sec. 1.29 Zoning variance process.

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

*Types of variances:*

- (1) *Variance by board of adjustment.* The board of adjustment and the director may grant a variance from the property development and masonry standards of zoning for a property if the variance satisfies criteria identified in subsection (c) of this section.
- (2) *Zoning Variance by director.* The director may consider and grant a variance of up to ten percent of the property development requirement when the applicant demonstrates that the variance request will meet all the criteria below:
  - a. Ensures the same general level of land use compatibility as the otherwise applicable standards;
  - b. Does not adversely affect adjacent land uses and the physical character of uses in the neighborhood in which the exception is sought because of inadequate buffering, screening, setbacks and other land use considerations;
  - c. Does not adversely affect property values of adjacent properties in any material way and will improve the property value of the property for which the exception is sought. (Did the applicant demonstrate that the structure has historically provided a facility in the neighborhood or otherwise improves the overall neighborhood);
  - d. Furthers the goals and vision of the city as set forth in the comprehensive plan, the vision statement, and an applicable neighborhood plan or redevelopment plan adopted by the city council; and
  - e. Is generally consistent with the purposes and intent of this ULDC.
- (b) *Zoning Variance criteria.* The board of adjustment may grant a variance when the applicant demonstrates that the variance request will meet all the criteria below:
  - (1) Ensures the same general level of land use compatibility as the otherwise applicable standards;
  - (2) Is not a hardship of the applicant's own making;
  - (3) Does not adversely affect adjacent land uses and the physical character of uses in the neighborhood in which the exception is sought because of inadequate buffering, screening, setbacks and other land use considerations;
  - (4) Does not adversely affect property values of adjacent properties in any material way and will improve the property value of the property for which the exception is sought. (Did the applicant demonstrate that the structure has historically provided a facility in the neighborhood or otherwise improves the overall neighborhood);
  - (5) Furthers the goals and vision of the city as set forth in the comprehensive plan, the vision statement, and an applicable neighborhood plan or redevelopment plan adopted by the city council;

- (6) Is generally consistent with the purposes and intent of this ULDC;
- (7) Is needed as special circumstances exist that are peculiar to the land or structure that are not applicable to other land or structures in the same district and are not merely financial;
- (8) Is necessary as literal interpretation and enforcement of the terms and provisions of the dimensional standards would deprive the applicant of rights commonly enjoyed by landowners in the same district and would cause an unnecessary and undue hardship;

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

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

(Ord. No. 11,866, § 2(Exh. A), 2-23-12; Ord. No. 13,764 , § 1, 5-10-18)

Section 8: That Appendix A "Unified Land Development Code," Article I "General," Division 3 "Administration and Procedures," is hereby amended to add Section 1.29.5 "Subdivision Variance Process" as follows:

## **APPENDIX A. UNIFIED LAND DEVELOPMENT CODE**

### **ARTICLE I. GENERAL**

#### **DIVISION 3. ADMINISTRATION AND PROCEDURES**

....

Sec. 1.29.5 Subdivision Variance process.

- (a) Criteria for issuance.

The commission may authorize a variance from this chapter when, in its opinion, undue hardship will result from requiring strict compliance. In granting a variance, the commission shall prescribe any condition it deems necessary or desirable considering the public interest. In making the findings required in this division, the commission shall take into consideration the following:

- (1) The nature of the proposed use of the land involved and existing uses of land in the vicinity;
- (2) The number of persons who will reside or work in the proposed subdivision;
- (3) The probable effect of such variance upon traffic conditions and upon the public health, safety, convenience and welfare of the vicinity; and
- (4) Any and all other facts the commission may deem relevant.

(Code 1967, § 27-62(a); Ord. No. 3655, § 3, 7-28-83; Ord. No. 6149, § 2, 2-13-92)

(b) Findings.

(1) No variance from this chapter shall be granted unless the commission finds:

- a. There are special circumstances or conditions affecting the land involved, such that the strict application of this chapter would deprive the applicant of the reasonable use of his land;
- b. The granting of the variance will not be detrimental to the public health, safety, welfare or will be injurious to other property in the area; and
- c. The granting of the variance will not have the effect of preventing the orderly subdivision of other land in the area in accordance with this chapter.

(2) Such findings of the commission, together with the specified facts upon which such findings are based, shall be incorporated into the official minutes of the commission meeting at which such variance is granted. Variances may be granted only when in harmony with the general purpose and intent of this chapter so that the public health, safety and welfare may be secured and substantial justice done. Pecuniary hardship to the subdivider, standing alone, shall not be deemed to constitute hardship requiring variance under this division.

(Code 1967, § 27-62(b); Ord. No. 3655, § 3, 7-28-83; Ord. No. 6149, § 2, 2-13-92)

(c) Denial for certain conditions; design elements.

- (1) No variance shall be granted pursuant to this division as to required improvements, , flood hazard area regulations, bond requirements or utilization. However, a variance may be granted for drainage improvements in a subdivision located wholly outside the corporate city limits by the commission.
- (2) Nothing in this division is to be construed as prohibiting either the commission or city council from granting a variance from the design elements of required improvements. The term "design elements" refers to the minimum and maximum criteria set forth in this chapter for designing the length, width or configuration of required improvements, such as the maximum length of dead-end roadways or easements, the minimum radius of curves, the minimum width of rights-of-way, etc.

(Code 1967, § 27-62(c); Ord. No. 3655, § 3, 7-28-83; Ord. No. 6149, § 2, 2-13-92)

(d) Subdivisions outside city limits.

Variances to this chapter may be granted as to all required improvements in subdivisions located wholly outside the city, but within its extraterritorial jurisdiction, provided the subdivision complies with the minimum standards set by the appropriate county governing body.

(Code 1967, § 27-62(d); Ord. No. 3655, § 3, 7-28-83; Ord. No. 6149, § 2, 2-13-92)

(e) Applicability to 100-year storm requirements.

The granting of a variance from this chapter shall not relieve the developer from meeting the 100-year storm runoff requirements.

(Code 1967, § 27-62(e); Ord. No. 3655, § 3, 7-28-83; Ord. No. 6149, § 2, 2-13-92)

(f) Submission of requests.

All requests for a variance from this chapter shall be submitted in writing to the commission with preliminary approval. The request shall state why the developer feels his project meets the variance requirements.

(g) Appeal of Commission Decision

- a. Any person shall have the right to appeal any decision of the commission to the city council by making written request to the Planning & Development Director or his/her designee. Such request must be submitted to the Planning & Development Director within 15 days after such person has been notified of the decision of the commission on the matter involved.
- b. No person shall have any right to appeal for relief to any court in regard to any matter covered by this chapter until after such person has exhausted the appeal procedure provided for in this chapter.

(Code 1967, § 27-62(f); Ord. No. 3655, § 3, 7-28-83; Ord. No. 6149, § 2, 2-13-92)

Section 9: That Appendix A "Unified Land Development Code," Article II "Use Districts," Division 2 "Zoning Districts," Section 2.05 "Residential Zoning Districts" is hereby amended to read as follows:

**APPENDIX A. UNIFIED LAND DEVELOPMENT CODE**

**ARTICLE II. USE DISTRICTS**

**DIVISION 2. ZONING DISTRICTS**

....

Sec. 2.05 Residential zoning districts.

- (a) *Urban neighborhood ("UN")*. This district is a mixed use residential and limited commercial district with a density conforming to the zoning code adopted in 1995.
- (b) *"Single-family estate ("SFE")*. This district provides for residential dwellings at a very low density. This district accommodates only single-family detached dwellings at a density of less than one dwelling unit per acre.
- (c) *Low density single-family residential dwellings ("SF1")*. This district provides for single-family detached residential dwellings at a density up to four dwelling units per acre.
- (d) *Mixed residential at low to medium densities ("SF2")*. This district provides for single-family detached and attached residential dwellings and two-family dwellings at a density up to nine dwelling units per acre.

- (e) *Medium density mixed residential ("MF1")*. This district provides for single-family detached and attached residential dwellings, two-family dwellings, and multifamily dwellings at a density up to 15 dwelling units per acre.
- (f) *Mid-rise density mixed residential dwellings ("MF2")*. This district provides for two-family dwellings, single-family attached dwellings and multifamily dwellings at a density up to 23 dwelling units per acre.
- (g) *High density residential dwelling units ("MF3")*. This district provides for multifamily dwellings at a density up to 30 dwelling units per acre provided that the floor area ratio does not exceed one. For vertical mixed use, see livable centers district in this article.
- (h) *"Open space/recreation ("OR")*. This district provides for large open areas, private and public recreation areas, and a holding zone for newly annexed areas.

## **APPENDIX A. UNIFIED LAND DEVELOPMENT CODE**

### **ARTICLE II. USE DISTRICTS**

#### **DIVISION 2. ZONING DISTRICTS**

....

Section 10: That Appendix A "Unified Land Development Code," Article II "Use Districts," Division 2 "Zoning Districts," Section 2.082 "San Jacinto Overlay District" is hereby amended to delete Subsection (e) "Definitions" and renumber Subsection (f) "Non-residential uses" as Subsection (e), Subsection (g) "Property Development Standards" as Subsection (f), Subsection (h) "Circulation and Connectivity" as Subsection (g), Subsection (i) "Parking" as Subsection (h), Subsection (j) "Landscaping" as Subsection (i), and Subsection (k) "Residential uses" as Subsection (j).

Section 11: That Appendix A "Unified Land Development Code," Article II "Use Districts," Division 2 "Zoning Districts," Section 2.082 "San Jacinto Overlay District," Subsections (i)(1)a.-b. are hereby amended to read as follows:

## **APPENDIX A. UNIFIED LAND DEVELOPMENT CODE**

### **ARTICLE II. USE DISTRICTS**

#### **DIVISION 2. ZONING DISTRICTS**

....

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

#### **(1) Off-street parking.**

- a. Off-street parking spaces for non-residential developments shall not exceed the number required by Sec. 3.10.7 of the Code of Ordinances and not be less than 70 percent of the maximum number allowed.

- b. Off-street parking spaces for dwelling units associated with a mixed-use building shall comply with chapter Sec. 3.13.5 of the Code of Ordinances.

Section 12: That Appendix A "Unified Land Development Code," Article II "Use Districts," Division 3 "Land Use Tables and Conditions," Section 2.10 "Land Use Conditions" is hereby amended to read as follows:

## **APPENDIX A. UNIFIED LAND DEVELOPMENT CODE**

### **ARTICLE II. USE DISTRICTS**

#### **DIVISION 3. LAND USE TABLES AND CONDITIONS**

. . . .

Sec. 2.10 Land use conditions.

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

	Land Use	Applicable Zoning	Conditions	
A. Non-Residential Categories				
1	Vehicle repair, commercial	LI, HI	(a)	Vehicles must be kept on the private property of the vehicle repair facility.
			(b)	Vehicle storage is subject to the outdoor storage conditions of this ordinance and must be kept behind opaque screening and in accordance with chapter 112 of the Code of Ordinances.
2	Vehicle repair, non-commercial	GC, MU	(a)	Vehicle repair shall be separated from all adjacent uses by opaque screening.
			(b)	Vehicles must be kept on the private property of the vehicle repair facility.
			(c)	Vehicle storage is subject to the outdoor storage conditions of this ordinance and must be kept
				behind opaque screening and in accordance with chapter 112 of the Code of Ordinances.
3	Building, heating, plumbing, general, service or electrical contractors with outdoor storage	GC, MU	(a)	Outdoor storage shall be separated from all adjacent uses and public rights-of-way by opaque screening.
			(b)	Loading docks or bay doors shall not face an arterial or collector street.
4	Agriculture	All, where permitted	Agricultural uses involving animal, livestock, exotic, or similar animal uses are regulated pursuant to chapter 14 and/or chapter 42, article V of the Code of Ordinances.	

5	Animals	All, where	Animals are regulated pursuant to chapter 14 and/or chapter 42, article V of the Code of Ordinances.	
6	Containers	GC, MU	(a)	Containers may not be stacked on one another.
			(b)	Berms, hills, slabs in excess of one foot above natural grade or other raised features may not be created upon which to place containers.
			(c)	There is no limit to the number of containers on a property.
			(d)	Containers shall be screened from all adjacent properties by opaque screening.
7	Containers	LI, HI	(a)	Container(s) in LI may be stored or stacked up to 30 feet in height with no limit in the number of containers on a property.
			(b)	Container(s) in HI may be stacked up to 50 feet in height with no limit in the number of containers on a property.
			(c)	Containers shall be screened from all adjacent properties by opaque screening.
8	Day cares	LI, HI	Day cares must be totally within an enclosed building, in an office or other non-production building and open only to employees of the industrial facility for which the day care is operated.	
9	Food service establishments	NSC	(a)	Food service establishments shall not exceed 5,000 square feet in building size.
			(b)	Food service establishments shall be located on a collector street or higher classification as shown on the most current major thoroughfare plan map.
10	Food service establishments	All, where permitted except	Food service establishments shall be separated by opaque screening from single-family or two-family dwellings.	
11	Food service establishments	All, where	Mobile food establishments are subject to the restrictions under chapter 42 of the Code of Ordinances.	
12	Food service establishments	ACE	Drive-through restaurants within ACE district requires the issuance of a special use permit in accordance with section 1.26 of this ULDC.	
13	Hotel	GC, ACE,	Hotels shall be located on property that is at least one acre in size.	
		GC, ACE, MU, LC	Interiors	A hotel shall (i) only permit controlled access to rooms via a lobby and interior hallways; and (ii) include place(s) of assembly, including but not limited, to, spa room, fitness room, game room and/or cocktail lounge with a combined minimum of 2,000 square feet.



14	Vehicle fueling station minimart	All, where permitted	(a)	Vehicle fueling station minimart shall not exceed 8,000 square feet in building size.
			(b)	Gas station minimart is allowed only if located on a freeway, an arterial street or on a collector street at its intersection with an arterial street.
			(c)	Vehicle fueling station minimart must provide opaque screening adjacent to any residential dwelling or property zoned for residential use.
15	Vehicle fueling station minimart	NSC	(a)	Vehicle fueling station minimart shall not exceed 5,000 square feet in building size.
			(b)	Vehicle fueling station minimart shall not have a drive through for food service in NSC.
			(c)	Vehicle fueling station minimart is allowed only if located on (i) an arterial street, (ii) a collector street, or (iii) a local street intersecting a street of higher classification.
16	Vehicle fueling station	All, where permitted	Vehicle fueling stations must provide opaque screening adjacent to any residential dwelling or property zoned for residential use.	
17	Big box retail	All, where permitted	(a)	Building and appurtenances shall be located at least 20 feet from a residential property line.
			(b)	Loading docks shall not face residential uses.
18	General retail	NSC, ACE	General retail shall not exceed 10,000 square feet in building size.	
19	Grocery stores	ACE, NSC	(a)	Grocery stores shall not exceed 10,000 square feet in building size in NSC.
			(b)	Grocery stores shall not exceed 40,000 square feet in building size in ACE.
20	Group housing, nursing homes and assisted living facilities	All, where permitted	(a)	Group housing, nursing homes and assisted living facilities must be licensed by the state.
			(b)	Group housing, nursing homes and assisted living facilities shall not be located within a floodplain or floodway.
			(c)	Group housing, nursing homes and assisted living facilities shall annually prepare and implement an evacuation plan for all residents in accordance with chapter 22, article II, division 3 of the Code of Ordinances.
			(d)	Direct vehicle access to nursing home facilities in the UN district shall be provided from a collector or arterial street or major thoroughfare.
21	Group housing, boardinghouse,	All, where	(a)	These uses must secure a special use permit in accordance with section 1.26 of this ULDC.

	group home for substitute care, dormitory, halfway house, homeless shelter, orphanage, and personal care home	permitted	(b)	Group housing, boardinghouse, group home for substitute care, dormitory, halfway house, homeless shelter, orphanage, and personal care home shall annually prepare and implement an evacuation plan for all residents in accordance with chapter 22 of the Code of Ordinances.
			(c)	No application for a proposed group housing use that requires a special use permit may be granted if another group housing use that requires a special use permit exists within one-half mile of the proposed location.
			i.	Such measurements shall be measured from property line to property line.
			ii.	In making the determination that no group housing use requiring a special use permit exists within one-half mile, the director may consider information provided by the applicant, information contained in the records of the city, and information obtained by physical inspection of the premises.
22	Group housing, all	All, where permitted	(a)	The following minimum square footage per bedroom shall be provided by the home:
			i.	To house one handicapped person per bedroom, the dwelling unit must provide 100 square feet of space per bedroom utilized for this purpose; or
			ii.	To house two handicapped persons per bedroom, the dwelling unit must provide 120 square feet of space per bedroom utilized for this purpose.
			(b)	Separate bedroom facilities from all residents shall be provided for the care provider or providers that live in the facility part-time or full-time with the residents.
			(c)	Nothing in this condition shall be construed to restrict the location or operational abilities of facilities engaging in the sale of alcohol for on or off- premises consumption based on the location of group housing facilities.
			(d)	All facilities shall meet and maintain compliance with the Code of Ordinances and requirements of this ULDC and all applicable health and safety codes and regulations in effect.
23	Industrial uses	All, where permitted	These industrial uses require the issuance of a special use permit in accordance with section 1.26 or 1.26.5 of this ULDC, or a drilling overlay district in accordance with 2.085 of this ULDC.	

25	Kennels	GC, MU, LI	(a)	Kennels are not allowed within 100 feet of any residential use.
			(b)	Kennels are not allowed within 300 feet of a church, school, hospital, or place of assembly.
			(c)	Kennels are not allowed within 300 feet from where food is sold or consumed.
			(d)	Kennels shall not house exotic animals.
26	Live outdoor exhibitions	All, where permitted	Live outdoor exhibitions shall conform to all licensing, inspection and performance standards in chapter 42 of the Code of Ordinances.	
27	Office	HI	Office use may only be ancillary to an allowed primary use.	
28	Office	NSC, ACE	Office shall not exceed 10,000 square feet in building size in NSC. Office shall not exceed 4,000 square feet in building size in ACE.	
29	Drilling, oil or gas operations	HI	(a)	A special use permit is required in accordance with section 1.26.5 of this ULDC.
			(b)	All drilling, oil or gas operations shall be separated from all adjacent uses by opaque screening.
			(c)	Private saltwater disposal injection wells are permitted where approved in accordance with section 1.26.5 of this ULDC.
			(d)	Commercial saltwater injection disposal wells are not permitted.
29.5	Drilling, oil or gas operations	DOD	(a)	A drilling overlay district is required in accordance with 2.085 of this ULDC.
			(b)	Private saltwater disposal injection wells are permitted.
			(c)	Commercial saltwater injection disposal wells are not permitted.
30	Places of assembly	All, where permitted	(a)	Direct vehicle access shall be provided from a collector or higher classification street.
			(b)	Outdoor uses associated with places of assembly shall be setback at least 300 feet from any residential property line. If a place of assembly has an outdoor use, there shall be opaque screening along the common property line with any adjacent residential uses.
30A	Places of assembly	ACE	(a)	Places of assembly cannot be located therein if its presence precludes the sale of alcoholic beverages for on-premises consumption elsewhere in the ACE district.

			(b)	Direct vehicle access shall be provided from a collector or arterial street unless the point of access to the off-street parking area serving the use is located within 1,500 feet of a collector or arterial street, as measured along the centerline of the place of assembly.
31	Recreational vehicle park	All, where permitted	(a)	Recreational vehicle parks shall be separated from all adjacent uses by opaque screening.
			(b)	Property not subject to a valid recreational vehicle park operating license pursuant to chapter 58 on April 13, 2013, must have an approved special use permit prior to receiving a building permit.
			(c)	Property not subject to a valid recreational vehicle park operating license pursuant to chapter 58 on April 13, 2013, must be a minimum of five acres in size.
32	Pet stores	All, where permitted		A dog run may be placed on site at a pet store, where it is not adjacent to any dwelling unit and it may not be used for overnight sleeping of animals.
33	Funeral home	All, where		A funeral home with a crematorium requires the issuance of a special use permit in accordance with this ULDC.
34	Resource extraction	All, where permitted	(a)	Resource extraction shall be separated from all adjacent uses by opaque screening.
			(b)	Trucks must use designated truck routes.
			(c)	Resource extraction requires the issuance of a special use permit in accordance with section 1.26.5 of this ULDC, or a drilling overlay district in accordance with 2.085 of this ULDC.
35	Slaughterhouse	HI		A slaughterhouse shall be at least 1,000 feet from any residential property line.
36	Vehicle storage	GC, MU	(a)	Vehicle storage is subject to the outdoor storage conditions of this ordinance and must be kept
				behind opaque screening and in accordance with chapter 112 of the Code of Ordinances.
			(b)	Vehicles that contain hazardous materials pursuant to the standards of the state department of transportation, the state commission on environmental quality, or any other regulatory agency of the state or federal government are not allowed to be in such vehicle storage.
37	Telecommunication facilities	All, where permitted		Except as otherwise provided in the Code of Ordinances, telecommunication towers in excess of 50 feet in height and monopole towers in excess of 85 feet in height are permitted in all non-residential zoning districts with a special use permit in accordance with section 1.26 of this ULDC.

40	Warehouse and freight movement, Wholesale Trade	MU, GC	(a)	Warehouse and freight movement excludes shipment or storage of hazardous cargo and/or materials.
			(b)	Warehouse shall have a maximum building height of 40 feet.
			(c)	Outdoor storage shall be separated by opaque screening from all adjacent uses and all public rights-of-way.
			(d)	Loading docks or bay doors shall not face arterial or collector street.
			(e)	If warehouse exceeds 10,000 square feet, must adhere to LI vegetative buffer described in Sec. 18-1206.5 of the Code of Ordinances.
			(f)	No rail, boat, or air transport of cargo may be used for freight movement on site.
			(g)	The primary activity must be done within the enclosed warehouse structure.
			(h)	Warehouse must be located on an arterial street.
			(i)	Minimum lot size must be at least one acre.
			(j)	The minimum building setback shall be a 100 feet. Within this setback, a 50-foot open space and a 50-foot vegetative buffer shall be provided.
			(k)	Existing uses may expand no more than 50% of the total square footage of all buildings lawfully existing on December 20, 2015, and be exempt from all use conditions, property development and compatibility standards except for the following:
				» Meet LI setbacks along with all other standards for GC in Table 3-1; and
				» Provide a minimum of six feet of opaque screening from all adjacent uses.
41	Recycling centers	LI	(a)	Recycling centers are only allowed if the center is an indoor facility.
			(b)	Outdoor storage is allowed only if the items being stored are completely enclosed in containers in conformance with this ULDC.
42	Outdoor storage, container, Boat and RV storage, Building, heating, plumbing, general, service or electrical contractors with outdoor storage	All, where permitted	»	All outdoor storage shall only occur within the side and/or rear yard(s) of the property. Where double frontage occurs, outdoor storage shall not be permitted beyond the plane of the side building facade that is adjacent to the side street.
			»	All outdoor storage shall be separated by a vegetative or transition buffer, as described in section 3.14(i) of the Code of Ordinances, from all adjacent uses and all public streets.

43	Medical equipment storage and research facilities	MU, GC, LI	(a)	Medical equipment must be totally enclosed within a building.	
			(b)	No outdoor storage of medical equipment.	
			(c)	Storage does not include incineration or other forms of destruction but only storage.	
			(d)	Medical research facilities shall be located only on the same lot with a hospital or on the same campus as a hospital and shown on a detailed plan meeting the requirements of subsection 2.08(d), which must be approved and administered in accordance with section 2.08.	
44	Dwelling Unit	MU, ACE, LC, GC, LI, HI	(a)	New dwelling units are allowed in MU where the residential lot provides an open space setback of 20 feet from any adjacent, existing non-residential use.	
			(b)	New residential subdivisions proposed in MU shall only be approved where the subdivision is rezoned to an appropriate residential zoning district.	
			(c)	Dwelling units are allowed in ACE following the standards set forth in this ULDC.	
			(d)	Live-work uses may be located in an ACE district	
			i.	Behind a business on its first floor as long as:	
				•	The exterior wall of the residential area is not along Texas Avenue;
				•	The exterior wall of the commercial use and the primary entrance to the commercial use is along Texas Avenue; and
				•	The commercial use occupies at least 25% of the area of the first floor; and
			ii.	Above the first floor where the residential unit has frontage on Texas Avenue.	
			i.	If:	
				•	No residential dwelling unit on the first floor has a door opening onto the primary street;
				•	Less than 50% of the mixed-use building's frontage on the first floor along a primary street is used for residential dwelling unit(s); and
				•	The mixed-use building is not new construction; or
			ii.	If the residential unit is above the ground floor.	
			(e)	When a mixed-used building fronts on Texas Avenue in the ACE district, a residential use is allowed only	
			i.	If:	

					•	No residential dwelling unit on the first floor has a door opening onto the primary street;	
					•	Less than 50% of the mixed-use building's frontage on the first floor along a primary street is used for residential dwelling unit(s); and	
					•	The mixed-use building is not new construction; or	
				ii.		If the residential unit is above the ground floor.	
			(f)	Dwelling units are allowed in LC in cases in which they are allowed in an approved planned unit development.			
			(g)	A dwelling unit is allowed in GC, LI, and HI as an accessory use for on-site security and management purposes.			
			(h)	A dwelling unit is allowed in MU as an accessory use for on-site security and management purposes when used as a commercial use.			
			(i)	Except as provided in condition A44(g), new dwelling units cannot be constructed after April 13, 2013, in GC.			
45	Entertainment facilities, including bars and	All, where permitted	Entertainment facilities, including bars and lounges, are subject to the restrictions under chapter 6 of the Code of Ordinances.				
46	Truck Stop	GC	Only allowed on a lot that has frontage on either Interstate 10 or Thompson Road and is completely located within a 2,000-foot radius measured from the centerline intersection of Interstate 10 and Thompson Road.				
48	Manufacturing (light)	All, where permitted	(a)	All manufacturing activities must be contained entirely within a building.			
			(b)	Manufacturing of hazardous cargo and/or materials is prohibited.			
48.5	Manufacturing (light)	MU, GC	(a)	Minimum lot size must be at least one acre.			
			(b)	The minimum building setback shall be 100 feet. Within this setback, a 50-foot open space and a 50-foot vegetative buffer shall be provided.			
			(c)	Existing uses may expand no more than 50% of the total square footage of all buildings lawfully existing on December 20, 2015, and be exempt from all use conditions, property development and compatibility standards except for the following:			
				»	Meet LI setbacks along with all other standards for GC in Table 3-1; and		
				»	Provide a minimum of six feet of opaque screening from all adjacent uses.		

49	Manufacturing (custom)	All, where permitted	(a)	All manufacturing (custom) activities are to be contained entirely within a building.
			(b)	Storage or manufacturing of hazardous cargo and/or materials is prohibited.
			(c)	All manufacturing (custom) activities shall be limited to 10,000 square feet of floor area or less.
50	Outside sales and display	All, except LI and HI	Outside sales and displays are limited in area to 500 square feet or 10% of the gross floor area of primary uses, whichever is greater, and shall be considered as retail sales floor area for purposes of calculating parking.	
51	Storage building	All, except LI and HI	(a)	Storage buildings are limited in area to 500 square feet or 10% of the gross floor area of the primary use, whichever is greater, and shall be considered as retail sales floor area for purposes of calculating parking.
			(b)	Storage buildings must be placed behind the front building frontage of the structure housing the primary use.
52	Vehicle and boat sales, rental or leasing facility	All, where permitted	(a)	Repair work, if any, shall be done wholly inside of a building.
			(b)	Vehicles and boats sold, rented and leased may not have a gross vehicle weight greater than 13,000 pounds.
			(c)	Vehicle storage is subject to the outdoor storage conditions of this ordinance and must be kept behind opaque screening and in accordance with chapter 112 of the Code of Ordinances.
			(d)	Vehicles that contain hazardous materials pursuant to the standards of the state department of transportation, the state commission on environmental quality, or any other regulatory agency of the state or federal government are not allowed to be in such vehicle storage.
53	Equipment sales and rental facilities	MU, GC	(a)	All equipment shall be separated by opaque screening from all adjacent properties and all public rights-of-way, except one of each equipment type may be used for display purposes.
			(b)	The sale or rental of tools, tractors or equipment, which are over 13,000 lbs. GVWR and/or are greater in height than 10 feet in its storage configuration
				and/or are designed and used solely for industrial purposes is not permitted.
54	Supply houses	MU, GC	(a)	Outdoor storage shall be separated by opaque screening from all adjacent uses and all public rights-of-way.
			(b)	Storage or sale of hazardous cargo and/or materials is prohibited.



			(c)	Loading docks or bay doors shall not face arterial or collector rights-of-way.
			(d)	The minimum building setback shall be 100 feet. Within this setback, a 50-foot open space and a 50-foot vegetative buffer shall be provided.
			(e)	Minimum lot size must be at least one acre.
			(f)	Existing uses may expand no more than 50% of the total square footage of all buildings lawfully existing on December 20, 2015, and be exempt from all use conditions, property development and compatibility standards except for the following:
				» Meet LI setbacks along with all other standards for GC in Table 3-1; and
				» Provide a minimum of six feet of opaque screening from all adjacent uses.
54.5	Supply houses	LI	(a)	Outdoor storage shall be separated by opaque screening from all adjacent properties and all public rights-of-way.
			(b)	Storage or sale of hazardous cargo and/or materials is prohibited.
55	Repair Business	All, where permitted	(a)	Outdoor storage shall be separated by opaque screening from all adjacent uses and all public rights-of-way.
			(b)	Repair work shall be performed wholly inside of an enclosed structure.
56	Sandblasting	MU, GC, NSC, ACE, LC	Sandblasting must be conducted wholly within an enclosed structure.	
57	Sandblasting	LI, HI	Sandblasting shall be permitted if (i) contained wholly inside of an enclosed structure or (ii) outside of an enclosed structure with an approved special use permit.	
58	Nursing homes and assisted living facilities	NSC	(a)	Nursing homes and assisted living facilities shall provide a 20-foot vegetative buffer zone consisting of one tree and eight shrubs for every 30 linear feet of the shared property line between all residential zoning districts and uses. The plantings shall meet the specifications of section 18-1203 of the Code of Ordinances.
			(b)	Nursing homes and assisted living facilities shall be located on arterials or collectors.
59	Self-storage	MU, GC	(a)	No self-storage land use shall be located within one mile of another self-storage land use. The measurement of the distance between self-storage shall be in a direct line from property line to property line, without regard to roadways and intersections; and

				Self-storage buildings shall have a maximum height of 30 feet. Parapet walls used to screen mechanical equipment on the roof shall not be considered for the height measurement.
			(b) Bay access, interior	Self-storage bay(s)/unit(s) shall be accessed from the interior of a building; and Self-storage bay(s)/unit(s)/doors shall not be visible from the exterior of the building.
			(c) Bay access, exterior	Self-storage bay(s)/unit(s) with entrances accessible from the exterior of the building shall only be permitted along facades facing the interior of the property and facades not facing the public street. Self-storage bay(s)/unit(s) with entrances accessible from the exterior of the building shall install a transition buffer as described in section 3.14(j)5 of the Code of Ordinances.
60	Travel center	GC	(a)	Only permitted on sites within a 1,500-foot radius of the center lines of the following intersections: Interstate Highway 10 (IH 10) and South Main Street (near Highlands); the Grand Parkway (SH 99) east of Tri City Beach Road; and the Grand Parkway (SH 99) west of State Highway Business 146 (SH 146 BS).
			(b)	Sites shall have no less than 100 feet of frontage and be no less than 5 acres in size.
			(c)	Commercial vehicle parking spaces shall be limited to 8 spaces, with a maximum of 8 commercial diesel fueling positions.
			(d)	Fueling areas for domestic vehicles and fueling areas for commercial vehicles must be separated.
			(e)	Travel centers must provide opaque screening adjacent to any residential dwelling or property zoned for residential use.
			(f)	Travel centers shall be 8,000 square feet or more in building size.
<b>B. Residential Categories</b>				
1	Accessory dwelling units	All, where permitted	(a)	Accessory dwelling units may be permitted as an accessory use to an otherwise allowed detached single-family dwelling in any zoning district that allows single-family dwellings.
			(b)	The unit shall include a full kitchen.
			(c)	Only one accessory dwelling per lot is allowed.
			(d)	The total living area of the accessory dwelling unit shall not exceed 600 square feet or 25 percent of the square footage of the living area of the private residential dwelling, whichever is greater.

			(e)	The principal residential and accessory dwelling unit together shall not exceed the maximum zoning district impervious cover.
			(f)	The accessory dwelling unit may be part of or attached to the principal structure, and /or may be a separate structure.
			(g)	All principal structure yard requirements shall be met by the principal structure and the accessory dwelling unit.
			(h)	The accessory dwelling unit shall not exceed the maximum zoning district height.
			(i)	Accessory dwelling units may not be used for commercial purposes.
			(j)	Accessory structures other than accessory dwelling units that exceed 25% of the gross floor area of the primary residence must abide by the design standards in article three of this ULDC.
			(k)	Accessory dwelling units must have similar architecture to the primary residence.
			(l)	Accessory dwelling units may be placed inside the primary residence or may be a freestanding structure.
			(m)	The primary and secondary dwelling units must be serviced by the same water/sewer meter.
			(n)	The accessory dwelling unit must have a separate address on file with the city and the authorities/organizations responsible for emergency response, mail delivery and electric service.
2	Residential accessory structures	All, where permitted	(a)	Residential accessory structures are allowed to remain in non-residential zoning districts as nonconforming uses only if the structure is an accessory to an existing, nonconforming primary residential use.
			(b)	New residential accessory structures allowed in SF2, except accessory dwelling units, are allowed if the structure is an accessory to an existing, nonconforming primary residential use. All residential accessory structures must meet the zoning district property development standards.
3	Agriculture	SFE, SF1, SF2, OR	(a)	Animals and agricultural uses involving animals are regulated pursuant to chapter 14 and/or chapter 42, article V of the Code of Ordinances.
			(b)	Any agents causing noxious odors shall not be located closer than 100 feet from any adjacent residential property line, public right-of-way, or public space.

5	Community building	All, where permitted	(a)	Free standing buildings must be of the same architectural style as the dwelling units they serve.
			(b)	Free standing buildings must be connected by walkways to pedestrian areas and parking lots.
			(c)	Parking must be provided in the amount of one space for every 50 residential dwelling units in the complex or one space for every 50 lots in the subdivision.
6	Community services	All, where permitted	(a)	Community services shall be separated from all adjacent residential dwellings by opaque screening.
			(b)	Minimum parking requirements are one per 200 square foot of usable area.
7	On-site association management offices and club houses for dwelling units	All, where permitted		Club houses and management facilities must be of similar architecture to the apartment complex or the neighborhood in which they are located.
8	Family home day care	All, where permitted	(a)	There is a maximum of six children, including children of the family providing day care.
			(b)	Only those family home day cares that are duly licensed by the state are allowed.
			(c)	Baytown fire department permitting and inspections are required.
			(d)	All requirements for a home occupation shall be followed.
			(e)	Annual renewal of family home day care permit required with an inspection in advance of renewal.
9	Group housing, group homes for the disabled and personal care homes	All, where permitted	(a)	No group housing residents may occupy a single-family residence, other than the property owner or family of the property owner until a group housing acknowledgment form has been duly filed with the director on a form prescribed by the director.
			(b)	The facility shall be responsible for providing food, shelter, personal guidance, general care and supervision to all of its residents.
			(c)	There shall be no signs or other exterior visible evidence of the group housing use and the exterior structure must retain its compatibility with the surrounding residential dwellings.
			(d)	There shall be no visible storage of equipment, materials or vehicles that have more than two axles.
			(e)	No equipment shall be used that creates undue noise, vibration, electrical interference, smoke or particulate matter emission, excessive power demands or odors.

			(f)	The facility shall comply with the operational performance standards of the Code of Ordinances.
			(g)	The residents of the home may not keep, either on the premises of the home or on a public right-of-way adjacent to the home, motor vehicles in numbers that exceed the numbers of bedrooms in the home.
			(h)	The city reserves the right to inspect the location at any time to ensure that the health, safety and general welfare of the residents is being provided for by the facility.
			(i)	Nothing in this section shall be construed as attempting to regulate or affect the right of handicapped individuals to purchase their own dwellings or to affect the right of individuals to care for handicapped family members.
10	Home occupation	All residential districts	(a)	A home occupation shall not exceed 25% of the heated/air conditioned space of the dwelling unit.
			(b)	The following home occupation standards are intended to permit residents to engage in home occupations within zoning districts that allow residential uses and that are compatible with residential land uses and to ensure that home occupations do not adversely affect the integrity of residential areas.
			(c)	These home occupation standards shall have no application in any non-residential zoning district.
			(d)	A home occupation shall be considered an accessory use, subject to the following standards:
			i.	A home occupation must be conducted within a dwelling which is the bona fide residence of the principal practitioner;
			ii.	There shall be no signs or other exterior visible evidence of a home occupation;
			iii.	There shall be no storage of equipment visible outside the dwelling, or materials or vehicles that have more than two axles;
			iv.	The home occupation shall be conducted entirely within the principal residential building; and
			v.	No equipment shall be used that creates noise, vibration, electrical interference, smoke or particulate matter emission, power demands or odors above the existing level.
			(e)	Home occupations shall comply with the operational performance standards of this ULDC.

			(f)	Home occupation applicants shall complete an annual registration form and pay the one-time and annual fees as defined in chapter 2 of the Code of Ordinances.
11	Multifamil y dwellings	MF1, MF2, MF3	(a)	If a multifamily complex is constructed in phases, the planned amenities and community buildings must be constructed in an at least equal ratio along with the residential buildings. For example, a 200- unit apartment complex with two swimming pools and two laundry buildings that is constructed in two 100-unit phases must construct at least one swimming pool and one laundry building with the first phase.
			(b)	Developments in the MF1 may not use special flood hazard areas in density calculation, thus preventing the development from being overcrowded on usable land and thereby being incompatible with the medium density duplex and townhouse development standards.
			(c)	Gazebos, workshops, green houses and other similar accessory uses are allowed in common space but may not be constructed on leased space or designated for individual tenant use.
11A	Multifamil y dwellings	ACE	(a)	Multifamily dwellings shall not exceed 30 units per acre.
			(b)	Multifamily dwelling units are not allowed on the ground floor of buildings along Texas Avenue unless the units are located on the second floor or higher.
12	Places of assembly	All, where	(a)	Direct vehicle access shall be provided from an arterial street.
			(b)	Outdoor recreation, entertainment and performing arts uses associated with places of assembly that utilize outdoor lighting and speaker systems shall be setback at least 300 feet from any residential use and shall provide a 25-foot wide vegetative buffer against the property line containing the residential use.
13	Private open	(a)	Private open space is not a public park and may not be used to increase the net density on the project.	
			(b)	Private open space shall be a minimum of 100 square feet in size.
			(c)	Private open space must be accessible to pedestrian pathways, if available.
			(d)	Private open space must be deed restricted to private recreation prior to any building permits being issued for any dwelling unit.

14	Single-family dwelling attached	SF2, MF1, MF2	(a)	Each single-family attached dwelling unit shall be situated on a separate legally platted lot.
			(b)	Required parking areas and garages shall be located to the rear of the building.
			(c)	Parking shall be permitted in the required street side yard.
			(d)	A home owner's association shall be established and made responsible for the perpetual maintenance and repair of common areas.
			(e)	The maximum number of units per building is eight.
			(f)	The minimum number units per building is three.
			(g)	Each dwelling unit shall have a front and a back door on the ground floor that exits to the exterior.
			(h)	Each unit shall have 25% of the lot area in private open space on the lot with the unit.
			(i)	Shared open space: each townhouse development shall have common open space not on the lot with the unit, accessible to all residents and not used for parking, storage, lift stations and the like.
			(j)	Density in the MF2 district shall not exceed 21 units per acre.
15	Solar energy systems	All, where permitted	Solar energy systems are allowed, so long as they do not reflect light into the public right-of-way or adjacent properties.	
16	Stable	SFE, SF1,	A stable may not be used for commercial purposes.	
17	Single-family	MF 1	(a)	Density may not exceed ten units per acre.
			(b)	Limited to developments of at least ten units.
			(c)	No single-family dwelling unit shall front on Texas Avenue.
18	Two-family dwelling duplex	SF2 AC E	(a)	Minimum density allowed shall be six units per acre.
			(b)	No two-family dwelling unit shall front on Texas Avenue.
19	Two-family dwelling duplex	MF2	Density shall not exceed 17 units per acre.	
20	Garage sales	All, where	Subject to the restrictions of chapter 82 Article IV of the Code of Ordinances.	
21	Single-family dwelling attached	ACE	(a)	Required parking areas and garages shall be located to the rear of the building.
			(b)	The maximum number of units per building is 15.
			(c)	The minimum number of units per building is three.

			(d)	Common open space is required for each townhouse development and such common open space shall not be on the lot with the unit, shall be accessible to all residents, shall be within the boundary of the townhome subdivision plat, and shall not be used for parking, storage, lift stations or other similar uses.
22	On site storage of a personal pleasure boat or recreational vehicle	All, where permitted		Personal pleasure boat or recreational vehicle must be outside of the rear and side setbacks for the specific zoning category and stored in accordance to chapter 94 which requires such to be on an impervious surface.
23	Onsite animals	All, where permitted		The minimum lot size for livestock, rabbits, fowl, bees or beehives is one acre.  Animals and agricultural uses involving animals are regulated pursuant to chapter 14 and/or chapter 42, article V of the Code of Ordinances.

Section 13: That Appendix A "Unified Land Development Code," Article III "Design and compatibility Standards," Division 1 "Property Development Standards" Section 3.02 "Setbacks," Subsection (c)(4) is hereby amended to read as follows:

**APPENDIX A. UNIFIED LAND DEVELOPMENT CODE**

**ARTICLE III. DESIGN AND COMPATIBILITY STANDARDS**

**DIVISION 1. PROPERTY DEVELOPMENT STANDARDS**

....

- (4) Signs, if permitted by section 118 of the Code of Ordinances;

Section 14: That Appendix A "Unified Land Development Code," Article III "Design and compatibility Standards," Division 2 "Operational Performance Standards," Section 3.08 "Standards" is hereby amended to read as follows:

**APPENDIX A. UNIFIED LAND DEVELOPMENT CODE**

**ARTICLE III. DESIGN AND COMPATIBILITY STANDARDS**

**DIVISION 2. OPERATIONAL PERFORMANCE STANDARDS**

....

- (e) *Screening.* Non-residential and multifamily residential development, including off-street parking areas associated with such developments, shall be screened from view of adjacent single-family or duplex use and any property zoned SFE, SF1, SF2, or OR. Such visual screening shall be accomplished through the use of opaque fence meeting the requirements within this ULDC, pertaining to buffer fencing, along the lot line that is adjacent to the single-family or duplex use or



property zoned SFE, SF1, SF2 or OR. Mechanical equipment, outdoor storage areas and refuse collection areas shall be completely shielded from view of adjacent single-family or duplex uses, scenic corridors or property zoned SFE, SF1, SF2 or OR by an opaque fence or wall made of material specified in division 2 of article XII of chapter 18 that is at least one foot taller than the site feature being screened from view, provided this shall not be interpreted as requiring screening, fences, or walls to be taller than ten feet. Fences, walls and buffers must comply with all other requirements of the ULDC.

Section 15: That Appendix A "Unified Land Development Code," Article III "Design and compatibility Standards," Division 3 "Non-Residential Zones," Section 3.10 "Applicability" is hereby amended to read as follows:

#### **APPENDIX A. UNIFIED LAND DEVELOPMENT CODE**

#### **ARTICLE III. DESIGN AND COMPATIBILITY STANDARDS**

#### **DIVISION 3 "NON-RESIDENTIAL ZONES," SECTION 3.10 "APPLICABILITY"**

....

- (d) *Landscape.* The standards for landscaping are set forth in Sec. 3.10.5 Landscaping of this Division.

Section 16: That Appendix A "Unified Land Development Code," Article III "Design and compatibility Standards," Division 3 "Non-Residential Zones," to add Section 3.10.5 "Landscaping Requirements" and Section 3.10.7 "Off-Street Parking & Open Space Areas as follows:

#### **APPENDIX A. UNIFIED LAND DEVELOPMENT CODE**

#### **ARTICLE III. DESIGN AND COMPATIBILITY STANDARDS**

#### **DIVISION 3 "NON-RESIDENTIAL ZONES"**

....

Sec. 3.10.5 Landscaping requirements.

(1) General.

- (a) *Title.* This section shall be known and may be referred to as the "Landscaping Ordinance of the City of Baytown" or simply as the "Landscaping Ordinance."
- (b) *Purpose.* This section is adopted for the purpose of promoting the public health, safety and general welfare of the citizens of the city and is intended to achieve one or more of the following:
- (1) To create an aesthetically pleasing environment that improves the quality of life for citizens;
  - (2) To enhance property values and to protect public and private investment;
  - (3) To promote the beautification of the city;
  - (4) To provide adequate light and air space;
  - (5) To prevent overcrowding of land;
  - (6) To ensure that the local stock of trees and vegetation is replenished; and/or

- (7) To stabilize the environment's ecological balance by contributing to the processes of air purification, oxygen regeneration, ground water recharge, stormwater runoff, and soil erosion retardation, while at the same time aiding in noise, glare and heat abatement.
- (c) *Applicability.* The provisions of this section shall apply to all nonresidential developments and multifamily complexes, as that term is defined in Article VI - Definitions, within the city, unless specifically provided otherwise in this article.
  - (1) The landscaping provisions contained in this article shall become applicable to each individual nonresidential lot at the time an application for a new commercial permit is made. When remodeling, redevelopment or reconstruction is proposed on nonresidential property that would result in an expansion of gross floor area, parking lot area, or vehicular surface area, the following provisions apply:
    - a. When remodeling, redevelopment or reconstruction is proposed on nonresidential property that would expand existing gross floor area of the lot's structure or structures by less than 50 percent, only the portion of the site where the expansion is located is subject to the provisions of this section.
    - b. When remodeling, redevelopment, reconstruction or expansion is proposed on nonresidential property that would expand existing gross floor area of the lot's structure or structures by 50 percent or more, the entire property must comply with the provisions of this article. The removal of any portion of an existing building is not required for compliance with this subsection (c)(1)b.
    - c. If within a three-year period the impervious surface area of a nonresidential development is increased by 25 percent or more or if within a three-year period 25 percent or more of the impervious surface area of a nonresidential development is reconstructed, the requirements of section 3.10.5(3) shall be applied only to the area where the expansion or reconstruction occurs.  
 This provision shall apply only when such expansion or reconstruction is not a part of a structural remodeling, redevelopment or reconstruction project.
  - (2) All landscaping requirements under this article shall run with the land and shall apply against any owner or subsequent owner.
  - (3) Each phase of a phased project shall comply with the requirements of this section. If the nonresidential development is to be construed in phases, phase lines shall be drawn 20 feet or more from developed site elements (parking, buildings, ponds, etc.). The portion of the land remaining for subsequent phases shall be no less than three-fourths of an acre.
  - (4) This section shall have no application to nonresidential developments with parking lots of less than 5,000 square feet.
- (d) *Inconsistent provisions and conflict with other regulations.* In the event that any provision of this article is inconsistent or in conflict with any other provision of this article or any other ordinance or regulation of the city, the more stringent provision shall control, unless otherwise specifically stated.
- (e) *Transitional provisions.*
  - (1) *Building permits.* Except as specifically provided in this article, the provisions of this article shall not affect any valid building permit issued or any valid building permit application filed prior to August 2, 1998, provided that construction pursuant to such permit, is commenced within six months of the date of issuance of the permit and diligently pursued, as determined by the chief building official, to completion in accordance with the applicable regulations of the city.

- (2) *Subdivision plats.* Except as specifically provided in this article, the provisions of this article shall not affect any preliminary plat or final plat approved pursuant to the regulations of Article IV - Subdivisions.

(2) Landscape plan.

When a new commercial permit is required, the owner shall provide the director as part of his construction documents a landscape plan containing the following information:

- a) The location of existing boundary lines and dimensions of the tract and the square footage of the total off-street parking area;
- b) The location of existing and proposed utility easements on or adjacent to the lot and the location of overhead power lines and any underground utilities;
- c) A description of adjacent land uses, existing developments and roadways;
- d) The location, size and type of proposed landscaping in areas to be landscaped and the size of proposed landscaped area;
- e) The location, species and diameter of existing trees having a caliper of 1½ inches or larger. Landscape reserves with numerous trees may be outlined with a description of existing trees to be preserved; and
- f) All other information necessary for verifying that the minimum landscaping requirements have been satisfied pursuant to this article.

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

(3) Streetscape.

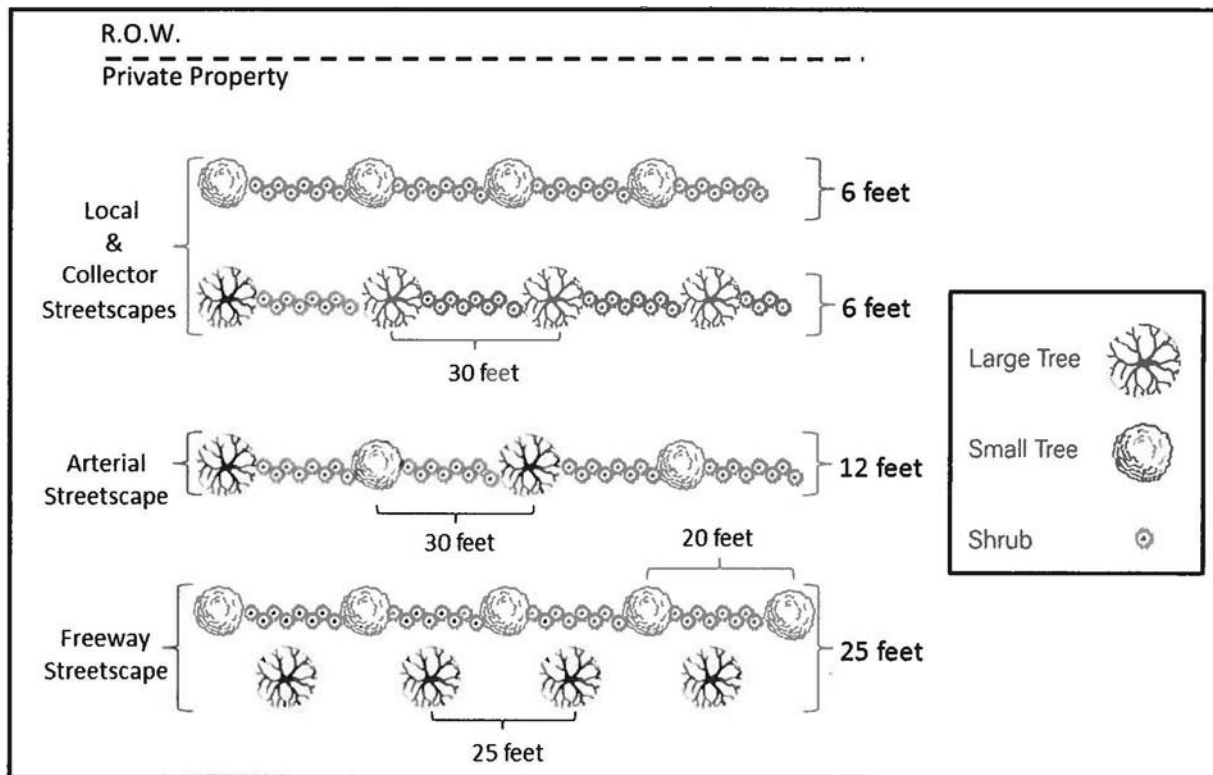
- (a) In addition to the landscaping requirements of section 3.10.5, the owner of nonresidential property subject to this article shall be required to provide streetscape as described in this section and as depicted in Figure 48 3-1 "Streetscape Layout." Nothing in this subsection shall be construed as to require streetscape on undeveloped land. Streetscapes shall be no less than six feet wide.
- (b) Streetscape shall be required along the entire length of the property which is adjacent to a street right-of-way, except that streetscape shall not be required across driveways.
- (c) Streetscape shall include an area beginning at the property line which is adjacent to a street right-of-way, extending into the private property to establish the required width as listed in this section.
- (d) The streetscape's trees, shrubs, ground cover, and other landscaping shall be placed and maintained so as not to cause a visual obstruction and so as not to violate section 122-3.
- (e) Streetscapes shall be adequately watered using one of the following methods:
  - (1) Automatic irrigation system; or
  - (2) Manual watering, if all parts of the landscape improvements are within 100 feet of one or more hose bibs, and if a nonresidential streetscape improvement does not exceed 1,500 square feet.
- (f) Streetscape width shall be determined by the street classification as identified by the city's major thoroughfare plan and shall be as follows:

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

(g) Streetscape planting installation.

- (1) Within a streetscape, large trees can be substituted with small trees where overhead utility lines will conflict with the large tree at or before the tree grows to its mature height.
- (2) All trees and shrubs are to be planted in an organized fashion and in such a way as to facilitate the creation of a visual screen.
- (3) Local and/or collector. The streetscape along local and collectors street shall be planted with either large or small trees, planted 30 feet on center, with eight shrubs, not less than two feet in height, for every 30 feet.
- (4) Minor and major arterials. The streetscape along a major and/or minor arterial street shall be planted with either large or small trees, planted 30 feet on center, with eight shrubs not less than two feet in height for every 30 feet to form an intermittent hedge. No less than 50 percent of the tree plantings shall be large trees along minor and major arterials.
- (5) Freeway.
  - a. The streetscape along a freeway shall be planted as a staggered double row consisting of small evergreen trees on the front row, and large trees on the back row.
  - b. The front row of trees shall be planted 20 feet on center.
  - c. A minimum of 50% of the back row shall be planted with evergreen trees. This row shall consist of large trees planted 25 feet on center.
  - d. A minimum of 8 shrubs, not less than two feet in height, for every 20 feet forming an intermediate hedge, shall be planted in the front row.

Figure 3-1. Streetscape Layout



- (6) Appropriate tree planting species. Appropriate shade tree species for streetscape and buffers include the following:

Tree Species	Local/ Collector Streetscape	Arterial Streetscape	Freeway Streetscape	Vegetative/ Transition Buffer
Lacebark Elm ♦(l) ( <i>Ulmus parvifolia</i> )	x	x	X	
Southern Magnolia ♦♦ (l) ( <i>Magnolia grandiflora</i> )		x	X	x
Live Oak ♦♦ (l) ( <i>Quercus virginiana</i> )		x	X	x
American Holly ♦♦ (l) ( <i>Ilex opaca</i> )		x	X	x
Montezuma Cypress ♦ (l) ( <i>Taxodium mucronatum</i> )		x	X	x
Eastern Redcedar ♦♦ (l) ( <i>Juniperus virginiana</i> )		x	X	x

Common Crapemyrtle ♦(s) (Lagerstroemia indica)	x	x		
Waxmyrtle ♦♦(s) (Myrica cerifera)	x	x	X	x
Yaupon ♦♦(s) (Ilex vomitoria)	x	x	X	x
Little Gem Magnolia ♦♦(s) (Magnolia grandiflora)	x	x	X	
Sweetbay Magnolia ♦♦(s) (Magnolia virginiana)	x	x	X	x
Foster Holly ♦♦(s) (Ilex x attenuata 'Fosteri')	x	x	X	
Flowering Dogwood ♦(s) (Cornus florida)	x	x		
Nelly Stevens Holly ♦♦(s) (Ilex x)	X	x	X	

(s)- small tree (l) - large tree ♦ - deciduous tree ♦♦ - evergreen tree

(h) Variances.

- (1) The director has the authority to approve variations to the streetscape tree species and the layout of the streetscape plantings as set forth in this section, so long as the number of required plantings and the size of the required plantings meet the intent of this article.
- (2) Any person, wishing to appeal the director's denial of a variance pursuant to subsection (h)(2), may file a completed application for a variance pursuant to section 1.29 within 30 days after the director's decision. Such variance request shall follow the process and procedures therein established.

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

- (1) A lot that is permitted to have a lot coverage greater than 91%, or
- (2) A lot that is:
  - a. 21,780 square feet or less and
  - b. Adjacent to property developed with nonresidential land uses, which adjacent property does not have an existing streetscape.

Sec. 3.10.7 Off-street parking & Open space areas

(a) Off-street parking applicability.

The off-street parking requirements specified in this chapter shall not apply in the arts, cultural and entertainment (ACE) zoning district and in certain central business district areas as depicted on the maps set forth in appendix 2 of this chapter which are on file with the city clerk. All private property shown in the shaded portions on such maps is exempted from the requirements of this chapter.

(Code 1967, § 19½-9; Ord. No. 2275, § 2, 7-28-77; Ord. No. 11,259, § 1, 11-24-09; Ord. No. 11,606, § 1, 3-24-11; Ord. No. 11,866, § 23, 2-23-12; Ord. No. 13,211, § 1, 6-9-16)

Editor's note(s)—Appendix 2 referred to in this section is not set out in this Code. Copies are on file with the city clerk and chief building official.

(b) Granting of exceptions.

The Planning & Development Director is granted the authority to issue an administrative variance where there are minor discrepancies with regard to the requirements established in this section, where it is determined that the literal application of such requirements would constitute an undue hardship with regard to the applicant's particular circumstances and would not be essential in accomplishing the objectives of this chapter. In areas that are fully or near fully developed, a variance of up to 30 percent of the number of off-street parking spaces required in this chapter shall be allowed by the Planning & Development Director. If the applicant is dissatisfied with the decision of the chief building official with regard to a requested exception, he shall be entitled to appeal such decision to the board of adjustment and appeals.

(Code 1967, § 19½-8; Ord. No. 2275, § 2, 7-27-77; Ord. No. 4684, § 1, 4-9-87)

(c) Minimum requirements for spaces.

(a) *Minimum number of parking spaces.* There shall be provided, at such time as a building permit is issued for the erection, alteration or use change of a structure, off-street parking spaces in accordance with the following minimum requirements:

- (1) Bowling alley: Five parking spaces for each lane;
- (2) Business or professional office, studio, bank, medical or dental clinic: Three parking spaces plus one additional parking space for each 200 square feet of floor area over 500;
- (3) Church, theater, auditorium (except school), sports arena, stadium or gymnasium: One parking space for each four seats or bench seating spaces;
- (4) Community recreation center, library, museum or art gallery: Ten parking spaces plus one additional space for each 300 square feet of floor area in excess of 2,000 square feet. If an auditorium is included as a part of the building, its floor area shall be deducted from the total and additional parking provided on the basis of one space for each four seats that it contains;
- (5) Dancehall, assembly or exhibition hall without fixed seats: One parking space for each 100 square feet of floor area used thereof;
- (6) Fraternity, sorority or dormitory: One parking space for each three beds;
- (7) Furniture or appliance store, hardware store, wholesale establishment, machinery or equipment sales and service, clothing or shoe repair or service shop: Two parking spaces plus one additional parking space for each 300 square feet of floor area over 1,000;
- (8) Hospital: Four parking spaces plus one additional parking space for each four beds;
- (9) Hotel: One parking space for each sleeping room or suite plus one parking space for each 400 square feet of commercial floor area contained therein;
- (10) Industrial plant: The number of parking spaces required to accommodate all plant employees and construction forces on any single shift;

- (11) Mortuary or funeral home: One parking space for each 50 square feet of floor space in slumber rooms, parlors or individual funeral service rooms;
- (12) Motor vehicle sales room or car lot: One parking space for each 500 square feet of sales floor area with a minimum of three parking spaces;
- (13) Private club, lodge, country club or golf club: One parking space for each 150 square feet of floor area for every five members, whichever is greater;
- (14) Restaurant, nightclub, cafe or similar recreation or amusement establishment: One parking space for each 100 square feet of floor area;
- (15) Retail store or personal service establishment, except as otherwise specified in this section: One parking space for each 200 square feet of retail sales or floor area;
- (16) Roominghouse or boardinghouse: One parking space for each sleeping room;
- (17) Sanitarium, convalescent home, home for the aged or similar institution: One parking space for each six beds;
- (18) School, elementary: One parking space for each ten seats in the auditorium or main assembly room or one space for each classroom, whichever is greater;
- (19) School, secondary, and college: One parking space for each eight seats in the main auditorium or three spaces for each classroom, whichever is greater;
- (20) Tourist home, cabin or motel: One parking space for each sleeping room or suite;
- (21) Vehicle or boat repair business, including, but not limited to those defined in section 102-136 and automobile repair, major and minor as defined in the Unified Land Development Code: One space for each service bay, plus one space for every 300 square feet of building floor area.

(Code 1967, § 19½-1; Ord. No. 2275, § 2, 7-28-77; Ord. No. 11,128, § 1, 6-11-09; Ord. No. 12,798, §§ 1, 2, 2-26-15)

(d) Rules for computing number of spaces.

In computing the number of parking spaces required for each of the uses listed in this section, the following rules shall govern:

- (a) Floor area shall mean the foundation area of the specified use. For a multistory building, each story shall be considered a separate foundation area, so that the total floor area of such building shall include the area of all floors added together;
- (b) Where fractional spaces result, the parking spaces required shall be construed to be the nearest whole number;
- (c) The parking space requirement for a use not specifically mentioned in this chapter shall be the same as required for a use of a similar nature; and
- (d) For mixed uses, the parking spaces required shall equal the sum of the requirements of the various uses computed separately.

(Code 1967, § 19½-2; Ord. No. 2275, § 2, 7-28-77; Ord. No. 3825, § 1, 4-12-84)



(e) Construction or use changes.

Whenever a building or use is constructed or changed after the effective date of the ordinance from which this chapter derives by enlarging the floor area, number of employees, number of dwelling units, seating capacity or otherwise, to create a requirement for an increase in the number of parking spaces, such spaces shall be provided on the basis of the enlargement or the change in use.

(Code 1967, § 19½-3; Ord. No. 2275, § 2, 7-28-77)

(f) Location of spaces.

All parking spaces required in this section shall be located on the same lot with the building or use served, except as follows:

- (1) Where an increase in the number of spaces is required by a change or enlargement of the use or where such spaces are provided collectively or used jointly by two or more buildings or establishments, the required spaces may be located not to exceed 300 feet from an institutional building and not to exceed 500 feet from any other nonresidential building served;
- (2) No more than 50 percent of the parking spaces required for theaters, bowling lanes, dancehalls, nightclubs or cafes may be provided and used jointly by similar uses not normally open, used or operated during the same hours as those listed; provided, however, that written agreement thereto is properly executed and filed as specified in subsection (4) of this section;
- (3) Not more than 80 percent of the parking spaces required for a church or school auditorium may be provided and used jointly by similar uses not normally open, used or operated during the same hours as those listed; provided, however, that written agreement thereto is properly executed and filed as specified in subsection (4) of this section; and
- (4) When the required parking spaces are not located on the same lot with the building or use served or when such spaces are collectively or jointly provided and used, a written agreement thereby assuring their intention for such purposes shall be properly drawn and executed by the parties concerned, approved as to form by the city attorney, and shall be filed with the application for a building permit.

(Code 1967, § 19½-4; Ord. No. 2275, § 2, 7-28-77)

(g) Minimum dimensions.

The minimum dimensions for off-street parking spaces required under this chapter shall be as follows:

- (1) *Ninety-degree angle parking.* Each parking space shall be not less than nine feet wide or less than 18 feet in length. Maneuvering space shall be in addition to parking space and shall be not less than 23 feet perpendicular in width;
- (2) *Sixty-degree angle parking.* Each parking space shall be not less than nine feet wide perpendicular to the parking angle or less than 17 feet in length when measured at the appropriate angles. Maneuvering space shall be in addition to parking space and shall be not less than 20 feet in width;
- (3) *Forty-five-degree angle parking.* Each parking space shall be not less than nine feet wide perpendicular to the parking angle or less than 19 feet in length when measured at the appropriate angles.

Maneuvering space shall be in addition to parking space and shall be not less than 11 feet in width; and

- (4) *Other.* Where off-street parking facilities are provided in excess of the minimum amounts specified in this chapter or when off-street parking facilities are provided but not required by this chapter, the off-street parking facilities shall comply with the minimum dimensions for parking and maneuvering space specified in this section.

(Code 1967, § 19½-5; Ord. No. 2275, § 2, 7-28-77)

(h) Design standards.

Geometric design standards for driveways and off-street parking stalls are set forth in appendix 1 to chapter 112, which is on file in the offices of the city clerk and chief building official. Curb cuts shall conform to standards established in the engineering department. Permits for all curb cuts will be issued by the chief building official.

(Code 1967, § 19½-6; Ord. No. 2275, § 2, 7-28-77)

Editor's note(s)—Appendix 1 referred to in this section is not set out in this Code. Copies are on file with the city clerk and chief building official.

(i) Maintenance of off-street parking areas.

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

( Ord. No. 12,798 , § 3, 2-26-15)

(j) Vehicle storage areas.

- (a) Any motor vehicle sales, car lot, or vehicle or boat repair business, whose customers leave their motor vehicles for repair or service, shall designate a vehicle storage area separate from the required customer parking area for all non-operational vehicles to be serviced. Spaces within the vehicle storage area shall not count towards meeting the minimum required number of customer parking spaces specified in this section nor shall they block access to the building, driveways, sidewalks, or hinder proper vehicular circulation within the lot.

(b) Each vehicle storage area shall:

- (1) Meet the off-street parking minimum dimensions and design standards in this chapter; or
- (2) Be:
  - a. Enclosed by a six-foot-high, opaque fence consisting of the materials specified in section 18-1011 of the Code of Ordinance;
  - b. Located behind the building line of the building; and
  - c. Designed so that the vehicles stored within are not visible from any public right-of-way in any manner.

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

( Ord. No. 12,798 , § 4, 2-26-15)

(k) Penalty for violation.

Any person violating any section of this chapter shall upon conviction be punished as provided in section 1-14 of the Code of Ordinances.

(Ord. No. 12,798 , § 5, 2-26-15) (Ord. No. 11,866, § 2(Exh. A), 2-23-12; Ord. No. 13,521 , § 1, 7-27-17; Ord. No. 13,522 , § 4, 7-27-17; Ord. No. 13,764 , § 2, 5-10-18)

Section 17: That Appendix A "Unified Land Development Code," Article III "Design and compatibility Standards," Division 4 "Residential Zones," Section 3.12 "Applicability, Buildings with Multiple Units" is hereby amended to read as follows:

## **APPENDIX A. UNIFIED LAND DEVELOPMENT CODE**

### **ARTICLE III. DESIGN AND COMPATIBILITY STANDARDS**

#### **DIVISION 4 "RESIDENTIAL ZONES," SECTION 3.12 "APPLICABILITY, BUILDINGS WITH MULTIPLE UNITS"**

....

Sec. 3.12 Applicability, buildings with multiple units.

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

(a) *Masonry.*

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

(b) *Architectural.*

(1) *Building articulation.*

- a. Building frontages greater than 75 feet in length shall have recessed places, projections, windows, arcades or other distinctive features to interrupt the length of the building facade.
- b. Front and street sides of buildings visible from the public right-of-way shall include changes in relief such as columns, cornices, bases, fenestration, and fluted masonry, for at least 15 percent of all exterior wall area.

- (2) *Stairwells.* Open, unenclosed stairwells shall not be allowed along any facade facing a public street or private street system.

- (3) *False door or window openings.* Use of false door or window opening shall be defined by frames, sills and lintels.
- (c) *Site design.*
  - (1) All permitted uses and structures that require a commercial occupancy by the building code are subject to the off-street parking, open space, landscape, and streetscape requirements in Division 3 of the ULDC, unless the standards are addressed in this Division.
  - (2) Sidewalks in conformance with chapter 122 of the Code of Ordinances shall be installed from property line to property line at the expense of the property owner in all adjacent rights-of-way prior to the issuance of a certificate of occupancy for a new multi-unit dwelling.
  - (3) *Building orientation:*
    - a. Building(s) located on parcels that are adjacent to SFE, SF1 SF2, or MF1 zones shall have a maximum height of 40 feet or shall be constructed in conformance with the requirements of the 35-degree angle residential proximity slope as depicted in figure 3-5.

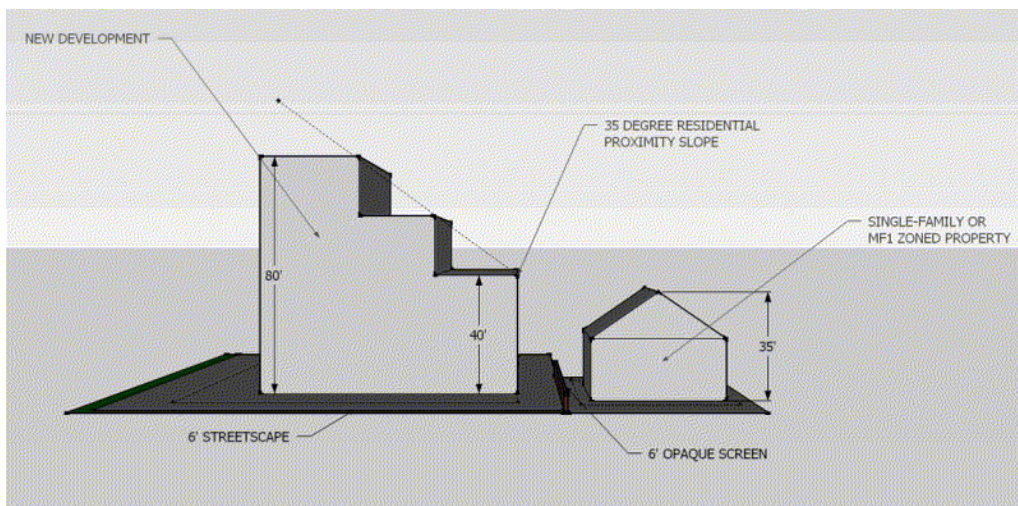


Figure 3-5. Building Orientation

- b. Building(s) located on parcels that are adjacent to SFE, SF1 SF2, or MF1 zones shall have a 15-foot building setback and shall provide opaque screening. Parking, dumpsters, and mechanical equipment shall not be allowed within the setback.
    - c. Buildings shall front on public streets and/or private street systems.
- (4) Developments shall provide a private driving aisle system consisting of limited access driveways. At least one side of the private driving aisle system shall include sidewalks at least five-foot wide and a planting strip between the driveway and sidewalk at least five-foot wide that includes street trees 30-foot on center. The private street system shall provide vehicular and pedestrian access to all parking areas and on site amenities and must connect to the public sidewalk system in the public right-of-way.

(5) *Recreation space:*

- a. Each development shall provide at least 100 square feet of outdoor recreation space per dwelling unit that is intended to serve the entire development. Open space in the required setbacks can not be counted.
- b. Outdoor recreation space shall be turf area at least 3,000 square foot in size with maximum slopes of three percent.
- c. One perimeter shade tree is required for each 1,000 square foot of outdoor recreation space.

Section 18: That Appendix A "Unified Land Development Code," Article III "Design and compatibility Standards," Division 4 "Residential Zones" is hereby amended to add Section 3.13.5 "Residential Off-Street Parking" as follows:

**APPENDIX A. UNIFIED LAND DEVELOPMENT CODE**

**ARTICLE III. DESIGN AND COMPATIBILITY STANDARDS**

**DIVISION 4 "RESIDENTIAL ZONES"**

....

**Sec. 3.13.5 Residential Off-street Parking.**

**(a) Off-street parking applicability.**

The off-street parking requirements specified in this section shall not apply in the arts, cultural and entertainment (ACE) zoning district and in certain central business district areas as depicted on the maps set forth in appendix 2 of this chapter which are on file with the city clerk. All private property shown in the shaded portions on such maps is exempted from the requirements of this chapter.

(Code 1967, § 19½-9; Ord. No. 2275, § 2, 7-28-77; Ord. No. 11,259, § 1, 11-24-09; Ord. No. 11,606, § 1, 3-24-11;  
Ord. No. 11,866, § 23, 2-23-12; Ord. No. 13,211, § 1, 6-9-16)

Editor's note(s)—Appendix 2 referred to in this section is not set out in this Code. Copies are on file with the city clerk and chief building official.

**(b) Granting of exceptions.**

The Planning & Development Director is granted the authority to issue an administrative variance where there are minor discrepancies with regard to the requirements established in this section, where it is determined that the literal application of such requirements would constitute an undue hardship with regard to the applicant's particular circumstances and would not be essential in accomplishing the objectives of this chapter. In areas that are fully or near fully developed, a variance of up to 30 percent of the number of off-street parking spaces required in this chapter shall be allowed by the Planning & Development Director. If the applicant is dissatisfied with the decision of the Planning & Development Director with regard to a requested exception, he shall be entitled to appeal such decision to the board of adjustment and appeals.

(Code 1967, § 19½-8; Ord. No. 2275, § 2, 7-27-77; Ord. No. 4684, § 1, 4-9-87)

(c) Minimum requirements for spaces.

- (1) Townhouse and two-family dwellings: 2¼ spaces per dwelling unit.
- (2) Parking areas designed to serve multi-unit dwellings shall not be located between residential buildings and the street or drive isle system.
- (3) Multi-family dwellings (three or more dwelling units):

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

- (a) *Additional parking spaces for guests.* In addition to the minimum number of parking spaces provided for in subsection (a) of this section, there shall be provided, at such time as a building permit is issued for the erection, alteration or use change of a structure, additional off-street parking spaces in accordance with the following minimum requirements:

(1) *Number.*

- a. Townhouses: Ten percent of the number parking of spaces required in subsection (a)(21).
- b. Two-family dwellings: Ten percent of the number of parking spaces required in subsection (a)(21).
- c. Multifamily dwellings: Ten percent of the number of parking spaces required in subsection (a)(22).

(2) *Location.*

- a. All dwelling units of a townhouse, two-family dwelling or multifamily dwelling must have at least one parking space as required in subsection (b)(1) within 300 feet measured by the walking distance on sidewalks or along the street or driveway from the parking space to the nearest entrance to the dwelling unit.
  - b. all parking required by this subsection (b) must be on the same site as the townhouse, two-family dwelling or multifamily dwelling.
- (b) *Bicycle parking.* One bicycle rack (to accommodate three or more bicycles) per residential building and at the community facilities shall be installed and maintained. The bike rack shall be located not in a sidewalk and not in a required parking space but shall be located so as to provide the ability of the bike user to walk on a sidewalk or along with street to access the bicycle rack.
- (c) *Sidewalks from parking spaces.* Sidewalks connecting all parking areas to residential and to community buildings shall be provided and maintained. Where the sidewalks cross driving aisles (driveways) crosswalks and/or alternate paving materials shall be installed.

- (d) Rules for computing number of spaces.

Computing number of spaces shall be conducted in accordance with the requirements of Division 3, Section 3.10.7(d)

- (a) The parking space requirement for a use not specifically mentioned in this chapter shall be the same as required for a use of a similar nature; and
- (b) For mixed uses, the parking spaces required shall equal the sum of the requirements of the various uses computed separately.

- (f) Minimum dimensions.

Minimum dimensions shall be provided in accordance with the requirements of Division 3, Section 3.10.7 (g)

(Code 1967, § 19½-5; Ord. No. 2275, § 2, 7-28-77)

- (h) Design standards.

Geometric design standards for driveways and off-street parking stalls are set forth in appendix 1 of chapter 112, which is on file in the offices of the city clerk and chief building official. Curb cuts shall conform to standards established in the engineering department. Permits for all curb cuts will be issued by the chief building official.

(Code 1967, § 19½-6; Ord. No. 2275, § 2, 7-28-77)

Editor's note(s)—Appendix 1 referred to in this section is not set out in this Code. Copies are on file with the city clerk and chief building official.

- (i) Maintenance of off-street parking areas.

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

Section 19: That Appendix A "Unified Land Development Code," Article III "Design and compatibility Standards," Division 5 "District Compatibility Standards," Section 3.14 "Compatibility Standards" is hereby amended to read as follows:

## **APPENDIX A. UNIFIED LAND DEVELOPMENT CODE**

### **ARTICLE III. DESIGN AND COMPATIBILITY STANDARDS**

#### **DIVISION 5 "DISTRICT COMPATIBILITY STANDARDS," SECTION 3.14 "COMPATIBILITY STANDARDS"**

....

### Sec. 3.14 Compatibility standards.

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

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



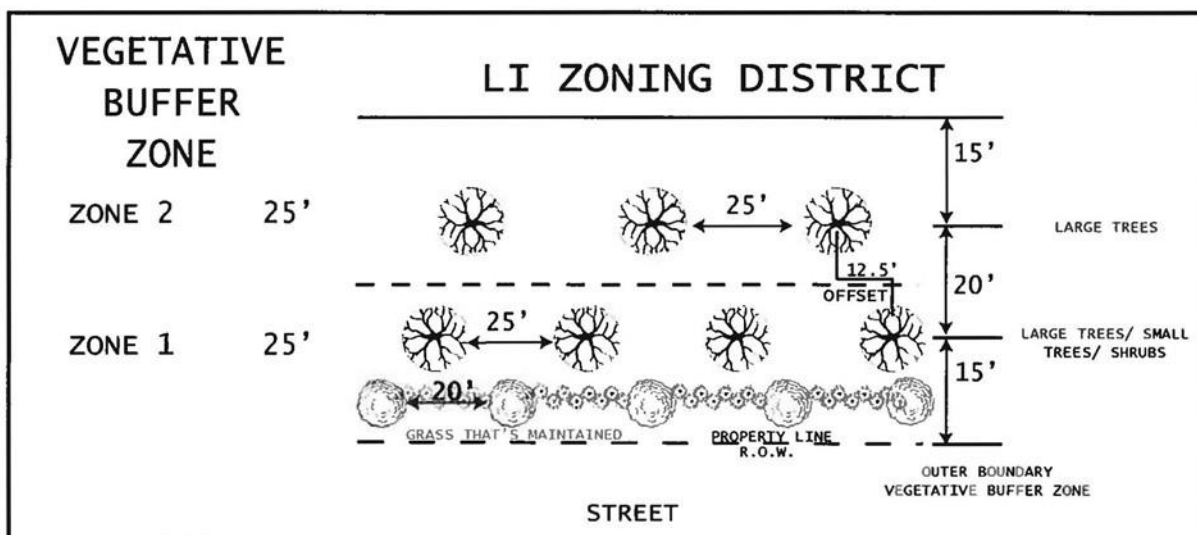
- (g) *Light industrial (LI)*. New development that is zoned LI and located adjacent to (i) a property zoned OR, UN, SFE, SF1, SF2, ACE, LC, MF1, MF2, MF3, or NSC; (ii) a lot that contains a single-family use; (iii) a public right-of-way designated as an arterial or collector on the city's adopted thoroughfare plan; or (iv) a navigable waterway shall meet all the requirements of the property development standards table in article three, division 1 of the ULDC and provide a minimum 200-foot building setback. New development that is zoned LI and located adjacent to a property zoned MU or GC shall meet all the requirements of the property development standards table in article three, division 1 of the ULDC and provide a minimum 100-foot building setback. Within the applicable setback, a 50-foot open space, a 50-foot vegetative buffer and an opaque screen shall be installed between any property zoned OR, UN, SFE, SF1, SF2, MF1, MF2, MF3, NSC, GC, or MU in accordance to section 3.14(i). Any building over 40 feet in height also shall comply with the residential proximity slope in subsection 3.12(c)(3) of the ULDC.
- (h) *Heavy industrial (HI)*. New development that is zoned HI and located (i) adjacent to a property zoned OR, NSC, MU, or GC; (ii) adjacent to a public right-of-way designated as an arterial or collector on the city's adopted thoroughfare plan; or (iii) adjacent to a navigable waterway shall meet all the requirements of the property development standards table in article three, division 1 of the ULDC, and provide a minimum 300-foot building setback between (i) any property zoned OR, NSC, or GC; (ii) a public right-of-way designated as an arterial or collector on the city's adopted thoroughfare plan; or (iii) a navigable waterway. Within the setback a 100-foot vegetative buffer and a minimum of a six-foot-tall opaque screen shall be installed between any property that is (i) zoned OR, NSC, or GC; (ii) a public right-of-way designated as an arterial or collector on the city's adopted thoroughfare plan; or (iii) a navigable waterway. Any building over 40 feet in height also shall comply with the residential proximity slope in subsection 3.12(c)(3) of the ULDC.

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

- (i) *Vegetative and transition buffer zones*
  - a. *Purposes*. The purpose of the vegetative and transition buffer zones required herein is to guard against incompatible uses in adjacent zoning districts by providing a visual screen, a light barrier, a sound barrier and some containment of air movement near the ground level. The provisions of this section shall be construed to accomplish these purposes.
  - b. *Exemption*. Where vegetative and transition buffer zones are required, the property shall be exempt from section 3.10.5(3) but must provide interior landscaped open space, as required by section 3.10 for parking areas located in the front yard of the development. Side and rear yard parking areas are not required to provide interior landscaped open space.
  - c. *Landscaping requirements*. The landscaping requirements of this subsection are intended to provide a continuous vegetative screening of the district or land use. The following contain the minimum standards; however, additional plantings or other forms of opaque screening may be required to accomplish this purpose.
  - d. *Vegetative buffer zone*. Vegetative buffer zones shall have a minimum width of 50 feet.
  - e. *LI zoning district*. Vegetative buffer zones in a LI zoning district shall be in accordance with the following and as depicted in Figure 3-6 "Vegetative Buffer Zone Layout":

- 1) LI zone 1 shall include an area adjacent to the property line, beginning at the property line and extending into the private property for a distance of 25 feet. The owner shall plant and maintain at least the following in LI zone 1:
  - i. A staggered double row consisting of small evergreen trees on the front row, and large trees on the back row.
  - ii. The front row of trees shall be planted 20 feet on center.
  - iii. A minimum of 50% of the back row shall consist of large evergreen trees.
  - iv. The back row shall be planted 25 feet on center.
  - v. A minimum of 8 shrubs, not less than two feet in height, for every 20 feet forming an intermediate hedge, shall be planted in the front row along the right-of-way.
  - vi. Groundcover extending for 25 feet measured from the outside boundary of the LI zone 1, which groundcover shall be maintained in accordance with article II of chapter 42.
- 2) LI zone 2 shall include an area adjacent to LI zone 1, beginning at the interior boundary of LI zone 1 and extending into the property for a minimum distance of 25 feet. In LI zone 2, the owner shall plant and maintain at least the following:
  - i. A row of large trees planted 15 feet from the inner boundary of LI zone 2.
  - ii. The trees shall be planted 25 feet on center.
  - iii. Such trees shall be offset 12.5 feet from the trees in the back row of LI zone 1.

Figure 3-6. Vegetative Buffer Zone Layout



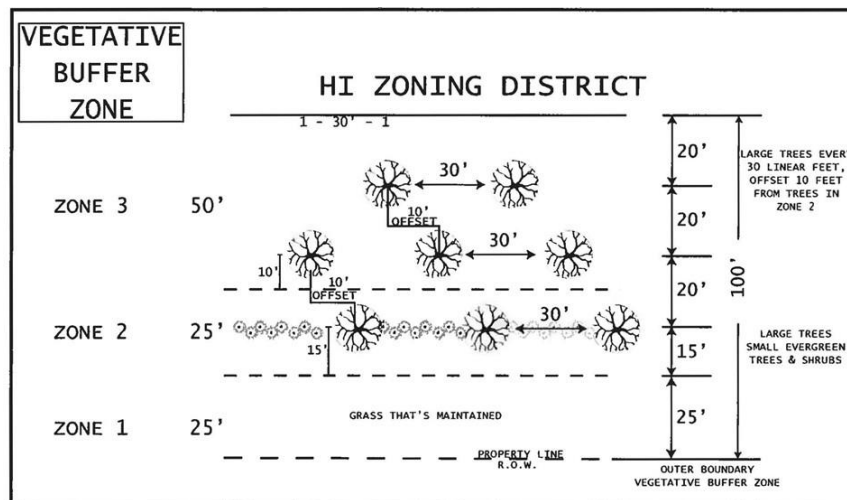
f. *HI zoning district.* Vegetative buffer zones in an HI zoning district shall be in accordance with the following and as depicted in Figure 36 "Vegetative Buffer Zone Layout":

- 3) HI zone 1 shall include an area adjacent to the property line, beginning at the property line and extending into the private property for a distance of 25 feet. The owner shall plant and maintain groundcover extending throughout the entire HI zone 1, which shall be maintained in accordance with article II of chapter 42.
- 4) HI zone 2 shall include an area adjacent to HI zone 1, beginning at the interior boundary of HI zone 1 and extending into the property for a minimum distance of 25 feet. The owner shall plant and maintain at least the following in HI zone 2:
  - i. Mixture of small trees and shade trees, which shall be planted every 30 linear feet, 15 feet from the inside boundary of HI zone 1; provided, however, that no more than 50 percent of trees may be small trees; and
  - ii. Eight shrubs for every 30 linear feet evenly spaced.

HI zone 2 shall be maintained so as to allow native trees, shrubs, vines, and other forms of vegetation to grow.

- 5) HI zone 3 shall include an area adjacent to HI zone 2, beginning at the interior boundary of HI zone 2 and extending into the property for a minimum distance of 25 feet. In HI zone 3, the owner shall plant and maintain the following:
  - i. At least one shade tree every 30 linear feet with centers ten feet from the inner boundary of HI zone 2. Such trees shall be offset ten feet from the trees in HI zone 2; and
  - ii. At least one shade tree every 30 linear feet with centers 20 feet from the inner boundary of HI zone 3. Such trees shall be offset ten feet from the trees required in zone 2.

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



(j) *Transition buffer zone.* A transition buffer zone provides protection to adjacent land uses and shall consist of:

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

(Ord. No. 10,771, § 4, 12-13-07; Ord. No. 11,866, § 7, 2-23-12; Ord. No. 13,191, § 2, 5-12-16; Ord. No. 13,763, § 2, 5-10-18; Ord. No. 14,378, §§ 3, 4, 4-9-20)

Editor's note(s)—Ord. No. 13,763, § 2, adopted May 10, 2018, changed the title of § 18-1206.5 from "Vegetative buffer zones" to read as herein set out.

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

Section 20: That Appendix A "Unified Land Development Code," is amended to Renumber Article IV "Definitions" as Article VI and add the definitions of "Amending Plat," "Caliper," "Developed land," "Subdivision plat," "Drive-Through Restaurant," "Evergreen tree," "Existing tree," "Filed," "Groundcover," "Horizontal Mixed-Use Development," "Impervious surface," "Interstate, expressway, or freeway," "Landscape reserve," "Large tree," "Local street," "Lot consolidation," "Lot line adjustment," "Minor arterial," "Minor plat," "Minor replat," "Mixed-Use Building," "Monument Sign," "Mulch," "Multi-Family," "Outdoor living area," "Parking space," "Plat," "Plot plan," "Primary building(s)," "Primary Entrance(s)," "Principal or major arterial," "Project Area," "Resubdivision," "Resubmitted," "Secondary Building(s)," "Secondary Entrance(s)," "Shade tree," "Shrub," "Single-family dwelling," "Small box discount retail," "Small subdivision," "Small tree," "Streetscape," "Subdivision," "Tree," and "Usable Open Space" as follows:

## **APPENDIX A. UNIFIED LAND DEVELOPMENT CODE**

### **ARTICLE VI. DEFINITIONS**

....

*Amending plat* means an amendment to a plat, previously approved by the commission and duly recorded, which is submitted to the commission for approval and recording, which is signed by the applicants and is solely intended to correct errors or miscalculations.

....

*Caliper* means the diameter of a tree at 18 inches above ground level.

....

*Developed land* means that portion of real property which has been altered from its natural landscape by the construction or reconstruction of any structure, parking lot, or other improvement.

*Drive-through restaurant* means an establishment in which food or drink is served to customers within automobiles outside of the confines of the building and/or where the consumption of such food or drink is intended to occur off the premises.

....

*Evergreen tree* means a tree that retains some or all of its leaves throughout the year, which can be used for the purposes of providing a visual screen.

....

*Existing tree* means a tree which is located on the property prior to a new construction permit being issued by the city.

....

*Filed* means placed on the planning and zoning commission's posted agenda or forwarded to the director for final approval, which may occur only after the city has completed its administrative review of the submitted plat.

....

*Groundcover* means a spreading plant including sods and grasses less than 18 inches in height that may be used for erosion control.

....

*Horizontal mixed-use development* means a development consisting of two or more attached or detached buildings of differing use categories (e.g., residential and nonresidential) within the same project area.

....

*Impervious surface area* means any surface area that prevents infiltration of water into the soil. Impervious surface may include, but not be limited to, those surfaces covered by asphalt, concrete, crushed stone, clay, bedrock, limestone and compacted soil.

*Interstate, expressway, or freeway* means a multilane divided street network, including the frontage streets that provide ingress and egress to controlled access lanes, as indicated on the major thoroughfare plan.

....

*Landscape reserve* means undeveloped property which is left in its natural state and is of sufficient size for the growth of plants and trees.

*Large tree* means a tree, under normal growth conditions, that reaches a mature height at or above 40 feet. A tree that, at the time of planting, is at least 12 feet tall above grade and has a minimum caliper of three inches.

....

*Local street* means all other streets not otherwise indicated on the major thoroughfare plan, such plan being on file with the director of planning and community development.

....

*Lot consolidation* means the incorporation of a number of lots into fewer lots, each of a larger size than the original lots.

....

*Lot line adjustment* means a minor change in lot line location.

....

*Minor arterial* means a street so indicated on the major thoroughfare plan, such plan being on file with the director of planning and community development.

*Minor plat* means a plat of a tract of land, which includes four, or fewer lots, which also meets the conditions defined in Article IV of the ULDC.

*Minor replat* means as a replat of a tract of land, which involves four, or fewer lots, which also meets the conditions defined in Article IV of the ULDC.

*Mixed-use building* means a building that contains at least one floor, or a portion thereof, devoted to permitted nonresidential uses, and at least one floor devoted to permitted residential uses.

*Monument sign* means any permanent low-profile sign built on a monument base as opposed to a pole base, solid from the ground up, and which has no clear space for the full width of the sign between the bottom of the sign and the ground. Poles or supports must be concealed.

*Mulch* means various substances that are placed around plants to prevent evaporation, to control weeds and to control soil erosion. Mulch material includes, but is not limited to, organic substances and various forms and sizes of natural rocks.

*Multi-family* means the use of a lot or any residential dwelling consisting of five or more units to include, but not be limited to, common accessory structures such as garages, laundry buildings, and guest parking.

....

*Outdoor living area* means a common outdoor area designed to provide a more pleasant and healthful environment for the occupants of a dwelling unit and the neighborhood in which such dwelling unit is located. It includes natural ground areas, patios, terraces or similar areas developed for active or passive recreational activities. All areas designated for retention or detention facilities shall not be considered as qualifying under this definition

....

*Parking space* means a space used for parking a motor vehicle and satisfying all of the applicable requirements for off-street parking

....

*Plat* means a map or chart of the subdivision. It shall include a plan, plat or replat, in both singular and plural.

*Plot plan* means a site plan of the project area, which identifies residential boundaries where residential uses are proposed in this overlay district.

*Primary building(s)* means a structure that is developed along the street frontage that is subject to the front yard setback standards.

*Primary entrance(s)* means an ingress and egress point of a building or suite, which is designed for pedestrians, that is oriented towards the street frontage and usable open space.

*Principal or major arterial* means a street so indicated on the major thoroughfare plan, such plan being on file with the director of planning and community development.

....

*Project area* means a single parcel or multiple parcels, planned and constructed as one, coordinated and unified project.

....

*Resubdivision* means the division or alteration of a tract or parcel of an existing subdivision, except lot consolidation and lot line adjustment.

*Resubmitted* means placed on the planning and zoning commission's posted agenda or forwarded to the director for final approval, which may occur only after the city has determined that a response that satisfies each condition for the conditional approval or remedies each reason for disapproval is provided.

....

*Secondary building(s)* means a structure that is developed in the project area but does not have direct street frontage to the adjacent street due to a primary building that has been constructed along the street frontage.

*Secondary entrance(s)* means ingress and egress point(s) of a building or suite, which is designed for pedestrians, that is not the primary entrance(s).

....

*Shade tree* means any self-supporting woody plant with one well-defined trunk and a distinct definite formed crown.

*Shrub* means a woody perennial plant differing from a perennial herb by its more woody stem and from a tree by its low stature and habit of branching from the base.

*Single-family dwelling use* means the use of a lot for one dwelling unit.

*Small box discount retail* means a single retail establishment consisting of 12,000 square feet or less of gross floor area, offering for sale an assortment of discounted general merchandise directly to the consumer. Such merchandise may include, but not be limited to, food and beverage for off-premises consumption, processed foods, household products, personal grooming and health products, clothing, and other consumer goods. This term does not include a retail establishment providing a prescription pharmacy, gasoline or diesel fuel, specialty gifts or food and beverage items intended for on-premises consumption.

....

*Small subdivision* means a subdivision of 12 or fewer lots

*Small tree* means a type of tree that, under normal growth conditions, that reaches a mature height between 20 and 40 feet. A tree that, at the time of planting, is at least six feet tall above grade and has a minimum caliper of two inches.

*Streetscape* means the landscaping along the property adjacent to the street rights-of-way as required to be landscaped pursuant to this article.

*Subdivision* means a division of a tract or parcel of land within the limits or in the extraterritorial jurisdiction of the city into two or more parts to lay out a subdivision of the tract, including an addition to the city, to lay out suburban, building, or other lots, or to lay out streets, alleys, squares, parks or other parts

of the tract intended to be dedicated to public use or for the use of purchasers or owner of lots fronting on or adjacent to the streets, alleys, squares, parks, or other parts. A subdivision in this chapter includes a division regardless of whether it is made by using a metes and bounds description in a deed of conveyance or in a contract for a deed, by using a contract of sale or other executory contract to convey or by using any other method. The term "subdivision" includes a re-subdivision (replat) but does not include the following:

- (1) A division of land into parts greater than five acres, where each part has access and no public improvement is being dedicated as described hereinabove;
- (2) A division of land owned by the city;
- (3) A division of land created solely by the city's acquisition of a portion thereof; or
- (4) A division of land created by order of a court of competent jurisdiction.

....

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

*Tree* means any self-supporting woody plant with one well-defined trunk two inches in diameter or greater.

*Usable open space* means accessible hardscape or landscape areas, including, but not limited to, plazas, courtyards, pocket parks, and other publicly accessible amenities.

Section 21: That Appendix A "Unified Land Development Code," is amended to add Article IV "Subdivisions" and add Division 1 "General," Division 2 "Administration," Division 3 "Lot Consolidation," "Division 3.25 Small Subdivision," Division 3.50 "Minor Plats," Division 3.60 Minor Replats," Division 3.70 "Amending Plats," Division 4 "Subdivision Plat," Division 5 "Subdivision Variance," Division 6 "Special Developments and Subdivisions," and Division 7 "Engineering and Construction Standards" as follows:

## **APPENDIX A. UNIFIED LAND DEVELOPMENT CODE**

### **ARTICLE IV SUBDIVISIONS<sup>1</sup>**

#### **DIVISION I. GENERAL**

State law reference(s)—Extraterritorial jurisdiction, V.T.C.A., Local Government Code § 42.021 et seq.

(Code 1967, § 27-3; Ord. No. 3655, § 3, 7-28-83; Ord. No. 3875, § 1, 6-14-84; Ord. No. 4483, § 1, 6-26-86;

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<sup>1</sup> Cross reference(s)—Any ordinance dedicating or accepting any plat or subdivision saved from repeal, § 1-9(a)(12); buildings and building regulations, ch. 18; environment, ch. 34; manufactured homes, mobile homes and parks, ch. 58; signs, ch. 118; streets and sidewalks, ch. 122; zoning, ch. 130.

State law reference(s)—Regulation of subdivisions, V.T.C.A., Local Government Code § 212.001 et seq.



Ord. No. 8815, § 1, 1-27-00; Ord. No. 9621, § 12, 9-11-03; Ord. No. 11,822, § 1, 1-12-12; Ord. No. 14,175, § 1, 9-26-19; Ord. No. 14,378, § 5, 4-9-20)

Cross reference(s)—Definitions generally, § 1-2.

Sec. 126 -2. Plat required.

- (a) Except as provided in subsection (f) hereof, a plat is required for a subdivision as defined in section 126-1.
- (b) To be recorded, the plat must:
  - (1) Describe the subdivision by metes and bounds;
  - (2) Locate the subdivision with respect to a corner of the survey or tract or an original corner of the original survey of which it is a part; and
  - (3) State the dimensions of the subdivision and of each street, alley, square, park or other part of the tract intended to be dedicated to public use or for the use of purchasers or owners of lots fronting on or adjacent to the street, alley, square, park or other part.
- (c) The owner or proprietor of the tract or the owner's or proprietor's agent must acknowledge the plat in the manner required for the acknowledgment of deeds.
- (d) The plat must be recorded with the county clerk of the county in which the tract is located.
- (e) The plat is subject to the filing and recording provisions of V.T.C.A., Property Code § 12.002.
- (f) A plat is not required for a subdivision that is a division of land into four or fewer parts if:
  - (1) Such division does not include streets, alleys, squares, parks or other parts intended to be dedicated to public use or for the use of purchasers or owners of lots fronting on or adjacent to the streets, alleys, squares or other parts;
  - (2) If each of the lots is to be sold, given, or otherwise transferred to an individual who is related to the owner within the third degree by consanguinity or affinity, as determined under V.T.C.A., Government Code ch. 573; and
  - (3) No development or construction is to occur on the property at the time of division of land.
- (g) A plat is required before any lot of a subdivision described by this subsection:
  - (1) Is sold, given, or otherwise transferred to an individual who is not related to the owner within the third degree by consanguinity or affinity as determined under V.T.C.A., Government Code ch. 573; or
  - (2) Is developed in any manner and used for any purpose other than agricultural, wildlife management or timber use within the meaning of Section 1-d-1, Article VIII, Texas Constitution; or
  - (3) Is developed in any manner which directly or indirectly impacts the city's infrastructure, water, wastewater or drainage system.

(Ord. No. 11,981, § 1, 7-26-12; Ord. No. 14,175, § 2, 9-26-19)

State law reference(s)—Similar provisions, V.T.C.A., Local Government Code § 212.004.

Sec. 126-3 Scope of article.

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

(Code 1967, § 27-2; Ord. No. 3655, § 3, 7-28-83)

Sec. 126-4 Policy of commission.

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

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

(Code 1967, § 27-1; Ord. No. 3655, § 3, 7-28-83)

Sec. 126-5 Enforcement; penalties.

- (a) No map or plat of any subdivision or resubdivision within the city or its extraterritorial jurisdiction shall be recorded unless and until the map or plat has been authorized by the commission.
- (b) It shall be unlawful for any owner or agent of any owner of land to lay out, subdivide, plat or replat any land into lots, blocks and streets within the city or its extraterritorial jurisdiction without the approval of the commission.
- (c) It shall be unlawful for any owner or agent of any owner of land to offer for sale or sell property within the city or its extraterritorial jurisdiction which has not been laid out, subdivided, platted or replatted as required by this chapter.
- (d) The city shall withhold all utilities and maintenance of required improvements for all developments located inside the city limits and not approved by the commission. Additionally, other utility

companies (gas, power, telephone, water, sewer and cable) shall withhold all connections for developments within the city's extraterritorial jurisdiction until they are provided with a certification authorizing connections by the city planning and community development department, as required in V.T.C.A., Local Government Code § 212.012.

- (e) No street number and no building permit shall be issued for the erection of any building in the city on any piece of property other than an original or a resubdivided lot in a duly approved and recorded subdivision without the written approval of the commission.
- (f) If any section of this chapter is violated within the city or its extraterritorial jurisdiction, the city may institute any appropriate action or proceedings in the district court to enjoin the violation of this chapter.
- (g) It shall be unlawful for any person to construct any improvement, other than public improvements such as streets, utilities and drainage structures, in any development that has not had its final plat approved by the commission and recorded with the county clerk. It is an exception to the application of this subsection if:
  - (1) Within a phased development containing public improvements that have not yet been finally accepted, a developer constructs no more than four model homes, provided that:
    - a. All off-site drainage or regional improvements have been installed, inspected and accepted by the city;
    - b. Each model home is inspected and found to meet all building, plumbing and fire code requirements prior to being opened to observation by the public; and
    - c. The home will not be sold or occupied as a dwelling unit until all public improvements within that phase have been completed and accepted by the city; or
  - (2) No extension of a street, public utility, or other public improvement, excluding a sidewalk, is required to support the proposed development of:
    - a. Property subdivided prior to July 13, 1978;
    - b. An accessory building is built on the same lot as a single-family dwelling; provided no additional drainage improvement is required by this Code to support such accessory building; or
    - c. An addition or alteration to a single-family dwelling existing on January 22, 2012; provided no additional drainage improvement is required by this Code to support such addition or alteration.
- (h) Any person who shall violate this chapter shall upon conviction be punished as provided in section 1-14.

(Code 1967, § 27-4; Ord. No. 3655, § 3, 7-28-83; Ord. No. 5004, § 1, 5-12-88; Ord. No. 11,822, § 2, 1-12-12; Ord. No. 14,175, § 3, 9-26-19)

#### Sec. 126-6. Subdivision Variance.

Subdivision Variances, unless otherwise stated, shall be conducted in accordance with the requirements of Article 1, Division 3, Section 1.29.5.

(Code 1967, § 27-6; Ord. No. 3655, § 3, 7-28-83; Ord. No. 14,175, § 4, 9-26-19)

Sec. 126-7 Utilization.

No building permit shall be issued until the city engineer has stated in writing his acceptance of the subdivision improvements, as provided in section 126-455, and the plat of the subdivision has been recorded.

(Code 1967, § 27-63; Ord. No. 3655, § 3, 7-28-83; Ord. No. 14,175 , § 5, 9-26-19)

<sup>2</sup>Cross reference(s)—Administration, ch. 2.

## **DIVISION 2. ADMINISTRATION.**

Sec. 126-36 Filing fee for plats.

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

(Code 1967, § 27-22; Ord. No. 3655, § 3, 7-28-83; Ord. No. 4376, § 1, 2-13-86; Ord. No. 12,986, § 7, 10-8-15)

Note(s)—It should be noted that § 7 of Ord. No. 12,986 , adopted Oct. 8, 2015, has an effective date of Jan. 1, 2016.

Sec. 126-37 Procedures for submissions and resubmissions.

- (a) *Initial submissions.* All plats shall be submitted to the planning and development services department on the 28th day prior to the date of a regularly scheduled planning and zoning commission meeting. The commission and the director shall consider timely submitted plats only after the same are filed.
- (b) *Resubmissions.* If a filed plat has not been unconditionally approved, it shall be resubmitted only on the 14th day prior to a regularly scheduled planning and zoning commission meeting. The commission and the director shall consider only timely resubmitted plats.
- (c) *Withdrawals.* A plat may be withdrawn at any time by applicant at its own request; and, upon its resubmission, shall be considered an initial submission subject to subsection (a) of this section.
- (d) *Rejection.* Plat submissions or resubmissions failing to meet the time requirements of this section shall be automatically rejected and will not be received.

( Ord. No. 14,175 , § 6, 9-26-19)

Secs. 126-38—126-65. Reserved.

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

Sec. 126-66. Scope of division.

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

(Code 1967, § 27-23(a); Ord. No. 3655, § 3, 7-28-83)

Sec. 126-67. Lot consolidation requirements.

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

(Code 1967, § 27-23(b); Ord. No. 3655, § 3, 7-28-83)

Sec. 126-68. Lot line adjustment requirements.

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

(Code 1967, § 27-23(c); Ord. No. 3655, § 3, 7-28-83)

Sec. 126-69. Procedure for commission approval.

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

- (3) A scale drawing on legal size paper showing all lots involved, as platted, and as desired.
- (b) Action of the commission shall be final, and no proposal regarding the same lots shall be considered for a period of six months.
- (c) Approval by the Planning & Development Director requires the submittal of items in subsection (a) of this section at any time.

(Code 1967, § 27-23(d), (e); Ord. No. 3655, § 3, 7-28-83; Ord. No. 8399, § 1, 9-10-98; Ord. No. 8649, § 1, 8-12-99; Ord. No. 12,986, § 8, 10-8-15)

Note(s)—It should be noted that § 8 of Ord. No. 12,986, adopted Oct. 8, 2015, has an effective date of Jan. 1, 2016.

Secs. 126-70—126-95. Reserved.

### **DIVISION 3.25. SMALL SUBDIVISIONS**

Sec. 126-96. Scope of division.

*Small subdivision* means a subdivision of 12 or fewer lots.

(Code 1967, § 27-64(a); Ord. No. 3655, § 3, 7-28-83; Ord. No. 7693, § 3, 5-9-96)

Cross reference(s)—Definitions generally, § 1-2.

Sec. 126-97. Platting procedure.

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

(Code 1967, § 27-64(b); Ord. No. 3655, § 3, 7-28-83; Ord. No. 7693, § 3, 5-9-96; Ord. No. 12,986, § 9, 10-8-15)

Note(s)—It should be noted that § 9 of Ord. No. 12,986, adopted Oct. 8, 2015, has an effective date of Jan. 1, 2016.

Sec. 126-98. General standards.

The developer of a small subdivision must comply in all respects with the engineering and construction standards for subdivisions established by this chapter, except as provided by section 126-99.

(Code 1967, § 27-64(c); Ord. No. 3655, § 3, 7-28-83; Ord. No. 7693, § 3, 5-9-96)

Sec. 126-99. Variances.

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

(Code 1967, § 27-64(d); Ord. No. 3655, § 3, 7-28-83; Ord. No. 7693, § 3, 5-9-96)

Secs. 126-100—126-104. Reserved.

### **DIVISION 3.5. MINOR PLATS**

Sec. 126-105. Scope of division.

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

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

- (1) Each lot of the subdivision shall have frontage on an existing public street, and shall not require the creation of any new street, or the extension of any existing street;
- (2) The subdivision shall be served by existing municipal utilities of adequate capacity, and shall not require the extension of any municipal utilities, except for the installation of service lines to the individual lot(s) from existing mains of adequate capacity; and
- (3) No variance from the standards of this Code is required. (Ord. No. 8815, § 2, 1-27-00)

Sec. 126-106. Platting procedures.

- (a) *Submission of preliminary plat.* Application for the approval of a minor plat shall be made by the owner or his authorized agent and shall be made on a form prescribed by the director of planning and community development. The applicant shall submit the completed application form and five copies of the preliminary plat to the director.

- (b) *Application fee.* An application fee in the amount prescribed in section 2-595 shall accompany every application for a minor plat.
- (c) *Administrative review.* The director of planning and community development shall review the proposed minor plat to ensure compliance with all appropriate requirements of this Code. The director of planning and community development may submit the minor plat to other departments for review and comment, as the director deems necessary. Within ten business days after the date of the application, the minor plat shall be returned to the applicant along with written analysis detailing the items which must be addressed in order to comply with the Code.
- (d) *Submission and approval of final plat.* Within ten business days of receipt of the written analysis, the applicant shall submit to the Planning & Development Director its final plat which shall include the following items:
  - (1) A reproducible mylar of the final plat, and the copies of the original submittal with staff analysis and commentary;
  - (2) Five true to scale 18 inch by 24 inch copies of the final plat;
  - (3) Tax certificates stating that no taxes are delinquent against the property; and
  - (4) The appropriate fees for filing the plat with the county clerk.

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

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

(Ord. No. 8815, § 2, 1-27-00; Ord. No. 12,986, § 10, 10-8-15)

Note(s)—It should be noted that § 10 of Ord. No. 12,986, adopted Oct. 8, 2015, has an effective date of Jan. 1, 2016.

Sec. 126-107. Review by the commission.

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

(Ord. No. 8815, § 2, 1-27-00)



Sec. 126-108. Limitation.

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

(Ord. No. 8815, § 2, 1-27-00)

### **DIVISION 3.6. MINOR REPLATS**

Sec. 126-109. Scope of division.

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

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

(1) Each lot of the subdivision shall have frontage on an existing public street, and shall not require the creation of any new street, or the extension of any existing street;

(2) The subdivision shall be served by existing municipal utilities of adequate capacity, and shall not require the extension of any municipal utilities, except for the installation of service lines to the individual lot(s) from existing mains of adequate capacity; and

(3) No variance from the standards of this Code is required. (Ord. No. 11,363, § 1, 5-27-10)

Sec. 126-110. Platting procedures.

(a) *Submission of preliminary plat.* Application for the approval of a minor replat shall be made by the owner or his authorized agent and shall be made on a form prescribed by the director of planning and community development. The applicant shall submit the completed application form and five copies of the preliminary plat to the director.

(b) *Application fee.* An application fee in the amount prescribed in section 2-595 shall accompany every application for a minor replat.

(c) *Administrative review.* The director of planning and community development shall review the proposed minor replat to ensure compliance with all appropriate requirements of this Code. The director of planning and community development may submit the minor replat to other departments for review and comment, as the director deems necessary. Within ten business days after the date of the application, the minor replat shall be returned to the applicant along with written analysis detailing the items which must be addressed in order to comply with the Code.

(d) *Submission and approval of final plat.* Within ten business days of receipt of the written analysis, the applicant shall submit to the director of planning and community development its final plat which shall include the following items:

(1) A reproducible mylar of the final plat, and the copies of the original submittal with staff analysis and commentary;

(2) Five true to scale 18-inch by 24-inch copies of the final plat;

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

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

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

(Ord. No. 11,363, § 1, 5-27-10; Ord. No. 12,986 , § 11, 10-8-15)

Note(s)—It should be noted that § 11 of Ord. No. 12,986 , adopted Oct. 8, 2015, has an effective date of Jan. 1, 2016.

Sec. 126-111. Review by the commission.

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

(Ord. No. 11,363, § 1, 5-27-10)

Sec. 126-112. Limitation.

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

(Ord. No. 11,363, § 1, 5-27-10)

Secs. 126-113, 126-114. Reserved.

### **DIVISION 3.7. AMENDING PLATS**

Sec. 126-115. Scope of division.

*Amending plat* means an amendment to a plat, previously approved by the commission and duly recorded, which is submitted to the commission for approval and recording, which is signed by the applicants and is solely for one or more of the purposes enumerated in section 126-116. An amending plat is not to be considered as a replat or resubdivision and may not contain any changes or additions to the physical characteristics of the original subdivision, but is intended only to correct errors or miscalculations.

(Ord. No. 8815, § 2, 1-27-00; Ord. No. 14,175 , § 7, 9-26-19)

Sec. 126-116. Purpose of amending plat.

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

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

- d. The amendment does not create or require the creation of a new street or make necessary the extension of municipal facilities.

(Ord. No. 8815, § 2, 1-27-00; Ord. No. 14,175 , § 8, 9-26-19)

Sec. 126-117. Platting procedures.

- (a) *Submission of preliminary plat.* Application for the preliminary approval of an amending plat shall be made by the applicants or their authorized agent and shall be made on a form prescribed by the director of planning and community development. The application shall be accompanied by five copies of the preliminary development plan of the entire development drawn to scale and showing streets or drives, utility easements, and lots. A boundary survey or a certified boundary description by a registered public surveyor shall also be submitted.
- (b) *Application fee.* An application fee in the amount prescribed in section 2-595 shall accompany every application for an amending plat.
- (c) *Administrative review.* The director of planning and community development shall review the proposed amending plat to ensure compliance with all appropriate requirements of the Code. The director of planning and community development may submit the amending plat to other departments for review and comment, as the director deems necessary. Within ten business days after the date of the application, the amending plat shall be returned to the applicant along with written analysis detailing the items which must be addressed in order to comply with the Code.
- (d) *Submission and approval of final plat.* Within ten business days of receipt of the written analysis, the applicant shall submit to the director of planning and community development its final plat which shall include the following items:
  - (1) A reproducible mylar of the final plat, and the copies of the original submittal with staff analysis and commentary;
  - (2) Five true to scale 18-inch by 24-inch copies of the final plat;
  - (3) Tax certificates stating that no taxes are delinquent against the property; and
  - (4) The appropriate fees for filing the plat with the county clerk.

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

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

(Ord. No. 8815, § 2, 1-27-00; Ord. No. 12,986 , § 12, 10-8-15)

Note(s)—It should be noted that § 12 of Ord. No. 12,986 , adopted Oct. 8, 2015, has an effective date of Jan. 1, 2016.

Sec. 126-118. Review by the commission.

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

(Ord. No. 8815, § 2, 1-27-00)

Secs. 126-119—126-124. Reserved.

## **DIVISION 4. SUBDIVISION PLAT**

### **Subdivision I. In General**

Sec. 126-125. Scope of division.

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

Sec. 126-126. Platting procedure.

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

(Code 1967, § 27-18; Ord. No. 3655, § 3, 7-28-83; Ord. No. 5263, § 1, 4-27-89; Ord. No. 7693, § 1, 5-9-96; Ord. No. 14,175, § 9, 9-26-19)

Secs. 126-127—126-145. Reserved.

### **Subdivision II. Departmental Review**

Sec. 126-146. Pre-application conference and general plan required.

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

(Code 1967, § 27-18(a); Ord. No. 3655, § 3, 7-28-83; Ord. No. 5263, § 1, 4-27-89; Ord. No. 7693, § 1, 5-9-96)

Sec. 126-147. Preliminary approval application.

Application for preliminary approval of the subdivision plat shall be made by the owner or his authorized agent of all affected property and shall be submitted on a form prescribed by the city planning staff and submitted with the planning and community development department. The application shall be accompanied by a fee prescribed in the fee schedule, section 126-36, and shall be accompanied by the following information:

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

A development schedule demonstrating that the developer intends to commence construction within one year after the approval of the final development plan and will proceed diligently to completion; and

- (3) If it is proposed that the final plan will be executed in stages, a schedule thereof shall be required.

(Code 1967, § 27-18(b); Ord. No. 3655, § 3, 7-28-83; Ord. No. 5263, § 1, 4-27-89; Ord. No. 7693, § 1, 5-9-96; Ord. No. 14,175, § 10, 9-26-19)

Sec. 126-148. Submission of required data.

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

(Code 1967, § 27-18(c); Ord. No. 3655, § 3, 7-28-83; Ord. No. 5263, § 1, 4-27-89; Ord. No. 7693, § 1, 5-9-96; Ord. No. 8649, § 2, 8-12-99)

Secs. 126-149—126-165. Reserved.

### **Subdivision III. Preliminary Approval**

Sec. 126-166. Procedures.

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

(Code 1967, § 27-19; Ord. No. 3655, § 3, 7-28-83)

Sec. 126-167. Engineering report.

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

(Code 1967, § 27-20.1; Ord. No. 3655, § 3, 7-28-83; Ord. No. 5004, § 2, 5-12-88)

Secs. 126-168—126-185. Reserved.

### **Subdivision IV. Final Approval**

Sec. 126-186. Commission review; extension of time.

- (a) Within 1,095 days after preliminary subdivision plat approval and within 30 days of submission of the final plan, the commission shall examine such plat and determine whether it conforms to all applicable criteria and standards and whether it conforms in all substantial respects to the previously approved plat. The developer or his engineer shall be present at the meeting.
- (b) When the developer believes that an extension of time is needed beyond the time allowed in subsection (a) of this section, the developer may appeal in writing to the director of planning and community development for additional time and must specify the reasons therefor. The director of planning and community development may extend the 1,095 days by up to 90 days, which shall not be more than 1,185 days from preliminary approval action by the commission, if the director of planning and community development finds that the requested extension of time is not caused,

directly or indirectly, by any action or omission of the developer, his engineer, or their respective officers, agents or employees or by the diligent pursuit thereof by such persons.

- (c) When the developer believes that an extension of time is needed beyond the time allowed in subsections (a) and (b) of this section, the developer may appeal in writing to the commission for additional time and must specify the reasons therefor. The commission then may grant an additional extension of time not to exceed:

- (1) Ninety days from the extension granted pursuant to subsection (b) of this section, or
- (2) One hundred eighty days if no extension was granted pursuant to subsection (b) of this section,

if the commission finds that the requested extension of time is not caused, directly or indirectly, by any action or omission of the developer, his engineer, or their respective officers, agents or employees or by the diligent pursuit thereof by such persons.

- (d) When the developer believes that an extension of time is needed beyond the time allowed in subsections (a), (b) and (c) of this section, the developer may appeal in writing to the city council for additional time and must specify the reasons therefor. The city council then may grant an additional extension of time not to exceed:

- (1) One hundred eighty days from the extensions granted pursuant to subsections (b) and (c) of this section,
- (2) Two hundred seventy days if an extension was granted pursuant to subsection (b) or (c) of this section, but not both, or
- (3) Three hundred sixty days if no extension was granted pursuant to subsections (b) and (c) of this section,

if the city council finds that the requested extension of time is not caused, directly or indirectly, by any action or omission of the developer, his engineer, or their respective officers, agents or employees or by the diligent pursuit thereof by such persons.

(Code 1967, § 27-20.2(a); Ord. No. 3655, § 3, 7-28-83; Ord. No. 5263, § 2, 4-27-89; Ord. No. 7693, § 2, 5-9-96; Ord. No. 8973, § 1, 8-24-00)

#### Sec. 126-187. Submission of plat to director.

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

(Code 1967, § 27-20.2(b); Ord. No. 3655, § 3, 7-28-83; Ord. No. 5263, § 2, 4-27-89; Ord. No. 7693, § 2, 5-9-96; Ord. No. 8649, § 3, 8-12-99)

#### Sec. 126-188. Engineering report.

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



(Code 1967, § 27-20.2(c); Ord. No. 3655, § 3, 7-28-83; Ord. No. 5263, § 2, 4-27-89; Ord. No. 7693, § 2, 5-9-96; Ord. No. 9544, § 1, 4-10-03)

Sec. 126-189. Contents of final plat; construction approval.

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

"Parts of this plat lower than the 100-year flood elevation have a one percent chance each year of being inundated by flooding."
- (b) All construction shall be inspected while in progress by the city engineering department and must receive final approval upon completion by the city engineer. A letter by such officers stating that the construction conforms to the specifications and standards contained in or referred to in this division must be presented to the planning and development services department prior to filing the final plat unless a security is submitted in accordance with subsection (c) hereof.
- (c) If the subdivider chooses to file security in lieu of completing construction prior to final plat filing, he may utilize one of the methods of posting security detailed herein based upon the type of development.
  - (1) For all developments except for those listed in subsection (c)(2) and (c)(3) of this section, a subdivider may only file security in lieu of completing construction if all water lines, sanitary sewer lines, and stormwater systems are completed and approved by the city engineer and if at least 50 percent of all required improvements, including streets, sidewalks, and lift stations, if any, have been completed. If these requirements are met, the subdivider may:
    - a. File with the department of planning and development services a bond executed by a surety company licensed to do business in the state and acceptable to the city, on the form

provided by the city, in an amount equal to 110 percent of the estimated cost of the improvements required by this chapter and conditioned upon the satisfactory completion of all required improvements, including streets and lift stations, if any, in full compliance with the Code within the time for completion as established by the city engineer. The estimated cost shall be approved by the city

engineer, and the performance bond shall be approved as to form and legality by the city attorney;

- b. Place on deposit in a bank or trust company in the name of the city and approved by the city and file a copy of such with the department of planning and development services in a trust account a sum of money equal to 110 percent of the estimated cost of all improvements required by this chapter, which account shall be conditioned upon the satisfactory completion of all required improvements, including streets and lift stations, if any, in full compliance with the Code within the time for completion as established by the city engineer. The estimated cost shall be approved by the city engineer. Selection of the trustee shall be subject to approval by the city, and the trust agreement shall be executed on the form provided by the city and approved as to form and legality by the city attorney;
- c. File with the department of planning and development services a letter, on the form provided by the city, signed by a principal officer of a bank or federally insured savings and loan association or other financial institution acceptable to the city, agreeing to pay to the city, on demand, a stipulated sum of money equal to 110 percent of the estimated cost of improvements required by this chapter to apply to the costs of installation of all improvements for which the subdivider or developer is responsible under this chapter. The time for completion shall be established by the city engineer and the guarantee payment sum shall be the estimated costs as approved by the city engineer. The letter shall state the name of the subdivision and shall list the improvements and amounts which the subdivider or developer is required to provide; or

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

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

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

- (3) For developments located within the corporate limits of the city, a subdivider may file for final plat prior to completing construction of water lines, sanitary sewer lines, stormwater systems, and required improvements, including streets, sidewalks, and lift stations, if any, if:
  - a. The subdivider has entered into a cost-share agreement with the city regarding the construction of all or a portion of the required improvements;

- b. The subdivider has rendered its share of the cost of the required improvements to the city in accordance with the cost-share agreement;
- c. The cost-share agreement provides for the dedication of any easements or rights-of-way not shown on the final plat; and
- d. Either:
  - 1. The development is comprised of only commercial uses, one of which has a building footprint in excess of 100,000 square feet; or
  - 2. The development is comprised of only commercial uses consisting of at least 30 acres.

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

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

- (d) After final inspection, the city engineer shall notify the subdivider and the director of planning and development services in writing as to his acceptance or rejection of the construction. If accepted, the security is released. He shall reject such construction only if it fails to comply with the standards and specifications contained or referred to in this chapter. If he rejects such construction, the city attorney shall proceed to enforce the guarantees provided in this section. The city engineer may approve partial releases of the security retained by the city upon partial acceptance by the city engineer of required improvements. Where good cause exists, the city engineer may extend the period of time for completion under subsection (b) of this section. Such extension of time shall be reported to the department of planning and development services. No such extension shall be granted unless security as provided in subsection (b) of this section has been provided by the subdivider covering the extended period of time.

(Code 1967, § 27-20.2(d); Ord. No. 3655, § 3, 7-28-83; Ord. No. 5263, § 2, 4-27-89; Ord. No. 7693, § 2, 5-9-96; Ord. No. 9284, § 1, 12-13-01; Ord. No. 11,979, § 1, 7-26-12; Ord. No. 11,980, § 3, 7-26-12; Ord. No. 12,647, § 1, 9-25-14; Ord. No. 14,175, § 11, 9-26-19)

Secs. 126-190—126-215. Reserved.

## **DIVISION 5. SUBDIVISION VARIANCES**

Secs. 126-222—126-250. Reserved.

## **DIVISION 6. SPECIAL DEVELOPMENTS & SUBDIVISIONS**

### **SPECIAL DEVELOPMENT IN GENERAL**

Sec. 126-251. Requirements for developments falling outside existing categories.

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

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

(Code 1967, § 27-36; Ord. No. 6983, § 2, 4-14-94)

Sec. 126-252. Floodprone areas.

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

(Code 1967, § 27-61; Ord. No. 3655, § 3, 7-28-83)

Cross reference(s)—Floods generally, ch. 110.

Sec. 126-253. Gate design for emergency access.

- (a) *Approval.* The construction plans of the design of any gate constructed in the development of commercial properties, industrial properties or private subdivisions must be submitted to and approved by the chief of the fire department as well as the city engineer.
- (b) *Access.* All restricted access entrances in commercial or industrial developments or in private subdivision developments must provide at all times a means for access by city employees discharging their responsibilities, providing any municipal services, or enforcing any of the rules and regulations contained in this code or any code adopted by this code as well as by all personnel

of other governmental entities charged with enforcing laws, rules or regulations or providing services within the city into the subdivision in accordance with this section. If the corporation, community association or other legal entity responsible for maintaining the private streets fails to maintain reliable access as required to provide the city services, the city may enter the subdivision and remove any gate or device which constitutes a barrier to access at the sole expense of the corporation, community association or other legal entity responsible for maintaining the same. The corporation, community association or other legal entity responsible for maintaining the streets in need of repair shall be responsible for the costs associated with the removal of any and all gates from a private subdivision together with all maintenance expenses to bring the street in compliance with this division. Such costs must be paid within 30 days after receipt of a bill therefor.

- (c) *Location and specifications.* All plans for installation of gates shall be approved by the chief building official and the chief of the fire department prior to any construction. Gates shall be set back at least 45 feet from any public way to allow fire apparatus to park completely off the street while gaining access. The minimum clear opening for any gate shall be equal to the minimum width of the fire lane or fire apparatus access road. The minimum clear opening must remain unobstructed at all times. A minimum centerline turning radius on either side of the gate shall be 35 feet. Gates shall be equipped with an automatic reversing system in the event the gate strikes an object while opening or closing. There shall be neither exposed gears nor overhead electrical wiring in any gate system. Electric gates shall be equipped with a single key, city-approved emergency access system designed to open and lock open both the entry and exit gates. The key switch shall be installed in a location approved by the fire department. In addition, a system key controlled "fail safe" mechanism shall be installed to allow the gate to be manually opened in the event of a power or mechanical failure. All fittings for system padlocks shall have a minimum one-half inch diameter hole. The city-approved control access system shall be operational and pass inspections of both the chief building official as well as the chief of the fire department before the gate may be placed in operation. Secondary emergency access gates shall be equipped with city-approved emergency access system padlocks and shall be unobstructed at all times. These gates shall be equipped with a positive mechanical latch to lock them in the open position. All fire lane widths, turning radiuses, set back and turnaround requirements of this Code will apply to the portion of the private street where the gate is installed.

(Ord. No. 10,683, § 1, 8-23-07)

Secs. 126-254—126-280. Reserved.

## **RESIDENTIAL SUBDIVISIONS**

### **Subdivision I. In General**

Sec. 126-281. Location of fire hydrants.

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

(Ord. No. 10,683, § 2, 8-23-07)

Secs. 126-282—126-300. Reserved.

## **Subdivision II. Reserved<sup>2</sup>**

Secs. 126-301—126-320. Reserved.

## **Condominium - Subdivision III.**

### **Sec. 126-321. Definitions.**

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

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

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

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

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

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

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

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

*General common elements* means and includes the following:

- (1) The land, whether leased or in fee simple, on which the building stands;
- (2) The foundations, bearing walls and columns, roofs, halls, lobbies, stairways and entrances and exits or communication ways;
- (3) The basement, flat roofs, yard and gardens, except as otherwise provided or stipulated;
- (4) The premises for the lodging of janitors or persons in charge of the building, except as otherwise provided or stipulated;

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<sup>2</sup> Editor's note(s)—Ord. No. 10,287, § 1, adopted March 23, 2006, repealed Subdiv. II, §§ 126-301—126-304, which pertained to planned unit developments and derived from Code 1967, § 27-31(a)—(d), Ord. No. 3655, § 3, adopted July 28, 1983.

- (5) The compartments or installation of central services such as power, light, gas, cold and hot water, refrigeration, central air conditioning and central heating, reservoirs, water tanks and pumps, swimming pools and the like;
- (6) The elevators and shafts, garbage incinerators and in general all devices or installations existing for common use; and
- (7) All other elements of the building desirable or rationally of common use or necessary to the existence, upkeep and safety of the condominium regime and any other elements described in the declaration.

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

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

(Code 1967, § 27-32(b); Ord. No. 3655, § 3, 7-28-83)

Cross reference(s)—Definitions generally, § 1-2.

Sec. 126-322. Commission approval required.

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

(Code 1967, § 27-32(a); Ord. No. 3655, § 3, 7-28-83)

Sec. 126-323. Townhouse-type dwelling units.

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

(Code 1967, § 27-32(c); Ord. No. 3655, § 3, 7-28-83)

Sec. 126-324. Apartment-type dwelling units.

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

(Code 1967, § 27-32(d); Ord. No. 3655, § 3, 7-28-83)

Sec. 126-325. Procedure for approval.

- (a) Every developer, sole owner or the co-owners of a building or proposed building within the city or

its extraterritorial jurisdiction who expressly declares, through the recordation of a master deed, lease or declaration, the desire to submit the property to a condominium regime shall file a plat of such land with the commission for its approval in conformance with the standard rules of such commission and dedicating public streets, easements and all other dedications and covenants required in this subdivision.

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

(Code 1967, § 27-32(e); Ord. No. 3655, § 3, 7-28-83)

Secs. 126-326—126-345. Reserved.

## **Townhouse Subdivisions - Subdivision IV.**

### **Sec. 126-346. Definitions.**

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



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

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

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

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

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

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

(Code 1967, § 27-33(a); Ord. No. 3655, § 3, 7-28-83; Ord. No. 3899, § 1, 7-12-84)

Cross reference(s)—Definitions generally, § 1-2.

#### Sec. 126-347. Requirements generally.

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

(Code 1967, § 27-33(b); Ord. No. 3655, § 3, 7-28-83; Ord. No. 3899, § 1, 7-12-84)

#### Sec. 126-348. Streets.

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

(Code 1967, § 27-33(b)(1); Ord. No. 3655, § 3, 7-28-83; Ord. No. 3899, § 1, 7-12-84)

#### Sec. 126-349. Reserved.

Editor's note(s)—Section 1 of Ord. No. 11,607, adopted March 24, 2011, repealed § 126-349, which pertained to building setback lines. See the Code Comparative Table for a complete derivation.

Sec. 126-350. Lots.

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

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

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

(Code 1967, § 27-33(b)(3); Ord. No. 3655, § 3, 7-28-83; Ord. No. 3899, § 1, 7-12-84)

Sec. 126-351. Reserved.

Editor's note(s)—Section 1 of Ord. No. 11,607, adopted March 24, 2011, repealed § 126-351, which pertained to density standard. See the Code Comparative Table for a complete derivation.

Sec. 126-352. Screening walls.

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

(Code 1967, § 27-33(b)(5); Ord. No. 3655, § 3, 7-28-83; Ord. No. 3899, § 1, 7-12-84)

Secs. 126-353—126-380. Reserved.

## COMMERCIAL DEVELOPMENTS

### Sec. 126-381. Definitions.

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

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

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

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

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

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

(Code 1967, § 27-34(a); Ord. No. 3655, § 3, 7-28-83; Ord. No. 3836, § 1, 4-26-84; Ord. No. 6149, § 1, 2-13-91)

Cross reference(s)—Definitions generally, § 1-2.

### Sec. 126-382. Plat required.

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

- (a) A plat of such land with the commission for its approval in conformance with the rules of such commission and dedicating thereon fire lane easements for approved fire access roads and all other dedications and covenants required in this division when the building is:
  - (1) Designed for or to be used for occupancy by two families;
  - (2) Designed for use or occupancy by more than one business, industrial or commercial establishment; or
  - (3) Located more than 150 feet from a public street or in conflict with the major thoroughfare plan; or

- (b) A fire lane easement with the planning department for its director's written approval in conformance with the standards of this division; provided that there are no covenants or dedications required, other than the dedication of a fire lane easement for approved fire access roads. The easement must be in a form approved by the city attorney.

(Code 1967, § 27-34(b)(1); Ord. No. 3655, § 3, 7-28-83; Ord. No. 3836, § 1, 4-26-84; Ord. No. 6149, § 1, 2-13-91; Ord. No. 8771, § 1, 11-23-99; Ord. No. 10,683, § 3, 8-23-07; Ord. No. 10,984, § 1, 10-9-08)

#### Sec. 126-383. Plat contents, preparation and filing.

- (a) The plat required in section 126-382(a) shall accurately describe the entire area or tract of land upon which the buildings are to be located and shall indicate the location of all public streets, fire lane easements, buildings, easements and fire hydrants. Such plat shall be prepared in conformance with the requirements in this division and with rules of the commission and shall be submitted according to the plat submittal procedure and requirements. Upon final approval of the commission, the plat shall be recorded in the map records of the county wherein the land is situated.
- (b) The easement required in section 126-382(b) shall accurately describe by a metes and bounds description the location of the fire lane easement. Such easement shall be prepared in conformance with the requirements in this division and with rules of the planning department for the written approval of the Planning & Development Director. Upon approval by the Planning & Development Director, the owner shall tender to the city an amount sufficient for the city to record the easement; and the easement shall be recorded in the deed records of the county wherein the land is situated.
- (c) Building permits may be issued only upon satisfactory compliance with this division.
- (d) If a fire lane is required by this Code, the planning and zoning commission may approve a final plat only if the plat dedicates the required fire lane or if a fire lane easement has been approved by the Planning & Development Director and funds have been tendered to the city for the recording of the same.

(Code 1967, § 27-34(b)(2); Ord. No. 3655, § 3, 7-28-83; Ord. No. 3836, § 1, 4-26-84; Ord. No. 6149, § 1, 2-13-91; Ord. No. 10,984, § 2, 10-9-08)

#### Sec. 126-384. Waiver of final plat.

- (a) Notwithstanding the general requirements in sections 126-382 and 126-383, the director of planning and community development may, upon review of the preliminary plat submittal as required, not require the filing of a final plat in the county records provided the following specific conditions are met:
  - (1) A fire lane or utility easement will not be required due to the location and accessibility of the building with respect to the existing public street system;
  - (2) Density requirements are not exceeded;
  - (3) All structures lie within 150 feet of a dedicated and improved street;
  - (4) No conflict exists with the major thoroughfare plan; and
  - (5) No street right-of-way dedication is required.
- (b) This action does not release the developer from meeting drainage requirements.

(Code 1967, § 27-34(b)(3); Ord. No. 3655, § 3, 7-28-83; Ord. No. 3836, § 1, 4-26-84; Ord. No. 6149, § 1, 2-13-91; Ord. No. 10,683, § 4, 8-23-07)

Sec. 126-385. Location of structures; fire hydrants; fire lane easements.

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

(Code 1967, § 27-34(c)(1); Ord. No. 3655, § 3, 7-28-83; Ord. No. 3836, § 1, 4-26-84; Ord. No. 6149, § 1, 2-13-91; Ord. No. 8555, § 1, 4-8-99; Ord. No. 10,683, § 5, 8-23-07)

Sec. 126-386. Site standards.

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Sec. 126-387. Off-street parking.

- (a) The commission shall be responsible for off-street parking requirements for commercial developments that must be platted
- (b) The commission may grant an exception to the requirements of chapter 112 when in its opinion one or more of the following apply to the platted development:
  - (1) The exception is not inconsistent with the intent of the ordinance;
  - (2) The development of additional phases will include provisions for any shortage;

- (3) The proposed development is shown to not fit existing categories; or
- (4) The proposed structures include areas that will not be used as a part of the majority use proposed (Code 1967, § 27-34(e); Ord. No. 3655, § 3, 7-28-83; Ord. No. 3836, § 1, 4-26-84; Ord. No. 6149, § 1, 2-13-91; Ord. No. 11,866, § 24, 2-23-12)

Secs. 126-388—126-415. Reserved.

## **LARGE LOT ESTATE DEVELOPMENT**

### **Sec. 126-416. Definitions.**

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

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

(Code 1967, § 27-35(1); Ord. No. 6983, § 1, 4-14-94)

Cross reference(s)—Definitions generally, § 1-2.

### **Sec. 126-417. Scope.**

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

(Code 1967, § 27-35; Ord. No. 6983, § 1, 4-14-94)

### **Sec. 126-418. Lot standards.**

#### **(a) *Minimum area.***

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

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

- (b) *Setback requirements.* Setbacks in the development shall be as follows:
    - (1) Front yard, 40 feet;
    - (2) Rear yard, 20 feet; and
    - (3) Side yard, ten feet.
  - (c) *Street frontage.* The minimum street frontage shall be 60 feet.
  - (d) *Minimum width.* The minimum lot width shall be 120 feet, to be measured at the building setback line.
  - (e) (Code 1967, § 27-35(2); Ord. No. 6983, § 1, 4-14-94; Ord. No. 8934, § 1, 3-22-00)
- Cross reference(s)—Table of property development standards, § 130-601.

Sec. 126-419. Streets.

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

- (1) *Right-of-way.* The street right-of-way shall be a minimum of 60 feet;
- (2) *Asphalt streets.* Asphalt streets shall be constructed as follows:
  - a. The width shall be 22 feet of paved HMAC surface;
  - b. Shoulders shall be four feet on each side paved with an asphaltic chip seal; and
  - c. The pavement and shoulders shall both have an eight-inch flexible base and a six-inch lime stabilized subgrade. The HMAC surface shall be 1.5 inches thick.
- (3) *Concrete streets.* Concrete streets shall be constructed as follows:
  - a. The width shall be 22 feet of paved surface;
  - b. Shoulders shall not be required on concrete streets; and
  - c. The concrete pavement shall be a minimum of six inches thick with a six-inch lime stabilized subgrade that extends one foot beyond the edge of the pavement. The concrete pavement shall be constructed in accordance with specifications for such pavement provided for in article V of this chapter. The outer three feet of each side of the pavement shall have the steel reinforcement placed on 12-inch centers; and
- (4) *Roadside ditches.* Roadside ditches may be used for drainage if constructed as follows:
  - a. The maximum side slopes shall be 3:1; and
  - b. The maximum depth shall be five feet measured from the crown of the finished pavement.

(Code 1967, § 27-35(3); Ord. No. 6983, § 1, 4-14-94)

Sec. 126-420. Extension of utilities.

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

(Code 1967, § 27-35(3)e; Ord. No. 6983, § 1, 4-14-94)

Secs. 126-421—126-430. Reserved.

## **PRIVATE SUBDIVISION DEVELOPMENT**

### **Sec. 126-431. Definitions.**

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

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

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

(Ord. No. 8452, § 1, 11-24-98)

### **Sec. 126-432. Applicability of division.**

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

(Ord. No. 8452, § 1, 11-24-98)

### **Sec. 126-433. Infrastructure requirements.**

- (a) *Private streets.* Improved portions of private streets shall comply with the specifications and design standards set forth in articles IV and V of this chapter. Private streets shall be owned and maintained by a corporation, community association or other legal entity established for this purpose.
- (b) *Sidewalks, driveways, curbs and gutters.* Cement or concrete sidewalks, driveways, curbs and gutters shall comply with the specifications and regulations contained in chapter 122. Deed restrictions shall be required to ensure sidewalks remain unobstructed. Sidewalks, curbs and gutters in a private subdivision shall be owned and maintained by a corporation, community association or other legal entity established for this purpose.
- (c) *Wheelchair ramps.*
  - (1) Wheelchair ramps shall be constructed at the entrance to all crosswalks where sidewalks exists or where otherwise required by section 122-91.
  - (2) Where sidewalks or curbs exist, wheelchair ramps shall be added at locations specified in subsection (1), above, whenever any work is proposed to existing driveways, curbs, or sidewalks. Also, wheelchair ramps shall be added wherever missing sidewalks or curb segments are added in front of any lot or block of subdivision.
  - (3) Wheelchair ramps shall conform to the design and construction standards of the city. Any deviation from the standards must be approved in writing by the director of public works in consultation with the director of human resources.
  - (4) Wheelchair ramps shall be owned and maintained by a corporation, community association or other legal entity established for this purpose.



- (d) *Utilities.* All utility systems shall comply with the requirements of this chapter, chapter 98 and any other applicable regulations of the city. Water, sanitary sewer, and storm sewer systems within a private subdivision shall be dedicated to the public and maintained by the city in the same manner as its other water, sanitary sewer, and storm sewer systems. All utilities so dedicated within the city limits must be accepted in writing by the city prior to recording of the final plat.
- (e) *Easements.* Publicly owned and/or maintained utilities shall be placed in public streets or easements dedicated to the public, which are a minimum of 16 feet in width unless a narrower width is approved by the city engineer.

(Ord. No. 8452, § 1, 11-24-98)

#### Sec. 126-434. Infrastructure compliance.

Upon completion of construction and prior to approval by the city engineer, the city engineer shall be provided with a written certification signed by a registered professional engineer certifying that all infrastructure enumerated in section 126-433 was designed and installed as required by the provisions of this chapter. The construction of all infrastructure detailed in section 126-433 shall be inspected while in progress by the city engineer and must receive final approval upon completion by the city engineer. The platting, review, approval and filing processes described in article II of this chapter shall govern all plats of private subdivisions.

(Ord. No. 8452, § 1, 11-24-98)

#### Sec. 126-435. Common areas and facilities maintenance.

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

- (a) *Inspections.* The city may periodically inspect private streets and sidewalks and require repairs necessary to ensure public health, safety and emergency access as specified in subsection (c), below.
- (b) *Repairs ordered by the city.* All repairs to and maintenance of private streets and sidewalks, which are ordered by the city engineer in writing and sent to the community association or other legal entity responsible for such repairs and/or maintenance as specified in the deed restrictions approved by the city attorney, must be completed within the time specified in the notice. Failure to timely complete the ordered repairs or maintenance may result in any one or more of the following, at the sole option of the city:

- (1) Emergency services being withheld if emergency vehicles cannot safely access the emergency site; and/or
- (2) The removal of all gates inhibiting access to the public and the dedication of the private streets, sidewalks, and rights-of-way to the public.

(Ord. No. 8452, § 1, 11-24-98)

Sec. 126-436. Lot size.

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

(Ord. No. 8452, § 1, 11-24-98; Ord. No. 11,866, § 25, 2-23-12)

Sec. 126-437. Streetlights and signs.

Streetlights and street name signs shall be in compliance with sections 126-642 and 126-643 respectively. Furthermore, the entrances to all private streets from public ways must be marked with a sign stating that the street is a private street.

(Ord. No. 8452, § 1, 11-24-98)

Sec. 126-438. Reserved.

Editor's note(s)—Ord. No. 10,683, § 6, adopted Aug. 23, 2007, repealed § 126-438, which pertained to gate design for emergency access, and derived from Ord. No. 8452, § 1, adopted Nov. 24, 1998.

Sec. 126-439. Location restrictions on private subdivisions.

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

(Ord. No. 8452, § 1, 11-24-98)

Sec. 126-440. Garbage collection.

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

(Ord. No. 8452, § 1, 11-24-98)

Sec. 126-441. Additional information on plat required.

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

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

- (b) *Dedication to public.* The final subdivision plat shall also include verbiage approved by the city attorney which results in the private streets, sidewalks and/or other common areas noted thereon being dedicated, without consideration, to the public at the option of the city should the private streets or sidewalks, or access to the same fail to comply with this division.

(Ord. No. 8452, § 1, 11-24-98)

Sec. 126-442. Notice to purchasers.

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

The real property, described below, that you are about to purchase is located within a private subdivision as defined by Chapter 126 of the Code of Ordinances of the City of Baytown, Texas. The streets, sidewalks, driveways, curbs and gutters within the private subdivision are not maintained by the City of Baytown, but by a corporation, community association or other legal entity, with direct responsibility to, and controlled by, the property owners of property within the private subdivision. Such corporation, community association or other legal entity solely has the obligation to provide for the operation and maintenance of all streets, sidewalks, driveways, curbs, gutters, and other common areas within the subdivision.

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

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

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

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

\_\_\_\_\_  
Signature of Seller

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

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

\_\_\_\_\_  
Signature of Purchaser

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

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

(Ord. No. 8452, § 1, 11-24-98)

Sec. 126-443. Petition to convert to private streets.

- (a) All petitions for the conversion of public streets to private streets shall be submitted by a corporation, community association or other legal entity, which will be responsible for the maintenance and repair of the streets and fulfill the other obligations specified in this division, to the city clerk, who will verify that all of the appropriate signatures are on the petition. The petition must be signed by each person owning property along or property accessed from each proposed private street and must include a metes and bounds description of each street to be conveyed as a private street. If not all of the requisite signatures are on the petition, the city clerk shall return the petition to the corporation,

community association or other legal entity that submitted the same. On the other hand, if the city clerk determines that all of the requisite signatures are on the petition, the city clerk shall submit the petition to the commission for consideration and recommendation to the city council.

- (b) The commission shall review the location, alignment and width for a proposed private street. If such complies with this division as well as the thoroughfare plan, the commission shall recommend that the city council grant preliminary approval of the private street conversion. If the proposed public street dedication does not comply with the thoroughfare plan, the planning and zoning commission shall recommend disapproval.
- (c) The city council, after receipt of the recommendation of the commission shall grant approval or disapproval of the conversion of the street from public to private. If approval is granted:
  - (1) The conveyance of the property shall contain a possibility of reversion back to the city at its option should the street, sidewalks and gates not be maintained in accordance with this division;
  - (2) The corporation, community association or other legal entity established for maintaining and repairing the private street shall tender in full the purchase price of the street to the city within ten days after receiving written notice of the city council's approval of the petition. The sales price shall be determined by an independent appraisal conducted by an appraiser approved by the city manager and certified by the state appraiser licensing and certification board. The appraiser shall be paid by the corporation, community association or other legal entity desiring to purchase the public street;
  - (3) The corporation, community association or other legal entity established for maintaining and repairing the private street shall comply with all other provisions of this division.

(Ord. No. 8452, § 1, 11-24-98; Ord. No. 9621, § 13, 9-11-03)

Secs. 126-444—126-450. Reserved.

## **IMPROVEMENTS**

Sec. 126-451. Payment for required improvements.

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

(Code 1967, § 27-51; Ord. No. 3655, § 3, 7-28-83)

Sec. 126-452. Construction contracts.

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

(Code 1967, § 27-52; Ord. No. 3655, § 3, 7-28-83)

Sec. 126-453. Inspection.

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

(Code 1967, § 27-53; Ord. No. 3655, § 3, 7-28-83; Ord. No. 14,605 , § 20, 12-10-20)

Sec. 126-454. As-built or record plans.

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

(Code 1967, § 27-54; Ord. No. 3655, § 3, 7-28-83; Ord. No. 10,159, § 4, 9-27-05; Ord. No. 12,986 , § 13, 10-8-15; Ord. No. 14,605 , § 21, 12-10-20)

Sec. 126-455. Final acceptance.

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

(Code 1967, § 27-55; Ord. No. 3655, § 3, 7-28-83; Ord. No. 14,605 , § 22, 12-10-20)

Sec. 126-456. Guarantee.

- (a) This section shall be applicable to:

- (1) All subdivisions within the city limits; and

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

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

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

(Code 1967, § 27-56; Ord. No. 3655, § 3, 7-28-83; Ord. No. 9151, § 1, 4-26-01)

Sec. 126-457. Governmental liens.

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

(Code 1967, § 27-57; Ord. No. 3655, § 3, 7-28-83)

Sec. 126-458. Traffic control devices.

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

(Code 1967, § 27-58; Ord. No. 3655, § 3, 7-28-83; Ord. No. 14,605, § 23, 12-10-20)

Sec. 126-459. Cluster box mail service locations.

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

(Code 1967, § 27-59; Ord. No. 3655, § 3, 7-28-83)

Sec. 126-460. Sidewalks.

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

(Ord. No. 11,980, § 4, 7-26-12)

Secs. 126-461—126-485. Reserved.

## **DESIGN STANDARDS**

### **I. In General**

Sec. 126-486. Survey requirements.

- (a) *Monuments.* Monuments, consisting of a three-fourths-inch iron rod or larger, 36 inches in length, shall be placed at all corners of the block lines, the point of intersection of curves and tangents of the subdivision, flush with the finished grade.
- (b) *Benchmarks.*
  - (1) *Required.* One benchmark per subdivision section shall be permanently installed in an approved manner at a location designated by the city engineer. The location and elevation of the benchmark shall be shown on the plat. Permanent benchmarks shall be five-foot-long concrete

posts six inches in diameter with the top to be no more than three inches below the finished grade. All benchmarks shall be installed to survey-grade accuracy.

- (2) *Deposit.* The subdivider or developer shall deposit \$500.00 per required benchmark. The deposit shall be:
  - a. Refunded upon submission of a data sheet which satisfies the requirements of subsection (b)(3) below and upon acceptance by the city engineer of the installation of the benchmarks; or
  - b. Shall be forfeited 90 days after the submission of the final plat.
- (3) *Data sheet.* Unless the deposit is forfeited in accordance with subsection (b)(2)b. above, a reference sketch showing location of all benchmarks on a data sheet shall be submitted to the city engineer. The benchmark data sheet shall be sealed by a registered professional land surveyor licensed to practice in the state and shall contain latitude and longitude based on WGS 84 datum, Texas state plane coordinates south central zone based on NAD 83, ellipsoid height, combined scale factor and orthometric height (Geoid 99 NAVD 88).
- (4) *Waiver.* If the benchmark required in this subsection (b)(1) falls within such proximity to an existing benchmark that the required benchmark is determined by the director of engineering to be unnecessary to the global positioning satellite network of the city, the city engineer may waive the benchmark required in subsection (b)(1).
- (c) *Lot markers.* Lot markers shall be one-half-inch metal rods, at least 24 inches in length, placed at each corner of all lots, flush with the average ground elevation, or they may be countersunk if necessary to avoid being disturbed.

(Code 1967, § 27-49; Ord. No. 3655, § 3, 7-28-83; Ord. No. 9544, § 2, 4-10-03; Ord. No. 10,079, § 1, 6-9-05)

#### Sec. 126-487. Park and playground sites.

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

(Code 1967, § 27-48; Ord. No. 3655, § 3, 7-28-83)

#### Secs. 126-488—126-505. Reserved.

## II. Streets

#### Sec. 126-506. Circulation pattern.

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



(Code 1967, § 27-41(a); Ord. No. 3655, § 3, 7-28-83)

Sec. 126-507. Principal arterials, minor arterials and collectors.

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

(Code 1967, § 27-41(b), (c); Ord. No. 3655, § 3, 7-28-83; Ord. No. 14,605 , § 24, 12-10-20)

Sec. 126-508. Right-of-way width.

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

(Code 1967, § 27-41(d); Ord. No. 3655, § 3, 7-28-83; Ord. No. 14,605 , § 25, 12-10-20)

Sec. 126-509. Curves.

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

(Code 1967, § 27-41(e); Ord. No. 3655, § 3, 7-28-83; Ord. No. 14,605 , § 26, 12-10-20)

Sec. 126-510. Intersections.

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

(Code 1967, § 27-41(f); Ord. No. 3655, § 3, 7-28-83; Ord. No. 14,605 , § 27, 12-10-20)

Sec. 126-511. Culs-de-sac.

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

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

(Code 1967, § 27-41(g); Ord. No. 3655, § 3, 7-28-83)

Sec. 126-512. Partial or half-streets.

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

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

(Code 1967, § 27-41(i); Ord. No. 3655, § 3, 7-28-83)

Sec. 126-513. Block length.

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

(Code 1967, § 27-41(h); Ord. No. 3655, § 3, 7-28-83)

Sec. 126-514. Reserves.

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

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

(Code 1967, § 27-41(j); Ord. No. 3655, § 3, 7-28-83)

Sec. 126-515. Temporary right-of-way.

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

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

(Code 1967, § 27-41(k); Ord. No. 3655, § 3, 7-28-83)

Sec. 126-516. Names.

- (a) Proposed new street names shall be submitted to the Planning & Development Director for approval

prior to the submittal of the final plat of the subdivision.

(b) Street names shall be continuations of existing street names adjacent to or on line with proposed streets. (Code 1967, § 27-41(l); Ord. No. 3655, § 3, 7-28-83)

Secs. 126-517—126-545. Reserved.

### **III. Lots**

Sec. 126-546. Scope.

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

(Code 1967, § 27-43(a); Ord. No. 3655, § 3, 7-28-83; Ord. No. 4183, § 1, 6-27-85; Ord. No. 14,605, § 28, 12-10-20)

Sec. 126-547. Designation of purposes.

All lots shown on the subdivision plat will be for residential purposes unless otherwise noted. (Code 1967, § 27-43(b); Ord. No. 3655, § 3, 7-28-83; Ord. No. 4183, § 1, 6-27-85)

Sec. 126-548. Side lot lines.

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

(Code 1967, § 27-43(c); Ord. No. 3655, § 3, 7-28-83; Ord. No. 4183, § 1, 6-27-85)

Sec. 126-549. Double fronts

Double front lots are prohibited in a subdivision.

(Code 1967, § 27-43(e); Ord. No. 3655, § 3, 7-28-83; Ord. No. 4183, § 1, 6-27-85)

Sec. 126-550. Rear and side driveway access.

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

(Code 1967, § 27-43(d); Ord. No. 3655, § 3, 7-28-83; Ord. No. 4183, § 1, 6-27-85)

Sec. 126-551. Minimum sizes.

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

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

(Code 1967, § 27-43(f); Ord. No. 3655, § 3, 7-28-83; Ord. No. 4183, § 1, 6-27-85; Ord. No. 8151, § 8, 12-16-97; Ord. No. 9346, § 1, 4-25-02)

Cross reference(s)—Zoning, ch. 130.

Sec. 126-552. Land to be used for other than residential purposes.

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

(Code 1967, § 27-44; Ord. No. 3655, § 3, 7-28-83)

Sec. 126-553. Numbering.

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

(Code 1967, § 27-45; Ord. No. 3655, § 3, 7-28-83)

Sec. 126-554. Building lines

- (a) Residential building lines in a subdivision shall be as follows:
  - (1) The minimum building line shall be 15 feet on the front of all lots, ten feet on the side of corner lots, and five feet on the side of interior lots; and
  - (2) Lots adjacent to interstates or expressways, principal arterials and minor arterials shall have a minimum 35-foot front building line when lots are facing or a minimum 20-foot side building line when lots are siding on streets.

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

(Code 1967, § 27-46; Ord. No. 3655, § 3, 7-28-83)

Cross reference(s)—Table of property development standards, § 130-601.

Secs. 126-555—126-580. Reserved.

#### **IV. Easements**

Sec. 126-581. Drainage easement.

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

(Code 1967, § 27-47(a); Ord. No. 3655, § 3, 7-28-83; Ord. No. 14,605 , § 29, 12-10-20)

Sec. 126-582. Utility easements.

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

(Code 1967, § 27-47(b); Ord. No. 3655, § 3, 7-28-83; Ord. No. 14,605 , § 30, 12-10-20)

Sec. 126-583. Private easements.

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

- (1) A copy of the instrument establishing any private easement shall be submitted with the preliminary plat;
- (2) Easement boundaries must be tied by dimension to adjacent lot and tract corners. Where the private easement has no defined location or width, an effort shall be made to reach an agreement on a defined easement. Where no agreement can be reached, pipelines, electrical lines or other facilities shall be accurately located and tied to lot lines, and building setback lines shall be shown at a distance of ten feet from and parallel to the centerline of the pipeline;

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

(5) All other easements shall meet the requirements set forth in article II of chapter 109 of this Code.

(Code 1967, § 27-47(c); Ord. No. 3655, § 3, 7-28-83; Ord. No. 14,175, § 12, 9-26-19; Ord. No. 14,605, § 31, 12-10-20)

Secs. 126-584—126-610. Reserved.

## **DIVISION 7. ENGINEERING AND CONSTRUCTION STANDARDS**

Sec. 126-611. Engineering data.

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

- (1) *Streets.* Centerline survey data for rights-of-way shall be provided as follows:
  - a. Complete curve data chord length and bearing, radius, arc length, tangent, point of curvature, point of tangency and delta;
  - b. The length and bearings of all tangents; and
  - c. The dimensions from all angle points and points of curve to an adjacent side lot line.
- (2) *Lots.* Complete bearings and distances for front, rear and side lot lines shall be provided.
- (3) *Watercourses and easements.* Data for watercourses and easements shall be provided as follows:
  - a. Distances along the side lot lines from the front lot line to the point where the sideline crosses the drainage easement line or the high bank of a stream; and
  - b. The traverse line along the edges of all large watercourses in a convenient location, preferably along a utility easement if paralleling the drainage easement or stream.

(Code 1967, § 27-41(m); Ord. No. 3655, § 3, 7-28-83; Ord. No. 14,605 , § 32, 12-10-20)

Secs. 126-612—126-640. Reserved.

## *STREETS*

Sec. 126-641. Standards.

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

(Code 1967, § 27-71; Ord. No. 3655, § 3, 7-28-83; Ord. No. 7904, § 1, 2-27-97; Ord. No. 8296, § 1, 5-28-98; Ord. No. 8852, § 1, 3-9-00; Ord. No. 9053, §§ 2, 3, 12-14-00; Ord. No. 10,770, § 1, 12-13-07; Ord. No. 11,866, § 26, 2-23-12; Ord. No. 14,605 , § 33, 12-10-20)

Sec. 126-642. Streetlights.

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

(Code 1967, § 27-74; Ord. No. 3655, § 3, 7-28-83; Ord. No. 14,605 , § 33, 12-10-20)

Sec. 126-643. Street name signs.

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

(Code 1967, § 27-75; Ord. No. 3655, § 3, 7-28-83; Ord. No. 14,605 , § 33, 12-10-20)

Sec. 126-644. Access management.

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

(Ord. No. 11,419, § 2, 8-26-10; Ord. No. 14,605 , § 33, 12-10-20)

Secs. 126-645—126-670. Reserved.

## *STORMWATER DRAINAGE<sup>4</sup>*

Sec. 126-671. Drainage facilities.

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

( Ord. No. 14,605 , § 34, 12-10-20)

Sec. 126-672. Detention facilities.

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

( Ord. No. 14,605 , § 34, 12-10-20)

Secs. 126-673—126-705. Reserved.

<sup>4</sup>Editor's note(s)—Ord. No. 14,605 , § 34, adopted Dec. 10, 2020, amended div. 3 in its entirety to read as herein set out. Former div. 3, §§ 126-671—126-675, pertained to similar subject matter, and derived from the 1967 Code, § 27-72; Ord. No. 3655, § 3, adopted July 28, 1983; and Ord. No. 4000, § 1, adopted Nov. 8, 1984.

## *UTILITIES*<sup>5</sup>

Sec. 126-706. Utility systems.

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

( Ord. No. 14,605 , § 35, 12-10-20)

<sup>5</sup>Editor's note(s)—Ord. No. 14,605 , § 35, adopted Dec. 10, 2020, amended div. 4 in its entirety to read as herein set out. Former div. 4, §§ 126-706—126-711, pertained to similar subject matter, and derived from the 1967 Code, §§ 27-73, 27-76; Ord. No. 1764, § 1, adopted March 13, 1975; Ord. No. 3655, § 3, adopted July 28, 1983; Ord. No. 5117, §§ 1, 2, adopted Oct. 13, 1988; Ord. No. 5263, § 3, adopted April 27, 1989; and Ord. No. 7256, § 1, adopted March 9, 1995.

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

Section 22: That Appendix A "Unified Land Development Code," is amended to add Article V "Signs" and add Division 1 "In General," Division 2 "Administration, and Division 3 "Regulations" as follows:



## APPENDIX A. UNIFIED LAND DEVELOPMENT CODE

### ARTICLE V. SIGNS

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#### 118. SIGNS<sup>3</sup>

##### Division I. IN GENERAL

###### Sec. 118-1. Definitions.

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

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

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

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

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

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

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

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

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

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

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

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<sup>3</sup> Cross reference(s)—Buildings and building regulations, ch. 18; master sign electrician, § 18-336 et seq.; businesses, ch. 20; signs or decorations in parks, § 70-16; streets and sidewalks, ch. 122; subdivisions, ch. 126; zoning, ch. 130.

shall not be considered as used for residential purposes. Property devoted to both residential and nonresidential use shall be considered as used for residential purposes.

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

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

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

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

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

(Code 1967, § 25½-2; Ord. No. 3593, § 1, 4-14-83; Ord. No. 7762, § 1, 7-25-96; Ord. No. 7982, § 1, 5-22-97; Ord. No. 8002, § 1, 6-12-97; Ord. No. 12,734, § 1, 12-11-14)

Cross reference(s)—Definitions generally, § 1-2.

#### Sec. 118-2. Scope.

This chapter shall apply to:

- (1) All signs, as that term is defined in section 118-1, within the city limits, and
- (2) All signs, which are classified as off-premises signs and either spectacular signs or digital billboard, as those terms are defined in section 118-4, within the city limits and the city's extraterritorial jurisdiction.

(Code 1967, § 25½-1; Ord. No. 3593, § 1, 4-14-83; Ord. No. 5472, § 1, 2-22-90; Ord. No. 10,894, § 1, 5-19-08; Ord. No. 12,762, § 1, 1-8-15)

#### Sec. 118-3. Violations and penalties.

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

(Code 1967, § 25½-4(d); Ord. No. 3593, § 1, 4-14-83; Ord. No. 5472, § 2, 2-22-90)

#### Sec. 118-4. Classification.

(a) *On-premises and off-premises signs.* For the purpose of this chapter, a sign shall be first classified as either an "on-premises sign" or an "off-premises sign" as follows:

- (1) *On-premises sign* means any sign identifying or advertising the business, person, activity, goods, products or services primarily sold or offered for sale on the premises where the sign is installed and maintained, when such premises is used for business purposes, or that conveys information or messages.
- (2) *Off-premises sign* means any sign advertising a business, person, activity, goods, products or services not usually located on the premises where the sign is installed and maintained or that directs persons to any location not on the premises.

- (b) *Types of signs.* All signs shall further be classified into one of the following types of signs:
- (1) *Ground sign* means a sign that is supported by uprights or braces in or upon the ground, including portable signs as defined in subsection (c)(2) of this section.
  - (2) *Marquee sign* means a projecting sign attached to or hung from a canopy or covered structure projecting from and supported by a frame or pipe support extending beyond a building.
  - (3) *Projecting sign* means any sign that is affixed to any building wall or structure and that extends beyond the building wall or structure more than 12 inches.
  - (4) *Roof sign* means any sign erected, constructed or maintained above the roof of any building.
  - (5) *Wall sign* means any sign affixed to or painted upon the wall of any building.
- (c) *Special function signs.* Any on-premises or off-premises sign of any type may also be included within one or more of the following additional classifications, according to special functions:
- (1) *Electrical sign* means any sign containing electrical wiring or utilizing electric current, but not including signs illuminated by an exterior light source.
  - (2) *Portable sign* means any sign designed or constructed to be easily moved from one location to another, including signs mounted upon or designed to be mounted upon a trailer, bench, wheeled carrier or other nonmotorized mobile structure; a portable sign that has its wheels removed shall still be considered a portable sign. For the purpose of this chapter, trailer signs and signs on benches are portable signs.
  - (3) *Spectacular sign* means any sign, other than a digital billboard, that:
    - a. Has automatically changing advertising;
      - b. Is equipped with glaring or rotating strobe lights or spotlights;
      - c. Uses flashing intermittent or moving lights;
      - d. Uses an electronic image on a digital display device capable of changing messages or copy by programmable electronic or mechanical processes; or
      - e. Has any moving message whatsoever, including animated, moving video and scrolling displays, such as an LED (light emitting diode) screen or any other type of video display, even if the message is stationary.
    - (4) *Temporary sign* means any sign constructed of cloth, canvas, light fabric, cardboard, wallboard or other light materials, not to exceed six square feet in size. A portable sign shall not be considered a temporary sign.
    - (5) *Digital billboard* means an off-premises sign, display, or device, which changes the "static" message or copy on the sign by electronic means.

(Code 1967, § 25½-3; Ord. No. 3593, § 1, 4-14-83; Ord. No. 10,894, § 2, 5-19-08; Ord. No. 12,734 , § 2, 12-11-14)

**Secs. 118-5—118-30. Reserved.**

## **Division II. ADMINISTRATION<sup>4</sup>**

### **GENERALLY**

Sec. 118-31. Sign committee.

- (a) The mayor shall appoint a five-member committee on sign control. The sign committee shall be composed of:
  - (1) Two real estate appraisers, each of whom must be a member in good standing of a nationally recognized professional appraiser society or trade organization that has an established code of ethics, educational program and professional certification program;
  - (2) One person engaged in the sign business in the city;
  - (3) One employee of the state department of transportation who is familiar with real state valuations in eminent domain proceedings; and
  - (4) One architect or landscape architect licensed by the state.
- (b) A member of the committee is appointed for a term of two years.

(Code 1967, § 25½-2; Ord. No. 3593, § 1, 4-14-83; Ord. No. 7762, § 1, 7-25-96; Ord. No. 7982, § 1, 5-22-97)

Cross reference(s)—Boards and commissions, § 2-256 et seq.

**Secs. 118-32—118-60. Reserved.**

### **SIGN ADMINISTRATOR<sup>5</sup>**

Sec. 118-61. Duties generally.

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

(Code 1967, § 25½-4(a); Ord. No. 3593, § 1, 4-14-83; Ord. No. 5472, § 2, 2-22-90)

Sec. 118-62. Enforcement responsibility.

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

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<sup>4</sup>Cross reference(s)—Administration, ch. 2.

<sup>5</sup>Cross reference(s)—Officers and employees, § 2-26 et seq.

noncompliance. The sign administrator shall investigate thoroughly any complaints of alleged violations of this chapter.

(Code 1967, § 25½-4(b); Ord. No. 3593, § 1, 4-14-83; Ord. No. 5472, § 2, 2-22-90)

#### Sec. 118-63. Powers.

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

- (1) Every sign for which a permit is required shall be subject to the inspection and approval of the sign administrator. When deemed advisable by the sign administrator, a sign may be inspected at the point of manufacture, if such point is within or adjacent to the city.
- (2) Upon presentation of proper identification to the owner, agent or tenant in charge of such property, the sign administrator may enter, for the purpose of inspecting and investigating signs or sign structures, any building, structure, or other premises or property between the hours of 8:00 a.m. and 5:00 p.m., Monday through Friday. However, in an emergency where extreme hazards are known to exist that may involve imminent injury to persons, loss of life or severe property damage and when the owner, agent or tenant in charge of the property is not available after the sign administrator has made a good faith effort to locate him, the sign administrator may enter such structures and premises at any time upon presentation of proper identification to any other person on the premises. Whenever the sign administrator shall enter upon private property, under any circumstances, for the purpose of inspecting or investigating signs or sign structures, which property has management in residence, such management or the person then in charge shall be notified of his presence and shown his proper and official credentials. The sign administrator, when on private property, shall observe the establishment's rules and regulations concerning safety, internal security and fire protection. Whenever the sign administrator is denied admission to inspect any premises, inspection shall be made only under authority of a warrant issued by a magistrate authorizing the inspection for violations of this chapter. In applying for such warrant, the sign administrator shall submit to the magistrate his affidavit setting forth his belief that a violation of this chapter exists with respect to the place sought to be inspected and his reasons for such belief. Such affidavit shall designate the location of such place and the name of the person believed to be the owner, operator or occupant thereof. If the magistrate finds that probable cause exists for a search of the premises in question, he shall issue a warrant authorizing the search, such warrant describing the premises with sufficient certainty to identify the premises. Any warrant so issued shall constitute authority for the sign administrator to enter upon and inspect the premises described therein.
- (3) Upon notice and issuance of a stop order from the sign administrator, work on any sign that is being conducted shall be immediately stopped. Such notice and order shall be in writing and shall be given to the owner of the property or to his agent or to the person doing the work and shall state the conditions under which work may be resumed. Where an emergency exists, written notice shall not be required to be given by the sign administrator. Following the issuance of a stop order, the sign administrator shall initiate proceedings to revoke any permit issued for the work covered by such stop order, consistent with subsection (4) of this section, unless the cause of the stop order is resolved to the sign administrator's satisfaction. It shall be unlawful for a person to intentionally or knowingly work upon a sign for which a written stop order is issued by the sign administrator.
- (4) The sign administrator shall have the power and authority to revoke any and all permits authorized by this chapter for violation of the terms of this chapter, provided that the sign administrator shall conduct a hearing prior to the revocation of any permit authorized under this

chapter to determine the facts incident to the pending revocation. The person whose permit is under consideration shall be given at least ten calendar days' written notice of the hearing and shall be permitted to present relevant facts and legal argument regarding the pending revocation. Following such hearing, the sign administrator shall consider the merits of the case and shall present a written opinion prior to any action. However, if in the opinion of the sign administrator the health, safety or welfare of the citizens of the city is endangered by any violation of this chapter, the sign administrator may immediately revoke any or all permits authorized by this chapter and shall conduct the necessary hearing as soon as possible thereafter, but in no case later than three business days after the effective date of the revocation unless the affected permittee shall request in writing a later date.

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

(Code 1967, § 25½-4(c); Ord. No. 3593, § 1, 4-14-83; Ord. No. 5472, § 2, 2-22-90)

#### Sec. 118-64. Appeals.

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

(Code 1967, § 25½-4(e); Ord. No. 3593, § 1, 4-14-83; Ord. No. 5472, § 2, 2-22-90)

Secs. 118-65—118-90. Reserved.

### **VARIANCES**

#### Sec. 118-91. Submission of request.

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

(Code 1967, § 25½-4(f)(6); Ord. No. 3593, § 1, 4-14-83; Ord. No. 5472, § 2, 2-22-90)

#### Sec. 118-92. Criteria.

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

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

(Code 1967, § 25½-4(f)(1); Ord. No. 3593, § 1, 4-14-83; Ord. No. 5472, § 2, 2-22-90; Ord. No. 8002, § 2, 6-12-97)

Sec. 118-93. Issuance.

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

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

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

(Code 1967, § 25½-4(f)(4); Ord. No. 3593, § 1, 4-14-83; Ord. No. 5472, § 2, 2-22-90)

Sec. 118-94. Appeals.

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

(Code 1967, § 25½-4(f)(2); Ord. No. 3593, § 1, 4-14-83; Ord. No. 5472, § 2, 2-22-90)

Sec. 118-95. Conditions for granting.

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

(Code 1967, § 25½-4(f)(3); Ord. No. 3593, § 1, 4-14-83; Ord. No. 5472, § 2, 2-22-90)

Sec. 118-96. Nonconformities.

If a sign built in nonconformance with this chapter as a result of a variance granted by the chief building official or city council is blown or knocked down or a substantial part of such sign is destroyed, damaged or taken down or removed for any purpose other than maintenance operations or for changing the letters, symbols or other matter on such sign, such sign shall not be reerected, reconstructed or rebuilt, except in full conformance with this chapter, unless another variance is requested by the owner and granted by the chief building official or the city council in conformance with this chapter.

(Code 1967, § 25½-4(f)(5); Ord. No. 3593, § 1, 4-14-83; Ord. No. 5472, § 2, 2-22-90)

Secs. 118-97—118-125. Reserved.

## PERMITS

Sec. 118-126. Violations and penalties.

- (a) *Generally.* An offense under section 118-127 is a violation, and any person adjudged guilty shall be punished as provided in section 1-14. Each day such sign is erected, constructed, reconstructed, built, altered or maintained without a building permit or operated, used, or maintained without an operating permit shall constitute a separate offense. In addition, the city attorney is authorized to take all actions, both legal and equitable, civilly and criminally, necessary to ensure compliance with this chapter. However, it is an affirmative defense to prosecution under section 118-127 if a sign is excepted from having a permit under subsection (b), below.
- (b) *Exceptions.* No permit shall be required under this chapter for on-premises signs of the following descriptions, unless any such sign is a spectacular sign. Any sign listed hereunder shall be erected and maintained in a safe condition in conformity with the building code as well as the fire prevention code and rules and regulations for fire safety promulgated by the fire marshal, as applicable.
  - (1) Signs painted on glass surfaces, windows or doors;
  - (2) Wall signs not over 100 square feet in area;
  - (3) Signs erected by the city, state (including its political subdivisions, such as counties and school districts), or the federal government or the lessees of such governmental entities for a public purpose;
  - (4) Railroad signs placed or maintained in reference to the operation of the railway;
  - (5) Legal notices and house numbers;
  - (6) Ground signs that do not exceed four square feet in area and four feet in total height setting forth information concerning a building or other structure under repair or construction or advertising the sale or rental of the premises;
  - (7) Signs marking utility or underground communication or transmission lines and hazards as required by law;
  - (8) Temporary signs, provided the number of such signs on any premises does not exceed two in number and provided such signs are displayed on consecutive days, and for only a maximum of seven days in any 30-day period;
  - (9) Signs setting forth the location of or directions to parking or buildings located on the premises, warning of on-premises obstacles or overhead clearances, or regulating the flow of on-premise traffic, including entrance and exit signs. Such directional signs may be lighted, consistent with other requirements for electrical signs in the code and all codes adopted thereby;
  - (10) Signs displayed upon an operable motor vehicle or trailer; provided that such vehicle or trailer is not parked or located for the primary purpose of displaying the sign and is not parked on a site for a continuous period exceeding 72 hours;
  - (11) Signs displayed upon an operable lighter-than-air or heavier-than-air aircraft; or
  - (12) Signs which are mounted on the face of a building no higher than the roofline or form an integral part of a canopy or marquee entrance and are not over 100 square feet in area, provided that the number of such signs shall not exceed the number of entrances to such building; and



- (13) Holiday displays or similar temporary displays erected without advertising; provided that such displays are erected no more than 45 days before and removed no later than 14 days after the national holiday.

(Code 1967, § 25½-5(C), (D); Ord. No. 3593, § 1, 4-14-83; Ord. No. 3705, § 1, 10-27-83; Ord. No. 4123, § 2, 4-11-85; Ord. No. 5360, § 1, 9-14-89; Ord. No. 5493, §§ 1, 2, 3-8-90; Ord. No. 7215, § 1, 1-26-95; Ord. No. 7746, §§ 1, 2, 7-11-96; Ord. No. 8241, § 1, 3-26-98; Ord. No. 8408, § 1, 9-24-98)

Sec. 118-127. Required.

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

(Code 1967, § 25½-5(A); Ord. No. 3593, § 1, 4-14-83; Ord. No. 3705, § 1, 10-27-83; Ord. No. 4123, § 2, 4-11-85; Ord. No. 5360, § 1, 9-14-89; Ord. No. 5493, §§ 1, 2, 3-8-90; Ord. No. 7215, § 1, 1-26-95; Ord. No. 7746, §§ 1, 2, 7-11-96)

Sec. 118-128. Operating permit application procedure.

- (a) The application for an operating permit required under this division shall be submitted in such form as the sign administrator may prescribe and shall be accompanied by drawings and descriptive data to verify compliance with this chapter. Permit applications for new ground signs when erected or constructed to heights exceeding 30 feet above the ground level or for new roof signs when erected or constructed to heights exceeding 30 feet above the roof level shall be accompanied by a drawing of the sign structure and the sign prepared by and certified by a professional engineer registered in the state. The sign administrator, at his option, may also require similar certification by a registered professional engineer where any unusual structural provisions of a proposed sign indicate such certification is necessary in the interest of public safety.
- (b) Every initial application for an off-premises sign shall be executed and verified under oath by both the owner of the premises upon which the sign is to be or has been constructed or the authorized lessee of such premises and the sign company. The applicant shall state in such application that the sign is authorized to be erected or to be thereafter maintained on the premises, and the application shall contain the sworn affidavit of the owner or lessee and the sign company that the sign does not violate any applicable deed restrictions or other similar restriction on the premises. Subsequent renewal applications for off-premises signs do not require the affidavit or signature of the landowner.
- (c) If the location, plans and specifications set forth in any application for a permit conform to all of the requirements of this chapter and other applicable provisions of the building code, the sign administrator shall issue the permit.

(Code 1967, § 25½-5(E); Ord. No. 3593, § 1, 4-14-83; Ord. No. 3705, § 1, 10-27-83; Ord. No. 4123, § 2, 4-11-85; Ord. No. 5360, § 1, 9-14-89; Ord. No. 5493, §§ 1, 2, 3-8-90; Ord. No. 7215, § 1, 1-26-95; Ord. No. 7746, §§ 1, 2, 7-11-96)

Sec. 118-129. Fees.

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

(Code 1967, § 25½-5(K), (L); Ord. No. 3593, § 1, 4-14-83; Ord. No. 3705, § 1, 10-27-83; Ord. No. 4123, § 2, 4-11-85; Ord. No. 5360, § 1, 9-14-89; Ord. No. 5493, §§ 1, 2, 3-8-90; Ord. No. 7215, § 1, 1-26-95; Ord. No. 7746, §§ 1, 2, 7-11-96)

Sec. 118-130. Bond; insurance.

- (a) *Insurance.* No sign permit shall be issued until a certificate of insurance evidencing at least the following coverage is filed:

Commercial general liability insurance with an aggregate of \$500,000.00 and a per occurrence limit of \$250,000.00.
- (b) *Insurance policy requirements.* Such insurance shall be written by an insurance carrier licensed to do business in this state and shall provide that coverages afforded under the policy will not be canceled, suspended, voided or reduced until at least 30 days' prior written notice has been endeavored to be given to the city via certified mail, return receipt requested.
- (c) *Removal bond.* Each person applying for an operating permit for an off-premises sign shall furnish a bond with a surety licensed to do business in the state in the amount of \$25,000.00, in a form determined by the city attorney, or post a deposit in such amount, as a guaranty of compliance with this chapter and other applicable laws, including the removal of signs when required. One removal bond shall be required for each operating permit issued. The city may draw against this bond to recover its cost of removing a sign as allowed by this chapter.

(Code 1967, § 25½-5(M), (N); Ord. No. 3593, § 1, 4-14-83; Ord. No. 3705, § 1, 10-27-83; Ord. No. 4123, § 2, 4-11-85; Ord. No. 5360, § 1, 9-14-89; Ord. No. 5493, §§ 1, 2, 3-8-90; Ord. No. 7215, § 1, 1-26-95; Ord. No. 7746, §§ 1, 2, 7-11-96; Ord. No. 8193, § 1, 2-12-98; Ord. No. 8708, § 6, 9-23-99)

Sec. 118-131. Conditions for issuing operating permit.

- (a) Every sign must have an operating permit.
- (b) In order to receive an operating permit, every sign existing on April 14, 1983, must conform to the requirements of division 2 of article III of this chapter and sections 118-167 through 118-178 when an operating permit is issued. With reference to the remainder of this chapter, all signs existing on April 14, 1983, must conform to the requirements of this chapter as follows:
  - (1) Existing portable signs must conform with the requirements of section 118-166 at the time an operating permit is issued.
  - (2) All other existing signs need not conform if they were legally and properly permitted or legally and properly exempt from having a permit prior to April 14, 1983, provided that when constructed such signs were built in accordance with the building code. If such existing signs

were not legally erected and maintained prior to April 14, 1983, they shall conform to the requirements of this chapter before an operating permit may be issued.

- (3) Signs previously erected or in the process of being erected in an unincorporated area and the area is thereafter annexed by the city shall be considered as existing sign under this subsection. However, the date of the first publication of notice for a public hearing, as required by V.T.C.A., Local Government Code §§ 43.052 and 43.053, regarding the proposed annexation of the area wherein such signs are located shall, for the purposes of this chapter, be considered the date of passage of this chapter to determine the applicability of this chapter to such signs. Any sign required by any proper authority to be licensed or permitted in an unincorporated area and not so licensed or permitted when such area is annexed by the city shall not be considered to have been legally permitted for the purposes of this subsection.
- (c) When any sign or a substantial part of a sign is destroyed, damaged or taken down or removed for any purpose other than maintenance operations or for changing the letters, symbols or other matter on such sign, it shall not be reerected, reconstructed or rebuilt, except in full conformance with this chapter. A sign or substantial part of it is considered to have been destroyed only if the cost of repairing the sign is more than 60 percent of the cost of erecting a new sign of the same type at the same location.

(Code 1967, § 25½-5(G); Ord. No. 3593, § 1, 4-14-83; Ord. No. 3705, § 1, 10-27-83; Ord. No. 4123, § 2, 4-11-85; Ord. No. 5360, § 1, 9-14-89; Ord. No. 5493, §§ 1, 2, 3-8-90; Ord. No. 7215, § 1, 1-26-95; Ord. No. 7746, §§ 1, 2, 7-11-96)

#### Sec. 118-132. Term and renewal of operating permit.

Each operating permit issued under this division shall be effective for a period of two years. Not less than 30 days or more than 60 days prior to the conclusion of each two-year period, application may be made for a new permit. Such application shall be submitted in such form as the sign administrator may prescribe, accompanied by payment of applicable fees, and shall be executed, verified and shall contain the sworn affidavit described in subsection 118-128(b). If the application for extension of the permit fully meets the requirements of applicable law in effect at the time of such application, the sign administrator shall issue a new permit for a two-year period or such other time as may be required by law. Operating permits shall be obtained from the sign administrator not later than three days after final structural approval.

(Code 1967, § 25½-5(F); Ord. No. 3593, § 1, 4-14-83; Ord. No. 3705, § 1, 10-27-83; Ord. No. 4123, § 2, 4-11-85; Ord. No. 5360, § 1, 9-14-89; Ord. No. 5493, §§ 1, 2, 3-8-90; Ord. No. 7215, § 1, 1-26-95; Ord. No. 7746, §§ 1, 2, 7-11-96)

#### Sec. 118-133. Subterfuge.

Any permit required under this division that, in the opinion of the sign administrator, has been secured through subterfuge and not in full compliance with this chapter shall be revoked by the sign administrator. Such revocation shall conform with subsection 118-63(4) regarding notice and hearing.

(Code 1967, § 25½-5(H); Ord. No. 3593, § 1, 4-14-83; Ord. No. 3705, § 1, 10-27-83; Ord. No. 4123, § 2, 4-11-85; Ord. No. 5360, § 1, 9-14-89; Ord. No. 5493, §§ 1, 2, 3-8-90; Ord. No. 7215, § 1, 1-26-95; Ord. No. 7746, §§ 1, 2, 7-11-96)

#### Sec. 118-134. Identification of signs.

Under this division, every sign for which a permit is required shall be plainly marked with the name and address of the owner, lessee or the sign company erecting and maintaining the sign and shall have affixed on the front thereof or on some other location so as to be conspicuous and easily identifiable from an adjacent public street an individually numbered sticker, tag or token provided by the city.

(Code 1967, § 25½-5(I); Ord. No. 3593, § 1, 4-14-83; Ord. No. 3705, § 1, 10-27-83; Ord. No. 4123, § 2, 4-11-85; Ord. No. 5360, § 1, 9-14-89; Ord. No. 5493, §§ 1, 2, 3-8-90; Ord. No. 7215, § 1, 1-26-95; Ord. No. 7746, §§ 1, 2, 7-11-96)

Sec. 118-135. Time limits for completion of construction.

Any permit for a sign shall become null and void unless construction of the sign is completed within 180 days or the permit is renewed for an additional 180 days, in which case an additional fee shall be payable equal to one-half the original fee paid, and the proposed sign shall meet all of the requirements of this chapter on the date of renewal.

(Code 1967, § 25½-5(J); Ord. No. 3593, § 1, 4-14-83; Ord. No. 3705, § 1, 10-27-83; Ord. No. 4123, § 2, 4-11-85; Ord. No. 5360, § 1, 9-14-89; Ord. No. 5493, §§ 1, 2, 3-8-90; Ord. No. 7215, § 1, 1-26-95; Ord. No. 7746, §§ 1, 2, 7-11-96)

Sec. 118-136. Electrical signs.

Any electrical sign shall conform fully to the requirements of the city electrical code and shall receive a permit under article III of chapter 18.

(Code 1967, § 25½-5(O); Ord. No. 3593, § 1, 4-14-83; Ord. No. 3705, § 1, 10-27-83; Ord. No. 4123, § 2, 4-11-85; Ord. No. 5360, § 1, 9-14-89; Ord. No. 5493, §§ 1, 2, 3-8-90; Ord. No. 7215, § 1, 1-26-95; Ord. No. 7746, §§ 1, 2, 7-11-96)

Sec. 118-137. Church signs.

Any sign owned by a church shall be required to meet all appropriate sections of this chapter, except that the sign shall be exempt from the renewal operating permit fee required in section 118-132.

(Code 1967, § 25½-5(P); Ord. No. 3593, § 1, 4-14-83; Ord. No. 3705, § 1, 10-27-83; Ord. No. 4123, § 2, 4-11-85; Ord. No. 5360, § 1, 9-14-89; Ord. No. 5493, §§ 1, 2, 3-8-90; Ord. No. 7215, § 1, 1-26-95; Ord. No. 7746, §§ 1, 2, 7-11-96)

Sec. 118-138. Temporary use directional signs.

No permit shall be required under this chapter for a temporary use directional sign, which may be located within the rights-of-way along city streets, provided that such signs do not cause a visual obstruction as stated in section 122-3 and are not located in a median. Temporary use directional signs may be displayed from 12:00 noon Friday until 12:00 noon the following Monday only. Such signs shall not exceed 24 inches by 30 inches in size and shall not be installed more than four feet above grade. Such signs shall have a minimum separation of 25 feet and signs for any one advertiser must be at least 200 feet apart. A temporary use directional sign not erected in strict conformity with this section is a violation hereof and, therefore, subject to the penalties stated in section 118-3.

(Code 1967, § 25½-5(Q); Ord. No. 3593, § 1, 4-14-83; Ord. No. 3705, § 1, 10-27-83; Ord. No. 4123, § 2, 4-11-85; Ord. No. 5360, § 1, 9-14-89; Ord. No. 5493, §§ 1, 2, 3-8-90; Ord. No. 7215, § 1, 1-26-95; Ord. No. 7746, §§ 1, 2, 7-11-96; Ord. No. 8408, § 2, 9-24-98)

Sec. 118-139. Political signs.

(a) *Private property.* No permit shall be required under this chapter for a sign that contains primarily a political message and that is located on private real property with the consent of the property owner, provided that such sign:

- (1) Does not have a surface area greater than 36 feet, excluding the sign structure;

- (2) Is not more than eight feet high;
- (3) Is not illuminated; and
- (4) Has no moving elements.

As used in this subsection, "private real property" does not include real property subject to an easement or other encumbrance that allows the city to use the property for a public purpose.

(b) *Public property.*

- (1) *Prohibited.* Except as provided in subsection (b)(2) of this section, a sign that contains primarily a political message is prohibited on public property, including the rights-of-way.
- (2) *Exception.* A sign that contains primarily a political message may be located in a designated area at least 100 feet from the main entrance to a polling place during a voting period at such polling place. An area may be designated by the city manager when a city facility is used as a polling place or by an official of another governmental entity when such entity's facility is used as a polling place. As used in this subsection, "voting period" means the continuous period beginning on the date that the polls are open for voting and ending on the date when the polls at such location are closed or the last voter has voted, whichever is later.
- (3) *Removal.* The sign administrator may remove and dispose of any political sign placed on public property or within the public rights-of-way.

(Ord. No. 8408, § 3, 9-24-98; Ord. No. 8580, § 1, 5-13-99; Ord. No. 12,318, § 1, 8-22-13)

Secs. 118-140—118-165. Reserved.

### **Division III. REGULATIONS**

#### **GENERALLY**

Sec. 118-166. Portable signs.

- (a) It shall be unlawful to place or maintain a portable sign at any location, unless the sign has a permit as described in division 4 of article III of this chapter.
- (b) A person applying for an operating permit for a portable sign must meet the following requirements to be given a permit; after receiving a permit, failure to maintain a portable sign in compliance with the following requirements shall be cause for the sign administrator to revoke the permit for the sign:
  - (1) Every portable sign mounted on a trailer shall be equipped with a trailer hitch and locking device approved by the sign administrator to hold the trailer in a securely locked position during transport. All such hitching equipment shall also comply with all applicable federal, state and local laws regulating such;
  - (2) Every portable sign not in transit shall be securely anchored to the ground by cables, ground supports or other means acceptable to the sign administrator to prevent such sign from being blown from the site. The sign shall be constructed in a manner to prevent letters or pieces of the sign from falling off the sign or from being blown off the sign by wind;
  - (3) Portable signs shall, for the purposes of this chapter, be considered nonmobile, nonportable ground signs and thereby are subject to all sections of this chapter, including the structural requirements, spacing requirements, permitting and fee requirements, on-premises sections, and all other sections of this chapter applicable to ground signs, unless a section which applies by its terms to portable signs is in conflict with a section applying to ground signs, in which case the section applying specifically to portable signs would control;

- (4) Portable signs are prohibited from having any flashing or blinking lights; and
- (5) All electrically illuminated portable signs must be wired through operable ground-fault circuit interrupters.
- (c) A portable sign operating permit is nontransferable, i.e., a permit issued for one sign cannot be used on another sign.

(Code 1967, § 25½-12; Ord. No. 3593, § 1, 4-14-83; Ord. No. 4123, § 7, 4-11-85)

Secs. 118-167, 118-168. Reserved.

Editor's note(s)—Ord. No. 8408, §§ 4, 5, adopted Sept. 24, 1998, repealed §§ 118-167 and 118-168 which pertained to Christmas displays and political signs, respectively, and derived from Code 1967, § 25½-11(a) and Ord. No. 3593, § 1, adopted April 14, 1983.

Sec. 118-169. Location on public rights-of-way.

- (a) It shall be unlawful to place a sign upon a public street, public sidewalk, public alley, public right-of-way, public curb or other public improvement in any public street or grounds; on any public bridge or part of a bridge; on any public building or structure of any kind belonging to the city; or in any public place or on any public improvement unless express consent therefor shall have been first granted by the city council. However, coin-operated devices used to display and vend newspapers may be so placed, so long as they are not placed to impede vehicular or pedestrian traffic. This subsection does not apply to public property leased for private business purposes or to permitted garage sale signs, temporary directional signs, political signs and off-premises signs for city sponsored or co-sponsored events erected in accordance with this chapter.
- (b) Signs placed in violation of this section are abandoned trash at the time of posting and are hereby declared a nuisance to the public health, safety and welfare and may be confiscated and disposed of immediately and without notice.
- (c) The sign administrator, employees of the police department, the department of public works, the department of planning and community development, the department of parks and recreation, and the department of health are authorized, without notice, to confiscate, remove, and discard any sign found placed in violation of this section.
- (d) The primary beneficiary of any sign installed in violation of this section is presumed to have authorized or caused the installation, use, or maintenance of the sign in violation of this section and commits an offense.

(Code 1967, § 25½-11(c); Ord. No. 3593, § 1, 4-14-83; Ord. No. 13,751, § 1, 4-26-18)

Sec. 118-170. Location on private property.

It shall be unlawful for a person to intentionally or knowingly erect or maintain a sign on or above private property he has no right to occupy without the written consent of the owner of such property.

(Code 1967, § 25½-11(d); Ord. No. 3593, § 1, 4-14-83)

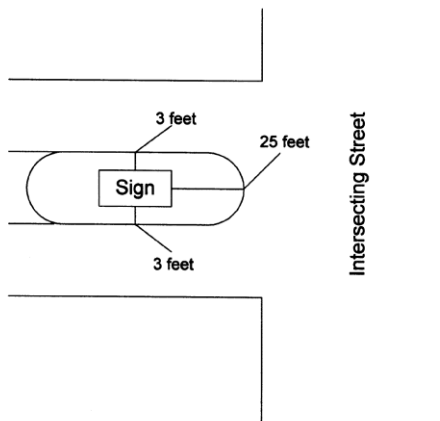
Sec. 118-171. Resemblance to official signs.

No sign shall be constructed that resembles any official marker erected by the city, state or any governmental agency or that, because of position, shape or color, would conflict with the proper functioning of any traffic sign, signal or that, by its shape or color, would conflict with or be confused with emergency vehicle lights, especially blinking lights. Use of a word such as "stop," "look," "danger," or any other word, phrase, symbol or character in such a manner as to interfere with, mislead or confuse traffic is prohibited.

(Code 1967, § 25½-11(e); Ord. No. 3593, § 1, 4-14-83)

Sec. 118-172. Location on traffic islands.

- (a) Signs are prohibited on traffic islands, being areas less than 5,000 square feet entirely bounded by or located within the curblines of a public street. Signs are prohibited on any area having a minimum distance of less than 50 feet between the curblines of any street.
- (b) It shall be an exception to subsection (a) of this section if:
  - (1) The sign:
    - a. Denotes the entrance to a platted and recorded subdivision;
    - b. Does not contain commercial advertising or other signs;
    - c. Is located on property owned by the homeowners' association of the platted and recorded subdivision;
    - d. Is maintained by the homeowners' association;
    - e. Is set back at least three feet from each curbline of the width of the traffic island and at least 25 feet from the curbline of the traffic island closest to the intersecting street, and depicted as follows:



traffic island

- f. Is not within a public right-of-way;
        - g. Does not create a visual obstruction as described in section 122-3 of this Code; and
        - h. Complies with all other provisions of this Code; and
  - (2) The final plat of the subdivision includes verbiage approved by the city attorney which results in the traffic median being dedicated, without consideration, to the public at the option of the city should the sign or traffic island fail to be maintained or cause a visual obstruction; and
  - (3) A person who sells or conveys property in the platted and recorded subdivision tenders written notice to the purchaser as prescribed in subsection (c) of this section.
- (c) The notice in subsection (b)(3) shall be executed by the seller and purchaser and shall read as follows:

The real property, described below, that you are about to purchase is located within a platted and recorded subdivision, whose homeowners' association owns and is responsible for the maintenance of

the traffic island and the sign thereon. Failure to maintain the traffic island or the sign in a timely manner as determined by the city may result in the dedication of the traffic island and sign to the public without further consideration. Additionally such dedication to the public may occur if the sign creates a visual obstruction as determined by the city.

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

Signed this the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

Signature of Seller

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

Signed this the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

Signature of Purchaser

- (d) The notice in subsection (b)(3):
- (1) Shall be applicable to executory contract of purchase and sale having a performance period of more than six months;
  - (2) Shall not be applicable to:
    - a. Transfers of title under any type of lien foreclosure;
    - b. Transfers of title by deed in cancellation of indebtedness secured by a lien upon the property conveyed; or
    - c. Transfers of title by reason of a will or probate proceedings.
  - (3) Be executed and acknowledged at or before closing by the seller and the purchaser and recorded in the deed records of the county in which the property is located.
- (e) The determination regarding the proper maintenance and regarding the creation of a visual obstruction shall be made by the city manager.

(Code 1967, § 25½-11(f); Ord. No. 3593, § 1, 4-14-83; Ord. No. 9493, § 1, 1-9-03)

#### Sec. 118-173. Obstructions.

- (a) No sign shall be erected, constructed or maintained so as to obstruct any means of egress or any opening necessary for required light, ventilation or firefighting or for escape from the premises or so as to prevent free passage from one part of a roof to any other part thereof.
- (b) No sign shall be attached to any exterior stairway, fire escape, fire tower balcony or balcony serving as a horizontal exit.
- (c) No sign shall be erected, constructed or maintained so as to interfere with the free operation of a counterbalanced section of a fire escape, and no projecting sign shall be erected, constructed or maintained without a minimum of seven feet of clearance over any such counterbalanced section.
- (d) No sign shall obstruct the free use of any window above the first story.

(Code 1967, § 25½-11(g); Ord. No. 3593, § 1, 4-14-83)



Sec. 118-174. Use of motion picture machines.

No sign shall employ a stereopticon, motion picture machine or other type of video display capable of displaying moving video, even if the message is stationary.

(Code 1967, § 25½-11(h); Ord. No. 3593, § 1, 4-14-83; Ord. No. 10,894, § 3, 5-19-08)

Sec. 118-175. Creation of easement.

No permit for a sign extending beyond private property onto a public street, public sidewalk or public alley shall constitute a permanent easement, and every such permit shall be revocable at any time by action of the city council. The city shall not be liable for any damages to the owner because of such revocation.

(Code 1967, § 25½-11(i); Ord. No. 3593, § 1, 4-14-83)

Sec. 118-176. Change of ornamental features, electric wiring or advertising display.

No sign permit is required for the change of any of the ornamental features or devices or the advertising display of a sign previously permitted. This section shall not release a person from complying with all other applicable permitting requirements of the city, including those of the city building code and the city electrical code.

(Code 1967, § 25½-11(j); Ord. No. 3593, § 1, 4-14-83 Ord. No. 12,734 , § 3, 12-11-14)

Sec. 118-177. Obscuring or interfering with view.

Signs may not be located or illuminated in such a manner as to:

- (1) Obscure or otherwise interfere with the effectiveness of an official traffic sign, signal or device;
- (2) Obstruct or interfere with the view of a driver of approaching, emerging or intersecting traffic from any street or driveway;
- (3) Prevent any traveler on any street from obtaining a clear view of approaching, emerging or intersecting traffic from any street or driveway; or
- (4) Prevent any traveler on any street or driveway from obtaining a clear view of approaching vehicles for a distance of 250 feet along the street.

(Code 1967, § 25½-11(k); Ord. No. 3593, § 1, 4-14-83)

Cross reference(s)—Visibility triangle, § 118-362.

Sec. 118-178. Shielding of lighted signs.

A sign containing lights that are not effectively shielded as to prevent beams or rays of light from being directed at any portion of the traveled way from which the sign is primarily viewed and that are of such intensity or brilliance as to cause glare or to impair the vision of the driver of any motor vehicle or that otherwise interferes with any driver's operation of a motor vehicle is prohibited.

(Code 1967, § 25½-11(l); Ord. No. 3593, § 1, 4-14-83)

Sec. 118-179. Spectacular signs.

The following types of spectacular signs are prohibited:

- (1) Signs with strobe, rotating strobe, or blinking strobe lights;
- (2) Signs with flashing spotlights, rotating spot lights or blinking spotlights;

- (3) Automatically changeable advertising signs which display more than one message every three seconds;
- (4) Flashing lights with bulbs of greater than 15 watts;
- (5) Signs employing a stereopticon, motion picture machine or other type of video display capable of displaying moving video, even if the message is stationary;
- (6) Signs consisting of a static image projected upon a stationary object;
- (7) Signs which move or contain visible moving parts, including television signs with rotating slat messages; and
- (8) Signs placed perpendicular to the roadway with the exception of automatically changeable advertising which display no more than one message every three seconds.

(Code 1967, § 25½-11(m); Ord. No. 3593, § 1, 4-14-83; Ord. No. 9043, § 1, 11-30-00; Ord. No. 10,894, § 4, 5-19-08)

Secs. 118-180—118-205. Reserved.

## **MAINTENANCE AND REMOVAL**

Sec. 118-206. Maintenance.

All signs shall be kept in good repair and, unless of galvanized or noncorroding metal or treated with appropriate wood preservative, shall be thoroughly painted as often as is necessary, consistent with good maintenance. All braces, belts, clips, supporting frames and fastenings shall be free from deterioration, termite infestation, rot or loosening. All signs shall be able to withstand safely at all times the wind pressure specified in this chapter. If any sign is not so maintained, the sign administrator shall give written notice to the owner or lessee thereof to so maintain the sign or to remove the sign.

(Code 1967, § 25½-6(a); Ord. No. 3593, § 1, 4-14-83; Ord. No. 5493, § 3, 3-8-90)

Sec. 118-207. Unsafe signs.

If any sign, in the opinion of the sign administrator, becomes insecure or in danger of falling or otherwise unsafe, the sign administrator shall give written notice of the condition of the sign to the person owning, leasing or responsible for the sign. The person so notified shall correct the unsafe condition of the sign in a manner to be approved by the sign administrator in conformity with this chapter.

(Code 1967, § 25½-6(b); Ord. No. 3593, § 1, 4-14-83; Ord. No. 5493, § 3, 3-8-90)

Sec. 118-208. Unlawful signs.

If any sign shall be installed, erected, constructed or maintained in violation of any of the terms of this chapter, the sign administrator shall give written notice to the owner, lessee or person responsible for the sign, ordering the owner, lessee or person to alter the sign so as to comply with this chapter or to remove the sign.

(Code 1967, § 25½-6(c); Ord. No. 3593, § 1, 4-14-83; Ord. No. 5493, § 3, 3-8-90)

Sec. 118-209. Abandonment of sign structures.

Any sign structure lawfully erected and maintained that has no copy, transcript, reproduction, model, likeness, image, advertisement or written material for a period of 120 consecutive days is declared to be a violation of this division and as such shall be restored to use or removed by the owner or permittee within

30 days after notice by the sign administrator of such violation. If the owner or permittee fails to restore the sign structure to use or to remove the abandoned sign structure within the specified 30 days, the sign administrator shall remove the abandoned sign structure at the property owner's expense.

(Code 1967, § 25½-6(d); Ord. No. 3593, § 1, 4-14-83; Ord. No. 5493, § 3, 3-8-90)

#### Sec. 118-210. Removal.

Any written notice to alter or to remove a sign shall be given by the sign administrator by certified mail or written notice served personally upon the owner, lessee or person responsible for the sign or the owner's agent. If compliance with such order is not completed within ten days, the sign administrator shall initiate proceedings under subsection 118-63(4) to revoke the permit and remove the sign at the expense of the owner, lessee or person responsible therefor.

(Code 1967, § 25½-6(e); Ord. No. 3593, § 1, 4-14-83; Ord. No. 5493, § 3, 3-8-90)

#### Sec. 118-211. Maintaining sign after notice of violation.

It shall be unlawful for a person to intentionally or knowingly maintain a sign in violation of this division for which a written notice is issued by the sign administrator citing such violation.

(Code 1967, § 25½-6(f); Ord. No. 3593, § 1, 4-14-83; Ord. No. 5493, § 3, 3-8-90)

#### Sec. 118-212. Obsolete signs.

Any on-premises sign that no longer advertises a bona fide business or that has become dysfunctional due to closing of a business or for any other reason that renders the sign nonapplicable to the property involved is considered an obsolete sign. The sign administrator may require that all obsolete signs be removed or rendered blank by the property owner within 30 days from the date of the action that caused the sign to be considered obsolete. If the owner fails to remove or render blank the sign within the 30 days, the sign administrator shall notify the owner by certified mail to correct the violation within ten days after receipt of notification of violation. If the owner does not correct the violation, the sign administrator shall remove the sign at the property owner's expense.

(Code 1967, § 25½-6(g); Ord. No. 3593, § 1, 4-14-83; Ord. No. 5493, § 3, 3-8-90)

Secs. 118-213—118-240. Reserved.

### **CONSTRUCTION AND STRUCTURAL REQUIREMENTS**

#### Sec. 118-241. Design.

- (a) *Generally.* All signs and sign structures shall be designed and constructed to resist wind forces as specified in this division. All bracing systems shall be designed and constructed to transfer lateral forces to the foundations. For signs on buildings, the dead and lateral loads shall be transmitted through the structural frame of the building to the ground in such manner as not to overstress any of the elements thereof. The overturning movement produced from lateral forces shall in no case exceed two-thirds of the dead-load resisting moment for all signs. Uplift due to overturning shall be adequately resisted by proper anchorage to the ground or to the structural frame of the building for all signs. The weight of earth superimposed over footings may be used in determining the dead-load resisting moment. Such earth shall be carefully placed and thoroughly compacted. The allowable stresses in wire ropes and steel guy rods and their fastenings shall not exceed one-fourth of their rated tensile strength.
- (b) *Wind loads.* All signs and sign structures shall be designed to resist wind loads as follows:

## WIND LOAD PRESSURES FOR ALL SIGNS

Height Above Ground (In Feet)*	Pressure (In Pounds per Square Foot)
0—30	20
31—50	25
51—99	35
100—199	45
200—299	50
300—399	55
400—500	60
501—800	70
Over 800	77

\*Measured above the average level of the ground adjacent to the structure.

- (c) *Vertical design loads.* Vertical design loads, except roof live loads, shall be assumed to be acting simultaneously with the wind loads.
- (d) *Working stresses.* All signs shall be designed to conform with the requirements of the building code regarding allowable working stresses. The working strength of chains, cables, guys or steel rods shall not exceed one-fifth of the ultimate strength of such chains, cables, guys or steel rods.

(Code 1967, § 25½-7(A); Ord. No. 3593, § 1, 4-14-83; Ord. No. 4123, § 3, 4-11-85; Ord. No. 6047, §§ 1, 2, 10-22-91)

### Sec. 118-242. Construction.

- (a) *Generally.* The supports for all signs or sign structures shall be placed in or upon private property and shall be securely built, constructed and erected in conformance with the requirements of the building code and this chapter. If any inconsistency occurs between this chapter and the building code, this chapter controls.
- (b) *Materials.* Materials for construction of all signs and sign structures shall be of the quality and grade as specified for buildings in the building code and consistent with the fire prevention code.
- (c) *Nonstructural trim.* Nonstructural trim and portable display surfaces may be of wood, metal, approved plastics or any combination thereof, consistent with the fire prevention code.
- (d) *Anchorage.* Members supporting unbraced signs shall be so proportioned that the bearing loads imposed on the soil in either direction, horizontal or vertical, shall not exceed the safe values stated in subsection 118-241(a). All ground signs shall be anchored to resist the wind load specified in subsection 118-241(b) acting in any direction. Anchors and supports shall be designed for safe bearing loads on the soil and for an effective resistance to pullout amounting to a force 25 percent greater than the required resistance to overturning.
- (e) *Signs attached to masonry.* Signs attached to masonry, concrete or steel shall be safely and securely fastened thereto by means of metal anchors, bolts or approved expansion screws of sufficient size and anchorage to safely support the loads applied.

- (f) *Wooden blocks.* No wooden blocks or plugs or anchors with wood used in connection with screws or nails shall be considered proper anchorage, except for signs attached to wood framing. Whenever anchors or supports consist of wood embedded in the soil, the wood shall be pressure treated with a preservative approved by the sign administrator.
- (g) *Unbraced parapet wall.* No anchor or support of any sign will be connected to or supported by an unbraced parapet wall, unless such wall is designed in accordance with the requirements for parapet walls specified in the building code.
- (h) *Display surfaces.* Display surfaces in all types of signs may be made of metal, wood, glass or approved plastics as noted in section 118-244, unless otherwise prohibited in this division or prohibited by the fire prevention code. A sign designed so that the message can be changed by the use of removable letters shall be constructed in a manner to prevent letters or pieces of the sign from falling off the sign or from being blown off the sign by wind.
- (i) *Glass.* Glass thickness and area limitations shall be as follows:

SIZE, THICKNESS AND TYPE OF  
GLASS PANELS IN SIGNS

Maximum Size of Exposed Glass Panel (Any Dimension Area)			
In Inches	In Square Inches	Minimum Thickness of Glass (In Inches)	Type of Glass
30	500	1/8	Plain, Plate or W
45	700	3/16	Plain, Plate or W
144	3,600	1/4	Plain, Plate or W
Over 144	Over 3,600	1/4	Plain, Plate or W

(Code 1967, § 25½-7(B); Ord. No. 3593, § 1, 4-14-83; Ord. No. 4123, § 3, 4-11-85; Ord. No. 6047, §§ 1, 2, 10-22-91)

Sec. 118-243. Electrical requirements.

- (a) All electrical fixtures, equipment and appurtenances installed in conjunction with a sign shall be designed and installed in accordance with the electrical code.
- (b) With the exception of electrical signs covered by subsection 118-334(3), all electrical signs shall be limited to bulbs of 150 watts for bulbs located in the face of the sign, shall be limited to lighting circuits of 270 volts, shall contain a sunshade screen dimmer and shall not use reflectorized lights as part of the face of the sign. For the purpose of this subsection, reflectorized lights shall mean any lamp constructed with reflector-type materials so as to focus, intensify, flood or spot such lamp in a certain

direction, including but not limited to lamps designated by the manufacturers as flood, spot, reflector or flood, reflector light or clear reflector.

(Code 1967, § 25½-7(C); Ord. No. 3593, § 1, 4-14-83; Ord. No. 4123, § 3, 4-11-85; Ord. No. 6047, §§ 1, 2, 10-22-91)

Sec. 118-244. Use of plastic materials.

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

*Display surface* means the entire surface of a sign, on one side, devoted to exhibiting or contrasting exhibits of advertising. The display surface shall generally include the entire sign surface except for the sign frame and incidental supports thereto.

*Sign facing or facing* means a separate and distinguishable portion of the overall display surface.

- (b) Notwithstanding any other section of this Code, plastic materials that burn at a maximum rate of 2½ inches per minute, in sheets of 0.060 thickness when tested in accordance with the Test for Flammability of Rigid Plastics Over 0.050 Inches in Thickness, ASTM D635-1974, shall be deemed "approved plastics" for the purposes of this chapter and may be used as the display surface material and for the letters, decorations and facings on signs, provided that the structure of the sign in which the plastic is mounted or installed is noncombustible.
- (c) Individual plastic facings of electrical signs shall not exceed 200 square feet in area. If the area of a display surface exceeds 200 square feet, the area occupied or covered by approved plastics shall be limited to 200 square feet plus 50 percent of the difference between 200 square feet and the total square footage area of the sign.
- (d) The area of plastic on the display surface shall not in any case exceed 550 square feet.
- (e) Letters and decorations mounted upon an approved plastic facing or display surface shall be made of approved plastics.

(Code 1967, § 25½-7(D); Ord. No. 3593, § 1, 4-14-83; Ord. No. 4123, § 3, 4-11-85; Ord. No. 6047, §§ 1, 2, 10-22-91)

Sec. 118-245. Height limitations.

- (a) *Generally.* Except as stated in this section, no ground sign shall be established, constructed or erected that exceeds an overall height of 42½ feet, including cutouts extending above the rectangular border, measured from the highest point on the sign to the grade level of the ground surface in which the sign supports are placed. Signs located immediately adjacent to an overpass or elevated roadway may be constructed in excess of the limitation of 42½ feet, but the highest point of the sign may not be greater than 25 feet above the road level of such overpass or elevated roadway, such measurement to be made from the closest point of the roadway to such sign. A roof sign having a tight or solid surface shall not at any point exceed 24 feet above the roof level. Projecting signs shall be a minimum of 14 feet in height above grade. These height limitations shall not apply to on-premises signs lawfully permitted or lawfully erected on April 14, 1983.
- (b) *Exception.* On-premises signs may be constructed 80 feet in height if located within 200 feet of the interstate highway system. Only one 80-foot sign shall be permitted on one parcel of property.

(Code 1967, § 25½-7(E); Ord. No. 3593, § 1, 4-14-83; Ord. No. 4123, § 3, 4-11-85; Ord. No. 6047, §§ 1, 2, 10-22-91; Ord. No. 8002, § 3, 6-12-97)

Sec. 118-246. Size limitations.

- (a) *Generally.* Except as stated in this section, no on-premises sign other than an on-premises wall sign shall be established, constructed or erected that has a face area exceeding 300 square feet, including cutouts, but excluding uprights, or that has face dimensions that exceed 15 feet in height or 30 feet in width. No off-premises sign shall be established, constructed or erected that has a face area exceeding 672 square feet, including cutouts, but excluding uprights. No double-faced off-premises sign shall be established, constructed or erected unless each face is 75 square feet or less and the faces are abutting on one edge. Temporary space extensions may be added to off-premises signs for a period not to exceed 90 days. These size limitations shall not apply to signs lawfully permitted or lawfully erected on April 14, 1983.
- (b) *Multioccupancy.* An on-premises sign located within 200 feet of the interstate and freeway primary system and advertising multioccupancy shall not exceed 600 square feet. None of the multioccupancy signs shall exceed 300 square feet.

(Code 1967, § 25½-7(F); Ord. No. 3593, § 1, 4-14-83; Ord. No. 4123, § 3, 4-11-85; Ord. No. 6047, §§ 1, 2, 10-22-91)

Sec. 118-247. Method of determining area.

In determining the area of any sign, the dimensions of the rectangle enclosing the signboard, excluding the supporting structure, shall be used. If the sign includes cutouts or facings extending beyond the dimensions of the rectangular signboard, the measurement of sign area shall include the actual area of the cutout or extended facing. For signs of a double-faced, back-to-back or V-type nature, each face shall be considered as separate signs in computing the face area.

(Code 1967, § 25½-7(G); Ord. No. 3593, § 1, 4-14-83; Ord. No. 4123, § 3, 4-11-85; Ord. No. 6047, §§ 1, 2, 10-22-91)

Sec. 118-248. Clearances.

- (a) Signs shall be located a minimum distance of eight feet measured horizontally and 12 feet measured vertically from overhead electric conductors that are energized in excess of 750 volts. The term "overhead conductors," as used in this subsection, means any electrical conductor, either bare or insulated, installed above the ground.
- (b) No portion of a sign or sign structure shall project into any public alley, unless the portion is a minimum of 14 feet in height above grade.

(Code 1967, § 25½-7(H); Ord. No. 3593, § 1, 4-14-83; Ord. No. 4123, § 3, 4-11-85; Ord. No. 6047, §§ 1, 2, 10-22-91)

Sec. 118-249. Fire prevention requirements.

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

*Combustible material* means material more flammable than metal, but no more flammable than wood or approved plastic, as that term is defined in subsection 118-244(b). No material more flammable than wood or approved plastic shall be used in any sign.

*Noncombustible material* means material no less flammable than steel, iron or other similar metal, or as the term shall be otherwise defined by the city fire or building code or by the sign administrator; noncombustible materials include incombustible material.

- (b) When signs are required in this chapter to be constructed of noncombustible material, all parts of such signs, including the sign structures, shall be of noncombustible material, except that the following parts made out of combustible material shall be permitted:
- (1) Small ornamental moldings, battens, cappings and nailing strips;
  - (2) Individual letters, symbols, figures and insignia supported by or within a noncombustible frame or a permitted combustible facing as permitted by this division;
  - (3) Portions of each face of a sign, up to but not exceeding 100 square feet of facing, as long as the total area of facing for such sign does not exceed 200 square feet; and
  - (4) Wood posts and braces for signs whose surface is no more than ten feet six inches in height when such signs are determined to be nonhazardous by the sign administrator, based on health and safety considerations, including but not limited to their location, their proximity to other flammable materials, their proximity to occupied structures and their proximity to necessary firefighting equipment.
- (c) Subject to the specific exceptions stated in this division or as otherwise stated in this chapter, all roof signs, projecting signs and marquee signs shall be constructed of noncombustible materials.

(Code 1967, § 25½-7(I); Ord. No. 3593, § 1, 4-14-83; Ord. No. 4123, § 3, 4-11-85; Ord. No. 6047, §§ 1, 2, 10-22-91)

#### Sec. 118-250. Ground signs.

- (a) Lighting reflectors on ground signs may project beyond the face of the sign.
- (b) Every ground sign shall provide rigid construction to withstand wind action in all directions.
- (c) Any person, including the owner, lessee or other person, using any vacant lot or premises for the location of a ground sign shall keep such premises clean, sanitary, inoffensive and free and clear of all obnoxious substances, unsightly conditions and remnants of replaced sign faces on the ground in the vicinity of such ground signs.

(Code 1967, § 25½-7(J); Ord. No. 3593, § 1, 4-14-83; Ord. No. 4123, § 3, 4-11-85; Ord. No. 6047, §§ 1, 2, 10-22-91)

#### Sec. 118-251. Wall signs.

- (a) Wall signs attached to exterior walls of solid masonry, concrete or stone shall be safely and securely attached to such by means of metal anchors, bolts or expansion screws of not less than three-eighths-inch in diameter and shall be embedded at least five inches. Wood blocks shall not be used for anchorage, except for wall signs attached to buildings with walls of wood. A wall sign shall not be supported by anchorages secured to an unbraced parapet wall.
- (b) The surface face of all sign bulletins must be of sheet metal.

(Code 1967, § 25½-7(K); Ord. No. 3593, § 1, 4-14-83; Ord. No. 4123, § 3, 4-11-85; Ord. No. 6047, §§ 1, 2, 10-22-91)

#### Sec. 118-252. Roof signs.

- (a) All roof signs shall be so constructed as to leave a clear space of not less than six feet between the roof level and the lowest part of the sign and shall have at least five feet of clearance between the vertical supports thereof; provided, however, no portion of any roof sign structure shall project beyond an exterior wall.



- (b) Every roof sign shall be constructed entirely of steel, including the upright supports and braces.
- (c) The bearing plates of all roof signs shall distribute the load directly to or upon masonry walls, steel roof girders, columns or beams. The building shall be designed to avoid overstress of these members.
- (d) All roof signs shall be thoroughly secured to the building upon which they are installed, erected or constructed by iron, metal anchors, bolts, supports, chains, stranded cables, steel rods or braces, and they shall be maintained in good condition as set forth in section 118-206.

(Code 1967, § 25½-7(L); Ord. No. 3593, § 1, 4-14-83; Ord. No. 4123, § 3, 4-11-85; Ord. No. 6047, §§ 1, 2, 10-22-91)

#### Sec. 118-253. Projecting signs.

- (a) All projecting signs shall be constructed entirely of metal or other noncombustible material and shall be securely attached to a building or structure by metal supports such as bolts, anchors, supports, chains, guys or steel rods. Staples or nails shall not be used to secure any projecting sign to any building or structure.
- (b) The dead load of projecting signs, not parallel to the building or structure, and the load due to wind pressure shall be supported with chains, guys or steel rods having a net cross sectional dimension of not less than three-eighths-inch in diameter. Such supports shall be erected or maintained at an angle of at least 45 degrees with the horizontal to resist the dead load and at an angle of 45 degrees or more with the face of the sign to resist the specified wind pressure. If such projecting sign exceeds 30 square feet in one facial area, there shall be provided at least two such supports on each side of the sign not more than eight feet apart to resist the wind pressure.
- (c) All supports shall be secured by an expansion shield to a bolt or expansion screw of such size that will develop the strength of the supporting chain, guys or steel rods, with a minimum five-eighths-inch bolt or lag screw. Turnbuckles shall be placed in all chains, guys or steel rods supporting projecting signs.
- (d) Chains, cables, guys or steel rods used to support the live or dead load of projecting signs may be fastened to solid masonry walls with expansion bolts or by machine screws in or on supports, but such supports shall not be attached to an unbraced parapet wall. Where the supports must be fastened to walls made of wood, the supporting anchor bolts must go through the wall and be plated and fastened on the wall in a secure manner.
- (e) A projecting sign shall not be erected on the wall of any building so as to project above the roof or cornice wall or above the roof level where there is no cornice wall.
- (f) A projecting sign shall have a clearance of 14 feet above the right-of-way and may not extend more than ten feet from the building wall or structure or within two feet of a curbline.
- (g) If a curbline is altered, such projecting sign that fails to meet the requirements of this section shall be altered or removed at the owner's expense.

(Code 1967, § 25½-7(M); Ord. No. 3593, § 1, 4-14-83; Ord. No. 4123, § 3, 4-11-85; Ord. No. 6047, §§ 1, 2, 10-22-91)

#### Sec. 118-254. Marquee signs.

Marquee signs shall be constructed entirely of metal or noncombustible material and may be attached to or hung from a marquee. The lowest point of a sign hung from a marquee shall be at least ten feet above the sidewalk or ground level, and such signs shall not extend or project beyond the corners of the marquee. Marquee signs may be attached to the sides and front of a marquee, and a sign may extend the entire length

and width of the marquee, provided that no sign shall extend more than six feet above or one foot below such marquee or have a vertical dimension greater than eight feet.

(Code 1967, § 25½-7(N); Ord. No. 3593, § 1, 4-14-83; Ord. No. 4123, § 3, 4-11-85; Ord. No. 6047, §§ 1, 2, 10-22-91)

Sec. 118-255. V-type or back-to-back construction.

- (a) The angle between the faces of V-type signs shall be no greater than 45 degrees measured back to back, and if the area of each face is 300 square feet or less, the maximum distance at the nearest point between the two backs, as measured at the apex, shall not exceed 1½ feet. If the area of either face exceeds 300 square feet, the maximum distance between the two backs, as measured at the apex, shall not exceed 3½ feet.
- (b) Back-to-back signs must be on common supports. If the area of each is 300 square feet or less, the nearest point between the two backs shall not exceed five feet, plus the diameter of the intervening upright or support.

(Code 1967, § 25½-7(O); Ord. No. 3593, § 1, 4-14-83; Ord. No. 4123, § 3, 4-11-85; Ord. No. 6047, §§ 1, 2, 10-22-91)

Secs. 118-256—118-285. Reserved.

## **LOCATION**

### **Subdivision I. In General**

Secs. 118-286—118-305. Reserved.

### **Subdivision II. Scenic or Historic Areas**

Sec. 118-306. Applicability.

- (a) This subdivision shall govern the designation of scenic or historic rights-of-way or districts within the city limits.
- (b) This subdivision shall not apply to signs lawfully erected and lawfully existing on April 14, 1983, that are on the federal aid primary system and subject to regulation under the Texas Litter Abatement Act, V.T.C.A., Transportation Code § 391.001 et seq., including all amendments (the state act), or that are subject to regulation under the Federal Highway Beautification Act, 23 USC 131 et seq., including all amendments (the federal act).

(Code 1967, § 25½-8; Ord. No. 3593, § 1, 4-14-83; Ord. No. 8002, § 4, 6-12-97)

Sec. 118-307. Petition.

Citizens of the city may petition the city council to designate any area or any public right-of-way within the city as a scenic or historic right-of-way or district. Any such petition must meet the requirements of this section to be considered by the city council. The petition shall:

- (1) Contain the signatures of property owners whose property fronts on either side of the right-of-way proposed for designation or who own property in the area proposed for designation as a district and who represent 51 percent of the total front footage along the right-of-way or 51 percent of the total area;

- (2) Contain the signatures of at least 1,000 citizens of the city, each of whom was above the age of 18 years old when signing the petition;
- (3) Indicate that the signatures thereon were collected within a 60-calendar-day period; and
- (4) Indicate that the signatories thereon desire the area or right-of-way to be designated a scenic or historic right-of-way or district.

(Code 1967, § 25½-8(a); Ord. No. 3593, § 1, 4-14-83)

Sec. 118-308. Hearing date.

Any petition as required in section 118-307 must be submitted to the city council within 90 calendar days of the date of the first signature thereon. Following the filing of any such petition with the city clerk, the city council shall, within 45 days of the date of filing, conduct a public hearing to consider the merits of the petition.

(Code 1967, § 25½-8(b); Ord. No. 3593, § 1, 4-14-83)

Sec. 118-309. Notices of hearing.

Under this subdivision, the city clerk shall give notice as to the filing of any such petition and the date, time and place of the city council hearing by posting such, at least 14 days in advance of the hearing, at a place convenient to the public in the city hall. Any interested person shall have the opportunity to participate in any hearing conducted under this subdivision and to present any relevant evidence and testimony.

(Code 1967, § 25½-8(c); Ord. No. 3593, § 1, 4-14-83)

Sec. 118-310. Decision of city council.

As a result of the hearing held pursuant to this subdivision, the city council shall determine whether or not:

- (1) The petition complies with the requirements of this section;
- (2) The proposed right-of-way or area has scenic or historic significance;
- (3) The proposed right-of-way or area has scenic or historic significance sufficient to justify preservation; and
- (4) Designation of the proposed right-of-way or area would best serve the health, safety, welfare and public convenience and necessity for the citizens of the city.

(Code 1967, § 25½-8(d); Ord. No. 3593, § 1, 4-14-83)

Sec. 118-311. Approval by city council.

If a majority of the city council decides that the proposed right-of-way or area meets all the criteria stated in this subdivision, the city council shall designate the proposed area or right-of-way as a scenic or historic right-of-way or district. Any such designation shall not affect existing signs; such signs may remain as long as they are permitted and comply with the other sections of this chapter, including subsection 118-131(3). No new off-premises signs and only on-premises signs conforming with section 118-334 shall be permitted in an area or on a right-of-way after designation as a scenic or historic right-of-way or district.

(Code 1967, § 25½-8(e); Ord. No. 3593, § 1, 4-14-83)

Sec. 118-312. Disapproval by city council.

If a majority of the city council decides that the proposed right-of-way or area does not meet the criteria stated in section 118-310, the proposed area or right-of-way shall not be designated as a scenic or historic right-of-way. No subsequent petition seeking designation of any portion of a right-of-way or area under this subdivision under a prior petition shall be considered by the city council until one year has elapsed from the date of the filing of the prior petition.

(Code 1967, § 25½-8(f); Ord. No. 3593, § 1, 4-14-83)

Sec. 118-313. Designation by council.

This subdivision shall not be construed to limit the authority of the city council, consistent with this subdivision, to designate other areas as scenic or historic rights-of-way or districts without a public petition.

(Code 1967, § 25½-8(g); Ord. No. 3593, § 1, 4-14-83)

Secs. 118-314—118-330. Reserved.

Subdivision III. On-Premises Signs

Sec. 118-331. Definitions.

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

*General right-of-way* means a right-of-way that is not classified as a predominantly residential right-of-way or scenic or historic right-of-way or district and that is owned, leased or otherwise legally controlled by the person placing a sign thereon.

*Predominately residential right-of-way* means a public right-of-way between two intersecting public streets in which a majority of the total front footage is used for residential purposes.

(Code 1967, § 25½-9(A); Ord. No. 3593, § 1, 4-14-83; Ord. No. 4123, §§ 4, 5, 4-11-85)

Cross reference(s)—Definitions generally, § 1-2.

Sec. 118-332. Applicability.

This subdivision shall apply only to on-premises signs, as that term is defined in subsection 118-4(a)(1), within the city limits.

(Code 1967, § 25½-9; Ord. No. 3593, § 1, 4-14-83; Ord. No. 4123, §§ 4, 5, 4-11-85)

Sec. 118-333. Signs adjacent to general rights-of-way.

Signs adjacent to general rights-of-way shall be subject to the following limitations:

- (1) No business shall have more than a total of five on-premises signs; provided, however, that each business may select any combination of the signs described in this subsection to reach that total. Each business shall place no more than the following:
  - a. Two on-premises ground signs, no more than one of which may be a portable sign;
  - b. Three on-premises wall signs, which shall not occupy more than 50 percent of the total wall surface;
  - c. Three on-premises roof signs, designed to be architecturally compatible with the building;

- d. Three on-premises projecting signs, which shall not extend above the uppermost portion of the building to which it is attached except as provided in subsection 118-253(e); and
  - e. Three on-premises marquee signs.
- (2) With the exception of on-premises signs lawfully permitted and erected on April 14, 1983, all on-premises signs and sign structures shall be contained wholly within the premises upon which they are located and shall not extend onto the public right-of-way. However, on-premises projecting signs may extend up to ten feet outward from the building to which they are attached as long as such extension is no closer than two feet behind the curblin, and such signs shall have a clearance of 14 feet above the public right-of-way.
  - (3) Spectacular signs shall be prohibited, except for automatically changeable advertising signs which display no more than one message every three seconds.

(Code 1967, § 25½-9(B); Ord. No. 3593, § 1, 4-14-83; Ord. No. 4123, §§ 4, 5, 4-11-85; Ord. No. 9043, § 2, 11-30-00)

#### Sec. 118-334. Residential rights-of-way; scenic and historic rights-of-way and districts.

All on-premises signs on residential rights-of-way and scenic and historic rights-of-way and districts shall conform in all respects to the requirements set forth in section 118-333 for general rights-of-way and shall be subject to the following additional restrictions:

- (1) Ground signs shall not exceed 12 feet in height or 75 square feet in size;
- (2) Spectacular signs and portable signs shall be prohibited; and
- (3) Electrical signs shall be limited to not more than ten bulbs of 100 watts or less, shall be limited to 120 volts in the lighting circuit and may be illuminated only indirectly.

(Code 1967, § 25½-9(C); Ord. No. 3593, § 1, 4-14-83; Ord. No. 4123, §§ 4, 5, 4-11-85; Ord. No. 9043, § 3, 11-30-00)

#### Sec. 118-335. Business purpose required.

An on-premises sign must be erected in connection with a business purpose or for information or message purposes, as defined in this chapter. Any sign not connected with a business purpose or that is not an information or message sign shall be considered an off-premises sign.

(Code 1967, § 25½-9(D); Ord. No. 3593, § 1, 4-14-83; Ord. No. 4123, §§ 4, 5, 4-11-85)

Secs. 118-336—118-355. Reserved.

### Subdivision IV. Off-Premises Signs

#### Sec. 118-356. Definitions.

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

*Commercial or industrial activity* means property that is devoted to use for commercial or industrial purposes, and not for residential purposes. Commercial or industrial activity shall not include the following:

- (1) Signs;
- (2) Agricultural, forestry, ranching, grazing, farming and related activities, including but not limited to temporary wayside fresh produce stands;

- (3) Activities not housed in a permanent building or structure;
- (4) Activities not visible from the traffic lanes of the main-traveled way; or
- (5) Railroad right-of-way.

*Primarily residential area* means the right-of-way and adjoining property area between two public streets intersecting such right-of-way in which a majority of the total front footage is used for residential purposes.

(Code 1967, § 25½-10(A); Ord. No. 3593, § 1, 4-14-83; Ord. No. 4123, § 6, 4-11-85; Ord. No. 7735, § 1, 6-27-96; Ord. No. 7771, § 1, 8-8-96)

Cross reference(s)—Definitions generally, § 1-2.

#### Sec. 118-357. Applicability.

This subdivision shall apply only to off-premises signs, as that term is defined in section 118-4, within the city limits and to off-premises signs, as that term is defined in section 118-4, which are also spectacular signs, as that term is defined in section 118-4, within the city limits and the extraterritorial jurisdiction of the city.

(Code 1967, § 25½-10; Ord. No. 3593, § 1, 4-14-83; Ord. No. 4123, § 6, 4-11-85; Ord. No. 7735, § 1, 6-27-96; Ord. No. 7771, § 1, 8-8-96; Ord. No. 10,894, § 5, 5-19-08)

#### Sec. 118-358. New signs.

- (a) *New off-premises signs prohibited.* Except as provided for in subsections (c), (e), or (g) of this section, from and after June 27, 1996, no new construction permits shall be issued for off-premises signs and no new off-premises signs shall be allowed within the city limits. This prohibition shall apply to all classifications of signs, types of signs, and special function signs and all other signs used as off-premises signs, including portable signs.
- (b) *New off-premises, spectacular signs prohibited.* From and after May 29, 2008, no new off-premises signs which are classified as spectacular signs and no upgrades of existing off-premises signs to spectacular signs shall be allowed in the city limits or in the extraterritorial jurisdiction of the city.
- (c) *Exceptions.*
  - (1) Construction permits may be issued for off-premises signs proposed to be constructed within 200 feet of the interstate highway system if all other applicable requirements have been satisfied.
  - (2) New signs may be attached, painted, or fastened on off-premises signs which were properly permitted on June 27, 1996, and have continuously remained permitted from and after such date; provided that such new sign does not change the classification of the off-premises sign.
  - (3) Temporary use directional signs shall be allowed only if in conformity with section 118-138.
  - (4) Political signs shall be allowed only if in conformity with section 118-139.
  - (5) Other off-premises signs may be allowed only if such signs are:
    - a. Erected solely for and relating to a city sponsored or co-sponsored event, which is designated by resolution of the city council as an event for which off-premises signs may be placed on city property;
    - b. Erected on properties owned by the city for which council has designated by resolution as appropriate for the advertising of the city sponsored or cosponsored event; provided that

there may be only one sign per property unless otherwise specified in the resolution designating the event;

- c. Erected for a period commencing 14 days prior to and three days following the city sponsored or co-sponsored event advertised by the sign, unless a different period of time is specified in the resolution designating the event;
  - d. Limited to a size no greater than four feet by eight feet or, if an overhead street banner, to the size necessary to fit the hardware on the lighting standards to which it will be attached;
  - e. Limited to providing information concerning the event, which shall include the event's name, activities, along with the time, date, places of the same; however, no business or sponsor advertising shall be allowed; and
  - f. In compliance with all other requirements of this chapter and of the director of parks and recreation in consultation with the city manager and other city staff.
- (d) *Application.* In order for an event to be designated by the city council in accordance with subsection (c)(5), a person must submit an application in writing on a form prescribed by the city clerk. The application must be filed with the city clerk at least 30 days before the scheduled event and shall include, but shall not be limited to, the following:
- (1) The name, address and telephone number of the applicant;
  - (2) If the applicant is a corporation, the name and address of the major officers of the corporation and the major stockholders;
  - (3) If a partnership, the names and addresses of partners;
  - (4) If a sole proprietorship, the name and address of the owner;
  - (5) The name of the manager or other officer in charge of the event;
  - (6) The date of the event;
  - (7) The number of signs requested to be placed on city property;
  - (8) The name and description of the event, which shall state in detail the different component parts of the event, including, but not limited to, all concessions, shows, amusements, businesses exhibiting at the event, location of the event, the times of the event, along with a description of the products and services to be sold at the event;
  - (9) An agreement whereby the applicant agrees:
    - a. To purchase, install and remove any signs which may be authorized to be placed on city property at no cost to the city; and
    - b. To remove all signs which may be authorized to be placed on city property within three days following the event or face criminal penalties for the failure to do so; and
  - (10) A sworn statement by the applicant that the information provided in the application is true and correct;
- (e) *Signs advertising city-sponsored events.* For purposes of this section, a sign advertising a city sponsored or co-sponsored event located on the property of a sponsor or co-sponsor of a city sponsored or co-sponsored event shall not be construed as an off-premises sign so long as:
- (1) The sign does not advertise another business, person, activity, good, product or service not located on the sponsor or co-sponsor's premises;

- (2) The sign is erected for a period commencing 14 days prior to and three days following the city sponsored or co-sponsored event advertised by the sign;
  - (3) The sign is limited to a size no greater than four feet by eight feet;
  - (4) There is not more than one such sign on the premises of the sponsor or cosponsor; and
  - (5) The sign meets all other requirements of this chapter.
- (f) *Permit not required for certain signs.* No permit as required in division 4 of this article shall be required for a sign satisfying the requirements referenced in subsection (c)(5) or subsection (e) herein; provided that such sign is erected and maintained in a safe condition in conformity with the building code as well as the fire prevention code and rules and regulations for fire safety promulgated by the fire marshal.
- (g) *Digital billboards.* Digital billboards are prohibited within the city limits and the extraterritorial jurisdiction of the city, provided however, that the sign administrator may issue digital billboard sign permits for the construction of new off-premises sign faces or the conversion and reconstruction of existing off-premises sign faces as authorized by this subsection upon the submission of a completed application if (i) the same are located within 200 feet of the interstate highway system, (ii) four square feet of existing off-premises sign area from existing permitted off-premises signs are removed from within the city limits for each square foot of digital billboard sign area proposed, and (iii) if all other applicable requirements have been satisfied. All such digital billboards shall be subject to this section and all other relevant provisions of this chapter. In determining the square feet of existing off-premises sign area necessary to be removed to meet the four-to-one conversion ratio specified in this subsection, the square footage of any off-premises sign removed within 200 feet of the interstate highway system will not be counted.
- (1) *Application.* An applicant for a digital billboard must file a building permit application in accordance with section 118-127 and obtain an operating permit in accordance with section 118-128. The building permit application must identify the demolition permit numbers for existing off-premises signs. The building permit for a digital billboard may be issued only after removal of the existing permitted off-premises signs in accordance with the four-to-one conversion ratio specified in this section. In the application for a digital billboard, the sign administrator may request information necessary to ensure compliance with this subsection and shall require a certificate of compliance be included in each application for an operating permit. In the certificate of compliance, the sign operator shall warrant that it is in full compliance with this chapter.
  - (2) *Requirements.* Sign operators installing, testing, or maintaining off-premises digital billboards shall comply with the following requirements:
    - a. *Static messages.* The digital billboard shall contain static messages only, and not have animation, movement, or the appearance or optical illusion of movement, of any part of the sign structure. Each static message shall not include flashing or the varying of light intensity.
    - b. *Dwell time.* The dwell time shall be at least eight seconds, and a change of message must be accomplished within one second or less.
    - c. *Display upon malfunction.* The digital billboard shall be operated with systems and monitoring in place to either turn the display off or freeze the display image in one position in the event of a malfunction.
    - d. *Brightness level.* The digital billboard may not display light of such intensity or brilliance to cause glare or otherwise impair the vision of the driver, or results in a nuisance to the



driver and is subject to all existing restrictions on light intensity, brilliance, or glare contained in the section 3.08(d)(1), (4), and (5) of the Unified Land Development Code.

1. Digital billboards shall not operate at brightness levels of more than 0.3 foot candles above ambient light, as measured using a foot candle meter the following pre-set distances:

Nominal Face Size	Distance from which to be Measured
12' × 25'	150'
10'6" × 36'	200'
14' × 48'	250'

2. Prior to the issuance of a permit under this chapter, the applicant shall provide written certification from the sign manufacturer that the light intensity has been factory pre-set not to exceed the brightness level specified in subsection (g)(2)d.1. and that the intensity level is protected from end-user manipulation by password-protected software or other method as deemed appropriate by the sign administrator.
- e. *Dimmer.* A digital billboard must be equipped with both a dimmer control and a photocell, which automatically adjusts the display's intensity according to natural ambient light conditions.
- f. *No resemblance to traffic control device.* The digital billboard shall not be configured to resemble a warning or danger signal, to simulate any lights or official signage used to control traffic, or to cause a driver to mistake the digital billboard for a warning or danger signal.
- g. *Dimensions.* Off-premises digital billboard sign area may have dimensions of up to six hundred seventy-two (672) square feet and otherwise subject to section 118-246.
- h. *Spacing requirements.*
  1. A digital billboard may not be located within 1,500 feet of another digital billboard facing the same traveled way or within the distance specified in section 118-359(4) of another off-premises sign, which is facing the same traveled way and is not classified as a digital billboard.
  2. Notwithstanding subsection (g)(2)h.1., a digital billboard may be located on the same sign structure as another digital billboard or off-premises sign if each sign face is visible only from a different direction of travel; provided, there are no more than two sign faces on a single sign structure.
- i. *Public safety/emergency notices.* The city, through appropriate personnel, may exercise its police powers to protect public health, safety, and welfare by requiring emergency information to be displayed via digital billboards. Emergency information includes, but is not limited to, AMBER Alerts, FBI wanted messages, dangerous criminal alerts, fugitives from justice, weather alerts, and emergency management information. Upon notification and at no cost to the city, the sign operator shall exclusively display the emergency alert

for the period of one hour, which may be extended by the city. Thereafter, emergency alerts are to remain in rotation according to the designated issuing agencies protocols.

(Code 1967, § 25½-10(B); Ord. No. 3593, § 1, 4-14-83; Ord. No. 4123, § 6, 4-11-85; Ord. No. 7735, § 1, 6-27-96; Ord. No. 7771, § 1, 8-8-96; Ord. No. 7982, § 2, 5-22-97; Ord. No. 10,051, § 1, 4-14-05; Ord. No. 10,894, § 6, 5-19-08; Ord. No. 12,734, § 4, 12-11-14; Ord. No. 12,762, § 2, 1-8-15; Ord. No. 13,104, § 1, 1-14-16)

Sec. 118-359. General location.

To the extent off-premises signs are allowed within the city, the following shall apply:

- (1) All off-premises signs shall be located within 800 feet of a commercial or industrial activity;
- (2) No off-premises sign shall be located in OR, SFE, SF1, SF2, MF1, MF2, MF3, ACE, UN, and LC zoning districts;
- (3) No off-premises sign shall be erected, constructed or established such that the face of the structure may be viewed from a scenic or historic right-of-way district; and
- (4) All off-premises signs shall be subject to the following spacing requirements from other off-premises signs on the same side of the public right-of-way:
  - a. No off-premises sign having a face area in excess of 300 square feet shall be located within 400 feet of another off-premises sign;
  - b. No off-premises sign having a face area from 100 to 300 square feet shall be located within 200 feet of another off-premises sign;
  - c. No off-premises sign having a face area up to 100 square feet shall be located within 100 feet of another off-premises sign; and
  - d. No off-premises sign to be constructed within 200 feet of the interstate highway system shall be located within 1,200 feet of another off-premises sign.

*Spacing of Off-Premises Signs*

Face Area of Sign	Distance to Other Signs
In excess of 300 square feet	400
100—300 square feet	200

Less than 100 square feet	100
All signs within 200 feet interstate highway system	1,200

- (5) Each double-faced, back-to-back or V-type sign shall be considered as a single off-premises sign for spacing purposes. The largest face on a double-faced, back-to-back or V-type sign will govern spacing requirements.
- (6) In computing the distance between off-premises signs, all measurements shall be made parallel to the edge of the street and on the same side of the street. In measuring the distance from back-to-back and V-type signs, the measurements shall be made from the street end of the nearest sign on the back-to-back or V- type structure.
- (7) No portable sign may be erected or placed as an off-premises sign.

(Code 1967, § 25½-10(C); Ord. No. 3593, § 1, 4-14-83; Ord. No. 4123, § 6, 4-11-85; Ord. No. 7735, § 1, 6-27-96; Ord. No. 7771, § 1, 8-8-96; Ord. No. 8002, § 5, 6-12-97; Ord. No. 14,031 , § 1, 3-14-19)

#### Sec. 118-360. Location on property.

All off-premises signs and sign structures shall be within the deeded front building line or, if no such line exists, within the property line, but in no event closer than 20 feet to the curbline of any public street.

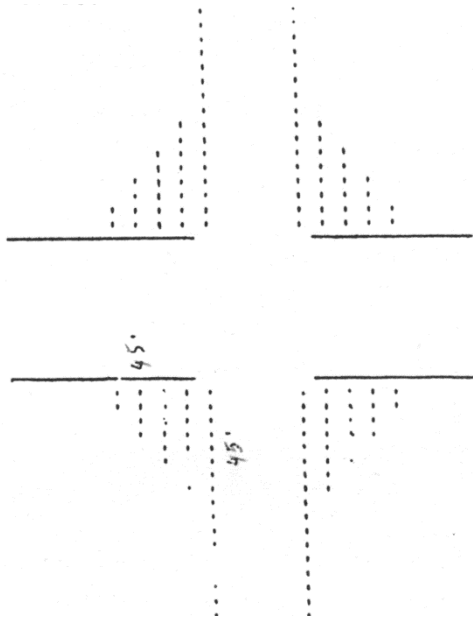
(Code 1967, § 25½-10(D); Ord. No. 3593, § 1, 4-14-83; Ord. No. 4123, § 6, 4-11-85; Ord. No. 7735, § 1, 6-27-96; Ord. No. 7771, § 1, 8-8-96)

#### Sec. 118-361. Construction of certain structures.

All off-premises sign structures constructed, established or erected after May 1, 1975, which are not located on the interstate highway system shall be supported by columns spaced a minimum of eight feet apart.

(Code 1967, § 25½-10(E); Ord. No. 3593, § 1, 4-14-83; Ord. No. 4123, § 6, 4-11-85; Ord. No. 7735, § 1, 6-27-96; Ord. No. 7771, § 1, 8-8-96; Ord. No. 8002, § 6, 6-12-97)

Sec. 118-362. Visibility triangle.



#### VISIBILITY TRIANGLE

(Code 1967, § 25½-10(F); Ord. No. 3593, § 1, 4-14-83; Ord. No. 4123, § 6, 4-11-85; Ord. No. 7735, § 1, 6-27-96; Ord. No. 7771, § 1, 8-8-96)

Cross reference(s)—Obscuring or interfering with view, § 118-177.

Sec. 118-363. Lists.

Each person engaging in the off-premises sign business shall file with the sign administrator a certified list of all off-premises sign structures owned by him as of January 1 of each year. This list shall be filed on or before January 1 of each year and shall describe the location of an off-premises sign. The owner shall give the street address of the sign location and the facing direction or the owner shall first reference the sign structure to the street from which the sign is to be primarily viewed, then the side of such street, then the distance in feet to the nearest intersecting street on the same side of the primary street as the sign structure is located, then reference is to be made to the direction the sign faces. For example: 303 X Street, west facing on X Street, north line, 120 feet east of Y Street, west facing (303 X Street NL 120' E Y Street WF).

(Code 1967, § 25½-10(G); Ord. No. 3593, § 1, 4-14-83; Ord. No. 4123, § 6, 4-11-85; Ord. No. 7735, § 1, 6-27-96; Ord. No. 7771, § 1, 8-8-96)

Section 23: Any person who fails to comply with any provision of this ordinance shall be guilty of a misdemeanor and, upon conviction, shall be punished by a fine not exceeding TWO THOUSAND AND NO/100 DOLLARS (\$2,000.00). Each act of violation and each day upon which any such violation shall occur shall constitute a separate offense. In addition to the penalty prescribed above, the City may pursue other remedies, such as abatement of nuisances, injunctive relief, administrative adjudication and revocation of licenses or permits.

Section 24: All ordinances or parts of ordinances inconsistent with the terms of this ordinance are hereby repealed; provided, however, that such repeal shall be only to the extent of such inconsistency. In all other respects, this ordinance shall be cumulative of other ordinances regulating and governing the subject matter covered by this ordinance.

Section 25: If any provision, section, exception, subsection, paragraph, sentence, clause or phrase of this ordinance or the application of same to any person or set of circumstances shall for any reason be held unconstitutional, void, or invalid, such invalidity shall not affect the validity of the remaining provisions of this ordinance or their application to other persons or sets of circumstances; and to this end, all provisions of this ordinance are declared to be severable.

Section 27: This ordinance shall take effect from and after ten (10) days from its passage by the City Council. The City Clerk is hereby directed to give notice hereof by causing the caption of this ordinance to be published in the official newspaper of the City of Baytown at least twice within ten (10) days after passage of this ordinance.

INTRODUCED, READ and PASSED by the affirmative vote of the City Council of the City of Baytown, this the 8<sup>th</sup> day of September, 2022.

---

BRANDON CAPETILLO, Mayor

ATTEST:

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ANGELA JACKSON, City Clerk

APPROVED AS TO FORM:

---

SCOTT LEMON, City Attorney



## PLANNING AND ZONING COMMISSION REPORT TO CITY COUNCIL

**TO:** City Council  
**FROM:** Planning and Zoning Commission  
**RE:** Unified Land Development Code text amendment – ULDC Consolidation  
**DATE:** July 19, 2022

This is the report required to be submitted by the Planning and Zoning Commission per Section 1.26 of the Unified Land Development Code, Baytown Code of Ordinances to the City Council. This report also serves as the final report that is to be used by the Council in its consideration of the amendment as set forth in Section 1.26 of the code.

**Requested Action:** The proposed Unified Land Development Code (ULDC) text amendment is to consolidate certain land development regulations, chapters, and sections of the Code of Ordinances into the ULDC.

**Applicant:** Rick Davis – City Manager

### **Background:**

The applicant is seeking to place land development standards for parking, landscaping, subdivisions, and signs into the ULDC. Currently, these regulations are scattered throughout the Codes of Ordinances, which creates challenges with navigating and understanding the regulations.

In addition, the City of Baytown has recently adopted a new Comprehensive Plan, which is to guide the growth of City for the next 20 – 30 years. By consolidating the land use regulations, the City hopes to assess the codes and conduct an overhaul of the regulations to assure that the regulations facilitate the outcomes desired by the community.

### **Staff Analysis**

The proposal to consolidate certain land development regulations into the ULDC is necessary to have the regulations assessed and amended to become more aligned with Comprehensive Plan 2040 goals and objectives. A consolidation such as this will reduce redundancies in the Code of Ordinances. There are no substantive changes associated with this text amendment. The amendment is primarily addressing the location of the various regulations.

#### **1. Consistency with Guiding Documents.**

This text amendment is in keeping with the intent of the ULDC because it consolidates a number of development regulations into one section of the Code of Ordinances.

#### **2. Compatible with the Surrounding Area.**

The proposed text amendment will coordinate the various development regulations by: reorganizing certain land development regulations into one section of the Code of

Ordinances; reducing conflicts and redundancies; improving the customer's ability to navigate; and easing compliance with applicable sections of the Code of Ordinances.

3. **Promotion of health, safety, or general welfare.**

This proposed text amendment will reduce existing conflicts and redundancies while improving the customer's ability to navigate and comply with the applicable sections of the Code of Ordinances. This promotes the general welfare of the City.

4. **Facilitation of infrastructure.**

The proposed text amendment will not have a direct impact to the facilitation of infrastructure.

5. **There are changed conditions.**

With the adoption of the Comprehensive Plan 2040, there is a need to review and assess the ordinances. Consolidating some of the land development ordinances into the ULDC is step one of many to assure coordination between the two documents.

6. **Effect on natural environment.**

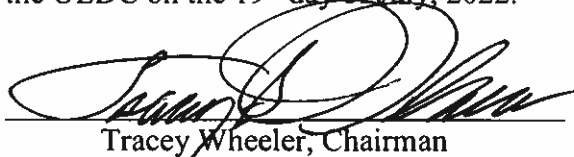
The proposed text amendment will not affect the natural environment.

7. **Community need.**

By consolidating some of the land development ordinances into the ULDC there will be:

- (1) a reduction of conflicts and redundancies throughout the ordinance;
- (2) a better assurance that the ordinances are serving the goals and objectives of the newly-adopted Comprehensive Plan 2040; and
- (3) an improvement of the customer's ability to navigate and comply with land development ordinances.

The Commission recommends ☐ approval / ☒ disapproval of the proposed text amendment to place certain land development standards for parking, landscaping, subdivisions, and signs into the ULDC on the 19<sup>st</sup> day of July, 2022.



Tracey Wheeler, Chairman  
City of Baytown, Texas  
Planning and Zoning Commission



## **CITY COUNCIL MEETING**

**6. a.**

**Meeting Date:** 09/08/2022

**Subject:** Receive Certification of Unopposed Status for Council District No. One

**Prepared for:** Angela Jackson, City Clerk's Office

**Prepared by:** Raquel Martinez, City Clerk's Office

**Department:** City Clerk's Office

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### **Information**

#### **ITEM**

Receive the Certificate of Unopposed Status for the Office of Council Member, District No. One.

#### **PREFACE**

The City Council called a municipal election for November 8, 2022, to elect a person to the Office of Council Member, District No. One of the City of Baytown.

The filing deadline for a place on the ballot for such election was Monday, August 22, 2022, and the filing deadline for a declaration of write-in candidacy was Friday, August 26, 2022.

Ms. Laura Alvarado was the only candidate to file for a place on the ballot for the Office of Council Member, District No. One prior to the before-mentioned deadlines.

The City Clerk is required to certify in writing that the candidate is unopposed and will be delivering a certification concerning the unopposed status of Ms. Alvarado for the Office of Council Member, District No. One at the meeting.

---

### **Fiscal Impact**

**Fiscal Year:**

**Acct Code:**

**Source of Funds (Operating/Capital/Bonds):**

**Funds Budgeted Y/N:**

**Amount Needed:**

**Fiscal Impact (Additional Information):**

There is no fiscal impact.

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### **Attachments**

Certificate of Unopposed Candidate - District 1

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# EXHIBIT “A”



## CERTIFICATE OF UNOPPOSED CANDIDATE

STATE OF TEXAS       §

COUNTY OF HARRIS   §

**TO: THE MAYOR AND CITY COUNCIL, CITY OF BAYTOWN, TEXAS**

In accordance with Section 2.052, Texas election Code, I, Angela Jackson, City Clerk for the City of Baytown, Texas, and the authority responsible for having the official election ballot prepared, hereby certify that the following candidate is unopposed for election to office, for the election scheduled on November 8, 2022.

Office:	Candidate:
Council Member, District No. One (1)	Laura Alvarado

WITNESS BY MY HAND AND SEAL of the City on this 8<sup>th</sup> day of September, 2022.

(SEAL)

\_\_\_\_\_  
ANGELA JACKSON, CITY CLERK



## **CITY COUNCIL MEETING**

**6. b.**

**Meeting Date:** 09/08/2022

**Subject:** Consider Declaring the Unopposed Council Member District No. One Candidate Elected to Office.

**Prepared for:** Angela Jackson, City Clerk's Office

**Prepared by:** Angela Jackson, City Clerk's Office

**Department:** City Clerk's Office

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### **Information**

#### **ITEM**

Consider an ordinance declaring the unopposed candidate Laura Alvarado elected to the Office of Council Member District No. One of the City of Baytown.

#### **PREFACE**

This proposed ordinance declares the unopposed candidate Laura Alvarado elected to the Office of Council Member District No. One of the City of Baytown.

The City Council called a Municipal Election for November 8, 2022, to elect a person to the Office of Council Member District No. One of the City of Baytown. The filing deadline for a place on ballot for said election was Monday, August 22, 2022, and the filing deadline for a declaration of write-in candidacy was Friday, August 26, 2022. Ms. Laura Alvarado was the only candidate to file for office prior to the deadlines.

Therefore, the City Clerk certified to the City Council as to the unopposed status of Ms. Laura Alvarado and delivered a certification to the City Council. In accordance with Section 2.053 of the Texas Election Code, the City Council, upon receipt of such a certification, may by ordinance declare the unopposed candidate elected to office. A certificate of election will be issued at the time at which the certification would have been issued if the candidate was elected on November 8th.

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### **Fiscal Impact**

**Fiscal Year:**

**Acct Code:**

**Source of Funds (Operating/Capital/Bonds):**

**Funds Budgeted Y/N:**

**Amount Needed:**

**Fiscal Impact (Additional Information):**

There is no fiscal impact.

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### **Attachments**

Ordinance - Declaring the Unopposed Council Member District No. One



AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BAYTOWN, TEXAS, DECLARING THE UNOPPOSED CANDIDATE LAURA ALVARADO ELECTED TO THE OFFICE OF COUNCIL MEMBER DISTRICT NO. ONE (1) OF THE CITY OF BAYTOWN AND CANCELING THE ASSOCIATED MUNICIPAL ELECTION PREVIOUSLY ORDERED TO BE HELD ON THE 8<sup>TH</sup> DAY OF NOVEMBER, 2022, FOR THE PURPOSE OF ELECTING THE COUNCIL MEMBER OF COUNCIL DISTRICT NO. ONE (1) OF THE CITY OF BAYTOWN; ORDERING THE CITY CLERK TO INCLUDE ON THE BALLOT FOR THE CITY'S MUNICIPAL ELECTION TO BE HELD ON THE 8<sup>TH</sup> DAY OF NOVEMBER, 2022, A HEADING ENTITLED "UNOPPOSED CANDIDATES DECLARED ELECTED" UNDER WHICH THE OFFICE OF COUNCIL MEMBER OF COUNCIL DISTRICT NO. ONE (1) AND LAURA ALVARADO'S NAME SHALL APPEAR; AND PROVIDING FOR THE EFFECTIVE DATE THEREOF.

\*\*\*\*\*

WHEREAS, through Ordinance No. 15,147 adopted on July 28, 2022, the City Council called its municipal election to be held on the 8<sup>th</sup> day of November, 2022, for the purpose of electing Council Members of Council District Nos. One (1), Two (2) and Three (3) of the City of Baytown; and

WHEREAS, only one candidate filed for such office for Council Member of Council District No. One (1); and

WHEREAS, the deadline has now passed for filing for a place on the ballot and for declaring write-in candidacy in such election; and

WHEREAS, Section 2.051, *et seq.* of the Texas Election Code provides for the cancellation of an election if each candidate whose name is to appear on the ballot is unopposed; and

WHEREAS, the City Clerk, the authority responsible for having the official ballot prepared, has certified in writing that the candidate for the Office of Council Member of Council District No. One (1) is unopposed for election and that no candidate's name is to be placed on a list of write-in candidates for that office under applicable law; and

WHEREAS, the City Clerk has delivered to the City Council of the City of Baytown, a Certificate of Unopposed Candidate, which certification is attached hereto as Exhibit "A" and is incorporated herein for all intents and purposes; and

WHEREAS, under these circumstances, Chapter 2, Subchapter C of the Texas Election Code authorizes the City Council to declare the candidate elected to office and cancel the election; NOW THEREFORE,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BAYTOWN, TEXAS:

Section 1: That the City Council of the City of Baytown, Texas, declares that Laura Alvarado, who is unopposed in the November 8, 2022, municipal election, is elected to the office of Council Member of Council District No. One (1) of the City of Baytown and directs that a certificate of election following the time the election would have been canvassed be issued.

Section 2: That the Municipal Election ordered by the City Council of the City of Baytown in Ordinance No. 15,147, to be held on the 8<sup>th</sup> day of November, 2022, for the purpose of electing the Council Member of Council District No. One (1) is hereby canceled in accordance with Section 2.053(b) of the Texas Election Code.

Section 3: That the City Clerk is hereby directed to include on the ballot for the City's Municipal Election to be held on the 8<sup>th</sup> day of November, 2022, a heading entitled "Unopposed Candidates Declared Elected," under which the Office of Council Member of Council District No. One (1) of the City of Baytown and Laura Alvarado's name shall appear, and to take all other action as may be required by law.

Section 4: This ordinance shall take effect immediately from and after its passage by the City Council of the City of Baytown.

INTRODUCED, READ and PASSED by the affirmative vote of the City Council of the City of Baytown on this the 8<sup>th</sup> day of September, 2022.

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BRANDON CAPETILLO, Mayor

ATTEST:

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ANGELA JACKSON, City Clerk

APPROVED AS TO FORM:

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SCOTT LEMON, City Attorney

## EXHIBIT "A"



### CERTIFICATE OF UNOPPOSED CANDIDATE

**STATE OF TEXAS           §**

**COUNTY OF HARRIS       §**

**TO: THE MAYOR AND CITY COUNCIL, CITY OF BAYTOWN, TEXAS**

In accordance with Section 2.052, Texas election Code, I, Angela Jackson, City Clerk for the City of Baytown, Texas, and the authority responsible for having the official election ballot prepared, hereby certify that the following candidate is unopposed for election to office, for the election scheduled on November 8, 2022.

<b>Office:</b>	<b>Candidate:</b>
Council Member, District No. One (1)	Laura Alvarado

WITNESS BY MY HAND AND SEAL of the City on this 8<sup>th</sup> day of September, 2022.

(SEAL)

---

ANGELA JACKSON, CITY CLERK



## **CITY COUNCIL MEETING**

**7. a.**

**Meeting Date:** 09/08/2022

**Subject:** Consider an Ordinance Awarding the Solid Waste Contract to Best Trash, LLC

**Prepared for:** Frank Simoneaux, Public Works/Engineering/BAWA

**Prepared by:** Frank Simoneaux, Public Works/Engineering/BAWA

**Department:** Public Works/Engineering/BAWA

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### **Information**

#### **ITEM**

Consider an ordinance awarding the Annual Residential Solid Waste Collection, Disposal, and Recycling Services Contract for the City of Baytown to Best Trash, LLC.

#### **PREFACE**

This proposed ordinance authorizes the Annual Residential Solid Waste Collection, Disposal, and Recycling Services Contract with Best Trash. The contract is for a five-year term with a 6<sup>th</sup> year option at a substantially reduced price. The residential collection services that the citizens will receive including:

4-day route week;

2x week trash collection in new 65-gallon Best Trash carts. Bags outside of cart also collected.

1x week recycling collection in new 65-gallon Best Trash carts. Boxes outside of cart also collected.

Extra carts may be rented for:

- 65-gallon trash = \$8 per month

- 65-gallon recycle = \$6 per month

Bulk pickup once a week on the second day of service four (4) Cy limit.

Rates for unusual accumulations:

- \$300 per hour per truck and crew plus disposal fee of \$50.00 per CY.

The City will continue to provide brush collection. The cost for such services shall be as follows for the five-year term:

Year 1 \$24.10 per house monthly

Year 2 \$25.06 per house monthly + 4% CIP

Year 3 \$26.06 per house monthly + 4% CIP

Year 4 \$27.10 per house monthly + 4% CIP

Year 5 \$28.18 per house monthly + 4% CIP

The total value of the first year contract based on estimated number of households is \$5,928,600.

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### **Fiscal Impact**

<b><u>Fiscal Year:</u></b>	23-24
<b><u>Acct Code:</u></b>	32010-74034
<b><u>Source of Funds (Operating/Capital/Bonds):</u></b>	Operating
<b><u>Funds Budgeted Y/N:</u></b>	Y
<b><u>Amount Needed:</u></b>	\$5,928,600
<b><u>Fiscal Impact (Additional Information):</u></b>	

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**Attachments**

Ordinance - Residential Solid Waste Collection, Disposal, and Recycling Services Contract  
Indebtedness Certification

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AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BAYTOWN, TEXAS, AUTHORIZING THE ANNUAL RESIDENTIAL SOLID WASTE COLLECTION, DISPOSAL, AND RECYCLING SERVICES CONTRACT WITH BEST TRASH, L.L.C.; AUTHORIZING PAYMENT BY THE CITY OF BAYTOWN IN AN AMOUNT NOT TO EXCEED FIVE MILLION TWO HUNDRED SEVENTY-SIX THOUSAND NINE HUNDRED FIFTY-SEVEN AND NO/100 DOLLARS (\$5,276,957.00); MAKING OTHER PROVISIONS RELATED THERETO; AND PROVIDING FOR THE EFFECTIVE DATE THEREOF.

\*\*\*\*\*

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BAYTOWN, TEXAS:

Section 1: That the City Council of the City of Baytown hereby authorizes and directs the City Manager to execute and the City Clerk to attest to the Annual Residential Solid Waste Collection, Disposal, and Recycling Services Contract with Best Trash, L.L.C. A copy of said agreement is attached hereto as Exhibit "A" and incorporated herein for all intents and purposes.

Section 2: That the City Council hereby authorizes payment to Best Trash, L.L.C., in an amount not to exceed FIVE MILLION TWO HUNDRED SEVENTY-SIX THOUSAND NINE HUNDRED FIFTY-SEVEN AND NO/100 DOLLARS (\$5,276,957.00), in accordance with the contract authorized in Section 1.

Section 3: That pursuant to the provisions of Texas Local Government Code Annotated § 252.048, the City Manager is hereby granted general authority to approve any change order involving a decrease or an increase in costs of FIFTY THOUSAND AND NO/100 DOLLARS (\$50,000.00) or less, provided that the original contract price may not be increased by more than twenty-five percent (25%) or decreased by more than twenty-five percent (25%) without the consent of the contractor to such decrease.

Section 4: This ordinance shall take effect immediately from and after its passage by the City Council of the City of Baytown.

INTRODUCED, READ and PASSED by the affirmative vote of the City Council of the City of Baytown this the 8<sup>th</sup> day of September, 2022.

\_\_\_\_\_  
BRANDON CAPETILLO, Mayor

ATTEST:

\_\_\_\_\_  
ANGELA JACKSON, City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
SCOTT LEMON, City Attorney

**CITY OF BAYTOWN, TEXAS**  
**INDEBTEDNESS CERTIFICATION**

**Project Name:** Anual Residential Solid Waste Services Contract

**Company Name:** Best Trash

**Department:** Public Works

**Date:** 8/03/2022

**Council Date:** 08/11/2022

A review of the above-described company was made in accordance with 2-663 of the City of Baytown Code of Ordinances and the aforementioned company was found:

☐ to be indebted to the City in the following areas:

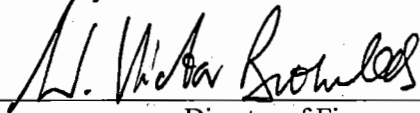
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☒ not to be indebted to the City.

It is hereby certified the above is true and correct based on the best information available.

  
\_\_\_\_\_  
Director of Finance

8/03/2022

\_\_\_\_\_  
Date

For information regarding this certificate, please contact the Finance Director at 281-420-6531.

If an appeal to this determination is to be filed under section 2-664 of this code, please forward to the following address:

City of Baytown  
Director of Finance  
P O Box 424  
Baytown, TX 77522-0424



## **CITY COUNCIL MEETING**

**8. a.**

**Meeting Date:** 09/08/2022

**Subject:** Consider a resolution to amend the City of Baytown's City Council Rules and Procedures to establish new time limits for public speakers

**Prepared for:** Scott Lemond, Legal

**Prepared by:** Scott Lemond, Legal

**Department:** Legal

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### **Information**

#### **ITEM**

Consider a resolution to amend the City of Baytown's City Council Rules and Procedures to establish new time limits for public speakers.

#### **PREFACE**

This proposed resolution amends Paragraphs 6.2(e)(I), (e)(I)(b), (e)(II), and (e)(III) of the City of Baytown's City Council Rules and Procedures to establish time limits of three (3) minutes for all public speakers, including allowing speakers to pass time to others. Any speaker to whom time has been passed may speak up to a total of nine (9) minutes.

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### **Fiscal Impact**

**Fiscal Year:**

**Acct Code:**

**Source of Funds (Operating/Capital/Bonds):**

**Funds Budgeted Y/N:**

**Amount Needed:**

**Fiscal Impact (Additional Information):**

There will be no fiscal impact for this item.

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### **Attachments**

Resolution - Rules of Procedure 09082022

Exhibit A - Rules of Procedure 09082022

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A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BAYTOWN,  
TEXAS, AMENDING THE CITY COUNCIL RULES OF PROCEDURE;  
PROVIDING A REPEALING CLAUSE; CONTAINING A SAVINGS CLAUSE;  
AND PROVIDING FOR THE EFFECTIVE DATE THEREOF.

\*\*\*\*\*

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BAYTOWN, TEXAS:

Section 1: That the City Council of the City of Baytown, Texas hereby amends its Rules of Procedure, which rules, as amended, are attached hereto as Exhibit "A" and are incorporated herein for all intents and purposes.

Section 2: All resolutions or parts of resolutions inconsistent with the terms of this resolution are hereby repealed; provided, however, that such repeal shall be only to the extent of such inconsistency and in all other respects this resolution shall be cumulative of other resolutions regulating and governing the subject matter covered by this resolution.

Section 3: Any provision, section, exception, subsection, paragraph, sentence, clause or phrase of this resolution or the application of same to any person or the set of circumstances, shall for any reason be held unconstitutional, void or invalid, such invalidity shall not affect the validity of the remaining provisions of this resolution or their application to other persons or sets of circumstances and to this end all provisions of this resolution are declared to be severable

Section 4: This resolution shall take effect immediately from and after its passage by the City Council of the City of Baytown, Texas.

INTRODUCED, READ and PASSED by the affirmative vote of the City Council of the City of Baytown, Texas this the 8<sup>th</sup> day of September 2022.

---

BRANDON CAPETILLO, Mayor

ATTEST:

---

ANGELA JACKSON, City Clerk

APPROVED AS TO FORM:

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SCOTT LEMON, City Attorney

# Exhibit "A"

## RULES OF PROCEDURE

### 1. AUTHORITY

**1.1 Charter.** Pursuant to the provisions of sections 25 and 27 of the Charter of the City of Baytown, the City Council enacts these rules of procedure for all meetings of the City Council of the City of Baytown, Texas.

**1.2** During any regular or special council meeting, a reasonable opportunity shall be given for citizens to be heard under these rules. The rules of procedure are enacted as guideline to be followed by all persons in the Council Chamber including the City administrative staff, news media, and visitors.

### 2. GENERAL RULES

**2.1 Meetings to be Public.** All official meetings of the Council shall be open to the public pursuant to the requirements of the Texas Open Meetings Act, Chapter 551, Texas Government Code, as amended.

**2.2 Quorum.** A majority of the members of the Council shall constitute a quorum for the transaction of business.

**2.3 Compelling Attendance.** No member shall be excused from attendance at a Council meeting except for good valid reasons.

**2.4 Misconduct.** The Council may punish its own members for misconduct.<sup>1</sup>

**2.5 Minutes of Meetings.** An account of all proceedings of the Council shall be kept by the City Clerk and shall be entered in a book constituting the official record of the Council.

**2.6 Questions to Contain One Subject.** All questions submitted for a vote shall contain only one subject.

**2.7 Right of Floor.** Any member desiring to speak shall be recognized by the Presiding Officer, and shall confine his or her remarks to the subject under consideration or to be considered. No member shall be allowed to speak more than once on any one subject until every member wishing to speak shall have spoken.

**2.8 City Manager.** The City Manager, or Acting City Manager, shall attend all meetings of the Council unless excused. He or she may make recommendations to the Council and shall have the right to take part in all discussions of the Council, but shall have no vote.

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<sup>1</sup> See Baytown, Tex., Code §2-807 (2009).

**2.9 City Attorney.** The City Attorney, or Acting City Attorney, shall attend all meetings of the Council unless excused and shall, upon request, give an opinion, either written or oral, on questions of law. The City Attorney shall act as the Council's parliamentarian.

**2.10 City Clerk.** The City Clerk, or Acting City Clerk, shall attend all meetings of the City Council unless excused, and shall keep the official minutes and perform such other duties as may be requested and assigned by the City Manager.

**2.11 Sergeant at Arms.** The Chief of Police, or his or her designee, shall serve as Sergeant at Arms for the City Council, and shall attend all meetings of the City Council unless excused.

**2.12 Officers and Employees.** Any officer or employee of the city, when requested by the City Manager, shall attend any meeting of the Council. If requested to do so by the City Manager, such employee may present information relating to matters before the Council.

**2.13 Suspension of Rules.** Any provision of these rules not governed by the City Charter or Code may be temporarily suspended by the affirmative vote of a majority of the quorum present.

**2.14 Amendment of Rules.** These rules may be amended, or new rules adopted by the affirmative vote of a majority of the quorum present, provided that the proposed amendments or new rules shall have been introduced before the City Council at a prior Council meeting.

### **3. CODE OF CONDUCT**

#### **3.1 Council Members.**

- (a) During Council meetings, Council members shall preserve order and decorum and shall neither by conversation or otherwise delay or interrupt the proceedings nor refuse to observe the rules of the Council.
- (b) A Council member, once recognized, shall not be interrupted while speaking unless called to order by the Mayor or presiding officer, unless a point of order is raised by another member or the parliamentarian, or unless the speaker chooses to yield to questions from another member. If a Council member is called to order while he or she is speaking, he or she shall cease speaking immediately until the question of order is determined. If ruled to be in order, he or she shall be permitted to proceed. If ruled to be

not in order she or she shall remain silent or shall alter his or her remarks so as to comply with rules of the Council.

### **3.2 Administrative Staff**

- (a) Members of the Administrative staff and employees of the City shall observe the same rules of procedure and decorum applicable to members of the Council, and shall have no voice unless and until recognized by the Mayor or presiding officer.
- (b) While the presiding officer shall have the authority to preserve decorum in meetings as far as staff members and City employees are concerned, the City Manager also shall be responsible for the orderly conduct and decorum of all City employees under his or her direction and control.
- (c) The City Manager shall take such disciplinary action as maybe necessary to ensure that such decorum is preserved at all times by City employees in Council meetings.
- (d) All remarks and questions addressed to the Council shall be addressed to the Council as a whole and not to any individual member thereof.
- (e) No staff member, other than a staff member having the floor, shall enter into a discussion either directly or indirectly without permission of the Mayor or presiding officer.

### **3.3 Citizens**

- (a) Citizens are welcome and invited to attend all meetings of the Council, and will be admitted to the Council Chamber, or other room in which the meeting is held, up to the fire safety capacity of the room.
- (b) All citizens will refrain from private conversations in the Chamber, or other room, while the Council is in session.
- (c) Citizens attending Council meetings shall observe the same rules of propriety, decorum, and good conduct applicable to the administrative staff. Any person making personal, impertinent, or slanderous remarks, or who becomes boisterous while addressing the Council or while attending the Council meeting shall be removed from the room if the Sergeant at Arms is so directed by the Mayor or presiding officer, and such person shall be barred from further audience before the Council during that session of the Council.
- (d) Unauthorized remarks from the audience, stamping of feet, applauding, whistles, yells, and similar demonstrations shall not be permitted by the presiding officer, who shall direct the Sergeant at Arms to remove such offenders from the room. In case the presiding officer shall fail to act, any member of the Council may

move to require him or her to act to enforce the rules, and the affirmative vote of a majority of the quorum of the Council present shall require the presiding officer to act.

- (e) No placards, banners, or signs of any kind will be permitted in the Council Chamber except exhibits, displays, and visual aids used in connection with presentations to the Council, provided that such exhibits, displays, and visual aids do not disrupt the meeting.

### 3.4 In General

- (a) **Rules.** Robert's Rules of Order (latest revision) shall govern in all cases, unless Robert's Rules of Order are in conflict with the City Charter, City ordinances, or rules of procedure hereby adopted, provided that Section 42, "Rules Governing Debate, Rules Against the Chair's Participation in Debates" shall not be applicable and the Mayor or presiding officer shall have the right to participate in debate of issues pending before the Council.
- (b) **Recognition by presiding officer.** No person shall address the Council without first being recognized by the presiding officer.
- (c) **Procedure.** Each person addressing the Council shall approach the podium and give his/her name and address in an audible tone of voice for the records, state the subject the person wishes to discuss, and, if representing a group, identify the group or organization the person represents. All remarks shall be addressed to the Council as a whole and not to any member thereof. No person other than members of the Council and the person having the floor shall be permitted to enter into any discussion, directly or through a member of the Council, without permission of the presiding officer. No question may be asked a member of the City staff without the permission of the presiding officer.
- (d) **Repetitious comments prohibited.** A speaker shall not present the same or substantially the same items or arguments to the Council repeatedly or be repetitious in presenting their oral comments. Nothing in the foregoing precludes submission of comments to the City Council in writing, for such action or non- action as the Council, in its discretion, may deem appropriate.
- (e) **Spokesperson for group of persons.** In order to expedite matters and to avoid repetitious presentations, whenever any group of persons wishes to address the Council on the same subject, it shall be proper for the presiding officer to request that a spokesperson be chosen by the group to address the Council, and in case additional matters are to be presented by any other member of the group, to limit the number of such persons addressing the Council.
- (f) **Charges against employees.** Should any person in a Council meeting charge an employee with improper conduct, malfeasance, nonfeasance, or misfeasance, then, in such event, such person shall



be ruled out of order immediately and instructed to refer his complaint to the City Manager.

- (g) **Disturbances.** No person attending any Council meeting shall delay, interrupt, or disrupt the proceedings or refuse to obey the orders of the presiding officer. Any person making personal, impertinent, and slanderous remarks or who becomes boisterous while addressing the Council or while attending the Council meeting shall be removed from the room if the Sergeant at Arms is so directed by the presiding officer. The Chief of Police, or such member or members of the Police Department as the presiding officer may designate, shall be Sergeant at Arms of the Council meetings.
- (h) **Communication devices.** No person attending any Council meeting shall possess a pager, cellular telephone, radiotelephone or other device that is set in a mode to provide audible notification of an incoming call or page. No person attending any Council meeting shall use a cellular telephone, radiotelephone or other telecommunication device for audible communications while the Council meeting is in session.

#### 4. TYPES OF MEETINGS

**4.1 Regular meetings.** Unless otherwise established by the City Council, the Council shall hold its regular meetings in the Council Chamber of City Hall, 2401 Market Street, Baytown, Texas, beginning at 6:30 p.m. on:

- a. the second and fourth Thursdays for the months of January through October;
- b. the second Thursday in November;
- c. either:
  - (i) the Monday in November immediately preceding Thanksgiving Day or
  - (ii) the date of the canvass of the November election, as applicable; and
- c. the second Thursday in December.

**4.2 Work sessions.** Work sessions shall be called by the City Clerk upon the request of the Mayor, the City Manager, or three (3) members of the Council. Such meetings shall be held in the Don Hullum Conference Room unless otherwise established by the Council. In the event of a work session, the City Clerk shall notify each member of the Council. A work session is to provide information to the members of the Council and to allow Council to discuss the issues presented during the work session. While members of the public are invited to attend all work sessions, the public is not provided a right or time to speak on a topic during a work session, unless invited to do so by the Council. No decision shall be made by the Council during a work session, nor shall any vote of the Council be taken to decide a matter during a work session.

**4.3 Special meetings.** Special meetings of the council shall be called by the City Clerk upon the request of the Mayor, the City Manager, or three (3) members of the Council. In the event of a special called meeting, the City Clerk shall notify each member of the Council.

**4.4 Emergency meetings.** In case of emergency or urgent public necessity, which shall be expressed in the notice of the meeting, an emergency meeting may be called by the Mayor, the City Manager, or three (3) members of the Council, and it shall be sufficient if the notice is posted in accordance with Chapter 551, Texas Government Code (Open Meetings Act), as amended.

**4.5 Notice of Meetings.** The agenda for all meetings, including Council committee or subcommittee meetings, shall be posted by the City Clerk on the City's official bulletin board and on the City's website, and notice of all meetings shall be given by the City Clerk pursuant to the requirements of the Texas Open Meetings Act, Chapter 551, Texas Government Code, as amended.

## **5. PRESIDING OFFICER AND DUTIES**

**5.1 Presiding Officer.** The Mayor, or in the absence of the Mayor, the Mayor Pro Tem, shall preside as chairman, or presiding officer at all meetings of the Council. In the absence of both the Mayor and Mayor Pro Tem, and with a quorum being present, the Council shall elect a temporary presiding officer.

**5.2 Call to order.** The meetings of the Council shall be called to order by the Mayor, or in the Mayor's absence, the Mayor Pro Tem, and in the absence of both the Mayor and Mayor Pro Tem, the meeting shall be called to order by the City Clerk.

**5.3 Preservation of order.** The presiding officer shall (i) preserve order and decorum, (ii) prevent insulting references to Council members, impugning of other member's motives, and repetitious comments and (iii) confine remarks to the question under discussion. The presiding officer shall call upon the Sergeant at Arms as necessary to enforce compliance with the rules contained herein.

**5.4 Substitution for Chair.** The Mayor may call upon the Mayor Pro Tem, or if he or she is unavailable, then any other member to take his or her place, for a portion of a meeting, such substitution is not to continue beyond adjournment.

**5.5 Points of Order.** The presiding officer shall determine all points of order, subject to the right of any member to appeal to the Council. If any appeal is taken, then questions shall be, "Shall the decision of the presiding officer be sustained?". If a majority of the members present vote "No", the ruling of the chair is overruled; otherwise, it is sustained.

**5.6 Questions to be Stated.** The presiding officer shall state all questions submitted for a vote and announce the result. A roll call shall be taken upon the request of any member.

**5.7 Call for Recess.** The presiding officer may call for a recess of up to fifteen minutes at regular intervals of approximately one hour at appropriate points in the meeting agenda, or if requested by any two members.

**5.8 Votes.** Council members shall clearly indicate their vote on each matter submitted to a vote.

## **6. ORDER OF BUSINESS**

**6.1 Agenda.** The order of business of each regular and special meeting shall be as contained in the agenda prepared by the City Manager. The agenda shall be a listing by topic of subjects to be considered by the Council. Placement of items on the agenda shall be governed by this Section. Conduct of business at special meetings and council committees and subcommittees will likewise be governed by an agenda and the rules of procedure contained herein.

The agenda for each regular and special meeting of the City Council is determined as follows:

- (a) All items to be included on the agenda must be submitted to the City Manager's Office, the City Attorney's Office and the City Clerk's Office on or before 4:00 p.m. on the tenth day preceding the meeting.
- (b) The City Manager, or the Mayor, or three Council Members must grant approval for an item to be included on the agenda.
- (c) An item may not be reconsidered by the Council if the item has been previously considered and voted on by the Council within the preceding six months, unless the Council, by majority vote, waives this restriction as to the item.

The agenda order set out is the desired order for conducting the business of the City Council of the City of Baytown in regular and special meetings. When the best interest of the Council and the citizens of the City require, any item appearing on the agenda shall be considered out of order as shall be determined by the presiding officer in his/her sole discretion.

**6.2** The order for the agenda shall be as follows unless the Mayor or City Manager determines that a different order is in the best interest of the City Council and/or the citizens of the City:

- (a) Call to order.
- (b) Announcement of quorum. (The presiding officer shall announce

whether a quorum is present.)

- (c) Pledge of Allegiance/Invocation.
- (d) Approval of minutes. (The minutes of the previous meeting(s) of the City Council shall be submitted to the Council for approval or correction and approval.)
- (e) Citizen Communications.

I. Items not on the agenda (3 minutes per speaker).

- a. Any citizen who desires to address Council on a matter not included on the agenda may do so at this time provided the person has complied with subsection I.c of this section. Council requests that prior to appearing before Council, the citizen make every attempt to resolve the problem through administrative channels.
- b. The three (3) minute limit may be extended by a majority vote of the Council. Council reserves the privilege to make inquiries of the citizen at the end of his/her presentation. As this is an information-gathering period for Council, all inquiries, requests, etc., will be referred to the administration for processing, and a response to the citizen will be made at a later date.
- c. To provide an efficient and orderly process to handle citizen communications and to provide notice to the public of each item to be discussed during the Council meeting, each citizen desiring to speak will be asked to complete a citizen communication form to be provided by the City Clerk. The form will provide a space for the individual's name, address, telephone number, date of requested appearance, reasons for request to appear before Council and requested action of Council. The form must be submitted no later than 5:00 p.m. on the day prior to the date that the meeting is scheduled to be posted by the City Clerk. Timely, complete requests will be included on the agenda; however, only one citizen communication per citizen per meeting shall be included on the agenda.

II. Items on the agenda.

Any person desiring to address Council regarding an item on the agenda may do so by registering on the form provided in the hallway leading to the Council Chambers. Each citizen's remarks will be limited to three (3) minutes, unless the time is extended by a majority vote of the Council.

- III. A citizen requesting to address Council under either of the above methods may pass his/her time to another person who has requested to address Council; however, no citizen's remarks shall exceed nine (9) minutes in total, unless the time is extended by a majority vote of the Council.
- (f) Public hearing.
- (g) Business—Ordinances, resolution, motions, reports, and discussion items shall be considered at this time.
- (h) Consent agenda—Routine matters which require no discussion (Any Council member may remove any item from the consent agenda for discussion.)
- (i) Appointments—Any appointment to boards, committees or commissions shall be considered at this time.
- (j) City Manager's report—The City Manager will present reports of current problems and affairs of interest to the Council.
- (k) Adjournment.

## **7. CONSIDERATION OF ORDINANCES, RESOLUTIONS AND MOTIONS**

**7.1 Printed or Typewritten Form.** All ordinances and resolution shall be presented to the Council in printed or typewritten form. The Council may, by proper motion, amend any ordinance or resolution presented to it and direct that the amended ordinance or resolution be adopted, except as otherwise provided by the Charter or state law.

**7.2 City Attorney to Approve.** All ordinances, resolutions, and contracts and amendments thereto shall be approved as to form by the City Attorney.

**7.3 Distribution of Ordinances and Resolutions.** The City Manager shall prepare copies of all proposed ordinances and resolutions for distribution to all members of the Council at the meeting at which the ordinance or resolution is to be considered, or at such earlier time as is expedient.

**7.4 Majority Vote Required.** An affirmative vote of the majority of the Council members present is necessary to adopt or approve any ordinance, resolution or take any official action in the name of the City except as otherwise provided in the Charter or by state law.

## **8. CREATION OF COMMITTEES, BOARDS AND COMMISSIONS**

**8.1 Council Committees.** The Council may, as the need arises, authorize the appointment of the "ad hoc" Council committees. Any committee so created shall cease to exist upon the accomplishment of the special purpose for which it was created or when abolished by a majority vote of the Council.

**8.2 Citizen Boards, Commissions, and Committees.** The Council may create other committees, boards and commissions to assist in the conduct of the operation of the City government with such duties as the Council may specify not

inconsistent with the City Charter, Code or state law. Memberships and selection of members shall be as provided by the Council if not specified by the City Charter, Code or state law. Any committee, board, or commission so created shall cease to exist upon the accomplishment of the special purpose for which it was created, or when abolished by a majority vote of the Council. No committee so appointed shall have powers other than advisory to the Council or to the City Manager, except as otherwise specified by the Charter, Code or state law.

### **8.3 Appointments.**

- (a) Individual City Council members making nominations for members to citizen boards and commissions will consider interested persons on a city-wide basis.
- (b) The City Council will make an effort to be inclusive of all segments of the community in the board and commission appointment process. City Council members will consider ethnicity, gender, socio-economic levels, and other factors to ensure a diverse representation of Baytown citizens.
- (c) The City Council will take into consideration an individual's qualifications, willingness to serve, and application information in selecting nominations for membership to each board and commission.
- (d) In an effort to ensure maximum citizen participation, City Council members should consider a practice of nominating new citizens to replace board members who have served three consecutive, full terms on the same board.

**8.4 Rules of Procedure.** Each board, commission, and committee of the City shall adopt Rules and Procedures for the conduct of business and matters that may come before them. Such rules and procedures shall be consistent with the rules and procedures set forth herein. In the alternative, the board, commission or committee may use these Rules and Procedures, as applicable.



## **CITY COUNCIL MEETING**

**9. a.**

**Meeting Date:** 09/08/2022

**Subject:** Discuss the City of Baytown Fiscal Year 2022-2023 Proposed Budget.

**Prepared for:** Victor Brownlees, Finance

**Prepared by:** Raquel Martinez, City Clerk's Office

**Department:** Finance

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### **Information**

#### **ITEM**

Discuss the City of Baytown Fiscal Year 2022-2023 Proposed Budget.

#### **PREFACE**

This item allows the Council to review and discuss the City of Baytown Fiscal Year 2022-23 Proposed Budget.

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### **Fiscal Impact**

**Fiscal Year:**

**Acct Code:**

**Source of Funds (Operating/Capital/Bonds):**

**Funds Budgeted Y/N:**

**Amount Needed:**

**Fiscal Impact (Additional Information):**

There is no fiscal impact.

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## **CITY COUNCIL MEETING**

**10. a.**

**Meeting Date:** 09/08/2022

**Subject:** Receive the City of Baytown's Quarterly Financial and Investment Reports for the Quarter Ending June 30, 2022

**Prepared for:** Victor Brownlees, Finance

**Prepared by:** Elizabeth Donato, Finance

**Department:** Finance

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### **Information**

#### **ITEM**

Receive the City of Baytown's Quarterly Financial and Investment Reports for the Quarter Ending June 30, 2022.

#### **PREFACE**

The City of Baytown Quarterly Investment Report, for the Quarter Ending June 30, 2022, is submitted for review in accordance with the Public Funds Investment Act, Section 2256.023 (a) and (b).

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### **Fiscal Impact**

**Fiscal Year:**

**Acct Code:**

**Source of Funds (Operating/Capital/Bonds):**

**Funds Budgeted Y/N:**

**Amount Needed:**

**Fiscal Impact (Additional Information):**

There is no fiscal impact associated with this item.

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### **Attachments**

Q3 COB Financial Report

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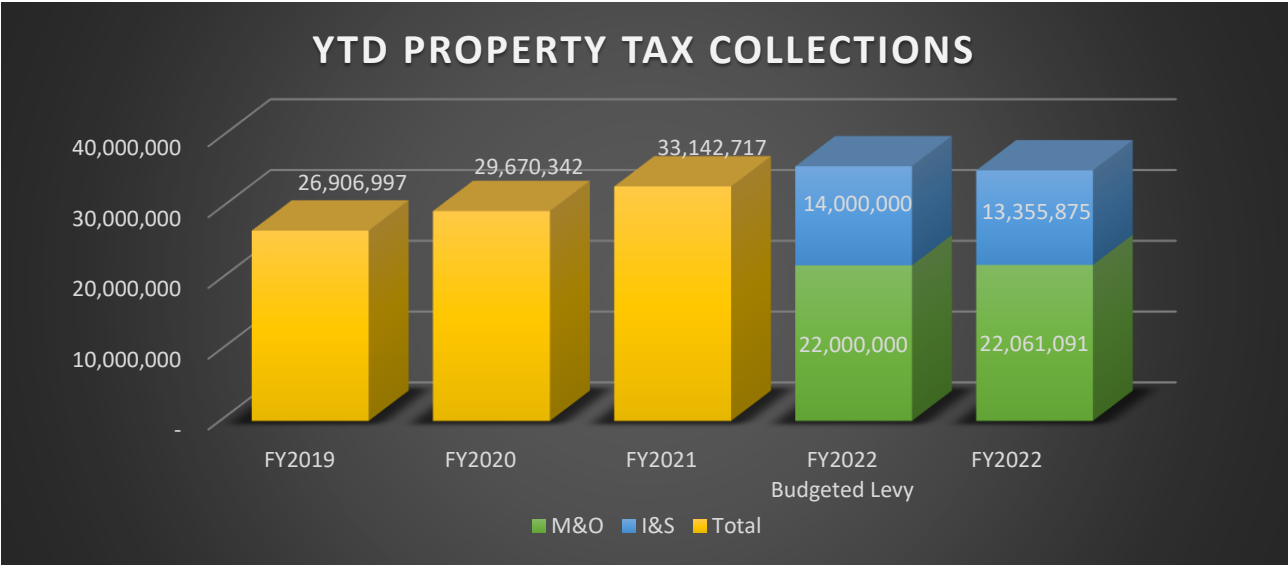
# CITY OF BAYTOWN

QUARTERLY FINANCIAL AND INVESTMENT REPORT  
ENDING JUNE 30, 2022

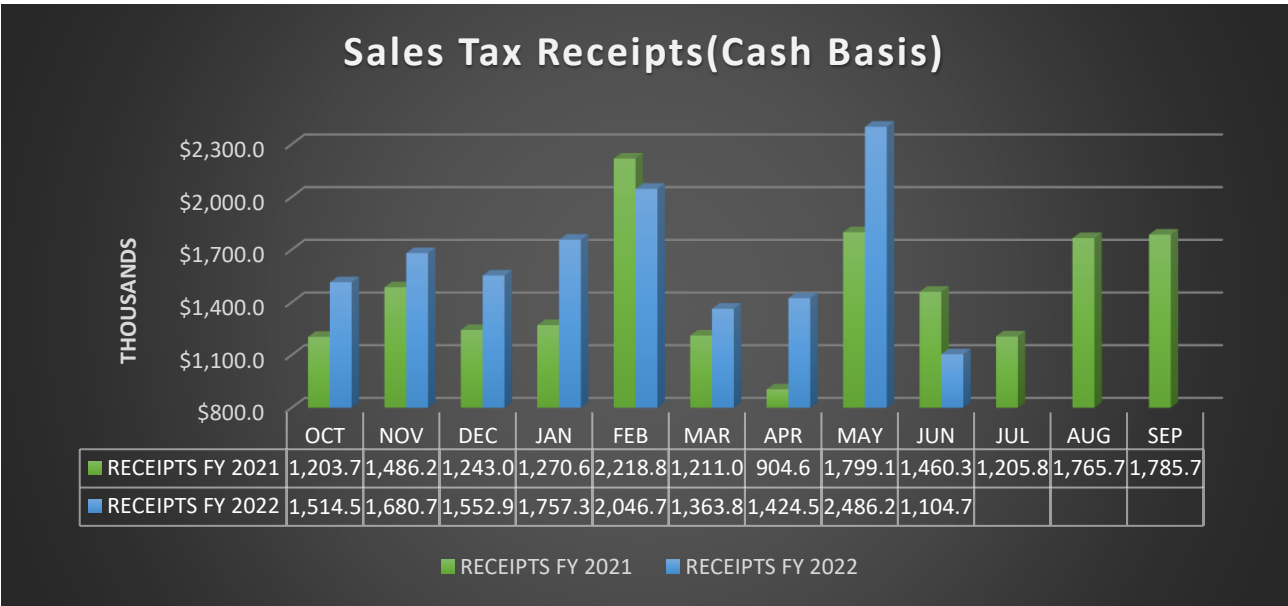
# TABLE OF CONTENTS

	Page
Property Tax Collections & Sales Tax Revenue Charts.....	1
101 – General Fund .....	2
502 – Aquatics Fund .....	3
232 – Hotel/Motel Occupancy Tax Fund .....	4
520 – Water & Sewer Fund .....	5
500 – Sanitation Fund .....	6
505 – Storm Water Utility Fund .....	7
211 – Street Maintenance Tax Fund .....	8

# PROPERTY TAX



# SALES TAX



## GENERAL FUND

	Budget		CY Actual		Balance	%	PY Actual		CY to PY Change \$		
Revenues											
General Property Tax	\$	22,750,000	\$	22,558,411	\$	191,589	99%	\$	21,496,402	\$	1,062,009
Sales and Use Tax		18,678,559		14,382,039		4,296,519	77%		13,249,166		1,132,873
Franchise Fee		4,640,917		3,289,707		1,351,210	71%		3,322,824		(33,117)
Indust Dist Contra		66,775,000		65,730,347		1,044,653	98%		64,207,336		1,523,011
Pmt. In Lieu of Tax		435,826		389,646		46,181	89%		250,089		139,557
Licenses & Permits		3,058,768		1,642,151		1,416,616	54%		2,131,006		(488,855)
Intergovernmental		1,134,282		329,688		804,594	29%		437,291		(107,603)
Charges for Services		2,608,269		1,946,876		661,394	75%		1,742,915		203,961
Fines & Forfeitures		1,478,673		1,085,578		393,095	73%		1,062,722		22,856
Special Assessment		306,906		209,930		96,976	68%		235,561		(25,630)
Miscellaneous		1,162,789		1,500,101		(111,953)	110%		777,881		496,860
Transfers In		3,143,516		1,207,374		1,936,143	38%		2,321,297		(1,113,923)
Total Revenues		126,173,506		114,271,848		12,127,016	91%		111,234,490		3,037,358
Expenditures											
General Government		30,554,032		20,587,574		9,966,458	67%		16,389,273		2,366,134
Public Safety		57,567,309		42,417,703		15,149,605	74%		40,678,645		1,059,554
Public Works		6,338,420		4,692,442		1,645,978	74%		4,266,066		108,068
Health & Welfare		5,083,297		2,895,568		2,187,729	57%		2,739,363		117,895
Culture & Leisure		11,141,821		7,400,858		3,740,963	66%		6,962,038		473,553
Total Operating		110,684,878		77,994,145		32,690,734	70%		71,035,385		6,958,760
Capital Outlay		2,147,118		2,132,565		14,554	99%		215,210		1,917,354
Transfers Out		24,086,415		18,064,811		6,021,604	75%		9,103,478		8,961,333
Total Expenditures		136,918,411		98,191,520		38,726,891	72%		80,354,073		17,837,447
Net Change											
		(10,744,906)		16,080,327					30,880,417		
Beg. Fund Balance		48,376,745		49,939,789					36,511,729		
End. Fund Balance	\$	37,631,839	\$	66,020,117				\$	67,392,146		
*FB Policy:											
		27,292,162		27,292,162							
FB Over Policy:		10,339,678		38,727,955							

\*City has a 90 day fund balance policy.

## AQUATICS FUND

	Budget	CY Actual	Balance	%	PY Actual	CY to PY Change \$
<b>Revenues</b>						
Facility Rental	\$ 120,000	\$ 188,160	\$ (68,160)	157%	\$ 33,230	\$ 154,930
Aquatics	3,786,600	1,829,268	1,957,332	48%	917,791	911,477
Concessions	365,000	203,156	161,844	56%	88,122	115,034
Concessions Nontax	2,000	5,502	(3,502)	275%	2,158	3,344
Rentals - Misc.	50,000	71,485	(21,485)	143%	2,348	69,137
Miscellaneous	5,000	24,989	(19,989)	500%	5,771	19,218
Overages & Short	-	(75)	75	0%	9,521	(9,596)
<b>Total Revenues</b>	<b>4,328,600</b>	<b>2,322,485</b>	<b>2,006,115</b>	<b>54%</b>	<b>1,058,941</b>	<b>1,263,543</b>
<b>Expenditures</b>						
Personnel Services	2,238,670	924,412	1,314,258	41%	697,121	227,291
Supplies	590,440	583,060	7,380	99%	336,102	246,958
Maintenance	823,913	686,162	137,751	83%	532,732	153,430
Services	151,168	139,825	11,343	92%	159,677	(19,853)
Capital Outlay	-	-	-	0%	-	-
Construction in Prog	-	-	-	0%	-	-
Interfund Transfer	381,054	285,791	95,264	75%	285,816	(25)
Contingencies	-	-	-	0%	-	-
<b>Total Expenditures</b>	<b>4,185,245</b>	<b>2,619,249</b>	<b>1,565,996</b>	<b>63%</b>	<b>2,011,448</b>	<b>607,801</b>
Net Change	143,355	(296,765)			(952,507)	
Beg. Working Capital	199,210	811,043			879,446	
<b>End. Working Capital</b>	<b>\$ 342,565</b>	<b>\$ 514,279</b>			<b>\$ (73,061)</b>	

## HOTEL/MOTEL FUND

	Budget		CY Actual		Balance	%	PY Actual		CY to PY Change \$		
Revenues											
Hotel/Motel Tax	\$	1,315,537	\$	1,070,210	\$	245,327	81%	\$	1,001,925	\$	68,286
Operating Revenues		3,162		-		3,162	0%		356		(356)
Miscellaneous		22,333		17,837		4,496	80%		13,124		4,713
Total Revenues		1,341,032		1,088,047		252,985	81%		1,015,404		72,643
Expenditures											
Arts		72,350		51,376		20,974	71%		30,557		20,819
Promotional		2,470,436		630,402		1,840,034	26%		410,864		219,538
Historical		115,000		7,502		107,498	7%		32,931		(25,429)
Convention Center		1,951,930		-		1,951,930	0%		197,232		(197,232)
Total Expenditures		4,609,715		689,280		3,920,435	15%		671,584		17,696
Net Change		(3,268,683)		398,767					343,821		
Beg. Fund Balance		1,544,266		1,746,453					4,605,241		
End. Fund Balance	\$	(1,724,417)	\$	2,145,220				\$	4,949,061		

## WATER & SEWER FUND

	Budget		CY Actual		Balance	%	PY Actual	CY to PY Change \$
Revenues								
BAWA - Contract Ser.	\$	1,985,739	\$	1,237,969	\$	747,771	62%	\$ 1,151,772 \$ 86,197
Sale of Water		21,770,156		16,615,797		5,154,359	76%	16,044,833 570,963
Sewer Service		19,854,539		14,296,382		5,558,157	72%	13,613,682 682,700
Penalties		614,168		641,915		(27,746)	105%	538,019 103,896
Pollution Control		557,236		373,026		184,210	67%	392,585 (19,559)
PSLIP Program		160,280		130,744		29,536	82%	117,609 13,136
Turn-On Fees		689,827		879,625		(189,798)	128%	642,355 237,269
Water Tap Fees		252,047		134,230		117,817	53%	148,700 (14,470)
Sewer Tap Fees		31,311		25,000		6,311	80%	26,250 (1,250)
Investment Interest		42,137		51,513		(9,376)	122%	29,051 22,463
Miscellaneous		6,860		6,480		380	94%	5,400 1,080
Overages & Short		-		(9)		9	0%	69 (78)
From Aquatics Fund		60,000		45,000		15,000	75%	45,000 -
Total Revenues		46,024,301		34,437,672		11,586,629	75%	32,755,325 1,682,347
Expenditures								
Utility Billing		2,563,081		1,786,882		776,199	70%	1,671,371 115,512
W&S Gen. Overhead		1,701,212		1,255,632		445,580	74%	1,395,378 (139,746)
Utility Transmission		2,113,657		1,507,726		605,931	71%	1,838,478 (330,751)
Treated Water		13,814,730		9,834,478		3,980,252	71%	9,482,191 352,288
Restoration		-		401		(401)	0%	38 363
Water Treatment		1,998,713		1,237,969		760,744	62%	1,242,348 (4,379)
WW Treatment		7,509,834		4,452,081		3,057,753	59%	5,266,023 (813,942)
Pollution Control		596,477		380,907		215,571	64%	401,172 (20,266)
Construction		2,069,946		1,381,951		687,995	67%	1,420,900 (38,949)
Operating Transfer		17,603,102		13,202,326		4,400,776	75%	12,433,814 768,513
Total Expenditures		49,970,753		35,040,354		14,930,399	70%	35,151,713 (111,359)
Net Change		(3,946,452)		(602,682)				(2,396,388)
Beg. Working Capital		10,984,044		8,923,425				11,578,322

## SANITATION FUND

	Budget		CY Actual		Balance	%	PY Actual	CY to PY Change \$	
<b>Revenues</b>									
Oper. Rev.	\$	6,875,651	\$	5,523,650	\$	1,352,000	80%	\$ 5,173,077	\$ 350,574
Miscellaneous		-		9,022		(9,022)	0%	8,016	1,006
Interfund Transfer		250,000		187,500		62,500	75%	187,500	-
<b>Total Revenues</b>		7,125,651		5,720,172		1,405,478	80%	5,368,592	351,580
<b>Expenditures</b>									
Personnel Services		977,307		665,817		311,490	68%	734,182	(68,365)
Supplies		66,100		67,429		(1,329)	102%	38,997	28,432
Maintenance		97,000		91,485		5,515	94%	72,296	19,189
Services		5,915,395		4,141,970		1,773,425	70%	3,935,321	206,649
Sundry Charges		-		(547)		547	0%	(799)	252
Capital Outlay		-		-		-	0%	51,627	(51,627)
Interfund Transfer		-		-		-	0%	139,875	(139,875)
<b>Total Expenditures</b>		7,055,802		4,966,153		2,089,649	70%	4,971,499	(5,345)
Net Change		69,848		754,019				397,094	
Beg. Working Capital		524,100		880,219				360,263	
<b>End. Working Capital</b>	\$	593,948	\$	1,634,238			\$	757,356	

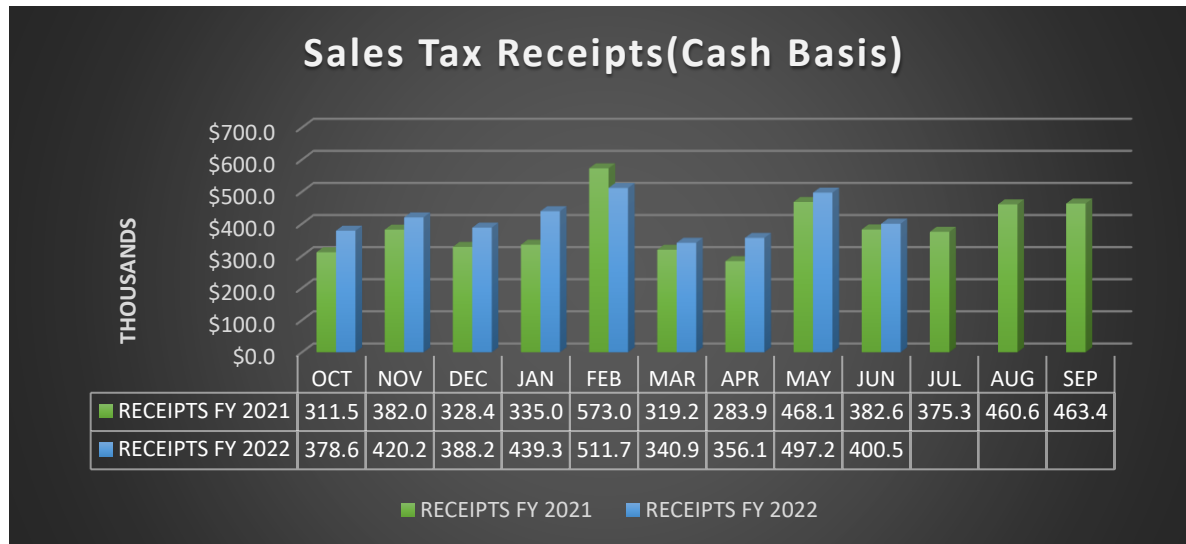


## STORM WATER UTILITY FUND

	Budget		CY Actual		Balance		%	PY Actual		CY to PY Change \$
<b>Revenues</b>										
User Fees	\$	3,896,904	\$	2,986,560	\$	910,344	77%	\$	2,026,961	\$ 959,599
<b>Expenditures</b>										
Personnel Services		1,967,315		849,759		1,117,556	43%		1,010,697	(160,938)
Supplies		81,300		91,631		(10,331)	113%		54,266	37,364
Maintenance		290,000		250,776		39,224	86%		206,693	44,082
Services		37,175		9,316		27,859	25%		134,912	(125,595)
Sundry Charges		-		(9)		9	0%		(10)	1
Capital Outlay		1,021,150		850,655		170,495	83%		(12,468)	863,123
Construction		-		-		-	0%		3,000	(3,000)
Interfund Transfer		1,370,500		727,875		642,625	53%		116,625	611,250
Contingencies		228,850		-		228,850	0%		-	-
<b>Total Expenditures</b>		4,996,290		2,780,003		2,216,287	56%		1,513,715	1,266,288
Net Change		(1,099,386)		206,557					513,246	
Beg. Working Capital		1,801,508		2,639,442					1,263,314	
<b>End. Working Capital</b>	\$	702,122	\$	2,845,999				\$	1,776,560	

## STREET MAINTENANCE TAX FUND

### SALES TAX



### FINANCIAL SNAPSHOT

	Budget	CY Actual	Balance	%	PY Actual	CY to PY Change \$
<b>Revenues</b>						
Sales Tax	\$ 3,974,648	\$ 3,732,813	\$ 241,835	94%	\$ 3,383,795	\$ 349,019
Investment Interest	3,105	8,327	(5,222)	268%	1,273	7,053
<b>Total Revenues</b>	<b>3,977,753</b>	<b>3,741,140</b>	<b>236,613</b>	<b>94%</b>	<b>3,385,068</b>	<b>356,072</b>
<b>Expenditures</b>						
Mill & Overlay	-	3,143	(3,143)	0%	1,279,430	(1,276,287)
Crack Seal & Joint	5,569,757	2,894,128	2,675,630	52%	1,296,856	1,597,271
Con. Street Repair	-	61,083	(61,083)	0%	640,796	(579,713)
Street Projects	-	-	-	0%	-	-
Contingency	-	-	-	0%	-	-
<b>Total Expenditures</b>	<b>5,569,757</b>	<b>2,958,354</b>	<b>2,611,403</b>	<b>53%</b>	<b>3,217,083</b>	<b>(258,728)</b>
Net Change	(1,592,004)	782,786			167,985	
Beg. Fund Balance	1,592,004	4,385,457			3,136,451	
<b>End. Fund Balance</b>	<b>\$ (0)</b>	<b>\$ 5,168,243</b>			<b>\$ 3,304,436</b>	

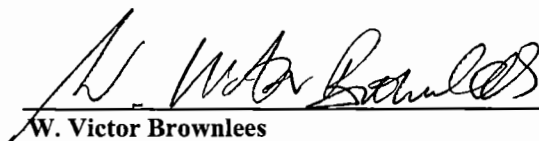
**CITY OF BAYTOWN**  
**CITY WIDE INVESTMENT REPORT**  
**April 1, 2022 to June 30, 2022**

INVESTMENTS	Beginning Balance	Ending Balance
<b>Book Value</b>	\$ 322,653,304.01	\$ 310,015,408.12
<b>Market Value</b>	\$ 322,255,098.36	\$ 309,498,341.03
<b>Par Value</b>	\$ 322,483,831.78	\$ 310,094,250.11
 <b>Quarterly Earnings</b>		 \$ 462,617.12
<b>Accrued Interest</b>		\$ 88,476.62

**PORTFOLIO DIVERSIFICATION**

Security description	Par Value	% of total
Texpool	\$ 191,724,188.46	61.8%
Texstar	55,084,061.65	17.8%
Commercial Paper	22,800,000.00	7.4%
Municipal Bond	9,815,000.00	3.2%
Federal Home Loan Bank	12,600,000.00	4.1%
Fed Farm Credit Bank	5,250,000.00	1.7%
Federal Agricultural Mtg. Corp.	-	0.0%
Federal National Mtg Assn.	2,600,000.00	0.8%
US Agency	5,301,000.00	1.7%
US Treasury Note	2,600,000.00	0.8%
Federal Home Loan Mtg. Corp.	1,450,000.00	0.5%
Federal Housing Admin	870,000.00	0.3%
	<u>\$ 310,094,250.11</u>	<u>100.0%</u>

I declare that to the best of my knowledge the City of Baytown is in compliance with the provisions of the Texas Government Code Chapter 2256 and with the stated strategies and policies of the City Council.



**W. Victor Brownlees**  
**Director of Finance**

**Portfolio Position**  
**City of Baytown Treasury**  
Effective Interest - Actual Life  
Receipts in Period  
04/01/22 - 06/30/22

	CUSIP	Invest Number	Security Description	Other Rating	Fund Number	Beginning Par Val/Shares	Ending Par Val/Shares	Beginning Market Val	Ending Market Val	Beginning Amor Val/Cost	Ending Amor Val/Cost	Unamor Prem/Dscnt	Gain/ Loss	Int/Div Rec/Earn In the Perd	Int/Div Accrued In the Perd	Amortization In the Perd	Total Earnings	
Agency Bond	742651DM1	21-0023	Agency Bond 2.80 05/15/22		Total	301,000.00	301,000.00	301,852.43	301,000.00	301,933.61	301,000.00	-	(852.43)	1,030.09	-	(933.61)	177.66	
	3133ENEM8	22-0005	Agency Bond 1.43 11/23/22		Total	5,000,000.00	5,000,000.00	4,771,835.00	4,619,960.00	5,000,000.00	5,000,000.00	-	(151,875.00)	10,327.78	7,547.22	-	(134,000.00)	
Agency Bond Total						5,301,000.00	5,301,000.00	5,073,687.43	4,920,960.00	5,301,933.61	5,301,000.00	-	(152,727.43)	11,357.87	7,547.22	(933.61)	(133,822.34)	
	48246UAT3	21-0022	Commercial Paper 0.00 01/27/22		Total	2,000,000.00	-	2,000,000.00	-	2,000,000.00	-	-	-	-	-	-	-	
	78013WB33	21-0028	Commercial Paper 0.00 02/03/22		Total	2,500,000.00	-	2,500,000.00	-	2,500,000.00	-	-	-	-	-	-	-	
	78013WBE9	21-0029	Commercial Paper 0.00 02/14/22		Total	1,300,000.00	-	1,300,000.00	-	1,300,000.00	-	-	-	-	-	-	-	
	78015DCF5	21-0044	Commercial Paper 0.00 03/15/22		Total	3,800,000.00	-	3,800,000.00	-	3,800,000.00	-	-	-	-	-	-	-	
	78015DDE7	21-0047	Commercial Paper 0.00 04/14/22		Total	1,300,000.00	1,300,000.00	1,299,840.10	1,300,000.00	1,299,896.33	1,300,000.00	-	159.90	-	-	103.67	159.90	
	86960KDU3	21-0050	Commercial Paper 0.00 04/28/22		Total	5,200,000.00	5,200,000.00	5,198,226.80	5,200,000.00	5,199,138.78	5,200,000.00	-	1,773.20	-	-	861.22	1,773.20	
	30229BAX5	21-0058	Commercial Paper 0.00 01/31/22		Total	2,000,000.00	-	2,000,000.00	-	2,000,000.00	-	-	-	-	-	-	-	
	89119BEB8	21-0060	Commercial Paper 0.00 05/11/22		Total	4,300,000.00	4,300,000.00	4,297,875.80	4,300,000.00	4,299,083.94	4,300,000.00	-	2,124.20	-	-	916.06	2,124.20	
	78015DCX6	21-0069	Commercial Paper 0.00 03/31/22		Total	2,500,000.00	-	2,500,000.00	-	2,500,000.00	-	-	-	-	-	-	-	
	62479MFC1	22-0004	Commercial Paper 0.00 06/24/22		Total	2,000,000.00	2,000,000.00	1,996,048.00	2,000,000.00	1,999,204.25	2,000,000.00	-	3,952.00	-	-	795.75	3,952.00	
	78009BQF2	22-0006	Commercial Paper 0.00 03/15/23		Total	-	5,000,000.00	-	4,911,568.70	-	5,000,000.00	118,428.91	-	33,854.81	-	-	3,857.20	33,854.81
	62479MJV6	22-0008	Commercial Paper 0.00 09/29/22		Total	-	5,000,000.00	-	4,971,880.00	-	5,000,000.00	27,876.72	-	64.72	-	-	308.00	64.72
Commercial Paper Total						26,900,000.00	22,800,000.00	26,891,990.70	22,683,448.70	26,897,323.30	22,653,694.37	146,305.63	41,928.83	-	-	6,841.90	41,928.83	
FAMCA	31422XGE6	21-0054	FAMCA 0.05 02/14/22		Total	1,600,000.00	-	1,600,000.00	-	1,600,000.00	-	-	-	-	-	-	-	
FAMCA Total						1,600,000.00	-	1,600,000.00	-	1,600,000.00	-	-	-	-	-	-	-	
FFCB	3133ELTN4	21-0021	FFCB 0.53 01/18/22		Total	2,500,000.00	-	2,500,000.00	-	2,500,000.00	-	-	-	-	-	-	-	
	3133EMTN2	21-0030	FFCB 0.125 09/16/22		Total	2,500,000.00	2,500,000.00	2,491,272.50	2,491,747.50	2,499,951.50	2,499,979.95	22.05	475.00	-	781.25	26.46	1,256.25	
	3133EMYM8	21-0049	FFCB 0.00 08/04/22		Total	2,000,000.00	2,000,000.00	1,999,306.00	1,997,298.00	1,999,979.53	1,999,994.51	5.49	1,992.00	-	-	14.98	1,992.00	
	3133ENAU4	22-0001	FFCB 0.27 10/12/23		Total	500,000.00	500,000.00	489,622.50	483,552.50	499,846.84	499,871.82	128.18	(3,070.00)	41.25	296.25	24.98	(2,732.50)	
	3133ENAU4	22-0002	FFCB 0.27 10/12/23		Total	250,000.00	250,000.00	243,311.25	241,776.25	249,923.42	249,935.91	64.09	(1,535.00)	20.63	148.13	12.49	(1,366.24)	
FFCB Total						7,750,000.00	5,250,000.00	7,716,512.25	5,214,374.25	7,749,701.29	5,249,780.19	219.81	(2,138.00)	61.88	1,225.63	78.91	(850.49)	
FHA	3133EMGX4	21-0043	FHA 0.125 11/23/22		Total	870,000.00	870,000.00	863,319.27	862,136.94	869,966.60	869,979.55	20.45	(1,182.33)	157.08	114.79	12.95	(910.46)	
FHA Total						870,000.00	870,000.00	863,319.27	862,136.94	869,966.60	869,979.55	20.45	(1,182.33)	157.08	114.79	12.95	(910.46)	
FHLB	313379Q69	21-0037	FHLB 2.125 06/10/22		Total	1,100,000.00	1,100,000.00	1,103,424.30	1,100,000.00	1,104,285.30	1,100,000.00	-	(3,424.30)	4,480.21	-	(4,285.30)	1,055.91	
	313379Q69	21-0038	FHLB 2.125 06/10/22		Total	700,000.00	700,000.00	702,179.10	700,000.00	702,727.01	700,000.00	-	(2,179.10)	2,851.04	-	(2,727.01)	671.94	
	313381BR5	21-0041	FHLB 1.875 12/09/22		Total	2,500,000.00	2,500,000.00	2,508,240.00	2,495,370.00	2,530,201.91	2,519,244.70	(19,244.70)	(12,870.00)	8,854.17	2,864.58	(10,957.21)	(1,151.25)	
	313379Q69	21-0070	FHLB 2.125 06/10/22		Total	1,300,000.00	1,300,000.00	1,304,046.90	1,300,000.00	1,305,153.72	1,300,000.00	-	(4,046.90)	5,294.79	-	(5,153.72)	1,247.89	
	3130APMC6	22-0003	FHLB 0.45 11/24/23		Total	2,000,000.00	2,000,000.00	1,944,942.00	1,932,750.00	2,000,000.00	2,000,000.00	-	(12,192.00)	1,325.00	925.00	-	(9,942.00)	
	3130ASKE8	22-0007	FHLB 3.30 12/28/23		Total	-	5,000,000.00	-	5,000,055.00	-	5,000,000.00	-	55.00	-	1,375.00	-	1,430.00	
FHLB Total						7,600,000.00	12,600,000.00	7,562,832.30	12,528,175.00	7,642,367.94	12,619,244.70	(19,244.70)	(34,657.30)	22,805.21	5,164.58	(23,123.24)	(6,687.51)	
FHLMC	3137EADB2	21-0020	FHLMC 2.375 01/13/22		Total	1,300,000.00	-	1,300,000.00	-	1,300,000.00	-	-	-	-	-	-	-	
	3134GVJ66	21-0027	FHLMC 0.25 06/08/22		Total	700,000.00	700,000.00	699,454.00	700,000.00	700,168.97	700,000.00	-	546.00	325.69	-	(168.97)	871.69	
	3137EAE72	21-0035	FHLMC 0.125 07/25/22		Total	482,000.00	482,000.00	481,013.83	481,572.95	482,043.44	482,009.15	(9.15)	559.12	-	150.63	(34.30)	709.75	
	3137EAE72	21-0036	FHLMC 0.125 07/25/22		Total	268,000.00	268,000.00	267,451.67	267,762.55	268,024.15	268,005.09	(5.09)	310.88	-	83.75	(19.07)	394.63	
FHLMC Total						2,750,000.00	1,450,000.00	2,747,919.50	1,449,335.50	2,750,236.56	1,450,014.24	(14.24)	1,416.00	325.69	234.38	(222.34)	1,976.07	
FNMA	3135G0S38	21-0019-01	FNMA 2.00 01/05/22		Total	2,500,000.00	-	2,500,000.00	-	2,500,000.00	-	-	-	-	-	-	-	
	3135G0V59	21-0051	FNMA 2.25 04/12/22		Total	2,600,000.00	2,600,000.00	2,601,617.20	2,600,000.00	2,601,746.94	2,600,000.00	-	(1,617.20)	1,787.50	-	(1,746.94)	170.30	
FNMA Total						5,100,000.00	2,600,000.00	5,101,617.20	2,600,000.00	5,101,746.94	2,600,000.00	-	(1,617.20)	1,787.50	-	(1,746.94)	170.30	
Municipal Bond	2201124X1	21-0034	Municipal Bond 5.00 03/01/22		Total	325,000.00	-	325,000.00	-	325,000.00	-	-	-	-	-	-	-	
	20775YCW4	21-0039	Municipal Bond 4.00 05/01/22		Total	265,000.00	265,000.00	265,616.39	265,000.00	265,849.48	265,000.00	-	(616.39)	883.33	-	(849.48)	266.94	
	413000QL7	21-0046	Municipal Bond 5.00 08/15/22		Total	300,000.00	300,000.00	304,194.90	301,253.40	305,411.74	301,776.99	(1,776.99)	(2,941.50)	-	3,750.00	(3,634.75)	808.50	
	88269AW4	21-0055	Municipal Bond 5.00 02/01/22		Total	350,000.00	-	350,000.00	-	350,000.00	-	-	-	-	-	-	-	
	941247S08	21-0056	Municipal Bond 4.00 09/01/22		Total	775,000.00	775,000.00	783,968.30	778,148.05	787,585.13	780,034.05	(5,034.05)	(5,820.25)	-	7,750.00	(7,551.08)	1,929.75	
	010878AN6	21-0057	Municipal Bond 4.00 08/01/22		Total	2,000,000.00	2,000,000.00	2,021,122.00	2,003,262.00	2,025,984.63	2,006,496.16	(6,496.16)	(17,860.00)	-	20,000.00	(19,488.47)	2,140.00	
	36449PM5	21-0059	Municipal Bond 5.00 02/01/22		Total	570,000.00	-	570,000.00	-	570,000.00	-	-	-	-	-	-	-	
	92818NB64	21-0061	Municipal Bond 5.00 11/01/22		Total	815,000.00	815,000.00	832,547.77	824,764.52	838,086.75	828,193.74	(13,193.74)	(7,783.25)	3,395.83	6,791.67	(9,893.00)	2,404.25	
	04179RE5	21-0066	Municipal Bond 2.00 08/15/22		Total	550,000.00	550,000.00	551,881.00	550,506.00	553,681.31	551,208.79	(1,208.79)	(1,375.00)	-	2,750.00	(2,472.52)	1,375.00	
	9830684N4	21-0067	Municipal Bond 2.00 08/15/22		Total	345,000.00	345,000.00	346,217.51	345,309.81	347,309.19	345,758.24	(758.24)	(907.70)	-	1,725.00	(1,550.95)	817.30	
	83466NJ4	21-0068	Municipal Bond 1.00 05/27/22		Total	2,500,000.00	2,500,000.00	2,501,245.00	2,500,000.00	2,503,104.31	2,500,000.00	-	(1,245.00)	3,888.89	-	(3,104.31)	2,643.89	
	010878AN6	21-0071	Municipal Bond 4.00 08/01/22		Total	2,000,000.00	2,000,000.00	2,021,122.00	2,003,262.00	2,025,984.63	2,006,496.16	(6,496.16)	(17,860.00)	-	20,000.00	(19,488.47)	2,140.00	
	018095F95	21-0072	Municipal Bond 2.00 08/15/22		Total	265,000.00												

**Portfolio Position**  
**City of Baytown Treasury**  
Effective Interest - Actual Life  
Receipts in Period  
04/01/22 - 06/30/22

CUSIP	Invest Number	Security Description	Other Rating	Fund Number	Beginning Par Val/Shares	Ending Par Val/Shares	Beginning Market Val	Ending Market Val	Beginning Amor Val/Cost	Ending Amor Val/Cost	Unamor Prem/Dscnt	Gain/ Loss	Int/Div Rec/Earn In the Perd	Int/Div Accrued In the Perd	Amortization In the Perd	Total Earnings
912828YF1	21-0045	Treasury Note 1.50 09/15/22		Total	1,300,000.00	1,300,000.00	1,303,097.90	1,299,550.20	1,308,344.18	1,303,797.35	(3,797.35)	(3,547.70)	-	4,822.01	(4,546.83)	1,274.31
<b>Treasury Note Total</b>					<b>2,600,000.00</b>	<b>2,600,000.00</b>	<b>2,605,586.10</b>	<b>2,594,928.70</b>	<b>2,622,425.10</b>	<b>2,612,898.41</b>	<b>(12,898.41)</b>	<b>(10,657.40)</b>	<b>-</b>	<b>10,098.19</b>	<b>(9,526.70)</b>	<b>(559.21)</b>
<b>Investment Total</b>					<b>322,483,831.78</b>	<b>310,094,250.11</b>	<b>322,255,098.36</b>	<b>309,498,341.03</b>	<b>322,653,304.01</b>	<b>310,015,408.12</b>	<b>78,841.99</b>	<b>(216,704.83)</b>	<b>462,617.12</b>	<b>88,476.62</b>	<b>(97,843.41)</b>	<b>334,388.91</b>



## **CITY COUNCIL MEETING**

**10. b.**

**Meeting Date:** 09/08/2022

**Subject:** No-new revenue and voter-approval tax rates

**Prepared for:** Victor Brownlees, Finance

**Prepared by:** Elizabeth Donato, Finance

**Department:** Finance

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### **Information**

#### **ITEM**

Receive the no-new revenue tax rate and voter-approval tax rate.

#### **PREFACE**

Section 26.04(e) of the Texas Code requires City staff to submit the tax rates to the City Council and to post on the City's internet website the rates along with additional information prescribed by state law, including an explanation how these tax rates were calculated.

Since the rate that will be proposed is below the no-new-revenue rate and the voter-approved rate, Council may consider the adoption of the rate on September 8, 2022.

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### **Fiscal Impact**

**Fiscal Year:**

**Acct Code:**

**Source of Funds (Operating/Capital/Bonds):**

**Funds Budgeted Y/N:**

**Amount Needed:**

**Fiscal Impact (Additional Information):**

Monica will provide the fiscal impact information.

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### **Attachments**

2022 Tax Rate Calculation Worksheet

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# 2022 Tax Rate Calculation Worksheet

## Taxing Units Other Than School Districts or Water Districts

Form 50-856

City of Baytown

281-420-4845

Taxing Unit Name

Phone (area code and number)

2401 Market St. Baytown, Texas 77520

www.baytown.org

Taxing Unit's Address, City, State, ZIP Code

Taxing Unit's Website Address

**GENERAL INFORMATION:** Tax Code Section 26.04(c) requires an officer or employee designated by the governing body to calculate the no-new-revenue (NNR) tax rate and voter-approval tax rate for the taxing unit. These tax rates are expressed in dollars per \$100 of taxable value calculated. The calculation process starts after the chief appraiser delivers to the taxing unit the certified appraisal roll and the estimated values of properties under protest. The designated officer or employee shall certify that the officer or employee has accurately calculated the tax rates and used values shown for the certified appraisal roll or certified estimate. The officer or employee submits the rates to the governing body by Aug. 7 or as soon thereafter as practicable.

School districts do not use this form, but instead use Comptroller Form 50-859 *Tax Rate Calculation Worksheet, School District without Chapter 313 Agreements* or Comptroller Form 50-884 *Tax Rate Calculation Worksheet, School District with Chapter 313 Agreements*.

Water districts as defined under Water Code Section 49.001(1) do not use this form, but instead use Comptroller Form 50-858 *Water District Voter-Approval Tax Rate Worksheet for Low Tax Rate and Developing Districts* or Comptroller Form 50-860 *Developed Water District Voter-Approval Tax Rate Worksheet*.

The Comptroller's office provides this worksheet to assist taxing units in determining tax rates. The information provided in this worksheet is offered as technical assistance and not legal advice. Taxing units should consult legal counsel for interpretations of law regarding tax rate preparation and adoption.

### SECTION 1: No-New-Revenue Tax Rate

The NNR tax rate enables the public to evaluate the relationship between taxes for the prior year and for the current year based on a tax rate that would produce the same amount of taxes (no new taxes) if applied to the same properties that are taxed in both years. When appraisal values increase, the NNR tax rate should decrease.

The NNR tax rate for a county is the sum of the NNR tax rates calculated for each type of tax the county levies.

While uncommon, it is possible for a taxing unit to provide an exemption for only maintenance and operations taxes. In this case, the taxing unit will need to calculate the NNR tax rate separately for the maintenance and operations tax and the debt tax, then add the two components together.

Line	No-New-Revenue Tax Rate Worksheet	Amount/Rate
1.	<b>2021 total taxable value.</b> Enter the amount of 2021 taxable value on the 2021 tax roll today. Include any adjustments since last year's certification; exclude Tax Code Section 25.25(d) one-fourth and one-third over-appraisal corrections from these adjustments. Exclude any property value subject to an appeal under Chapter 42 as of July 25 (will add undisputed value in Line 6). This total includes the taxable value of homesteads with tax ceilings (will deduct in Line 2) and the captured value for tax increment financing (adjustment is made by deducting TIF taxes, as reflected in Line 17). <sup>1</sup>	\$ 5,607,011,644
2.	<b>2021 tax ceilings.</b> Counties, cities and junior college districts. Enter 2021 total taxable value of homesteads with tax ceilings. These include the homesteads of homeowners age 65 or older or disabled. Other taxing units enter 0. If your taxing unit adopted the tax ceiling provision in 2021 or a prior year for homeowners age 65 or older or disabled, use this step. <sup>2</sup>	\$ 510,234,163
3.	<b>Preliminary 2021 adjusted taxable value.</b> Subtract Line 2 from Line 1.	\$ 5,096,777,481
4.	<b>2021 total adopted tax rate.</b>	\$ 0.78500 / \$100
5.	<b>2021 taxable value lost because court appeals of ARB decisions reduced 2021 appraised value.</b>	
	A. Original 2021 ARB values: .....	\$ 563,483,846
	B. 2021 values resulting from final court decisions: .....	- \$ 424,068,093
	C. 2021 value loss. Subtract B from A. <sup>3</sup>	\$ 139,415,553
6.	<b>2021 taxable value subject to an appeal under Chapter 42, as of July 25.</b>	
	A. 2021 ARB certified value: .....	\$ 362,792,905
	B. 2021 disputed value: .....	- \$ 119,870,107
	C. 2021 undisputed value. Subtract B from A. <sup>4</sup>	\$ 242,922,798
7.	<b>2021 Chapter 42 related adjusted values.</b> Add Line 5C and Line 6C.	\$ 382,338,351

<sup>1</sup> Tex. Tax Code § 26.012(14)

<sup>2</sup> Tex. Tax Code § 26.012(14)

<sup>3</sup> Tex. Tax Code § 26.012(13)

<sup>4</sup> Tex. Tax Code § 26.012(13)



Line	No-New-Revenue Tax Rate Worksheet	Amount/Rate
19.	<b>Total value of properties under protest or not included on certified appraisal roll.</b> <sup>13</sup>	
A.	<b>2022 taxable value of properties under protest.</b> The chief appraiser certifies a list of properties still under ARB protest. The list shows the appraisal district's value and the taxpayer's claimed value, if any, or an estimate of the value if the taxpayer wins. For each of the properties under protest, use the lowest of these values. Enter the total value under protest. <sup>14</sup>	\$ 428,025,330
B.	<b>2022 value of properties not under protest or included on certified appraisal roll.</b> The chief appraiser gives taxing units a list of those taxable properties that the chief appraiser knows about but are not included in the appraisal roll certification. These properties also are not on the list of properties that are still under protest. On this list of properties, the chief appraiser includes the market value, appraised value and exemptions for the preceding year and a reasonable estimate of the market value, appraised value and exemptions for the current year. Use the lower market, appraised or taxable value (as appropriate). Enter the total value of property not on the certified roll. <sup>15</sup>	+ \$ 171,747,895
C.	<b>Total value under protest or not certified.</b> Add A and B.	\$ 599,773,225
20.	<b>2022 tax ceilings.</b> Counties, cities and junior colleges enter 2022 total taxable value of homesteads with tax ceilings. These include the homesteads of homeowners age 65 or older or disabled. Other taxing units enter 0. If your taxing unit adopted the tax ceiling provision in 2021 or a prior year for homeowners age 65 or older or disabled, use this step. <sup>16</sup>	\$ 683,062,673
21.	<b>2022 total taxable value.</b> Add Lines 18E and 19C. Subtract Line 20. <sup>17</sup>	\$ 5,643,756,021
22.	<b>Total 2022 taxable value of properties in territory annexed after Jan. 1, 2021.</b> Include both real and personal property. Enter the 2022 value of property in territory annexed. <sup>18</sup>	\$ 4,682,427
23.	<b>Total 2022 taxable value of new improvements and new personal property located in new improvements.</b> New means the item was not on the appraisal roll in 2021. An improvement is a building, structure, fixture or fence erected on or affixed to land. New additions to existing improvements may be included if the appraised value can be determined. New personal property in a new improvement must have been brought into the taxing unit after Jan. 1, 2021 and be located in a new improvement. New improvements do include property on which a tax abatement agreement has expired for 2022. <sup>19</sup>	\$ 126,662,759
24.	<b>Total adjustments to the 2022 taxable value.</b> Add Lines 22 and 23.	\$ 131,345,186
25.	<b>Adjusted 2022 taxable value.</b> Subtract Line 24 from Line 21.	\$ 5,512,410,835
26.	<b>2022 NNR tax rate.</b> Divide Line 17 by Line 25 and multiply by \$100. <sup>20</sup>	\$ 0.75156/\$100
27.	<b>COUNTIES ONLY.</b> Add together the NNR tax rates for each type of tax the county levies. The total is the 2022 county NNR tax rate. <sup>21</sup>	\$ /\$100

## SECTION 2: Voter-Approval Tax Rate

The voter-approval tax rate is the highest tax rate that a taxing unit may adopt without holding an election to seek voter approval of the rate. The voter-approval tax rate is split into two separate rates:

- Maintenance and Operations (M&O) Tax Rate:** The M&O portion is the tax rate that is needed to raise the same amount of taxes that the taxing unit levied in the prior year plus the applicable percentage allowed by law. This rate accounts for such things as salaries, utilities and day-to-day operations.
- Debt Rate:** The debt rate includes the debt service necessary to pay the taxing unit's debt payments in the coming year. This rate accounts for principal and interest on bonds and other debt secured by property tax revenue.

The voter-approval tax rate for a county is the sum of the voter-approval tax rates calculated for each type of tax the county levies. In most cases the voter-approval tax rate exceeds the no-new-revenue tax rate, but occasionally decreases in a taxing unit's debt service will cause the NNR tax rate to be higher than the voter-approval tax rate.

Line	Voter-Approval Tax Rate Worksheet	Amount/Rate
28.	<b>2021 M&amp;O tax rate.</b> Enter the 2021 M&O tax rate.	\$ 0.48931/\$100
29.	<b>2021 taxable value, adjusted for actual and potential court-ordered adjustments.</b> Enter the amount in Line 8 of the <i>No-New-Revenue Tax Rate Worksheet</i> .	\$ 5,479,115,832

<sup>13</sup> Tex. Tax Code § 26.01(c) and (d)<sup>14</sup> Tex. Tax Code § 26.01(c)<sup>15</sup> Tex. Tax Code § 26.01(d)<sup>16</sup> Tex. Tax Code § 26.012(6)(B)<sup>17</sup> Tex. Tax Code § 26.012(6)<sup>18</sup> Tex. Tax Code § 26.012(17)<sup>19</sup> Tex. Tax Code § 26.012(17)<sup>20</sup> Tex. Tax Code § 26.04(c)<sup>21</sup> Tex. Tax Code § 26.04(d)



Line	Voter-Approval Tax Rate Worksheet	Amount/Rate
36.	<b>Rate adjustment for county indigent defense compensation.<sup>25</sup></b>	
A.	<b>2022 indigent defense compensation expenditures.</b> Enter the amount paid by a county to provide appointed counsel for indigent individuals and fund the operations of a public defender's office under Article 26.044, Code of Criminal Procedure for the period beginning on July 1, 2021 and ending on June 30, 2022, less any state grants received by the county for the same purpose .....	\$ 0
B.	<b>2021 indigent defense compensation expenditures.</b> Enter the amount paid by a county to provide appointed counsel for indigent individuals and fund the operations of a public defender's office under Article 26.044, Code of Criminal Procedure for the period beginning on July 1, 2020 and ending on June 30, 2021, less any state grants received by the county for the same purpose .....	\$ 0
C.	Subtract B from A and divide by Line 32 and multiply by \$100 .....	\$ 0 / \$100
D.	Multiply B by 0.05 and divide by Line 32 and multiply by \$100 .....	\$ 0 / \$100
E.	Enter the lesser of C and D. If not applicable, enter 0.	\$ 0 / \$100
37.	<b>Rate adjustment for county hospital expenditures.<sup>26</sup></b>	
A.	<b>2022 eligible county hospital expenditures.</b> Enter the amount paid by the county or municipality to maintain and operate an eligible county hospital for the period beginning on July 1, 2021 and ending on June 30, 2022. ....	\$ 0
B.	<b>2021 eligible county hospital expenditures.</b> Enter the amount paid by the county or municipality to maintain and operate an eligible county hospital for the period beginning on July 1, 2020 and ending on June 30, 2021. ....	\$ 0
C.	Subtract B from A and divide by Line 32 and multiply by \$100 .....	\$ 0 / \$100
D.	Multiply B by 0.08 and divide by Line 32 and multiply by \$100 .....	\$ 0 / \$100
E.	Enter the lesser of C and D, if applicable. If not applicable, enter 0.	\$ 0 / \$100
38.	<b>Rate adjustment for defunding municipality.</b> This adjustment only applies to a municipality that is considered to be a defunding municipality for the current tax year under Chapter 109, Local Government Code. Chapter 109, Local Government Code only applies to municipalities with a population of more than 250,000 and includes a written determination by the Office of the Governor. See Tax Code 26.0444 for more information.	
A.	<b>Amount appropriated for public safety in 2021.</b> Enter the amount of money appropriated for public safety in the budget adopted by the municipality for the preceding fiscal year .....	\$ 0
B.	<b>Expenditures for public safety in 2021.</b> Enter the amount of money spent by the municipality for public safety during the preceding fiscal year .....	\$ 0
C.	Subtract B from A and divide by Line 32 and multiply by \$100 .....	\$ 0 / \$100
D.	Enter the rate calculated in C. If not applicable, enter 0.	\$ 0 / \$100
39.	<b>Adjusted 2022 NNR M&amp;O rate.</b> Add Lines 33, 34D, 35D, 36E, and 37E. Subtract Line 38D.	\$ 0.45287 / \$100
40.	<b>Adjustment for 2021 sales tax specifically to reduce property values.</b> Cities, counties and hospital districts that collected and spent additional sales tax on M&O expenses in 2021 should complete this line. These entities will deduct the sales tax gain rate for 2022 in Section 3. Other taxing units, enter zero.	
A.	Enter the amount of additional sales tax collected and spent on M&O expenses in 2021, if any. Counties must exclude any amount that was spent for economic development grants from the amount of sales tax spent .....	\$ 0
B.	Divide Line 40A by Line 32 and multiply by \$100 .....	\$ 0 / \$100
C.	Add Line 40B to Line 39.	\$ 0.45287 / \$100
41.	<b>2022 voter-approval M&amp;O rate.</b> Enter the rate as calculated by the appropriate scenario below. <b>Special Taxing Unit.</b> If the taxing unit qualifies as a special taxing unit, multiply Line 40C by 1.08. - or - <b>Other Taxing Unit.</b> If the taxing unit does not qualify as a special taxing unit, multiply Line 40C by 1.035.	\$ 0.46872 / \$100

<sup>25</sup> Tex. Tax Code § 26.0442<sup>26</sup> Tex. Tax Code § 26.0443

Line	Voter-Approval Tax Rate Worksheet	Amount/Rate
50.	<b>COUNTIES ONLY.</b> Add together the voter-approval tax rates for each type of tax the county levies. The total is the 2022 county voter-approval tax rate.	\$ <u>0</u> /\$100

**SECTION 3: NNR Tax Rate and Voter-Approval Tax Rate Adjustments for Additional Sales Tax to Reduce Property Taxes**

Cities, counties and hospital districts may levy a sales tax specifically to reduce property taxes. Local voters by election must approve imposing or abolishing the additional sales tax. If approved, the taxing unit must reduce its NNR and voter-approval tax rates to offset the expected sales tax revenue.

This section should only be completed by a county, city or hospital district that is required to adjust its NNR tax rate and/or voter-approval tax rate because it adopted the additional sales tax.

Line	Additional Sales and Use Tax Worksheet	Amount/Rate
51.	<b>Taxable Sales.</b> For taxing units that adopted the sales tax in November 2021 or May 2022, enter the Comptroller's estimate of taxable sales for the previous four quarters. <sup>33</sup> Estimates of taxable sales may be obtained through the Comptroller's Allocation Historical Summary webpage. Taxing units that adopted the sales tax before November 2021, enter 0.	\$ <u>0</u>
52.	<b>Estimated sales tax revenue.</b> Counties exclude any amount that is or will be spent for economic development grants from the amount of estimated sales tax revenue. <sup>34</sup>  Taxing units that adopted the sales tax in November 2021 or in May 2022. Multiply the amount on Line 51 by the sales tax rate (.01, .005 or .0025, as applicable) and multiply the result by .95. <sup>34</sup> - or - Taxing units that adopted the sales tax before November 2021. Enter the sales tax revenue for the previous four quarters. Do not multiply by .95.	\$ <u>0</u>
53.	<b>2022 total taxable value.</b> Enter the amount from Line 21 of the <i>No-New-Revenue Tax Rate Worksheet</i> .	\$ <u>5,643,756,021</u>
54.	<b>Sales tax adjustment rate.</b> Divide Line 52 by Line 53 and multiply by \$100.	\$ <u>0</u> /\$100
55.	<b>2022 NNR tax rate, unadjusted for sales tax.</b> <sup>35</sup> Enter the rate from Line 26 or 27, as applicable, on the <i>No-New-Revenue Tax Rate Worksheet</i> .	\$ <u>0.75156</u> /\$100
56.	<b>2022 NNR tax rate, adjusted for sales tax.</b> Taxing units that adopted the sales tax in November 2021 or in May 2022. Subtract Line 54 from Line 55. Skip to Line 57 if you adopted the additional sales tax before November 2021.	\$ <u>0.75156</u> /\$100
57.	<b>2022 voter-approval tax rate, unadjusted for sales tax.</b> <sup>36</sup> Enter the rate from Line 49, Line D49 (disaster) or Line 50 (counties) as applicable, of the <i>Voter-Approval Tax Rate Worksheet</i> .	\$ <u>0.77487</u> /\$100
58.	<b>2022 voter-approval tax rate, adjusted for sales tax.</b> Subtract Line 54 from Line 57.	\$ <u>0.77487</u> /\$100

**SECTION 4: Voter-Approval Tax Rate Adjustment for Pollution Control**

A taxing unit may raise its rate for M&O funds used to pay for a facility, device or method for the control of air, water or land pollution. This includes any land, structure, building, installation, excavation, machinery, equipment or device that is used, constructed, acquired or installed wholly or partly to meet or exceed pollution control requirements. The taxing unit's expenses are those necessary to meet the requirements of a permit issued by the Texas Commission on Environmental Quality (TCEQ). The taxing unit must provide the tax assessor with a copy of the TCEQ letter of determination that states the portion of the cost of the installation for pollution control.

This section should only be completed by a taxing unit that uses M&O funds to pay for a facility, device or method for the control of air, water or land pollution.

Line	Voter-Approval Rate Adjustment for Pollution Control Requirements Worksheet	Amount/Rate
59.	<b>Certified expenses from the Texas Commission on Environmental Quality (TCEQ).</b> Enter the amount certified in the determination letter from TCEQ. <sup>37</sup> The taxing unit shall provide its tax assessor-collector with a copy of the letter. <sup>38</sup>	\$ <u>0</u>
60.	<b>2022 total taxable value.</b> Enter the amount from Line 21 of the <i>No-New-Revenue Tax Rate Worksheet</i> .	\$ <u>5,643,756,021</u>
61.	<b>Additional rate for pollution control.</b> Divide Line 59 by Line 60 and multiply by \$100.	\$ <u>0</u> /\$100
62.	<b>2022 voter-approval tax rate, adjusted for pollution control.</b> Add Line 61 to one of the following lines (as applicable): Line 49, Line D49 (disaster), Line 50 (counties) or Line 58 (taxing units with the additional sales tax).	\$ <u>0.77487</u> /\$100

<sup>33</sup> Tex. Tax Code § 26.041(d)<sup>34</sup> Tex. Tax Code § 26.041(i)<sup>35</sup> Tex. Tax Code § 26.041(d)<sup>36</sup> Tex. Tax Code § 26.04(c)<sup>37</sup> Tex. Tax Code § 26.04(c)<sup>38</sup> Tex. Tax Code § 26.045(d)<sup>39</sup> Tex. Tax Code § 26.045(i)



This section will apply to a taxing unit in a disaster area that adopted a tax rate greater than its voter-approval tax rate without holding an election in the prior year.

Note: This section does not apply if a taxing unit is continuing to calculate its voter-approval tax rate in the manner provided for a special taxing unit because it is still within the disaster calculation time period detailed in Tax Code Section 26.042(a) because it has not met the conditions in Tax Code Section 26.042(a)(1) or (2).

Line	Emergency Revenue Rate Worksheet	Amount/Rate
73.	<b>2021 adopted tax rate.</b> Enter the rate in Line 4 of the <i>No-New-Revenue Tax Rate Worksheet</i> .	\$ 0.78500 /\$100
74.	<b>Adjusted 2021 voter-approval tax rate.</b> Use the taxing unit's Tax Rate Calculation Worksheets from the prior year(s) to complete this line.  If a disaster occurred in 2021 and the taxing unit calculated its 2021 voter-approval tax rate using a multiplier of 1.08 on Disaster Line 41 (D41) of the 2021 worksheet due to a disaster, enter the 2021 voter-approval tax rate as calculated using a multiplier of 1.035 from Line 49. - or - If a disaster occurred prior to 2021 for which the taxing unit continued to calculate its voter-approval tax rate using a multiplier of 1.08 on Disaster Line 41 (D41) in 2021, complete the separate <i>Adjusted Voter-Approval Tax Rate for Taxing Units in Disaster Area Calculation Worksheet</i> to recalculate the voter-approval tax rate the taxing unit would have calculated in 2021 if it had generated revenue based on an adopted tax rate using a multiplier of 1.035 in the year(s) following the disaster. <sup>44</sup> Enter the final adjusted 2021 voter-approval tax rate from the worksheet. - or - If the taxing unit adopted a tax rate above the 2021 voter-approval tax rate without calculating a disaster tax rate or holding an election due to a disaster, no recalculation is necessary. Enter the voter-approval tax rate from the prior year's worksheet.	\$ 0 /\$100
75.	<b>Increase in 2021 tax rate due to disaster.</b> Subtract Line 74 from Line 73.	\$ 0.78500 /\$100
76.	<b>Adjusted 2021 taxable value.</b> Enter the amount in Line 14 of the <i>No-New-Revenue Tax Rate Worksheet</i> .	\$ 5,175,865,120
77.	<b>Emergency revenue.</b> Multiply Line 75 by Line 76 and divide by \$100.	\$ 40,630,541
78.	<b>Adjusted 2022 taxable value.</b> Enter the amount in Line 25 of the <i>No-New-Revenue Tax Rate Worksheet</i> .	\$ 5,512,410,835
79.	<b>Emergency revenue rate.</b> Divide Line 77 by Line 78 and multiply by \$100. <sup>45</sup>	\$ 0 /\$100
80.	<b>2022 voter-approval tax rate, adjusted for emergency revenue.</b> Subtract Line 79 from one of the following lines (as applicable): Line 49, Line D49 (disaster), Line 50 (counties), Line 58 (taxing units with the additional sales tax), Line 62 (taxing units with pollution control) or Line 67 (taxing units with the unused increment rate).	\$ 0.83310 /\$100

### SECTION 8: Total Tax Rate

Indicate the applicable total tax rates as calculated above.

<b>No-new-revenue tax rate.</b> .....	\$ 0.75156 /\$100
As applicable, enter the 2022 NNR tax rate from: Line 26, Line 27 (counties), or Line 56 (adjusted for sales tax). Indicate the line number used: <u>26</u>	
<b>Voter-approval tax rate.</b> .....	\$ 0.83310 /\$100
As applicable, enter the 2022 voter-approval tax rate from: Line 49, Line D49 (disaster), Line 50 (counties), Line 58 (adjusted for sales tax), Line 62 (adjusted for pollution control), Line 67 (adjusted for unused increment), or Line 80 (adjusted for emergency revenue). Indicate the line number used: <u>67</u>	
<b>De minimis rate.</b> .....	\$ 0.76787 /\$100
If applicable, enter the 2022 de minimis rate from Line 72.	

### SECTION 9: Taxing Unit Representative Name and Signature

Enter the name of the person preparing the tax rate as authorized by the governing body of the taxing unit. By signing below, you certify that you are the designated officer or employee of the taxing unit and have accurately calculated the tax rates using values that are the same as the values shown in the taxing unit's certified appraisal roll or certified estimate of taxable value, in accordance with requirements in Tax Code. <sup>50</sup>

**print here** ➔ Charlene Piggott  
Printed Name of Taxing Unit Representative

**sign here** ➔ Charlene Piggott  
Taxing Unit Representative

Date 9/1/2022

<sup>44</sup> Tex. Tax Code §26.042(c)

<sup>45</sup> Tex. Tax Code §26.042(b)

<sup>50</sup> Tex. Tax Code §§ 26.04(c-2) and (d-2)

**§26.05(b) of Property Tax Code**  
**Steps Required for Adoption of Tax Rate & Budget**

Entity Name: City of Baytown

Date: 09/01/2022 02:09 PM

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**Language Required in the Motion Setting This Year's Tax Rate:**

This year's proposed tax rate exceeds the no-new-revenue tax rate. The vote on the ordinance, resolution, or order setting the tax rate must be a record vote and 60% of the governing body must vote in favor of the adoption of the tax rate. A motion to adopt the ordinance, resolution, or order must be made in the following form:

I move that the property tax rate be increased by the adoption of a tax rate of 0.76000, which is effectively a 1.12 percent increase in the tax rate.

**Statement Required in the Ordinance, Resolution, or Order Setting:**

This year's levy to fund maintenance and operations expenditures exceeds last year's maintenance and operations tax levy. The following statements must be included in the ordinance, resolution, or order setting this year's tax rate. The statements must be in larger type than the type used in any other portion of the document.

**THIS TAX RATE WILL RAISE MORE TAXES FOR MAINTENANCE AND OPERATIONS THAN LAST YEAR'S TAX RATE.**

**THE TAX RATE WILL EFFECTIVELY BE RAISED BY 0.22 PERCENT AND WILL RAISE TAXES FOR MAINTENANCE AND OPERATIONS ON A \$100,000 HOME BY APPROXIMATELY \$-35.46.**

**Statement That Must be Posted on the Home Page of Any Internet Website Operated by the Taxing Unit:**

This year's levy to fund maintenance and operations expenditures exceeds last year's maintenance and operations tax levy. The following statements must be included in the ordinance, resolution, or order setting this year's tax rate. The statements must be in larger type than the type used in any other portion of the document.

**City of Baytown ADOPTED A TAX RATE THAT WILL RAISE MORE TAXES FOR MAINTENANCE AND OPERATIONS THAN LAST YEAR'S TAX RATE.**

**THE TAX RATE WILL EFFECTIVELY BE RAISED BY 0.22 PERCENT AND WILL RAISE TAXES FOR MAINTENANCE AND OPERATIONS ON A \$100,000 HOME BY APPROXIMATELY \$-35.46.**

## **Notice of Adopted 2022 Tax Rate**

**City of Baytown ADOPTED A TAX RATE THAT WILL RAISE MORE TAXES FOR MAINTENANCE AND OPERATIONS THAN LAST YEAR'S TAX RATE.**

**THE TAX RATE WILL EFFECTIVELY BE RAISED BY 0.22 PERCENT AND WILL RAISE TAXES FOR MAINTENANCE AND OPERATIONS ON A \$100,000 HOME BY APPROXIMATELY \$-35.46.**



## CITY COUNCIL MEETING

10. c.

**Meeting Date:** 09/08/2022

**Subject:** Receive the 2022 Appraisal Rolls certified by the Harris County Appraisal District and the Chambers County Appraisal District

**Prepared for:** Victor Brownlees, Finance

**Prepared by:** Elizabeth Donato, Finance

**Department:** Finance

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### **Information**

#### **ITEM**

Receive the 2022 Appraisal Rolls certified by the Harris County Appraisal District and the Chambers County Appraisal District.

#### **PREFACE**

The 2022 Harris County Appraisal Roll was certified on August 20, 2022. In accordance with Section 26.04(b) of the Texas Property Tax Code, the following values are submitted:

Total Appraised Value:	\$6,298,777,817
Total Taxable Value:	\$4,933,068,494
Total Uncertified (Taxable Value):	\$428,025,330

The 2022 Chambers County Appraisal Roll was certified on July 21, 2022. In accordance with Section 26.04(b) of the Texas Property Tax Code, the following values are submitted:

Total Certified Taxable Value:	\$433,118,648
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### **Fiscal Impact**

**Fiscal Year:**

**Acct Code:**

**Source of Funds (Operating/Capital/Bonds):**

**Funds Budgeted Y/N:**

**Amount Needed:**

**Fiscal Impact (Additional Information):**

There is no fiscal impact associated with this item.

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### **Attachments**

Chambers County Appraisal Roll 2022

Harris County Appraisal Roll 2022

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# APPRAISAL DISTRICT FOR CHAMBERS COUNTY

2022 CERTIFIED VALUE

STATE OF TEXAS  
PROPERTY TAX CODE, SECTION 26.01 (C)  
COUNTY OF CHAMBERS

CERTIFICATION OF APPRAISED VALUE FOR

CITY OF BAYTOWN

2022 CERTIFIED VALUE

433,118,648

I, MITCH McCULLOUGH, CHIEF APPRAISER FOR THE CHAMBERS COUNTY APPRAISAL DISTRICT, HEREBY CERTIFY THAT THE ABOVE IS THE 2022 CERTIFIED VALUE.

July 21, 2022

Date

  
MITCH McCULLOUGH, CHIEF APPRAISER  
CHAMBERS COUNTY APPRAISAL DISTRICT

APPROVAL OF THE APPRAISAL RECORDS BY THE CHAMBERS COUNTY APPRAISAL REVIEW BOARD ON JULY 20, 2022.

RECEIVED BY :

DATE:

Charles Lippert  
July 21, 2022

RECEIVED BY :

DATE:

\_\_\_\_\_  
\_\_\_\_\_



## 2022 Certified - HISTORY VALUE RECAP

(22) - CITY OF BAYTOWN

Land		Value	Items	Exempt			
Land - Homesite	(+)	28,709,690	1,503	0			
Land - Non Homesite	(+)	68,360,990	452	6,525,880			
Land - Productivity Market	(+)	1,476,710	10	0			
Land - Income	(+)	0	0	0			
Total Land Market Value	(=)	98,547,390	1,965		Total Land Value:	(+)	98,547,390
Improvements		Value	Items	Exempt			
Improvements - Homesite	(+)	257,663,130	1,540	0			
New Improvements - Homesite	(+)	6,128,720	291	0			
Improvements - Non Homesite	(+)	26,853,570	79	9,602,340			
New Improvements - Non Homesite	(+)	2,625,690	13	38,140			
Improvements - Income	(+)	0	0	0			
Total Improvement Value	(=)	293,271,110	1,923		Total Imp Value:	(+)	293,271,110
Personal		Value	Items	Exempt			
Personal - Homesite	(+)	1,705,700	127	0			
New Personal - Homesite	(+)	147,370	34	0			
Personal - Non Homesite	(+)	5,223,000	146	355,600			
New Personal - Non Homesite	(+)	623,020	33	314,450			
Total Personal Value	(=)	7,699,090	340		Total Personal Value:	(+)	7,699,090
Total Real Estate & Personal Mkt Value	(=)	399,517,590	4,228				
Minerals		Value	Items				
Mineral Value	(+)	0	0				
Mineral Value - Real	(+)	0	0				
Mineral Value - Personal	(+)	0	0				
Total Mineral Market Value	(=)	0	0		Total Min Mkt Value:	(+)	0
Total Market Value	(=)	399,517,590			Total Market Value:	(=/+)	399,517,590
Ag/Timber *does not include protested		Value	Items				
Land Timber Gain	(+)	0	0		Land Timber Gain:	(+)	0
Productivity Market	(+)	1,476,710	10				
Land Ag 1D	(-)	0	0				
Land Ag 1D1	(-)	8,210	6				
Land Ag Tim	(-)	9,840	5				
Productivity Loss:	(=)	1,458,660	10		Productivity Loss:	(-)	1,458,660
Losses		Value	Items				
Less Real Exempt Property	(-)	16,836,410	61				
Less \$2500 Inc. Real Personal	(-)	92,030	69				
Less Disaster Exemption	(-)	0	0		Total Market Taxable:	(=)	398,058,930
Less Real/Personal Abatements	(-)	0	0				
Less Community Housing	(-)	0	0				
Less Freeport	(-)	0	0				
Less Allocation	(-)	0	0				
Less MultiUse	(-)	0	0				
Less Goods In Transit (Real & Industrial)	(-)	0	0				
Less Historical	(-)	0	0				
Less Solar/Wind Power	(-)	0	0		Total Protested Value:		0
Less Vehicle Leased for Personal Use	(-)	0	0		Protested % of Total Market :		0.00 %
Less Real Protested Value	(-)	0	0				
Less 10% Cap Loss	(-)	28,093,310	717				
Less TCEQ/Pollution Control	(-)	0	0				
Less VLA Loss	(-)	0	0				
Less Mineral Exempt Property	(-)	0	0				
Less \$500 Inc. Mineral Owner	(-)	0	0				
Less Mineral Abatements	(-)	0	0				
Less Mineral Freeports	(-)	0	0				
Less Interstate Commerce	(-)	0	0				
Less Foreign Trade	(-)	0	0				
Less Mineral Unknown	(-)	0	0		Total Losses:	(-)	45,021,750
Less Mineral Protested Value	(-)	0	0		Total Appraised Value:(=/+)		353,037,180
Total Losses (includes Prod. Loss)	(=)	46,480,410			Total Exemptions*:	(-)	71,085,620
Total Appraised Value	(=)	353,037,180			* See breakdown on following page		
					Net Taxable Value:		281,951,560



## 2022 Certified - HISTORY VALUE RECAP

(22) - CITY OF BAYTOWN

**\*\*\* Freeze Totals: (This is only for Effective Tax Rate Calculation)**

Total Ceiling Tax: 146,801.12  
 Total Freeze Taxable: - 18,291,710  
 New Imp/Pers with Ceiling: + 131,540

\*\*Freeze Adjusted Taxable: 263,791,390\*\*This number DOES NOT represent any Jurisdiction's Certified Taxable Value\*\*

Estimated Total Levy: ((Net Taxable Value - Total Freeze Taxable + New Imp/Pers with Ceiling) \* Tax Rate / 100) + Total Ceiling Tax  
 or (Freeze Adjusted Taxable \* Tax Rate / 100) + Total Ceiling Tax

**Count of Homesteads**

H	S	F	B	D	W	O	DV	DV100	SS First Resp	SS Svc Member
788	335	1	22	0	31	0	40	9	0	0

**Owner and Parcel Counts**

Total Parcels\*: 2,303\* Parcel count is figured by parcel per ownership sequences.

Total Owners: 1,975

**Ported Homestead/Charity Amounts**

Value	Items
DV Donated Home (Charity)	(+) 0 0
SS of a Service Member Ported Amount	(+) 0 0
SS of a First Responder Ported Amount	(+) 0 0
SS of DV Donated Home Ported Amount	(+) 0 0
SS of 100% DV Ported Amount	(+) 0 0

**Homestead Exemptions**

Value	Items
Homestead H,S	(+) 0 0
Senior S	(+) 0 0
Disabled B	(+) 0 0
DV 100%	(+) 1,739,470 9
Surviving Spouse of a Service Member	(+) 0 0
Surviving Spouse of a First Responder	(+) 0 0
Total Reimbursable (=)	1,739,470 9
Local Discount	(+) 41,150,080 1,177
Disabled Veteran	(+) 324,000 32
Optional 65	(+) 26,249,080 365
Local Disabled	(+) 1,623,000 23
State Homestead	(+) 0 0
Total Exemptions	(=) 71,085,620 (includes Ported/Charity Amounts)

H - Homestead D - Disabled Only  
 S - Over 65 W - Widow  
 F - Disabled Widow O - Over 65 (No HS)  
 B - Disabled DV - Disabled Veteran  
 DV100 (1, 2, 3) - 100% Disabled Veteran  
 4 (4B, 4H, 4S) - Surviving Spouse of a Service Member  
 5\* (5B, 5H, 5S) - Surviving Spouse of a First Responder

**Special Certified Totals**

Exempt Value of First Time Absolute Exemption \$50,270

Exempt Value of First Time Partial Exemption \$2,063,840

**New AG/Timber**

Market	\$0
Taxable	\$0
Value Loss	\$0

**New Improvement/Personal**

Market	\$9,172,210
Taxable	\$8,678,270

2022 Certified - HISTORY VALUE RECAP

(22) - CITY OF BAYTOWN

**Average Values\* (includes protested & exempt value)**

**Average Homestead Value A\***

Market \$185,563  
Taxable \$134,173

**Parcels**

1,569

**Total Homestead Value A\***

Market \$291,149,110  
Taxable \$195,342,100

**Average Homestead Value A\* and E\***

Market \$185,548  
Taxable \$134,149

**Parcels**

1,573

**Total Homestead Value A\* and E\***

Market \$291,868,130  
Taxable \$195,823,000

**Average Homestead Value A\* and E\* and M1**

Market \$171,404  
Taxable \$124,013

**Parcels**

1,714

**Total Homestead Value A\* and E\* and M1**

Market \$293,787,290  
Taxable \$197,730,390

**Average Homestead Value M1**

Market \$13,611  
Taxable \$8,601

**Parcels**

141

**Total Homestead Value M1**

Market \$1,919,160  
Taxable \$1,907,390

## P&amp;A Recap for balancing TAXROLL Recap to Appraisal District Recap

Minerals	Value	Items		
Mineral Value	0	0		
Mineral Value - Real	0	0		
Mineral Value - Personal	0	0		
			Total Mineral Value:	0
Mineral Loss	Value	Items		
Less Mineral Exempt Property	0	0		
Less \$500 Inc. Mineral Owner	0	0		
Less Mineral Abatements	0	0		
Less Mineral Freeports/Interstate Commerce	0	0		
Less Mineral Unknown	0	0		
Less TCEQ/Pollution Control	0	0		
Less VLA	0	0		
Less Mineral Protested Value	0	0		
			Total Mineral Exempt Value:	0
			Taxload Mineral Total:	0
Land	Value	Items		
Land - Homesite	28,709,690	1,503		
Land - Non Homesite	68,360,990	452		
Land - Productivity Market	1,476,710	10		
Land - Income	0	0		
Land Timber Gain	0	0		
			Total Land Value:	98,547,390
Improvements	Value	Items		
Improvements - Homesite	257,663,130	1,540		
New Improvements - Homesite	6,128,720	291		
Improvements - Non Homesite	26,853,570	79		
New Improvements - Non Homesite	2,625,690	13		
Improvements - Income	0	0		
			Total Improvement Value:	293,271,110
Ag Loss	Value	Items		
Productivity Market	1,476,710	10		
Land Ag 1D	0	0		
Land Ag 1D1	8,210	6		
Land Ag Tim	9,840	9,840		
			Productivity Loss:	1,458,660
Real Loss	Value	Items		
Land Homesite Exempt	0			
Land Non-Homesite Exempt	6,525,880			
Productivity Market Exempt	0			
Income Land Exempt	0			
Improvement Homesite Exempt	0			
New Improvement Homesite Exempt	0			
Improvement Non-Homesite Exempt	9,602,340			
New Improvement Non-Homesite Exempt	38,140			
Income Improvement Exempt	0			
			Real Exempt Total:	16,166,360
			Taxload Real Total:	374,193,480
Personal	Value	Items		
Personal - Homesite	1,705,700	127		
New Personal - Homesite	147,370	34		
Personal - Non Homesite	5,223,000	146		
New Personal - Non Homesite	623,020	33		
			Total Personal Value:	7,699,090
Personal Loss	Value	Items		
Personal Homesite Exempt	0			
New Personal Homesite Exempt	0			
Personal Non-Homesite Exempt	355,600			
New Personal Non-Homesite Exempt	314,450			
Personal Under 2500	92,030			
			Personal Exempt Total:	670,050
			Taxload Personal Total:	7,029,040
			Total Appraised:	353,037,180

## 2022 Certified - HISTORY VALUE RECAP

(22) - CITY OF BAYTOWN

Taxroll Load Total: 381,222,520

## Category Code Breakdown

Cat Code	Items	Acres	Land	Ag/Timber	Productivity Market	Taxable Land	Improvements	Personal	Mineral	Total Mkt Taxable	Total Net Taxable
A1	1,397	394.5879	27,411,050	0	0	27,411,050	261,457,950	0	0	288,869,000	191,781,610
A2	171	49.8771	3,305,990	0	0	3,305,990	2,500,660	0	0	5,806,650	4,134,590
A4	19	34.0131	1,246,520	0	0	1,246,520	629,520	0	0	1,876,040	1,869,110
AC1	3	1.3709	51,390	0	0	51,390	0	0	0	51,390	21,590
A*	1,590	479.8490	32,014,950	0	0	32,014,950	264,588,130	0	0	296,603,080	197,806,900
C1	197	166.5404	6,085,580	0	0	6,085,580	34,410	0	0	6,119,990	6,119,990
C3	1	3.2620	293,580	0	0	293,580	0	0	0	293,580	293,580
C6	32	0.0000	0	0	0	0	0	0	0	0	0
C*	230	169.8024	6,379,160	0	0	6,379,160	34,410	0	0	6,413,570	6,413,570
D1	7	131.5910	0	13,640	1,397,080	13,640	0	0	0	13,640	13,640
D1T	3	29.5500	0	4,410	79,630	4,410	0	0	0	4,410	4,410
D2	1	0.0000	0	0	0	0	190	0	0	190	190
D*	11	161.1410	0	18,050	1,476,710	18,050	190	0	0	18,240	18,240
E	44	622.5592	20,579,660	0	0	20,579,660	37,130	0	0	20,616,790	20,616,790
E1	1	2.0000	15,000	0	0	15,000	254,590	0	0	269,590	154,530
E11	1	1.0000	8,490	0	0	8,490	0	0	0	8,490	8,490
E12	1	2.0000	30,000	0	0	30,000	93,060	0	0	123,060	0
E*	47	627.5592	20,633,150	0	0	20,633,150	384,780	0	0	21,017,930	20,779,810
F1	43	94.0821	11,008,870	0	0	11,008,870	18,539,060	0	0	29,547,930	29,547,930
F1	43	94.0821	11,008,870	0	0	11,008,870	18,539,060	0	0	29,547,930	29,547,930
F2	8	321.5404	12,301,200	0	0	12,301,200	0	0	0	12,301,200	12,301,200
F2	8	321.5404	12,301,200	0	0	12,301,200	0	0	0	12,301,200	12,301,200
F*	51	415.6225	23,310,070	0	0	23,310,070	18,539,060	0	0	41,849,130	41,849,130
J3	9	149.4710	6,381,990	0	0	6,381,990	0	0	0	6,381,990	6,381,990
J4	2	0.4500	10,150	0	0	10,150	17,970	0	0	28,120	28,120
J6	1	2.9900	46,870	0	0	46,870	0	0	0	46,870	46,870
J*	12	152.9110	6,439,010	0	0	6,439,010	17,970	0	0	6,456,980	6,456,980
L1	71	0.0000	0	0	0	0	0	4,849,520	0	4,849,520	4,849,520
L1	71	0.0000	0	0	0	0	0	4,849,520	0	4,849,520	4,849,520
L*	71	0.0000	0	0	0	0	0	4,849,520	0	4,849,520	4,849,520
M1	143	0.0000	0	0	0	0	66,090	1,997,540	0	2,063,630	1,919,000
M*	143	0.0000	0	0	0	0	66,090	1,997,540	0	2,063,630	1,919,000
O1	20	13.4340	1,768,460	0	0	1,768,460	0	0	0	1,768,460	1,768,460
O*	20	13.4340	1,768,460	0	0	1,768,460	0	0	0	1,768,460	1,768,460
S1	1	0.0000	0	0	0	0	0	89,950	0	89,950	89,950
S*	1	0.0000	0	0	0	0	0	89,950	0	89,950	89,950
XB	69	0.0000	0	0	0	0	0	92,030	0	92,030	0
XVA	4	5.4940	181,860	0	0	181,860	855,160	0	0	1,037,020	0
XVC	32	44.7707	916,340	0	0	916,340	0	0	0	916,340	0
XVD	7	168.6310	5,214,360	0	0	5,214,360	8,785,320	0	0	13,999,680	0
XVJ	9	26.1800	213,320	0	0	213,320	0	0	0	213,320	0
XVL	9	0.0000	0	0	0	0	0	670,050	0	670,050	0
X*	130	245.0757	6,525,880	0	0	6,525,880	9,640,480	762,080	0	16,928,440	0
	2,306	2,265.3948	97,070,680	18,050	1,476,710	97,088,730	293,271,110	7,699,090	0	398,058,930	281,951,560

## 2022 Jurisdiction Summary

### A036 - Chambers County Appraisal District

CITY OF BAYTOWN (TB)

Property Type: MINERAL &amp; INDUSTRIAL

Values	Total	Count	Withheld/Protested	Count	Certifiable	Count
Real/Land						
Improvements	57,877,697	5			57,877,697	5
Personal	93,294,119	58			93,294,119	58
Mineral						
<b>Total Market</b>	<b>151,171,816</b>	<b>63</b>			<b>151,171,816</b>	<b>63</b>
Exemptions	Total	Count	Withheld/Protested	Count	Certifiable	Count
Abatement						
Absolute						
Foreign Trade						
Freeport						
Goods in Transit						
Historical						
Interstate Commerce						
Minimum \$500	4,728	10			4,728	10
Miscellaneous						
Solar/Wind						
TCEQ						
Water System						
<b>Total Exemptions</b>	<b>4,728</b>	<b>10</b>			<b>4,728</b>	<b>10</b>
<b>Total Taxable</b>	<b>151,167,088</b>	<b>53</b>			<b>151,167,088</b>	<b>53</b>
New Improvements	50,000,000	1			50,000,000	1
New Absolute	4,155	6			4,155	6

63 Items Considered, 0.00% Withheld

PTAD Use Code	Total	Taxable	Count	Certifiable	Taxable	Count
C1 Vacant Lots and Tracts						
G1 Oil and Gas						
F1 Commercial Real Property						
F2 Industrial Real Property	57,877,697	57,877,697	5	57,877,697	57,877,697	5
L2 Industrial Personal Property	61,453,267	61,448,871	41	61,453,267	61,448,871	41
J1 Water Systems						
J2 Gas Distribution Systems	493,465	493,465	1	493,465	493,465	1
J3 Electric Companies/Co-ops	18,393,688	18,393,688	4	18,393,688	18,393,688	4
J4 Telephone Companies/Co-ops	177,331	177,331	1	177,331	177,331	1
J5 Railroads						
J6 Pipelines	1,545,273	1,544,941	7	1,545,273	1,544,941	7
J7 Cable Companies	11,231,095	11,231,095	4	11,231,095	11,231,095	4
J8 Other Utilities						
J9 Railroad Rolling Stock						
Other						
<b>Total by Use Code</b>	<b>151,171,816</b>	<b>151,167,088</b>	<b>63</b>	<b>151,171,816</b>	<b>151,167,088</b>	<b>63</b>

Chamber's County Appraisal District  
2022 CERTIFIED VALUE

1

Entity	2021 CERTIFIED VALUE	2022 Certified Value	Gain or Loss
<b>Appraisal District</b>			
Local	4,677,698,219	5,947,520,639	1,269,822,420
Mineral and Industrial	<u>7,156,506,850</u>	<u>9,027,731,617</u>	<u>1,871,224,767</u>
<b>Total</b>	11,834,205,069	14,975,252,256	3,141,047,187
<b>County</b>			
Local	3,876,968,519	4,734,904,239	857,935,720
Mineral and Industrial	<u>7,156,506,850</u>	<u>9,027,731,617</u>	<u>1,871,224,767</u>
<b>Total</b>	11,033,475,369	13,762,635,856	2,729,160,487
<b>AISD</b>			
Local	371,212,980	453,973,530	82,760,550
Mineral and Industrial	<u>211,352,782</u>	<u>339,027,152</u>	<u>127,674,370</u>
<b>Total</b>	582,565,762	793,000,682	210,434,920
<b>BHISD</b>			
Local	2,260,796,030	2,871,708,000	610,911,970
Mineral and Industrial	<u>11,768,172,489</u>	<u>13,238,659,317</u>	<u>1,470,486,828</u>
<b>Total</b>	14,028,968,519	16,110,367,317	2,081,398,798
<b>ECCISD</b>			
Local	299,708,429	330,234,759	30,526,330
Mineral and Industrial	<u>56,698,670</u>	<u>66,631,318</u>	<u>9,932,648</u>
<b>Total</b>	356,407,099	396,866,077	40,458,978
<b>GCCISD</b>			
Local	601,767,010	878,912,780	277,145,770
Mineral and Industrial	<u>3,399,647,861</u>	<u>4,081,530,729</u>	<u>681,882,868</u>
<b>Total</b>	4,001,414,871	4,960,443,509	959,028,638
<b>Lee College</b>			
Local	615,237,410	918,423,100	303,185,690
Mineral and Industrial	<u>3,399,647,861</u>	<u>4,081,530,729</u>	<u>681,882,868</u>
<b>Total</b>	4,014,885,271	4,999,953,829	985,068,558
<b>City of Mt. Belvieu</b>			
Local	889,849,790	1,114,736,160	224,886,370
Mineral and Industrial	<u>3,292,394,038</u>	<u>4,198,364,269</u>	<u>905,970,231</u>
<b>Total</b>	4,182,243,828	5,313,100,429	1,130,856,601
<b>City of Anahuac</b>			
Local	87,631,430	101,771,430	14,140,000
Mineral and Industrial	<u>3,216,028</u>	<u>3,532,447</u>	<u>316,419</u>
<b>Total</b>	90,847,458	105,303,877	14,456,419
<b>Chambers Liberty Navigation District</b>			
Local	2,013,158,030	2,514,670,110	501,512,080
Mineral and Industrial	<u>523,972,016</u>	<u>834,601,384</u>	<u>310,629,368</u>
<b>Total</b>	2,537,130,046	3,349,271,494	812,141,448
<b>TBCD</b>			
Local	631,105,649	774,514,349	143,408,700
Mineral and Industrial	<u>264,378,476</u>	<u>401,668,531</u>	<u>137,290,055</u>
<b>Total</b>	895,484,125	1,176,182,880	280,698,755
<b>Chambers Co. (FM&amp;FC)</b>			
Local	3,852,747,889	4,709,459,329	856,711,440
Mineral and Industrial	<u>7,156,506,850</u>	<u>9,027,731,617</u>	<u>1,871,224,767</u>
<b>Total</b>	11,009,254,739	13,737,190,946	2,727,936,207
<b>CCPH District</b>			
Local	401,675,220	510,598,320	108,923,100
Mineral and Industrial	<u>211,363,352</u>	<u>341,723,737</u>	<u>130,360,385</u>
<b>Total</b>	613,038,572	852,322,057	239,283,485
<b>MUD</b>			
Local	268,186,570	321,818,810	53,632,240
Mineral and Industrial	<u>1,197,595</u>	<u>1,005,043</u>	<u>-192,552</u>
<b>Total</b>	269,384,165	322,823,853	53,439,688
<b>Cedar Bayou Nav Dist</b>			
Local	112,630,490	270,061,510	157,431,020
Mineral and Industrial	<u>2,646,939,612</u>	<u>2,911,310,876</u>	<u>264,371,264</u>
<b>Total</b>	2,759,570,102	3,181,372,386	421,802,284

Chamber's County Appraisal District  
**2022 CERTIFIED VALUE**

2

	<u>2021 CERTIFIED VALUE</u>	<u>2022 Certified Value</u>	<u>Gain or Loss</u>
<b>Chambers Co Imp Dist #1</b>			
Local	96,011,760	231,603,120	135,591,360
Mineral and Industrial	<u>1,154,585,349</u>	<u>1,492,907,944</u>	<u>338,322,595</u>
<b>Total</b>	1,250,597,109	1,724,511,064	473,913,955
<b>City of Baytown</b>			
Local	235,864,760	281,951,560	46,086,800
Mineral & Industrial	<u>52,906,189</u>	<u>151,167,088</u>	<u>98,260,899</u>
<b>Total</b>	288,770,949	433,118,648	144,347,699
<b>City of Texas City</b>			
Local	0	0	0
Mineral & Industrial	<u>5,862</u>	<u>8,189</u>	<u>2,327</u>
<b>Total</b>	5,862	8,189	2,327
<b>LaPorte ISD</b>			
Local	659,130	659,130	0
Mineral & Industrial	<u>0</u>	<u>0</u>	<u>0</u>
<b>Total</b>	659,130	659,130	0
<b>San Jacinto College</b>			
Local	659,130	659,130	0
Mineral & Industrial	<u>0</u>	<u>0</u>	<u>0</u>
<b>Total</b>	659,130	659,130	0
<b>Jefferson Co Drainage Dist #6</b>			
Local	258,200	253,110	-5,090
Mineral & Industrial	<u>0</u>	<u>0</u>	<u>0</u>
<b>Total</b>	258,200	253,110	-5,090
<b>Chambers Co Imp Dist #2</b>			
Local	15,789,570	45,727,010	29,937,440
Mineral & Industrial	<u>458,983,967</u>	<u>605,115,652</u>	<u>146,131,685</u>
<b>Total</b>	474,773,537	650,842,662	176,069,125
<b>Chambers Co Imp Dist #3</b>			
Local	11,696,190	40,631,900	28,935,710
Mineral & Industrial	<u>55,069,477</u>	<u>102,187,478</u>	<u>47,118,001</u>
<b>Total</b>	66,765,667	142,819,378	76,053,711
<b>Chambers Co MUD #3</b>			
Local	3,996,290	12,673,450	8,677,160
Mineral & Industrial	<u>11,070</u>	<u>10,604</u>	<u>-466</u>
<b>Total</b>	4,007,360	12,684,054	8,676,694
<b>Chambers Co MUD #4</b>			
Local	0	3,417,290	3,417,290
Mineral & Industrial	<u>0</u>	<u>0</u>	<u>0</u>
<b>Total</b>	0	3,417,290	3,417,290
<b>Chambers Co. (School Equalization Fund)</b>			
Local	3,837,894,199	5,062,342,499	1,224,448,300
Mineral and Industrial	<u>15,435,883,429</u>	<u>17,700,531,703</u>	<u>2,264,648,274</u>
<b>Total</b>	19,273,777,628	22,762,874,202	3,489,096,574

HARRIS COUNTY APPRAISAL DISTRICT  
HOUSTON, TEXAS

THE STATE OF TEXAS, }  
COUNTY OF HARRIS. }

2022  
CERTIFICATION OF APPRAISAL ROLL AND  
LISTING OF PROPERTIES UNDER SECS. 26.01(c) AND (d)  
FOR  
City of Baytown

Pursuant to Section 26.01(a), Texas Tax Code, I hereby certify the 2022 appraisal roll of properties taxable by City of Baytown. The roll is delivered in electronic form.

The total appraised value now on the appraisal roll for this unit is: \$6,298,777,817

The taxable value now on the appraisal roll for this unit is: \$4,933,068,494

As required by Section 26.01(c), Texas Tax Code, I have included with your roll a listing of those properties which are taxable by the unit but which are under protest and are therefore not included in the appraisal roll values approved by the appraisal review board and certified above. My estimate of the total taxable value which will be assigned to such properties if the owners' claims are upheld by the appraisal review board is: \$428,025,330

Pursuant to Section 26.01(d), Texas Tax code, the estimated value of taxable property not under protest and not yet included on the certified appraisal roll, after hearing loss, is \$171,747,895

Signed this 2nd day of September, 2022



*Roland Altinger*

Roland Altinger, CAE, RPA, CTA  
Chief Appraiser

ASSESSOR'S ACKNOWLEDGEMENT

As tax assessor/collector of the above-named taxing unit, I hereby acknowledge receipt of the certified 2022 appraisal roll on this the 31st day of August, 2022

*Charlene Piggott*



051 CITY OF BAYTOWN  
TAX YEAR: 2022

HARRIS COUNTY APPRAISAL DISTRICT  
PROPERTY USE CATEGORY RECAP  
CERTIFIED ROLL 00

LAST UPDATED: 08/19/2022  
DELV DATE: 09/02/2022

PROPERTY USE CATEGORY	UNITS	ACREAGE	MARKET	APPRAISED	PRODUCTIVITY	EXEMPTIONS	TAXABLE VALUE
A1 Real, Residential, Single-Family	16,949	4,120.2766	3,189,129,258	2,876,691,271	0	741,385,328	2,135,305,943
A2 Real, Residential, Mobile Homes	384	139.4794	20,667,813	19,473,780	0	4,088,059	15,385,721
B1 Real, Residential, Multi-Family	81	528.1763	643,712,850	643,711,634	0	13,224	643,698,410
B2 Real, Residential, Two-Family	210	40.4258	24,690,398	23,762,609	0	1,201,806	22,560,803
B3 Real, Residential, Three-Family	8	1.3443	1,447,115	1,304,578	0	104,841	1,199,737
B4 Real, Residential, Four- or More-Family	0	0.0000	0	0	0	0	0
C1 Real, Vacant Lots/Tracts	1,378	650.4747	40,958,094	39,438,785	0	235,167	39,203,618
C2 Real, Vacant Commercial	653	1,374.2004	108,579,876	108,518,596	0	23,804	108,494,792
C3 Real, Vacant	72	22.9381	2,328,739	2,315,182	0	5,689	2,309,493
D1 Real, Qualified Agricultural Land	83	2,227.8730	99,446,252	0	265,365	0	265,365
D2 Real, Unqualified Agricultural Land	69	1,251.7168	45,138,070	45,064,261	0	0	45,064,261
E1 Real, Farm & Ranch Improved	1	0.5000	446,718	221,540	0	44,308	177,232
F1 Real, Commercial	1,167	1,964.2697	1,292,856,603	1,292,134,534	0	8,592,740	1,283,541,794
F2 Real, Industrial	55	747.5170	192,307,878	192,307,878	0	57,844,683	134,463,195
G1 Oil and Mineral Gas Reserves	187	0.0000	4,340,606	4,340,606	0	2,690	4,337,916
G2 Real Property Other Mineral Reserves	0	0.0000	0	0	0	0	0
H1 Tangible, Vehicles	0	0.0000	0	0	0	0	0
H2 Tangible, Goods In Transit	0	0.0000	0	0	0	0	0
I1 Real, Banks	0	0.0000	0	0	0	0	0
J1 Real & Tangible Personal, Utility Water	0	0.0000	0	0	0	0	0

051 CITY OF BAYTOWN  
TAX YEAR: 2022

HARRIS COUNTY APPRAISAL DISTRICT  
PROPERTY USE CATEGORY RECAP  
CERTIFIED ROLL 00

LAST UPDATED: 08/19/2022  
DELV DATE: 09/02/2022

PROPERTY USE CATEGORY	UNITS	ACREAGE	MARKET	APPRAISED	PRODUCTIVITY	EXEMPTIONS	TAXABLE VALUE
XD Improving Property for Housing w/ Volunteer Labor	7	0.0000	238,258	238,258	0	238,258	0
XE Community Housing Development Organizations	0	0.0000	0	0	0	0	0
XF Assisting Ambulatory Health Care Centers	0	0.0000	0	0	0	0	0
XG Primarily Performing Charitable Functions	4	5.0900	1,073,994	1,073,994	0	1,073,994	0
XH Developing Model Colonia Subdivisions	0	0.0000	0	0	0	0	0
XI Youth Spiritual, Mental and Physical Development	1	20.0000	493,746	493,746	0	493,746	0
XJ Private Schools	2	20.4879	1,851,236	1,851,236	0	1,851,236	0
XL Economic Development Services to Local Community	1	1.0000	304,920	304,920	0	304,920	0
XM Marine Cargo Containers	0	0.0000	0	0	0	0	0
XN Motor Vehicles Leased for Personal Use	0	0.0000	0	0	0	0	0
XO Motor Vehicles (Income Production & Personal Use)	0	0.0000	0	0	0	0	0
XP Offshore Drilling Equipment Not In Use	0	0.0000	0	0	0	0	0
XQ Intracoastal Waterway Dredge Disposal Site	0	0.0000	0	0	0	0	0
XR Nonprofit Water or Wastewater Corporations	0	0.0000	0	0	0	0	0
XS Raw Cocoa and Green Coffee Held in Harris County	0	0.0000	0	0	0	0	0
XT Limitation on Taxes in Certain Municipalities	0	0.0000	0	0	0	0	0
XU Miscellaneous Exemptions	2	7.4000	1,087,567	1,087,567	0	1,087,567	0
XV Other Exempt (Incl Public, Religious, Charitable)	1,601	3,947.4521	536,902,065	536,902,065	0	536,902,065	0
<b>JURISDICTION TOTALS</b>	<b>25,920</b>	<b>17,462.2936</b>	<b>\$6,715,335,307</b>	<b>\$6,298,512,452</b>	<b>\$265,365</b>	<b>\$1,365,709,323</b>	<b>\$4,933,068,494</b>

051 CITY OF BAYTOWN  
TAX YEAR: 2022

HARRIS COUNTY APPRAISAL DISTRICT  
UNCERTIFIED ROLL SUMMARY 00

LAST UPDATED: 08/19/2022  
DELV DATE: 09/02/2022

TYPE	UNITS	MARKET	APPRAISED	OWNERS VALUE	ESTIMATED FINAL
					TAXABLE VALUE WITH HEARING LOSS
ACCOUNTS ON HTS	2,518	540,399,598	502,934,165	465,604,506	428,025,330
ACCOUNTS ON PTS	779	114,961,503	112,666,388	111,070,752	97,823,293
OTHER ACCOUNTS	560	96,565,103	92,404,917	90,635,966	73,924,602
TOTAL UNCERTIFIED	3,857	\$751,926,204	\$708,005,470	\$667,311,224	\$599,773,225

051 CITY OF BAYTOWN  
TAX YEAR: 2022

HARRIS COUNTY APPRAISAL DISTRICT  
PROPERTY USE CATEGORY RECAP  
UNCERTIFIED ROLL 00

LAST UPDATED: 08/19/2022  
DELV DATE: 09/02/2022

PROPERTY USE CATEGORY	UNITS	ACREAGE	MARKET	APPRAISED	PRODUCTIVITY	EXEMPTIONS	TAXABLE VALUE
A1 Real, Residential, Single-Family	1,685	449.1168	302,469,487	276,592,903	0	43,919,636	232,673,267
A2 Real, Residential, Mobile Homes	54	24.6674	3,659,270	3,538,796	0	172,052	3,366,744
B1 Real, Residential, Multi-Family	17	38.0463	64,247,790	64,247,790	0	0	64,247,790
B2 Real, Residential, Two-Family	23	2.9368	3,412,244	3,412,244	0	0	3,412,244
B3 Real, Residential, Three-Family	1	0.1722	218,105	218,105	0	0	218,105
B4 Real, Residential, Four- or More-Family	0	0.0000	0	0	0	0	0
C1 Real, Vacant Lots/Tracts	197	119.9996	9,150,356	9,019,339	0	253,644	8,765,695
C2 Real, Vacant Commercial	171	255.5565	30,234,882	30,234,882	0	18,762	30,216,120
C3 Real, Vacant	10	6.0790	456,301	456,301	0	0	456,301
D1 Real, Qualified Agricultural Land	54	1,156.0231	18,733,265	0	1,289,711	0	1,289,711
D2 Real, Unqualified Agricultural Land	65	580.5067	16,588,710	16,588,710	0	0	16,588,710
E1 Real, Farm & Ranch Improved	1	0.4591	133,900	127,041	0	25,408	101,633
F1 Real, Commercial	337	380.4157	176,524,907	176,292,576	0	1,337,905	174,954,671
F2 Real, Industrial	4	32.4498	3,475,260	3,475,260	0	916,812	2,558,448
G1 Oil and Mineral Gas Reserves	30	0.0000	2,007,320	2,007,320	0	0	2,007,320
G2 Real Property Other Mineral Reserves	0	0.0000	0	0	0	0	0
H1 Tangible, Vehicles	0	0.0000	0	0	0	0	0
H2 Tangible, Goods In Transit	0	0.0000	0	0	0	0	0
I1 Real, Banks	0	0.0000	0	0	0	0	0
J1 Real & Tangible Personal, Utility Water	0	0.0000	0	0	0	0	0

051 CITY OF BAYTOWN

TAX YEAR: 2022

HARRIS COUNTY APPRAISAL DISTRICT  
PROPERTY USE CATEGORY RECAP  
UNCERTIFIED ROLL 00

PROPERTY USE CATEGORY	UNITS	ACREAGE	MARKET	APPRAISED	PRODUCTIVITY	EXEMPTIONS	TAXABLE VALUE
J2 Gas Companies	0	0.0000	0	0	0	0	0
J3 Electric Companies	0	0.0000	0	0	0	0	0
J4 Telephone Companies	0	0.0000	0	0	0	0	0
J5 Railroads	0	0.0000	0	0	0	0	0
J6 Pipelines	0	0.0000	0	0	0	0	0
J7 Major Cable Television Systems	0	0.0000	0	0	0	0	0
L1 Tangible, Commercial	960	0.0000	92,538,866	92,538,866	0	4,803,712	87,735,154
L2 Tangible, Industrial	13	0.0000	8,729,280	8,729,280	0	932	8,728,348
M1 Tangible, Nonbusiness Watercraft	0	0.0000	0	0	0	0	0
M2 Tangible, Nonbusiness Aircraft	0	0.0000	0	0	0	0	0
M3 Tangible, Mobile Homes	185	0.0000	2,514,791	2,404,876	0	199,631	2,205,245
M4 Tangible, Miscellaneous	0	0.0000	0	0	0	0	0
N1 Intangibles	0	0.0000	0	0	0	0	0
O1 Inventory	0	0.0000	0	0	0	0	0
O2 Inventory	0	0.0000	0	0	0	0	0
S1 Dealer Inventory	14	0.0000	681,832	681,832	0	2,722	679,110
U0 Unknown	0	0.0000	0	0	0	0	0
XA Public Property for Housing Indigent Persons	0	0.0000	0	0	0	0	0
XB Income Producing Personal Property (<\$2500)	0	0.0000	0	0	0	0	0
XC Mineral Interest (<\$500)	0	0.0000	0	0	0	0	0

051 CITY OF BAYTOWN  
TAX YEAR: 2022

HARRIS COUNTY APPRAISAL DISTRICT  
PROPERTY USE CATEGORY RECAP  
UNCERTIFIED ROLL 00

LAST UPDATED: 08/19/2022  
DELV DATE: 09/02/2022

PROPERTY USE CATEGORY	UNITS	ACREAGE	MARKET	APPRAISED	PRODUCTIVITY	EXEMPTIONS	TAXABLE VALUE
XD Improving Property for Housing w/ Volunteer Labor	0	0.0000	0	0	0	0	0
XE Community Housing Development Organizations	0	0.0000	0	0	0	0	0
XF Assisting Ambulatory Health Care Centers	0	0.0000	0	0	0	0	0
XG Primarily Performing Charitable Functions	0	0.0000	0	0	0	0	0
XH Developing Model Colonia Subdivisions	0	0.0000	0	0	0	0	0
XI Youth Spiritual, Mental and Physical Development	0	0.0000	0	0	0	0	0
XJ Private Schools	0	0.0000	0	0	0	0	0
XL Economic Development Services to Local Community	0	0.0000	0	0	0	0	0
XM Marine Cargo Containers	0	0.0000	0	0	0	0	0
XN Motor Vehicles Leased for Personal Use	0	0.0000	0	0	0	0	0
XO Motor Vehicles (Income Production & Personal Use)	0	0.0000	0	0	0	0	0
XP Offshore Drilling Equipment Not In Use	0	0.0000	0	0	0	0	0
XQ Intracoastal Waterway Dredge Disposal Site	0	0.0000	0	0	0	0	0
XR Nonprofit Water or Wastewater Corporations	0	0.0000	0	0	0	0	0
XS Raw Cocoa and Green Coffee Held in Harris County	0	0.0000	0	0	0	0	0
XT Limitation on Taxes in Certain Municipalities	0	0.0000	0	0	0	0	0
XU Miscellaneous Exemptions	0	0.0000	0	0	0	0	0
XV Other Exempt (Incl Public, Religious, Charitable)	36	157.3649	16,149,638	16,149,638	0	15,886,783	262,855
<b>JURISDICTION TOTALS:</b>	<b>3,857</b>	<b>3,203.7939</b>	<b>\$751,926,204</b>	<b>\$706,715,759</b>	<b>\$1,289,711</b>	<b>\$67,537,999</b>	<b>\$640,467,471</b>



## CITY COUNCIL MEETING

11. a.

**Meeting Date:** 09/08/2022

**Subject:** Consider an ordinance authorizing Change Order No. 8 for Baytown Animal Shelter and Adoption Services

**Prepared for:** Gregerz Joseph, Public Works/Engineering/BAWA, C.I.P

**Prepared by:** Gregerz Joseph, Public Works/Engineering/BAWA

**Department:** Public Works/Engineering/BAWA

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### **Information**

#### **ITEM**

Consider an ordinance authorizing Change Order No. 8 for Baytown Animal Shelter and Adoption Services Project between the City of Baytown and Construction Masters of Houston LLC.

#### **PREFACE**

This proposed ordinance authorizes Change Order No. 8 for Baytown Animal Shelter and Adoption Services Project between the City of Baytown and Construction Masters of Houston LLC in an amount of \$96,810.62.

The City of Baytown approved the construction contract with Construction Masters of Houston LLC on September 24, 2020. The work for the main Animal Shelter building is complete. The old facility has been demolished and work on Phase 2 has started. Phase 2 includes the loop drive, additional parking, and an open grassy area. This phase will also include the associated underground drainage, lighting along the drive, perimeter fence and security gate.

This change order addresses several items described below:

- A six-week delay in the power transfer and power termination related to the old facility, existing lift station prior to demolition of the old facility, subjected the Phase 2 concrete work to additional costs in concrete cement, steel rebar and fuel. Additional costs affect the concrete paving for the loop driveway, parking spaces, sidewalks and light pole pier foundations in the Phase 2 area. Also, additional land clearing will be required to ensure adequate removal of trees and overhead clearances for animal services trucks.
- Additional Time & Materials based costs for Information Technology and electrical items which include: Information Technology (IT) related gate access scope not previously included in the plans but required for operational functionality of the facility: outdoor rated electrical enclosure box, auxiliary power conduit/cable run, 20 Amp single pole breaker and GFI at front gate outdoor rated electrical enclosure, including seal tight from the outdoor rated electrical enclosure to gate post for LDR Tag readers for animal services truck entry, spacers and cover plates with elbow seal tight fittings for security cameras. This cost also includes the addition of the overhead door access to install conduit and J-box above overhead door for sally port LDR Tag reader and sensors for remote opening for animal services truck entry. Lastly, the addition of a break room sink disposal and additional electrical for the operation of the sink disposal in the animal food preparation workroom. These items were not included in the plans.
- Additional Time and Materials costs for items included on the architect's formal punch list that were not included in plan details and specifications, such as installation of flooring transitions at locations where vinyl tile adjoined epoxy floors, door thresholds on dry food storage room door, door sweeps on interior kennel doors, aluminum windowsills, and drain modifications in an outside kennel that was not designed with a drain. Also included is the cost for re-routing of two camera cables for NCS, the IT subcontractor, which included the installation of plywood on top of hard ceiling in kennel area to access cables, pull cable out and relocate to new location, cut conduit down and install box, cover and paint at old camera locations. Original locations specified by Information Technology staff were subject to wind movement and were not stable in the exterior outdoor kennel location.
- The pre-engineered metal building required a deferred submittal after the project award, and upon building code and structural review, the building required additional cost for heavier gauge structural framing, added clips, bridging and fasteners for Cold Form Metal Framing (CFMF) on exterior walls. The project did not include an allowance to address this additional material required to meet structural requirements, and cost was reviewed by the staff and found to be appropriate since heavier materials were required. The contractor did not charge overhead, profit nor bond costs for this work.

The previous change orders were approved are described below:

- Seven Change Order No. 1 was in the amount \$17,103.16 for the relocation of the electrical service pole and appurtenances 160 ft. to the east property line.
- Change Order No. 2 was in the amount of \$7,161.84 for temporary wiring and manual transfer switch gear to facilitate the connection of the existing facility to the new generator.
- Change Order No. 3 was in the amount of \$12,575.85 for additional site work for the new generator
- Change Order No. 4 was in the deductive amount of (\$2,046.17) for door hardware and conduit and the repair of the water line connection.
- Change Order No. 5 was in the amount of \$160,264.58 for addition of 26 cat cages and concrete loop driveway on the east side of the building.
- Change Order No. 6 was in the amount of \$12,288.05 for the addition of a surgery window, TV brackets and irrigation allowance.
- Change Order No.7 was in the amount of \$47,070.78 for the addition of a cell auto dialer, revised sidewalk on the east side of building, trim added to match nichia masonry at the entry canopy, dry wall ceiling to the lobby area, Millwork to Room 107, breaker wire to provide power to sprinkler pump and lastly conduits and boxes for IT.

Change Order No. 8 Items costs are summarized below:

**Animal Shelter and Adoption Services Change Order #8**

<b>Description of work</b>	<b>Cost</b>
Concrete Escalation and Additional Land Clearing	\$54,259.46
Time and Materials for Information Technology and Electrical Items	\$ 6,982.34
Time and Materials for Punch List Flooring Additional Items	\$ 3,762.50
Deferred Submittal related Additional Structural Framing, clips, bridging, fasteners for CFMF and Labor	\$31,806.32
Total	\$96,810.62

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**Fiscal Impact**

<b><u>Fiscal Year:</u></b>	2022
<b><u>Acct Code:</u></b>	35210-85001-HECB2020-85001
<b><u>Source of Funds (Operating/Capital/Bonds):</u></b>	Bonds
<b><u>Funds Budgeted Y/N:</u></b>	Y
<b><u>Amount Needed:</u></b>	96,810.62
<b><u>Fiscal Impact (Additional Information):</u></b>	

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**Attachments**

Ordinance - Change Order No. 8  
Exhibit A - Change Order No. 8  
Indebtedness Certification

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AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BAYTOWN, TEXAS, AUTHORIZING CHANGE ORDER NO. 8 TO THE BAYTOWN ANIMAL SHELTER AND ADOPTION SERVICES PROJECT WITH CONSTRUCTION MASTERS OF HOUSTON, INC., IN AN AMOUNT NOT TO EXCEED NINETY-SIX THOUSAND EIGHT HUNDRED TEN AND 62/100 DOLLARS (\$96,810.62); AND PROVIDING FOR THE EFFECTIVE DATE THEREOF.

\*\*\*\*\*

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BAYTOWN, TEXAS:

Section 1: That the City Council of the City of Baytown, Texas, does hereby authorize Change Order No. 8 to the Baytown Animal Shelter and Adoption Services Project with Construction Masters of Houston, Inc., in an amount not to exceed NINETY-SIX THOUSAND EIGHT HUNDRED TEN AND 62/100 DOLLARS (\$96,810.62). A copy of said change order is attached hereto, marked Exhibit "A" and made a part hereof for all intents and purposes.

Section 2: This ordinance shall take effect immediately from and after its passage by the City Council of the City of Baytown.

INTRODUCED, READ and PASSED by the affirmative vote of the City Council of the City of Baytown this the 8<sup>th</sup> day of September, 2022.

\_\_\_\_\_  
BRANDON CAPETILLO, Mayor

ATTEST:

\_\_\_\_\_  
ANGELA JACKSON, City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
SCOTT LEMON, City Attorney



# EXHIBIT "A"

CITY OF BAYTOWN  
PUBLIC WORKS & ENGINEERING  
2123 Market St.  
Baytown, Texas 77520

## CHANGE ORDER

### Animal Services and Adoption Shelter

<b>Date of Issuance:</b>	<u>9/8/2022</u>	<b>Change Order No.:</b>	<u>8</u>
<b>Contractor:</b>	<u>Construction Masters of Houston</u>	<b>CoB Project No.:</b>	<u>FA1903</u>
<b>Designer:</b>	<u>Quorum Architects</u>	<b>P.O. No.:</b>	<u>2009472</u>

#### Explanation:

This change order encompasses the following:

CO 8.1: A six week delay in the power transfer and power termination related to the old facility, existing lift station prior to demolition of the old facility, subjected the Phase 2 concrete paving to additional costs in concrete, steel rebar and fuel. Additional costs affect the concrete paving (driveway, parking spaces, sidewalks and light pole pier foundations) in the Phase 2 area. Also, additional land clearing will also be required to ensure adequate removal of trees and overhead clearances for animal services trucks.

CO 8.2: Additional Time & Materials based costs for Information Technology and electrical Items which include; Information Technology (IT) related Gate Access Scope not previously included in the plans but required for operational functionality of the facility: NEMA enclosure box, Auxiliary power conduit/cable run, 20 Amp single pole breaker and GFI at front gate NEMA enclosure, including seal tight from NEMA enclosure to gate post for LDR, Spacers and cover plates with elbow seal tight fittings for security cameras. This cost also includes the addition of the Overhead Door access IT Scope to install conduit and J-box above Overhead Door for sally port LDR Tag reader and sensors for remote opening for animal services truck entry. Lastly, the addition of a breakroom sink disposal which will require the installation of new wire and electrical switch for the sink disposal in the food preparation workroom.

CO 8.3: Additional Time and Materials for items included on the architect's formal punch list that were not included in plan details and specifications such as installation of flooring transitions at locations where vinyl tile adjoined epoxy floors, door thresholds on dry food storage door, door sweeps on interior kennel doors, aluminum windowsills, and drain modifications in an outside kennel that was not designed with a drain. Also included is the cost for re-routing of two camera cables for NCS, the IT subcontractor, which included the install plywood on top of hard ceiling in kennel area to access cables, pull cable out and relocate to new location, cut conduit down and install box, cover and paint at old camera locations. Original locations specified by Information Technology staff were subject to wind movement and were not stable in the exterior location.

CO. 8.4: The pre-engineered metal building required a deferred submittal project award, and upon building code and structural review, the building required additional cost for heavier gauge structural framing, added clips, bridging and required fasteners for Cold Form Metal Framing (CFMF) on exterior walls. The project did not include an allowance to address this additional material required to meet, and cost was reviewed by the staff and found to be appropriate since heavier materials were required. The contractor did not charge overhead, profit nor bond costs for this cost.

<u>Description of Work</u>	<u>Cost</u>	<u>Time</u>
8.1 Additional cost for concrete and land clearing CPR #23)	\$ 54,259.46	0 Days
8.2 Additional Time and Materials for Information Technology and other electrical items	\$ 6,982.34	0 Days
8.3 Time and Materials for Punch list and additional Items	\$ 3,762.50	0 Days
8.4 Addition of clips, bridging, structural CFMF and labor	\$ 31,806.32	0 Days
<b>Total</b>	<b>\$ 96,810.62</b>	<b>0 Days</b>

**Please see attached back-up documentation:** Construction Masters Cost Proposal Requests (CPR) No. 23, No. 24, No. 25 and No. 4.

#### Cost & Time Change Summary

Original Contract:	\$ 6,532,983.73	494 Days
Previous Change Order(s):	\$ 254,418.09	0 Days
Contract prior to this change order:	\$ 6,787,401.82	0 Days
Net increase (decrease) from this change order	\$ 96,810.62	0 Days
<b>Revised Contract:</b>	<b>\$ 6,884,212.44</b>	<b>494 Days</b>

Finance Approval: \_\_\_\_\_ Date: \_\_\_\_\_

RECOMMENDED:

*Andi Long*

RECOMMENDED:

By: Kim Hickman Date: 8/30/22  
Design Engineer/Architect

By: Frank Long Date: 08/30/2022  
Director of Public Works & Engineering

ACCEPTED\*:

By: Justin Davis Date: 8/30/22  
Contractor

APPROVED:

By: \_\_\_\_\_ Date: \_\_\_\_\_  
City Manager

\*Contractor agrees to perform change(s) included in this Change Order for the price and time indicated. The prices for changes included all costs associated with this Change Order.

No work is to be done until this change order is executed. No payment to the Contractor (or Consultant) shall be made for work included in the change order until the Contractor's pay estimate is updated.

Revise the project plans and specifications as referenced and insofar as the original project drawings and specifications are inconsistent, this Change Order governs. Upon execution by all parties, the following changes identified for the contract value and/or contract time shown, are made part of the contract.



P.O. Box 1587 – Pearland, Texas 77588 – 281/997-2640 – Fax: 281 / 485-4702

Change Proposal Request

Project: City of Baytown Animal Services and Adoption Shelter

Date: 8/25/22

Change Proposal No: 23 Loop Concrete Pricing Increases

To: Kim Dowdy

Attn: Andrea Brinkley

Construction Masters proposes to make the following changes to the original scope of work:

- 1) Cost increases due to price escalation in raw materials and fuel for items needed to complete the concrete paving and concrete light pole foundations in the Phase 2 scope of work.
- 2) Additional land clearing required for expanded Phase 2 scope of work.

T&T Pricing approve in COB CO # 5	\$	(162,800.00)
T&T New pricing dated 7/25/22	\$	203,722.00
Additional Land Clearing	\$	9,990.00
Subtotal	\$	50,912.00
OH&P	\$	2,545.60
Additional Bond Premium (2.5% up to \$100K; 1.5% up to \$500K)	\$	801.86
<b>Total Change Proposal Request</b>	<b>\$</b>	<b>54,259.46</b>

Reason: Delay from Phase 1 completion 6/30 and the start of Phase 2 on 8/1, due to CenterPoint energy power disconnection schedule. Has resulted in an increase in concrete to be used on phase 2 for concrete paving and concrete light pole foundations. New paving scope exceeded limits of original tree demolition.

Attachments: T&T New Pricing Dated 7/25, T&T Pricing from CO # 5 and Approved COB - CO # 5, Backup for concrete price increases, Hondor quote for additional clearing.

Dennis Busby,  
Construction Masters of Houston, Inc



204 Preston Ave.  
Pasadena, TX 77503  
713-477-6660

# Estimate

Date	Estimate #
11/8/2021	1055

Name / Address
Construction Masters of Houston, Inc 3908 3rd St. Pearland, TX 77581 USA

Original concrete pricing used for CO#5

Rep
ML

Scope of Work	Total
RE: Baytown Animal Shelter - Paving Loop / Concrete Scopes Only***	
***REVISED 11/8/21 -- DRAWINGS DATED 6/22/21***	
***EXCLUDES DEMO SCOPES / SAWCUT / REMOVAL*** ***EXCLUDES SITEWORK / EARTHWORK / DIRTWORK / LIME -- ASSUME SUBGRADE 1/10"*** ***EXCLUDES STORM DRAINAGE*** ***EXCLUDES HAUL OFF OF DIRT SPOILS***	
ADDITIONAL -- SITE PAVING & SIDEWALKS - Approx 1,430 SF of 4" thick building sidewalk -- #3's at 18" o.c.e.w. (additional) - Approx 26,085 SF of 6" thick site paving -- #4's at 24" o.c.e.w. (additional) - Approx 1,530 LF of 6" reinforced concrete curb (additional) - Includes ADA handicap ramps with truncated dome mats per plans - Includes installing owner supplied pipe bollards - Includes all expansion & sawcut control joints - 3000 psi concrete finished with a light broom surface (sidewalk) - 3500 psi concrete finished with a medium broom surface (paving) - Deform & clean area upon completion - All spoils to be spread or stockpile on site	164,700.00
Alternate Deduct: Deduct 8,660 SF of paving + deduct 590 SF of sidewalk.....-\$44,200.00	
MOW STRIP -- DEDUCT CREDIT / ONLY INSTALL 350 LF PER REVISED LAYOUT - Per T&T Construction Estimate # 963 dated 9/22/21 - Contract Amount: \$15,900.00 / Revised Amount: \$6,900.00 / Credit: -\$9,000.00	-9,000.00

**Sales Tax (0.0%)**

**Total**

Please contact us at 713.477.6660 if you have any questions.



204 Preston Ave.  
Pasadena, TX 77503  
713-477-6660

# Estimate

Date	Estimate #
11/8/2021	1055

Name / Address
Construction Masters of Houston, Inc 3908 3rd St. Pearland, TX 77581 USA

Original concrete pricing used for CO#5

Rep
ML

Scope of Work	Total
ADDITIONAL -- LIGHT BASES -- (6) ADDITIONAL / \$1,100.00 EACH - (6) 24" diameter -- 7' deep below grade & 30" above grade (additional) - Pier reinforcement: (8) #7 vertical, #3 ties at 12" o.c. - Install owner supplied anchor bolts - Deform & clean area upon completion - All excavated spoils to be spread or stockpile on site ***Contract amount = 5*** ***New amount = 11** ***Additional: 11 - 5 = 6***	7,100.00
NOTES:	
1. Contractor's responsibility, liability, & duty to clean up and otherwise respond to any release into the environment of pollutants, hazardous substances, and/or hazardous wastes shall be limited to chemicals, fuels, lubricants, motor oils, pipe dope, paint, solvents, ballast, bilge & garbage, debris, other fluids, or any other substances, that are brought onto the site by Contractor & are wholly under Contractor's control, or origination from Contractor's Equipment. 2. This price excludes sales tax on all material. This is a tax exempt project. 3. This price is good for 30 days. 4. Payment Terms: Progressive Draws - NET 30. 5. This quote is based on plan set by Quorum & Hutchison dated 06/22/2021. 6. Do not drive/park vehicles on fresh concrete for a min of 7 days following completion of a new concrete pour. 7. Do not permit foot traffic on all concrete for a min of 24 hours following pour completion. 8. T&T will provide a warranty, within industry standards for our work for a period of (1) year for workmanship from the date of substantial completion. T&T will not warranty cracking, scaling, settling, heaving or other types of damage caused by normal wear & tear.	

**Sales Tax (0.0%)**

Please contact us at 713.477.6660 if you have any questions.

**Total**



204 Preston Ave.  
Pasadena, TX 77503  
713-477-6660

# Estimate

Date	Estimate #
11/8/2021	1055

Name / Address
Construction Masters of Houston, Inc 3908 3rd St. Pearland, TX 77581 USA

Original concrete pricing used for CO#5

Rep
ML

Scope of Work	Total
<p>EXCLUSIONS:</p> <ul style="list-style-type: none"> <li>* Plans, Construction Permits, Elevation/Boundary Survey, Engineering</li> <li>* Overtime or weekend labor</li> <li>* Unforeseen underground obstructions</li> <li>* Underground unmarked private utility lines</li> <li>* Excavation and or backfill for other trades</li> <li>* Tree removal</li> <li>* Traffic control, police officer or permitting</li> <li>* Stabilized construction entrance, SWPPP documentation, compliancy or devices</li> <li>* Material or lab testing</li> <li>* Mezzanine</li> <li>* Jobsite Portacan</li> <li>* Demo, sawcut, break &amp; removal</li> <li>* Earthwork, sitework &amp; dirt work</li> <li>* Haul off of dirt spoils</li> <li>* Storm drainage</li> <li>* Downspout drainage</li> <li>* Furnishing and/or installing trench drains</li> <li>* Auxiliary pads, house keeping pads, AC pads or MEP pads</li> <li>* Embedded items other than reinforcements (pipe bollards, anchor bolts, plates, railings, etc.)</li> <li>* Concrete hardeners, sealers, stains, paints or colorings</li> <li>* Joint sealing</li> <li>* Signage, striping or concrete wheel stops</li> <li>* Landscaping fill work, irrigation or electrical sleeves, hydro-mulching or sod work</li> <li>* Any or all items not specifically listed in the above quote and scope</li> </ul>	

Sales Tax (0.0%) \$0.00

Approved in CO # 5

**Total** **\$162,800.00**

Please contact us at 713.477.6660 if you have any questions.

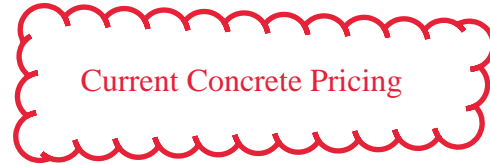


204 Preston Ave.  
Pasadena, TX 77503  
713-477-6660

# Estimate

Date	Estimate #
7/25/2022	1488

Name / Address
Construction Masters of Houston, Inc 3908 3rd St. Pearland, TX 77581



Rep
SG

Scope of Work	Total
RE: Baytown Animal Shelter - Paving Loop / Concrete Scopes Only***	
***REVISED 12/15/21 -- DRAWINGS DATED 6/22/21***	
***EXCLUDES DEMO SCOPES / SAWCUT / REMOVAL***	
***EXCLUDES SITEWORK / EARTHWORK / DIRTWORK / LIME -- ASSUME SUBGRADE 1/10"***	
***EXCLUDES STORM DRAINAGE***	
***EXCLUDES HAUL OFF OF DIRT SPOILS***	
ADDITIONAL -- SITE PAVING & SIDEWALKS - Approx 1,430 SF of 4" thick building sidewalk -- #3's at 18" o.c.e.w. (additional) - Approx 26,085 SF of 6" thick site paving -- #4's at 24" o.c.e.w. (additional) - Approx 1,530 LF of 6" reinforced concrete curb (additional) - Includes ADA handicap ramps with truncated dome mats per plans - Includes installing owner supplied pipe bollards - Includes all expansion & sawcut control joints - 3000 psi concrete finished with a light broom surface (sidewalk) - 3500 psi concrete finished with a medium broom surface (paving) - Deform & clean area upon completion - All spoils to be spread or stockpile on site  - ** ALL JOBS WILL BE RE-QUOTED AND UPDATED PRICING WILL BE PROVIDED PRIOR TO START - ** SUB-GRADE TO BE + - .10 - ** LIME DIRT TO BE AVAILABLE FOR FINE GRADING	204,604.00
MOW STRIP -- DEDUCT CREDIT / ONLY INSTALL 350 LF PER REVISED LAYOUT - Per T&T Construction Estimate # 963 dated 9/22/21 - Contract Amount: \$15,900.00 / Revised Amount: \$6,900.00 / Credit: -\$9,000.00	-9,000.00

**Sales Tax (0.0%)**

**Total**

Please contact Steve Grisham @ 713-477-6660 or via e-mail at  
Steve.grisham@tandtconstruction.com





204 Preston Ave.  
Pasadena, TX 77503  
713-477-6660

# Estimate

Date	Estimate #
7/25/2022	1488

Name / Address
Construction Masters of Houston, Inc 3908 3rd St. Pearland, TX 77581

## Current Concrete Pricing

Rep
SG

Scope of Work	Total
<p>ADDITIONAL -- LIGHT BASES -- (6) ADDITIONAL / \$1,100.00 EACH</p> <ul style="list-style-type: none"> <li>- (6) 24" diameter -- 7' deep below grade &amp; 30" above grade (additional)</li> <li>- Pier reinforcement: (8) #7 vertical, #3 ties at 12" o.c.</li> <li>- Install owner supplied anchor bolts</li> <li>- Deform &amp; clean area upon completion</li> <li>- All excavated spoils to be spread or stockpile on site</li> </ul> <p>***Contract amount = 5*** ***New amount = 11**</p> <p>- ** ALL JOBS WILL BE RE-QUOTED AND UPDATED PRICING WILL BE PROVIDED PRIOR TO START</p>	8,118.00
NOTES:	
<p>1. Contractor's responsibility, liability, &amp; duty to clean up and otherwise respond to any release into the environment of pollutants, hazardous substances, and/or hazardous wastes shall be limited to chemicals, fuels, lubricants, motor oils, pipe dope, paint, solvents, ballast, bilge &amp; garbage, debris, other fluids, or any other substances, that are brought onto the site by Contractor &amp; are wholly under Contractor's control, or origination from Contractor's Equipment.</p> <p>2. This price excludes sales tax on all material. This is a tax exempt project.</p> <p>3. This price expires in 7 days. Due to volatile market conditions, quotes over 7 days are subject to price changes.</p> <p>4. Any unforeseen or unavoidable price increases in materials or surcharges will be the responsibility of the customer and will be billed as a change order. Each C.O. is to be approved and signed by the customer prior to continuing work</p> <p>5. Payment Terms: Progressive Draws - NET 30.</p> <p>6. This quote is based on plan set by Quorum &amp; Hutchison dated 06/22/2021.</p> <p>7. Do not drive/park vehicles on fresh concrete for a min of 7 days following completion of a new concrete pour.</p> <p>8. Do not permit foot traffic on all concrete for a min of 24 hours following pour completion.</p> <p>9. T&amp;T will provide a warranty, within industry standards for our work for a period of (1) year for workmanship from the date of substantial completion. T&amp;T will not warranty cracking, scaling, settling, heaving or other types of damage caused by normal wear &amp; tear.</p>	

**Sales Tax (0.0%)**

**Total**

Please contact Steve Grisham @ 713-477-6660 or via e-mail at Steve.grisham@tandtconstruction.com



# Estimate

204 Preston Ave.  
Pasadena, TX 77503  
713-477-6660

Date	Estimate #
7/25/2022	1488

Name / Address
Construction Masters of Houston, Inc 3908 3rd St. Pearland, TX 77581

Current Concrete Pricing

Rep
SG

Scope of Work	Total
<p>EXCLUSIONS:</p> <ul style="list-style-type: none"> <li>* Plans, Construction Permits, Elevation/Boundary Survey, Engineering</li> <li>* Overtime or weekend labor</li> <li>* Unforeseen underground obstructions</li> <li>* Underground unmarked private utility lines</li> <li>* Excavation and or backfill for other trades</li> <li>* Tree removal</li> <li>* Traffic control, police officer or permitting</li> <li>* Stabilized construction entrance, SWPPP documentation, compliancy or devices</li> <li>* Material or lab testing</li> <li>* Jobsite Portacan</li> <li>* Demo, sawcut, break &amp; removal</li> <li>* Earthwork, sitework &amp; dirt work</li> <li>* Haul off of dirt spoils</li> <li>* Storm drainage</li> <li>* Furnishing and/or installing trench drains</li> <li>* Auxiliary pads, house keeping pads, AC pads or MEP pads</li> <li>* Embedded items other than reinforcements (pipe bollards, anchor bolts, plates, railings, etc.)</li> <li>* Concrete hardeners, sealers, stains, paints or colorings</li> <li>* Joint sealing</li> <li>* Signage, striping or concrete wheel stops</li> <li>* Landscaping fill work, irrigation or electrical sleeves, hydro-mulching or sod work</li> <li>* Any or all items not specifically listed in the above quote and scope</li> </ul>	

Sales Tax (0.0%) \$0.00

**Total** **\$203,722.00**

Please contact Steve Grisham @ 713-477-6660 or via e-mail at Steve.grisham@tandtconstruction.com



**Smyrna Ready Mix Project Quote**  
 4318 Highway 146  
 Baytown, TX 77520  
 (281) 837-5300

Current concrete costs from supplier

**Bid # 53886**

**Quote Date:** 8/10/2022  
**Project:** General Pricing - August 2022  
**Project Area:** Houston, TX  
**Project Address:** VARIOUS ADDRESSES

**Quote Expiration Date:** 9/10/2022  
**Customer:** T & T CONSTRUCTION  
**Contact:** Braden Garner  
**Phone:** 713-477-6660

MIX #	PRODUCT DESCRIPTION	UNIT PRICE (CY)	*PD BY 10th DISCOUNT (CY)	NET PRICE (CY)	NOTES
30000	3000 PSI CONCRETE AIR	138.00	2.00	136.00	
30050	3000 PSI COMMERCIAL AIR	138.00	2.00	136.00	
30300	3000 PSI STRT CONCRETE AIR	141.00	2.00	139.00	
35000	3500 PSI CONCRETE	141.00	2.00	139.00	
35050	3500 PSI COMMERCIAL AIR	141.00	2.00	139.00	
35300	3500 PSI STRT CONCRETE AIR	144.00	2.00	142.00	
40050	4000 PSI COMMERCIAL AIR	144.00	2.00	142.00	
40350	4000 PSI STRT COMMERCIAL AIR	147.00	2.00	145.00	
45000	4500 PSI CONCRETE AIR	147.00	2.00	145.00	
45300	4500 PSI STRT LS AIR	150.00	2.00	148.00	
30261	3000 PSI 3/8 PEA GRAVEL CURB	153.00	2.00	151.00	
35261	3500 PSI PEA CURB	156.00	2.00	154.00	
40200	4000 PSI 3/8 BIRDSEYE AIR	151.00	2.00	149.00	
40500	4000 PSI STRT CEM BE	162.00	2.00	160.00	

Fly Ash Mixes are subject to availability. If Fly Ash is not available, straight cement mixes will be used. Mixes will be priced as quoted. If Straight Cement mixes are not quoted, add \$3.00 to the mix price.

Straight Cement	\$3.00 CY	Retarder-Per Percent	\$1.00 CY	Diversion Charge	\$110.00 Load
Chip Mixes	\$1.00 CY	Mid Range Double Dose	\$3.00 CY	Delivery Charge Under 6cy	\$65.00 Load
No Air Mix	\$2.00 CY	Superplasticizer	\$6.00 CY	Delivery Charge Under 3cy	\$85.00 Load
Pea Gravel Mixes	\$7.00 CY			Delivery Charge Under 2cy	\$100.00 Load
Curb Mix	+ \$8.00	Micro Fibers Half Dose	\$3.00 CY	Truck Time	\$75.00 Per Hour
Calcium Chloride-Per Percent	\$3.00 CY	Micro Fibers Full Dose	\$6.00 CY	Stand-by Charges	\$75.00 Per Hour
Non-Chloride Per Percent	\$4.50 CY	Steel Fibers	Call for Quote	Sales Tax	NOT Included In Pricing

**Additional Items Quoted Upon Request**      **Not Open Sunday**      **Fuel/Environmental Surcharge \$40.00 Per Load**

**Terms:** \$2.00 (CYD) discount if paid in full by the 10th of the following month. Net 30 terms. \*

**Escalation Date:** 1/1/2023      **Escalation Amount:** \$10 Per Yard

**Escalation Date:** 6/1/2023      **Escalation Amount:** \$8 Per Yard

**Job Pricing End Date:** 12/31/2022

**Quotation Good Through:** 9/10/2022

**INVOICE 1040047541**

REMIT TO:  
1136 2nd Ave. North  
Nashville, TN 37208

**SOLD TO:**

T & T CONSTRUCTION  
204 PRESTON AVE  
PASADENA, TX 77503

**SOLD TO:**

Concrete cost from supplier January 2022

CUSTOMER	DATE	ORDER #	TERMS	PO #	LOT	JOB#
40274	1/7/2022	66	NET 30			
DESCRIPTION	QUANTITY	Ticket #	Price	Amount		

3500 PSI COMMERCIAL AIR	10.00	40326346	107.00	1,070.00		
3500 PSI COMMERCIAL AIR	10.00	40326349	107.00	1,070.00		
3500 PSI COMMERCIAL AIR	10.00	40326352	107.00	1,070.00		
3500 PSI COMMERCIAL AIR	10.00	40326355	107.00	1,070.00		
3500 PSI COMMERCIAL AIR	10.00	40326357	107.00	1,070.00		
3500 PSI COMMERCIAL AIR	10.00	40326358	107.00	1,070.00		
3500 PSI COMMERCIAL AIR	10.00	40326359	107.00	1,070.00		

**PRODUCT RECAP**

70.00 35050 3500 PSI COMMERCIAL AIR

IF PAYMENT IS MADE BY 02/10/2022, DISCOUNT FOR INVOICE IS 140.00

TOTAL QUANTITY:	70.00	SUB TOTAL	7,490.00
		SALES TAX	617.96
		AMOUNT DUE	8,107.96

OFFICE (615) 355-1028

[www.smyrnareadymix.com](http://www.smyrnareadymix.com)

FAX (615) 242-3064



### Notice of Price Increase

March 9, 2022

Dear Valued SRM Customer:

We would like to express our appreciation for you and your continuous business with Smyrna Ready Mix Concrete. Our success would not have happened if it was not for our loyal customers. We strive to build long lasting partnerships with our customers and pride ourselves in knowing your success is our success.

For years, SRM Concrete has offered exceptional service along with quality concrete to meet your needs. We surround ourselves with great people and excellent equipment to ensure the service we provide remains unmatched. You and others alike know the value and importance of exceptional service and that it cannot be replaced.

All businesses, ours included, is now being faced with unprecedented fuel costs. For many years we have tried to keep our fees as low as possible, but with the recent increase in fuel costs, we are forced to increase our fuel and environmental surcharges.

Effective April 1, 2022, there will be a \$40.00 per load fuel and environmental surcharge on all concrete deliveries.

We will continue to honor existing quoted projects.

We sincerely appreciate your business and look forward to the many opportunities we will have to grow together in our future endeavors.

Sincerely,



Jeff Hollingshead  
Chief Executive Officer

1000 Hollingshead Circle • Murfreesboro, TN 37129 • [smyrnareadymix.com](http://smyrnareadymix.com)

(615) 355-1028 • (615) 242-3064





TXMAY

T & T CONSTRUCTION  
204 PRESTON AVE  
PASADENA TX 77503

March 30, 2022

**Notice of Price Increase**

Dear Valued SRM Customer:

We would like to express our appreciation for you and your continuous business with Smyrna Ready Mix Concrete. Our success would not have happened if it was not for our loyal customers. We strive to build long lasting partnerships with our customers and pride ourselves in knowing your success is our success.

For years, SRM Concrete has offered exceptional service along with quality concrete to meet your needs. We surround ourselves with great people and excellent equipment to ensure the service we provide remains unmatched. You and others alike know the value and importance of exceptional service and that it cannot be replaced.

These past few years have been challenging. Like many businesses, the COVID-19 pandemic has impacted us significantly. We have worked hard to keep our costs low in order to maintain our current pricing, but unfortunately, it is necessary we adjust our pricing. Our inputs have steadily risen which were mostly driven by increased labor costs and raw materials.

Due to the increase of labor costs and other raw materials. Effective May 1, 2022, there will be a per yard increase:

**Dallas Fort-Worth TX Market: \$10 dollar per yard increase.**

**Houston TX Market: \$10 dollar per yard increase.**

You will see this price increase reflected on all ready-mix concrete purchases.

We will continue to honor existing quoted projects.

We sincerely appreciate your business and look forward to the many opportunities we will have to grow together in our future endeavors.

Sincerely,

Jeff Hollingshead  
Chief Executive Officer

**"Quality Concrete - Unmatched Service"**

1136 Second Avenue, North • Nashville, TN 37208 • [www.smyrnareadymix.com](http://www.smyrnareadymix.com)

**DISPATCH** (615) 255-1900 • **OFFICE** (615) 355-1028 • **FAX** (615) 242-3064



TXAUG

T & T CONSTRUCTION  
204 PRESTON AVE  
PASADENA TX 77503

### Notice of Price Increase

July 11, 2022

Dear Valued SRM Customer:

We would like to express our appreciation for you and your continuous business with Smyrna Ready Mix Concrete. Our success would not have happened if it was not for our loyal customers. We strive to build long lasting partnerships with our customers and pride ourselves in knowing your success is our success.

For years, SRM Concrete has offered exceptional service along with quality concrete to meet your needs. We surround ourselves with great people and excellent equipment to ensure the service we provide remains unmatched. You and others alike know the value and importance of exceptional service and that it cannot be replaced.

These past few years have been challenging. We have worked hard to keep our costs low in order to maintain our current pricing, but unfortunately, it is necessary we adjust our pricing due to rising inflation and other external factors. The price increase you will see is a direct consequence to all our raw materials prices increasing, specifically cement. Currently, the country is faced with an unprecedented cement shortage, but we are working hard to meet the needs and expectations for all our customers.

Effective August 15, 2022, there will be a per yard increase:

**Dallas Fort-Worth TX Market: \$13 dollar per yard increase.**

**Houston TX Market: \$13 dollar per yard increase.**

**Central TX Market: \$13 dollar per yard increase.**

You will see this price increase reflected on all ready-mix concrete purchases.

We will continue to honor existing quoted projects.

We ask for your patience as we navigate these unprecedented times. We sincerely appreciate your business and look forward to the many opportunities we will have to grow together in our future endeavors.

Sincerely,

Jeff Hollingshead  
Chief Executive Officer

**"Quality Concrete - Unmatched Service"**

1000 Hollingshead Circle • Murfreesboro, TN 37129 • [www.smyrnareadymix.com](http://www.smyrnareadymix.com)

OFFICE (615) 355-1028 • FAX (615) 242-3064



Additional Clearing Backup

**DATE: 08-25-22**  
**ATTN: DENNIS BUSBY**  
**Construction Masters of Houston, INC**

**CHANGE ORDER**

**PROJECT: Baytown Animal Clinic**

**SUB: Tree removal**

**SCOPE - Pricing for Demo of 11,000 Sqft. Area is \$9,990.00**

1. Remove trees by way of dumpsters

Breakdown:

- |               |                                 |
|---------------|---------------------------------|
| 1. Labor      | \$1,370.00                      |
| 2. Equipment. | \$6,620.00 – Includes Dumpsters |
| 3. Mob.       | \$2,000.00                      |

Respectfully,

**Refugio Lozano**

**Earthwork Estimator**

5712 Bingle Road Suite B

Houston, TX 77092

Mobile: 832.681.1960

Office: 713.688.1862

[rlozano@hondorsitework.com](mailto:rlozano@hondorsitework.com)





P.O. Box 1587 – Pearland, Texas 77588 – 281/997-2640 – Fax: 281 / 485-4702

Change Proposal Request

Project: City of Baytown Animal Services and Adoption Shelter

Date: 8/2/22

Change Proposal Number: 24 Electrical T&M

To: Kim Dowdy

Attn: Andrea Brinkley

Construction Masters proposes to make the following changes to the original scope of work for addition electrical.

Electrical T&M allowance approved in COB CO #7	\$	(5,000.00)
Total Electrical T&M (details below)	\$	11,551.57
Subtotal	\$	6,551.57
OH&P	\$	327.58
Additional Bond Premium (2.5% up to \$100K; 1.5% up to \$500K)	\$	103.19
<b>Total Change Proposal Request</b>	<b>\$</b>	<b>6,982.34</b>

Reason: Additional T&M for IT and other electrical items

1. Gate IT Scope - **\$4,117.39**

- a. Install NEMA enclosure box
- b. Ran aux power, 20 A single pole breaker and GFCI at front gate NEMA Enclosure
- c. Ran seal tight from NEMA Enclosure to gate post for LDR
- d. Added spacers and cover plates with elbow seal tight fitting for Security cameras

2. OHD IT Scope - **\$5,361.13**

- a. Install conduit and j-box above OHD for Sally port LDR tag reader and sensors.

3. Breakroom Disposal - **\$2,073.05**

- a. Install new wire and switch for disposal in workroom

Attachments: LG Invoices

Dennis Busby,  
Construction Masters of Houston, Inc



# L G

## ELECTRICAL SERVICES

13209 Ann Louise Rd. Houston, TX 77086  
Phone (281)272 9130 Fax (832)230 0170  
TECL #22275 HUB #1205233681000

# CHANGE ORDER PROPOSAL

Date: 06/03/2022

Proposal#LG5308-CO11

## BAYTOWN ANIMAL HOSPITAL BAYTOWN, TX OWNERS REQUEST

We hereby propose to furnish and install the following:

This is the change order for all different areas all it is approved by Adrian Guerra

<u>CHARGES</u>	<u>EQUIPMENT</u>	<u>MATERIAL</u>	<u>LABOR</u>	<u>10% OHP</u>	<u>TOTAL</u>
NEW POWER FOR GATE FRONT TICKET 5/23/2022	\$ -	\$ -	\$ -	\$0.00	\$ -
INSTALL ENCLOSURE BOX AT GATE TICKET 5/23/2022	\$ -	\$ -	\$ -	\$0.00	\$ -
INSTALL NEW WIRE FOR GATE 120 VOLTS TICKET 5/24/2022	\$ -	\$ 844.34	\$ 2,736.00	\$537.05	\$ 4,117.39
INASTALL NEW BRAKER FOR GATE TICKET 5/24/2022	\$ -	\$ -	\$ -	\$0.00	\$ -
	\$ -	\$ -	\$ -	\$0.00	\$ -
	\$ -	\$ -	\$ -	\$0.00	\$ -
INSTALL NEW WIRE AND SWITCH FOR DISPOSAL 5/20/2022	\$ -	\$ 434.65	\$ 1,368.00	\$270.40	\$ 2,073.05
INSTALL NEW WIRESFOR DISPOSAL 5/20/2022	\$ -	\$ -	\$ -	\$0.00	\$ -
TOTAL	\$ -	\$ 1,278.99	\$ 4,104.00	\$807.45	\$ 6,190.44

### Exclude the following

**NOTE:**

- Extension of contract of 10 working days for the additional work listed.
- All work to be complete during normal business hours 7:00 am to 3:30 pm Monday to Friday
- If no extension is granted all change orders will be complete at the end of the schedule

- 1) Anything not mentioned above, shown on the scope of work or not reflected on drawings.
- 2) Any damaged wall repairs.



# LG

## ELECTRICAL SERVICES

13209 Ann Louise Rd. Houston, TX 77086  
Phone (281)272 9130 Fax (832)230 0170  
TECL #22275 HUB #1205233681000

# **CHANGE ORDER PROPOSAL**

Date: 05/23/2022

Proposal#LG5308-CO10r1

## BAYTOWN ANIMAL HOSPITAL BAYTOWN, TX OWNERS REQUEST

We hereby propose to furnish and install the following:

This is the change order for all different areas all it is approved by Adrian Guerra

<u>CHARGES</u>	<u>EQUIPMENT</u>	<u>MATERIAL</u>	<u>LABOR</u>	<u>10% OHP</u>	<u>TOTAL</u>
OH DOOR SENSOR CHANGE ORDER APPROVED 4/20/2022 #1	\$ -	\$ 346.00	\$ 1,368.00	\$171.40	\$ 1,885.40
OH DOORS SENSOR CHANGE ORDER APPROVED 4/20/2022 #2	\$ -	\$ 223.00	\$ 1,368.00	\$159.10	\$ 1,750.10
INSTALL COUNDUIT FOR EZ TAG READERS 4/25/2022 #3	\$ -	\$ 200.75	\$ 1,368.00	\$156.88	\$ 1,725.63
TOTAL		\$ 779.75	\$ 4,104.00	\$487.38	\$ 5,361.13

### Exclude the following

**NOTE:**

- Extension of contract of 10 working days for the additional work listed.
- All work to be complete during normal business hours 7:00 am to 3:30 pm Monday to Friday
- If no extension is granted all change orders will be complete at the end of the schedule

- 1) Anything not mentioned above, shown on the scope of work or not reflected on drawings.
- 2) Any damaged wall repairs.



P.O. Box 1587 – Pearland, Texas 77588 – 281/997-2640 – Fax: 281 / 485-4702

Change Proposal Request

Project: City of Baytown Animal Services and Adoption Shelter

Date: 8/2/22

Change Proposal Number: 25 Items from punch list.

To: Kim Dowdy

Attn: Andrea Brinkley

Construction Masters proposes to make the following changes to the original scope of work for items on punch list not included in original scope.

Texan	\$	519.38
CM	\$	3,011.00
Subtotal	\$	3,530.38
OH&P	\$	176.52
Additional Bond Premium (2.5% up to \$100K; 1.5% up to \$500K)	\$	55.60
<b>Total Change Proposal Request</b>	<b>\$</b>	<b>3,762.50</b>

Reason: Additional T&M for IT and other electrical items

1. Texan Flooring – Installed transition from LVT to Epoxy Floors
2. CM – Installed threshold on dry food storage.
3. CM – Installed sweeps on interior kennel 4 doors.
4. CM – Installed aluminum windowsills.
5. CM – Drain modifications in kennel that was not designed with a drain.
6. CM – Reroute 2-camera cables for NCI
  - Install plywood on top of hard ceilings in kennel area to access cables.
  - Pull cable out and relocate to new location as directed.
  - Cut conduit down and install box, cover, and paint at old camera locations.

Attachments: Texan Flooring, CM

Dennis Busby,  
Construction Masters of Houston, Inc



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P.O. Box 1587 – Pearland, Texas 77588 – 281/997-2640 – Fax: 281 / 485-4702

Additional Items cost and clarification.

Project: City of Baytown Animal Services and Adoption Shelter  
Date: 8/3/22

- 1) CM – Installed threshold on dry food storage. **\$236.00**
  - a) Labor 1.5 hrs. @ \$32.00 = \$48.00
  - b) Material 4' aluminum threshold = \$188.00
  
- 2) CM – Installed sweeps on interior kennel 4 doors. **\$125.00**
  - a) Labor 1.5 hrs. @ \$32.00 = \$48.00
  - b) Material 4 aluminum sweeps = \$77.00
  
- 3) CM – Installed aluminum windowsills. **\$425.00**
  - a) Labor 2 hrs. @ \$32.00 = \$64.00
  - b) Material 5' aluminum windowsills = \$361.00
  
- 4) CM – Drain modifications in kennel that was not designed with a drain. **\$800.00**
  - a) Labor 16 hrs. @ \$32.00 = \$512.00
  - b) Material -Concrete grinding blades, floor sealer - \$288.00
  
- 5) CM – Reroute 2-camera cables for NCI
  - a) Install plywood on top of hard ceilings in kennel area to access cables. **\$1425.00**
  - b) Pull cable out and relocate to new location as directed.
  - c) Cut conduit down and install box, cover, and paint at old camera locations.
  - d) Labor 24 hrs. @ \$32.00 = \$768.00
  - e) Material -J-Boxes, Cover Plates, Plywood, Paint, and man lift. - \$657.00

Dennis Busby,  
Construction Masters of Houston, Inc



9633 Zaka Rd.  
Houston, TX 77064  
Phone: 713-956-9966  
Fax: 713-956-9944  
www.texanfloor.com

# Approved Change Order

**Attention:** Justin Davis  
**Customer PO:** WA #3120-JD-07  
**Date:** 5/20/2022  
**Project #:** 6789  
**Request #:** 8 **CO #:** 14  
**Manager:** Ray Parish

18571

**Ship To**

Baytown Animal Shelter Flooring Bid  
WA #5620-JD-04  
705 N Robert C Lanier Drive  
Baytown, TX 77521

**Contacts**

Adrian Guerra	Phone:
Phone (281) 997-2640-	Cell:
Cell:	Pager:
Pager:	Fax:
Fax: (281) 485-4702-	

**Bill To**

Construction Masters  
P.O. Box 1587  
Pearland, TX 77588

**Contacts**

Justin Davis
Phone: (281) 997-2640
Cell: (281) 960-4491
Fax: (281) 485-4702

**Description of Change Order Request:**

Install Flat Metal from Lvt to Epoxy

**Additional Information:** Install Flat Metal from Lvt to Epoxy

ADD						
MANUFACTURER:				STYLE:		
COLOR NAME:		COLOR NUMBER:	UOM:	QUANTITY:	UNIT PRICE:	TOTAL PRICE:
1	FLAT METAL MATERIAL - (THE SCREWS ARE INCLUDED)					
FUTURA				FLAT METAL 1 1/2" PREDRILLED		
SILVER		HMF	Pcs	2.00	14.86	29.72
2	LABOR TO INSTALL METALS, GLUE & ANCHORS -					
TEXAN FLOOR SERVICE				LABOR & ADHESIVES		
N/A		N/A	EA	1.00	489.66	489.66
Total ADD \$						519.38

**Tax Exempt Total This Option :** **\$ 519.38**

**SALESMAN'S SIGNATURE** \_\_\_\_\_

**CUSTOMER'S AUTHORIZATION** \_\_\_\_\_

## Ray Parish

---

**From:** Dennis Busby <dennis@cmhou.com>  
**Sent:** Friday, May 20, 2022 9:36 AM  
**To:** Ray Parish; Adrian Guerra  
**Cc:** Robert Johnson  
**Subject:** RE: Baytown Animal Clinic

CAUTION: This email originated from outside your organization. Exercise caution when opening attachments or clicking links, especially from unknown senders.

Ray – The architect approved this morning. Adrian said there are 6 36" doors total.

Thank You  
Dennis Busby  
Construction Masters of Houston  
Office: (281)997-2640  
Fax: (281)485-4702  
Cell: (281)780-3871  
Email: dennis@cmhou.com  
www.cmhou.com

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**From:** Ray Parish <rparish@texanfloor.com>  
**Sent:** Thursday, May 19, 2022 2:52 PM  
**To:** Adrian Guerra <adrian@cmhou.com>  
**Cc:** Dennis Busby <dennis@cmhou.com>; Robert Johnson <rjohnson@texanfloor.com>  
**Subject:** Baytown Animal Clinic

Future MF 312 HMF

1 1/2

69.43

Future



P.O. Box 1587 – Pearland, Texas 77588 – 281/997-2640 – Fax: 281 / 485-4702

### Change Proposal Request

Project: City of Baytown Animal Services and Adoption Shelter

Date: 4/13/21

Change Proposal No: 4

To: Kim Dowdy

Attn: Andrea Brinkley

Construction Masters proposes to make the following changes to the original scope of work:  
Provide heavier gauge structural framing, added clips, bridging and required fasteners for Cold Formed Metal Framing (CFMF) as outlined on attached documents.

Added clips, bridging, 6" - 12g and 14g structural CFMF & Labor to install	\$	49,936.97
Deduct for original bid using 6" - 16g CFMF	\$	(26,861.32)
Added Labor	\$	8,730.67
Subtotal	\$	31,806.32
OH&P	\$	-
Additional Bond Premium (2.5% up to \$100K; 1.5% up to \$500K)	\$	-
<b>Total Change Proposal Request</b>	<b>\$</b>	<b>31,806.32</b>

Additional Time Requested: TBD

Reason: The City of Baytown Permit Dept. requested engineered drawings for the CFMF to accompany the PEMB drawings. This design could not be completed until the PEMB design was completed therefore exact cost could not be determined during the bid process only budgeted based on experience and the information provided. The original construction documents did not show the gauge of the CFMF and did not show locations, or the need for bridging in any of the details. The original pricing was based on 16-gauge CFMF throughout. The request for delegated design has resulted in much heavier gauges and the addition of bridging and heavy gauge clips in much of the exterior walls.

Dennis Busby,  
Construction Masters of Houston, Inc





## Vendor Quote Sheet

### ***Baytown Animal Services 16ga***

Bid No. 350

Selected Sections: 09250 Drywall

Selected Typical Areas:

Selected Areas: (unassigned)

Estimator: **MP - Mike Pant**

Job Status: **Pending**

Job Class:

Bid Date/Time: **7/28/2020 10:38:54 AM**

Wage Type: **Open**

Plans Date: **6/15/2020**

**Job Site: Baytown Animal Services, 705 N Robert C Lanier Drive, Baytown, Texas 77521**

**General Contractor: Construction Masters of Houston, Justin Davis, 3908 3rd street, Pearland, Texas 77581, 281-997-2640/phone, 281-485-4702/fax**

Materials	Quantity	Pieces	Price Per	Vendor Quote	
METAL FRAMING					
Stud 3-5/8" 18ga CSJ (S35818)	400.40 LF		1000	1025	\$ 410.41
Stud 6 16ga CSJ (S616)	8,605.50 LF		1000	1665	\$ 14,328.15
Stud 6 18ga CSJ (S618)	5,229.34 LF		1000	1350	\$ 7,059.60
Track 3-5/8 18ga DL (T35818DL)	123.20 LF		1000	850	\$ 104.72
Track 6 16ga DL (T616DL)	1,004.96 LF		1000	1450	\$ 1,457.19
Track 6 16ga DL 2" Deep Leg (T616DL2)	479.60 LF		1000	1725	\$ 827.31
Track 6 16ga DL 2 1/2" Deep Leg (T616DL25)	68.20 LF		1000	1950	\$ 132.99
Track 6 18ga DL (T618DL)	1,254.00 LF		1000	1180	\$ 1,479.72
Track 6 18ga DL 2" Deep Leg (T618DL2)	167.20 LF		1000	1400	\$ 234.08
					\$ 26,861.32

## Vendor Quote Sheet

### ***Baytown Animal Services***

New cost based on CFMF drawings

Selected Sections: 05400 Cold Formed Metal Framing, 09250 Drywall

Selected Typical Areas:

Selected Areas: (unassigned)

Estimator: <b>MP - Mike Pant</b>	Job Status: <b>Pending</b>
Job Class:	Bid Date/Time: <b>7/28/2020 10:38:54 AM</b>
Wage Type: <b>Open</b>	Plans Date: <b>6/15/2020</b>
<b>Job Site:</b> <b>Baytown Animal Services, 705 N Robert C Lanier Drive, Baytown, Texas 77521</b>	
<b>General Contractor:</b> <b>Construction Masters of Houston, Justin Davis, 3908 3rd street, Pearland, Texas 77581, 281-997-2640/phone, 281-485-4702/fax</b>	

Materials	Quantity	Pieces	Price Per	Vendor Quote	
METAL FRAMING					
Stud 6 12 ga CSW 2 1/2" Flange (S612CSE)	2,068.90 LF		1000 LF	5885	\$ 12,175.47
Stud 6 14ga CSW 2 " Flange (S614CSW)	2,509.25 LF		1000 LF	3680	\$ 9,234.04
Stud 6 16ga CSJ (S616)	2,850.43 LF		1000 LF	2095	\$ 5,971.65
Stud 6 18ga CSJ (S618)	4,825.36 LF		1000 LF	2095	\$ 10,109.12
Track 6 12ga DL (T612DL)	194.92 LF		1000 LF	4090	\$ 797.22
Track 6 12ga 2" Deeo Leg (T612DL2)	107.80 LF		1000 LF	4830	\$ 520.67
Track 6 12ga 2 1/5"" Deeo Leg (T612DL25)	127.60 LF			5510	\$ 703.07
Track 6 14ga DL (T614DL)	325.38 LF		1000 LF	2855	\$ 928.95
Track 6 14ga 2" Deep Leg (T614DL2)	25.30 LF		1000 LF	3415	\$ 86.39
Track 6 16ga DL (T616DL)	450.78 LF		1000 LF	2240	\$ 1,009.74
Track 6 16ga DL 2" Deep Leg (T616DL2)	214.50 LF		1000 LF	2670	\$ 572.71
Track 6 16ga DL 2 1/2" Deep Leg (T616DL25)	68.20 LF		LF	3020	\$ 205.96
Track 6 18ga DL (T618DL)	1,312.30 LF		LF	1830	\$ 2,401.50
Track 6 18ga DL 2" Deep Leg (T618DL2)	169.40 LF		1000 LF	2170	\$ 367.59
Black Iron 1-1/2" CRC (BI)	2,521.05 LF		1000 LF	620	\$ 1,563.05
Clip for stud (CLIP)	1,886.06 EA		container	1000	\$ 1,886.06
Slip Clip for stud (SLIP CLIP)	475.86		container	2950	\$ 1,403.78
					\$ 49,936.97

**FORT BEND DRYWALL, LLC**  
**3014 The Highlands Drive**  
**Sugarland, Texas 77478**  
**Phone 713-702-3700**  
**Fax 281-980-9162**  
**Date 4/1/2021**  
**Baytown Animal Services**  
**Labor Break Down**

Material	Quantity	Pieces	pieces per Hour	Hours	X 22.00	Total
1 - 1/2 CRC	2521 LF	253		10	25.3	\$ 556.60
Bridge Clip		1890		12	157	\$ 3,454.00
Slip Clip for stud		475		12	39.6	\$ 871.20

Material	Quantity	Pieces	Cut time more per pieces and screw time per pieces	Hours	X 22.00	
<b>North Elevation Detail 3 on CF 3.1</b>						
Top track 12 ga	38 LF	4	minutes 8	1/2		\$ 11.00
Bottom track 14 ga	34 LF	4	minutes 8	1/2		\$ 11.00
Studs 14 ga	480 LF	30	minutes 8	4		\$ 88.00
Sheet rock pre-drill	512 SQ FT	702 holes	holes per hrs.30	23.4		\$ 514.80

<b>Suoth Elevation Detail 1 on CF 3.1</b>					X 22.00	
Top track 14 ga	36 LF	4	minutes 4	1/2		\$ 11.00
Bottom track 14 ga	50 LF	9	minutes 4	1/2		\$ 11.00
Studs 14 ga	576 LF	36	minutes 8	4.8		\$ 105.60
Sheet rock pre-drill	462 SQ FT	623 holes	holes per hrs.30	20.8		\$ 457.60


<b>West Elevation Detail 2 on CF 3.1</b>						
Top track 14 ga	26 LF	3	minutes 4	.1/4		\$ 5.50
Bottom track 14 ga	34 LF	5	minutes 4	.1/3		\$ 7.26
Studs 14 ga	510 LF	30	minutes 8	4		\$ 88.00
Sheet rock pre-drill	444 SQ FT	599 holes	holes Per hrs.30	19.9		\$ 437.80

<b>East Elevation Detail 1 on CF 3.1</b>					X 22.00	
Top track14-12ga	97 LF	10	minutes 4	.2/3		\$ 15.52
Bottom track14-12 ga	105 LF	12	minutes 4	.4/5		\$ 18.33
Studs 14 -12 ga	2037 LF	97	minutes 8	12.93		\$ 284.46
Sheet rock pre-drill	1813 SQ FT	2430 Holes	holes per hrs.30	81		\$ 1,782.00

**\$ 8,730.67**

Cleanup		\$ 873.07
Supervision		\$ 873.07
Total Labor		\$ 10,476.80
Burden		\$ 3,981.19
Total Labor + Burden 38%		\$ 14,457.99
Overhead	10%	\$ 1,445.80
Total with mark up		\$ 15,903.79
Profit	5%	\$ 795.19
Total Labor Cost		\$ 16,698.98

**CITY OF BAYTOWN, TEXAS**  
**INDEBTEDNESS CERTIFICATION**

**Project Name:** Consider an Ordinance authorizing Change Order No. 8 for Baytown 

**Company Name:** Construction Masters of Houston

**Department:** Public Works

**Date:** 09/02/2022

**Council Date:** 09/08/2022

A review of the above-described company was made in accordance with 2-663 of the City of Baytown Code of Ordinances and the aforementioned company was found:

☐ to be indebted to the City in the following areas:

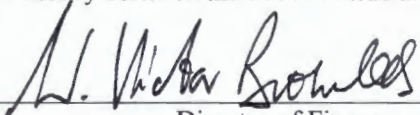
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☒ not to be indebted to the City.

It is hereby certified the above is true and correct based on the best information available.

  
\_\_\_\_\_  
Director of Finance

09/02/2022  
\_\_\_\_\_  
Date

For information regarding this certificate, please contact the Finance Director at 281-420-6531.

If an appeal to this determination is to be filed under section 2-664 of this code, please forward to the following address:

City of Baytown  
Director of Finance  
P O Box 424  
Baytown, TX 77522-0424





## CITY COUNCIL MEETING

11. b.

**Meeting Date:** 09/08/2022

**Subject:** Consider an Ordinance Professional Services Agreement with HDR Engineering, Inc. for Project Management, Construction Management, and Inspection for the Annexation Utilities Connally Package One Project.

**Prepared for:** Frank Simoneaux, Public Works/Engineering/BAWA

**Prepared by:** Gregerz Joseph, Public Works/Engineering/BAWA

**Department:** Public Works/Engineering/BAWA

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### **Information**

#### **ITEM**

Consider an ordinance authorizing a Professional Services Agreement with HDR Engineering, Inc. for project management, construction management, and inspection services for the Annexation Utilities Connally Area Package One Project.

#### **PREFACE**

This proposed ordinance authorizes a professional services agreement with HDR Engineering, Inc., to perform project management, construction management and inspection services for the Annexation Utilities Connally Area Package One Project for an amount not to exceed \$314,986.23.

This contract will provide staff augmentation for project management, construction management and inspection services, ensuring that construction will be conducted in accordance with the City's standards and expected customer service to residents and property owners. The scope of the work includes on-site representation to assist with daily monitoring of construction activities, facilitation of construction progress meetings, troubleshooting construction issues, responding to requests for information, accepting submittals for review, maintaining project construction documentation, pay application analysis, recommendations for project substantial completion, punch list oversight and project closeout.

The construction duration of project is anticipated to be sixteen (16) months. The consultant will assist City staff in scheduling a pre-construction meeting, as the construction contract was awarded by Council on August 25, 2022.

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### **Fiscal Impact**

**Fiscal Year:** 2022

**Acct Code:** 32302-85012-SS2002-85012

**Source of Funds (Operating/Capital/Bonds):** Bonds

**Funds Budgeted Y/N:** Y

**Amount Needed:** \$314,986.23

**Fiscal Impact (Additional Information):**

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### **Attachments**

Ordinance - Professional Services Agreement

Exhibit A - Professional Services Agreement

Indebtedness Certificate - HDR Engineering, Inc

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AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BAYTOWN, TEXAS, AUTHORIZING A PROFESSIONAL SERVICES AGREEMENT WITH HDR ENGINEERING, INC., FOR PROJECT MANAGEMENT, CONSTRUCTION MANAGEMENT AND INSPECTION SERVICES FOR THE ANNEXATION UTILITIES CONNALLY AREA PACKAGE ONE PROJECT; AUTHORIZING PAYMENT BY THE CITY OF BAYTOWN IN AN AMOUNT NOT TO EXCEED THREE HUNDRED FOURTEEN THOUSAND NINE HUNDRED EIGHTY-SIX AND 23/100 DOLLARS (\$314,986.23); MAKING OTHER PROVISIONS RELATED THERETO; AND PROVIDING FOR THE EFFECTIVE DATE THEREOF.

\*\*\*\*\*

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BAYTOWN, TEXAS:

Section 1: That the City Council of the City of Baytown, Texas, hereby authorizes and directs the City Manager to execute and the City Clerk to attest to a Professional Services Agreement with HDR Engineering, Inc., for project management, construction management and inspection services for the Annexation Utilities Connally Area Package One Project. A copy of said agreement is attached hereto as Exhibit "A" and incorporated herein for all intents and purposes.

Section 2: That the City Council of the City of Baytown authorizes payment to HDR Engineering, Inc., in an amount not to exceed THREE HUNDRED FOURTEEN THOUSAND NINE HUNDRED EIGHTY-SIX AND 23/100 DOLLARS (\$314,986.23) for professional services in accordance with the agreement authorized in Section 1 hereinabove.

Section 3: That the City Manager is hereby granted general authority to approve a decrease or an increase in costs by FIFTY THOUSAND AND NO/100 DOLLARS (\$50,000.00) or less.

Section 4: This ordinance shall take effect immediately from and after its passage by the City Council of the City of Baytown.

INTRODUCED, READ and PASSED by the affirmative vote of the City Council of the City of Baytown this the 8<sup>th</sup> day of September, 2022.

\_\_\_\_\_  
BRANDON CAPETILLO, Mayor

ATTEST:

\_\_\_\_\_  
ANGELA JACKSON, City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
SCOTT LEMON, City Attorney



# EXHIBIT "A"

## AGREEMENT FOR CONSULTING SERVICES

STATE OF TEXAS                   §  
   §  
COUNTY OF HARRIS           §

This Agreement (this "Agreement") is entered into by and between HDR Engineering, Inc. (hereinafter "Consultant") and the City of Baytown, a home-rule municipality located in Harris and Chambers Counties, Texas (the "City").

### 1. Scope of Services/Consultant Fees

This Agreement authorizes Consultant to perform professional Construction Management and Construction Inspection services for Annexation Utilities Connally Area Package One project (the "Work") for and on behalf of the City. The scope of the Work is detailed in Exhibit "A." The compensation and professional fees for Consultant and its subconsultants is more particularly described in Exhibit "B" and shall not exceed THREE HUNDRED FOURTEEN THOUSAND NINE HUNDRED EIGHTY SIX AND WENTY THREE/100 DOLLARS (\$ 314,986.23). The time schedules for the Work are specified in Exhibit "C." Each of these Exhibits "A" through "C" are incorporated into this Agreement by reference for all purposes.

### 2. Compensation and Professional Fees

- a. The City shall pay Consultant in installments based upon monthly progress reports and detailed invoices submitted by the Consultant based upon the following:

1. Design Phase Services (Lump Sum).....	\$N/A
2. Bid Phase Services (Hourly Not to Exceed) .....	\$N/A
3. Construction Phase Services (Hourly Not to Exceed) .....	\$ 314,986.23
4. Additional Services (Lump Sum) .....	\$N/A
(These services require independent and specific advance, written authorization)	
5. Reimbursable Expenses (Not to Exceed).....	\$N/A
6. <b>Total</b> .....	<b>\$N/A</b>

- b. For an agreed contract amount identified as "Lump Sum," "Not to Exceed" and "Reimbursable," Consultant shall not exceed the fixed contractual amount without written authorization in the form of a Contract amendment.

- c. Reimbursable Expenses, as shown in Exhibit "B," are itemized by work category. Reimbursable Expenses shall be invoiced AT COST, without subsequent markup by Consultant. All invoices containing a request for Reimbursable Expenses shall include copies of the original expense receipts itemized per allowable category.

- (1) Allowable reimbursable Expenses include:
- (a) Hard copy reproductions, copies, and/or binding costs;
  - (b) Postage;

- (c) Mileage, for travel from Consultant's local office (within a 25-mile radius) to meetings at the City or jobsite. Mileage shall be charged at the current IRS rates;
  - (d) Travel Expenses, mileage from local office to state or federal regulatory agency office beyond 100 miles; and
  - (e) Lodging expenses for destinations beyond 100 miles from Consultant's local office AND when business hours exceed eight hours within one business day OR when Consultant's services require more than one eight-hour day at the destination; provided such expenses has been approved in writing by the City.
- (2) Disallowed Expenses include travel expenses for professional expertise traveling into the Greater Houston Area from Consultant's office outside the Greater Houston Area.
- d. Consultant shall invoice based upon total services actually completed during the applicable month. Invoices and all required or requested backup information shall be tendered no more often than once a month. Consultant shall not invoice the City for services or expenses that were incurred more than sixty (60) days before the date of the invoice. Failure to timely invoice the City for services or expenses shall result in Consultant's invoice being denied.
- e. In the event of a disputed or contested invoice, the City may withhold from payment that portion so disputed or contested, and the undisputed portion will be paid.

### **3. Personnel of Consultant**

- a. **Consultant's Project Manager**  
Consultant shall designate Steven Peik, P.E., to serve as Project Manager for the Work performed under this Agreement. Any change of Project Manager shall require thirty (30) days advance written approval from the City's Representative.
- b. **Licensed and Registered Architects/Engineers**  
Consultant shall keep full-time registered architects and/or engineers licensed in the State of Texas on staff and assigned to the Work for the duration of its performance of the Work.
- c. **Data on Consultant's Employees**  
Prior to commencement of the Work, Consultant shall forward to the City a detailed resume of the personnel that will be assigned to the Work. Such personnel shall include, but not be limited to, architects and/or engineers as applicable.
- d. **Rejection of Consultant's Employees**  
The City reserves the right to approve or reject from the Work any employees of Consultant.

#### **4. Designation and Duties of the City's Representative**

- a. The City's Director of Public Works and Engineering or his designee shall act as the City's Representative.
- b. The City's Representative shall use his best efforts to provide nonconfidential City records for Consultant's usage on the Work and to provide access to City's property and easements. However, the City does not guarantee the accuracy or correctness of the documents so provided. Notwithstanding the foregoing, Professional shall be entitled to use and rely upon information provided by the City in performing the services required under this Agreement only to the extent and level specified by the City in writing for each document provided. Nothing contained herein shall be construed to require the City to provide such records in any certain format. The format in which the existing data and documentation will be provided shall be at the sole discretion of the City.

#### **5. Standards of Performance**

- a. Consultant shall perform all services under this Agreement with the care and skill ordinarily used by members of Consultant's profession practicing under the same or similar circumstances, time and locality. Opinion of probable cost shall be based upon the Consultant's experience and represent its best judgment as an experienced and qualified professional. Each submittal of opinion of probable cost shall be commensurate with the project design.

Consultant shall be responsible for the technical accuracy of its services and documents resulting therefrom, and the City shall not be responsible for discovering deficiencies therein. Consultant shall correct such deficiencies without additional compensation.

- b. Codes and Standards
  - (1) All references to codes, standards, environmental regulations and/or material specifications shall be to the latest revision, including all effective supplements or addenda thereto, as of the date that the order for any necessary equipment is made by the City or that the construction specified is bid by the City.
  - (2) If any such equipment is specially manufactured, it shall be identified to the City, and the Contractor and the Seller shall present sufficient data to the City to support the design and the suitability of the equipment.
  - (3) All materials specified on any City project shall be in accordance with City, ASTM, ACI, and AASHTO specifications, and with other recognized standards. Proprietary material or other materials for which no generally recognized standards exist may be used provided there has been at least five

- (5) years of proven experience in the field, and such satisfactory documentation has been approved by the City's Representative.
- (4) The Work shall be designed and furnished in accordance with the most current codes and/or standards adopted by city, state, or federal government or in general custom and usage by the profession and shall comply with Texas Department of Licensing and Regulation's rules and regulations, including the Texas Accessibility Standards.
- (5) The codes and standards used in the profession set forth minimum requirements. These may be exceeded by the Contractor or Consultant if superior methods are available for successful operation of equipment and/or for the construction project on which the Work is performed. Any alternative codes or regulations used shall have requirements that are equivalent or better than those in the above-listed codes and regulations. Consultant shall state the alternative codes and regulations used.
- (6) Consultant agrees the services it provides as an experienced and qualified architect/engineer will reflect the professional standards, procedures and performances common in the industry for this project. Consultant further agrees that any analysis, reports, preparation of drawings, the designation or selection of materials and equipment, the selection and supervision of personnel and the performance of other services under this contract will be pursuant to the standard of performance common in the profession.
- (7) Consultant shall promptly correct any defective analysis caused by Consultant at no cost to City. The City's approval, acceptance, use of or payment for all or any part of Consultant's services hereunder or of the Work itself shall in no way alter Consultant's obligations or the City's rights under this Agreement. As applicable, Consultant shall provide the City with record "as-built" drawings relating to the Work in an electronic format that is acceptable to the City. City shall be in receipt of record drawings, if applicable, prior to final payment.
- (8) Consultant has no control over the cost of labor, materials, equipment or services furnished by others, other than its subconsultants. Data projections and estimates are based upon Consultant's opinion based on experience and judgment. Consultant cannot and does not guarantee that actual costs and/or quantities realized will vary from the data projections and estimates prepared by Consultant.
- (9) Consultant shall submit all final construction documents in both hard copy and electronic format. Plans shall be AutoCAD compatible and all other documents shall be Microsoft Office compatible. The software versions used shall be compatible to current City standards. Other support documents, for example, structural calculations, drainage reports and

geotechnical reports, shall be submitted in hard copy only. All Record Drawings electronic files shall be submitted to the City in PDF/TIF format.

- c. Consultant shall not be in any way responsible, directly or indirectly, for the construction means, methods, techniques, sequences, quality, procedures, programs, safety precautions or lack of same incident to the Work being performed or any part thereof. The Consultant shall not be in any way responsible or liable for any acts, errors, omissions or negligence of the contractor, any subcontractors, agents, servants or employees or any other person, firm or corporation performing or attempting to perform any of the Work.

## **6. Schedule**

Consultant shall not proceed with the Work or any stage thereof until written notice to proceed is provided by the City's Representative. Consultant's obligation to render services specified in Exhibit "B" will be for the entire period necessary for the final completion of the construction of the Work. If the Consultant contributes to any delay in the schedule, Consultant will have no right to seek and shall not be entitled to any additional compensation.

## **7. Instruments of Service**

Upon execution of this Agreement, Consultant grants to the City an ownership interest in the Instruments of Service. Consultant shall obtain similar interests from the City and Consultant's consultants consistent with this Agreement. As noted in Articles 5 and 11, Consultant shall be required to tender to City all Instruments of Service. With such ownership interest, it is expressly understood by the parties hereto that the City may use the Instruments of Service for any purposes which the City sees fit, including, but not limited to, subsequent construction, reconstruction, alteration, and/or repairs of the Project. As a condition to the City's use of the Instruments of Service, the City hereby expressly agrees to remove Consultant's name and all references to Consultant and its consultants from the Documents. Provided that this Agreement is not terminated for cause by the City, the City shall release any and all claims which the City could make arising out of or in connection with any reuse of the documents by the City.

## **8. Insurance**

Consultant shall procure and maintain at its sole cost and expense for the duration of the Agreement, insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the Work hereunder by Consultant, its agents, representatives, volunteers, employees or subconsultants.

- a. Consultant's insurance coverage shall be primary insurance with respect to the City, its officials, employees and agents. Any insurance or self-insurance maintained by the City, its officials, employees or agents shall be considered in excess of Consultant's insurance and shall not contribute to it. Further, Consultant shall include all subconsultants, agents and assigns as additional insureds under its policy or shall furnish separate certificates and endorsements for each such person or entity. All coverages for subconsultants and assigns shall be subject to all of the requirements stated herein.

The following is a list of standard insurance policies along with their respective minimum coverage amounts required in this Agreement:

1. Commercial General Liability
  - General Aggregate: \$2,000,000
  - Products & Completed Operations Aggregate: \$2,000,000
  - Personal & Advertising Injury: \$1,000,000
  - Per Occurrence: \$1,000,000
  - Fire Damage \$500,000
  - Waiver of Subrogation required
  - Coverage shall be broad form
  - No coverage shall be deleted from standard policy without notification of individual exclusions being attached for review and acceptance.
2. Business Automobile Policy
  - Combined Single Limits: \$1,000,000
  - Coverage for "Any Auto"
  - Waiver of Subrogation required.
3. Errors and Omissions
  - Limit: \$1,000,000 per claim and in the aggregate
  - For all architects, engineers, and/or design companies
  - Claims-made form is acceptable
  - Coverage will be in force for one (1) year after completion of the Project
  - Waiver of Subrogation required.
4. Workers' Compensation
  - Statutory Limits
  - Employer's Liability \$500,000
  - Waiver of Subrogation required.

b. The following shall be applicable to all policies of insurance required herein.

1. Insurance carrier for all liability policies must have an A.M. Best Rating of A:VIII or better.
2. Only insurance carriers licensed and admitted to do business in the State of Texas will be accepted.
3. Liability policies must be on occurrence form. Errors and Omissions can be on claims-made form.

4. Each insurance policy shall be endorsed to state that coverage shall not be suspended, voided, canceled or materially reduced in coverage or in limits except after thirty (30) days prior written notice by mail, return receipt requested, has been given to the City.
5. The City, its officers, agents and employees are to be added as Additional Insureds to all liability policies, with the exception of the Workers' Compensation and Errors and Omissions Policies required herein.
6. Upon request and without cost to the City, certificates of insurance shall be furnished to the City.
7. All insurance required herein shall be secured and maintained in a company or companies satisfactory to the City, and shall be carried in the name of Consultant. Consultant shall provide certificates of insurance and endorsements required hereunder to the City on or before the effective date of this Agreement.

**8. Indemnification and Release**

**CONSULTANT AGREES TO AND SHALL INDEMNIFY AND HOLD HARMLESS AND DEFEND THE CITY, ITS OFFICERS, AGENTS, AND EMPLOYEES (HEREINAFTER REFERRED TO AS THE "CITY") FROM AND AGAINST ANY AND ALL CLAIMS, LOSSES, DAMAGES, CAUSES OF ACTION, SUITS AND LIABILITY OF EVERY KIND, INCLUDING ALL EXPENSES OF LITIGATION, COURT COSTS, AND ATTORNEY'S FEES, FOR INJURY TO OR DEATH OF ANY PERSON, FOR DAMAGE TO ANY PROPERTY OR FOR ANY BREACH OF CONTRACT TO THE EXTENT ARISING OUT OF OR IN CONNECTION WITH AN ACT OF NEGLIGENCE, INTENTIONAL TORT, INTELLECTUAL PROPERTY INFRINGEMENT, OR FAILURE TO PAY A SUBCONTRACTOR OR SUPPLIER COMMITTED BY THE PROFESSIONAL OR THE CONSULTANT'S AGENT, CONSULTANT UNDER CONTRACT, OR ANOTHER ENTITY OVER WHICH THE CONSULTANT EXERCISES CONTROL (COLLECTIVELY, CONSULTANT'S PARTIES). IT IS THE EXPRESS INTENTION OF THE PARTIES HERETO, BOTH CONSULTANT AND THE CITY, THAT THE INDEMNITY PROVIDED FOR IN THIS PARAGRAPH IS INDEMNITY BY CONSULTANT TO INDEMNIFY AND PROTECT THE CITY FROM THE CONSEQUENCES OF CONSULTANT'S PARTIES' OWN WILLFUL MISCONDUCT, JOINT OR SOLE NEGLIGENCE AS WELL AS THE CONSULTANT'S PARTIES'**

**INTENTIONAL TORTS, INTELLECTUAL PROPERTY INFRINGEMENTS, AND FAILURES TO MAKE PAYMENTS ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT. SUCH INDEMNITY SHALL NOT APPLY, HOWEVER, TO LIABILITY ARISING FROM THE PERSONAL INJURY, DEATH, OR PROPERTY DAMAGE OF PERSONS THAT IS CAUSED BY OR RESULTS FROM THE NEGLIGENCE OF ANY PERSON OTHER THAN THE CONSULTANT'S PARTIES. IN THE EVENT THAT ANY ACTION OR PROCEEDING IS BROUGHT AGAINST THE CITY FROM WHICH THE CITY IS INDEMNIFIED, CONSULTANT FURTHER AGREES AND COVENANTS TO DEFEND THE ACTION OR PROCEEDING BY LEGAL COUNSEL ACCEPTABLE TO THE CITY. THE INDEMNITY PROVIDED HEREINABOVE SHALL SURVIVE THE TERMINATION AND/OR EXPIRATION OF THIS AGREEMENT.**

By this Agreement, the City does not consent to litigation or suit, and the City hereby expressly revokes any consent to litigation that it may have granted by the terms of this Contract or any other contract or agreement, any charter, or applicable state law. Nothing herein shall be construed so as to limit or waive the City's sovereign immunity. Consultant assumes full responsibility for its services performed hereunder and hereby releases, relinquishes and discharges the City, its officers, agents, and employees from all claims, demands, and causes of action of every kind and character, including the cost of defense thereof, for any injury to or death of any person (whether they be either of the parties hereto, their employees, or other third parties) and any loss of or damage to property (whether the property be that of either of the parties hereto, their employees, or other third parties) that is caused by or alleged to be caused by, arising out of, or in connection with Consultant's services to be performed hereunder. This release shall apply with respect to Consultant's services regardless of whether said claims, demands, and causes of action are covered in whole or in part by insurance.

**10. Subcontractors and Subconsultants**

Consultant shall receive written approval of the City's Representative prior to the use of any subcontractors or subconsultants. A copy of all proposed contracts with subconsultants and/or subcontractors shall be given to the City before execution of such contracts.

**11. Termination of Consultant**

The City, besides all other rights or remedies it may have, shall have the right to terminate this Agreement without cause upon written notice from the City Manager to Consultant of the City's election to do so. Furthermore, the City may terminate this Agreement if Consultant breaches this Agreement and fails to cure as required under this paragraph. A breach of this Agreement shall include, but not be limited to, the following:



- (a) failing to pay insurance premiums, liens, claims or other charges;
- (b) failing to pay any payments due the city, state, or federal government from Consultant or its principals, including, but not limited to, any taxes, fees, assessments, liens, or any payments identified in this Agreement;
- (c) the institution of voluntary or involuntary bankruptcy proceeding against Consultant;
- (d) the dissolution of Consultant;
- (e) refusing or failing to prosecute the Work or any separable part with the diligence that will ensure its completion within the time specified in this Agreement;
- (f) failing to complete Work within the time period specified in this Agreement;
- (g) (g) the violation of any provision of this Agreement; and/or
- (h) failing to cure any breach of this Agreement within ten (10) days after receiving written notice from the City.

Upon delivery of any notice of termination required herein, Consultant shall discontinue all services in connection with the performance of the Agreement. Within ten (10) days after receipt of the notice of termination, Consultant shall submit a final statement showing in detail the services satisfactorily performed and accepted and all other appropriate documentation required herein for payment of services. At the same time that the final statement is tendered to the City, Consultant shall also tender to the City's Representative all of Consultant's instruments of service, including all drawings, special provisions, field survey notes, reports, estimates, and any and all other documents or work product generated by Consultant under this Agreement, whether complete or not, in an acceptable form and format together with all unused materials supplied by the City. No final payment will be made until all such instruments of service and materials supplied are so tendered.

If this Agreement is terminated for cause, Consultant shall be liable for any damage to the City resulting therefrom. This liability includes any increased costs incurred by the City in completing Consultant's services. The rights and remedies of the City in this section are in addition to any other rights and remedies provided by law or under this Agreement.

## **12. Records**

Within ten (10) days of the City's request and at no cost to the City, the City will be entitled to review and receive a copy of all documents that indicate work on the Project that is subject to this Agreement.

## **13. Supervision of Consultant**

Consultant is an independent contractor, and the City neither reserves nor possesses any right to control the details of the Work performed by Consultant under the terms of this Agreement.

## **14. Billing**

The City shall have thirty (30) days to pay Consultant's invoices from the date of receipt of such invoices and necessary backup information. All invoices must identify with specificity the work or services performed and the date(s) of such work or services. In the event of a disputed or

contested invoice, the parties understand and agree that the City may withhold the portion so contested, but the undisputed portion will be paid. Consultant shall invoice the City for work performed no more than once a month and may not invoice the City for work not performed. Invoices shall be received by the City no later than sixty (60) calendar days from the date Consultant and/or its subconsultants perform the services or incur the expense. Failure by Consultant to comply with this requirement shall result in Consultant's invoice being denied and the City being relieved from any liability for payment of the late invoice.

#### **15. Indebtedness**

If Consultant, at any time during the term of this Agreement, incurs a debt, as the word is defined in section 2-662 of the Code of Ordinances of the City of Baytown, it shall immediately notify the City's Director of Finance in writing. If the City's Director of Finance becomes aware that Consultant has incurred a debt, the City's Director of Finance shall immediately notify Consultant in writing. If Consultant does not pay the debt within thirty (30) days of either such notification, the City's Director of Finance may deduct funds in an amount equal to the debt from any payments owed to Consultant under this Agreement, and Consultant waives any recourse therefor.

#### **16. Verifications**

The Consultant makes the following verifications in accordance with Chapters 2271 and 2274 of the Texas Government Code:

- a. the Consultant does not boycott Israel and will not boycott Israel during the term of the contract to be entered into with the City of Baytown;
- b. the Consultant does not boycott energy companies and will not boycott energy companies during the term of the contract to be entered into with the City of Baytown; and
- c. the Consultant does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association and will not discriminate during the term of the contract against a firearm entity or firearm trade association.

#### **17. Reputation in the Community**

Consultant shall retain a high reputation in the community for providing professional architectural/engineering services. Consultant shall forward a copy of any current petition or complaint in any court of law which seeks to deny Consultant the right to practice architecture/engineering or to perform any other services in the state of Texas.

#### **18. Payroll and Basic Records**

- a. Consultant shall maintain payrolls and basic payroll records during the course of the work performed under this Agreement and shall preserve them for a period of three(3) years from the completion of the work called for under this Agreement for all personnel working on such work. Such records shall contain the name and address of each such employee, social security number, correct classification, hourly rates of wages paid, daily and weekly number of hours worked, deductions made and actual wages paid.

- b. Consultant shall make the records required to be maintained under the preceding subsection (a) of this section available at no cost to the City for inspection, copying or transcription or its authorized representatives within fifteen (15) days of the City's request therefor. Consultant shall permit such representatives to interview Consultant's employees during working hours on the job.

## **19. Governing Law**

This Agreement has been made under and shall be governed by the laws of the State of Texas. The parties further agree that performance and all matters related thereto shall be in Harris County, Texas.

## **20. Notices**

Unless otherwise provided in this Agreement, any notice provided for or permitted to be given must be in writing and delivered in person or by depositing same in the United States mail, postpaid and registered or certified, and addressed to the party to be notified, with return receipt requested, or by delivering the same to an officer of such party. Notice deposited in the mail as described above shall be conclusively deemed to be effective, unless otherwise stated in this Agreement, from and after the expiration of three (3) days after it is so deposited.

For the purpose of notice, the addresses of the parties shall be as follows unless properly changed as provided for herein below:

For the City:

CITY OF BAYTOWN  
Attn: City Manager  
P. O. Box 424  
Baytown, Texas 77522-0424

For Consultant:

HDR Engineering, Inc.  
4828 Loop Central Drive  
Suite 800  
Houston, TX 77081

Each party shall have the right from time to time at any time to change its respective address and each shall have the right to specify a new address, provided that at least fifteen (15) days written notice is given of such new address to the other party.

## **21. No Third-Party Beneficiary**

This Agreement shall not bestow any rights upon any third party, but rather, shall bind and benefit Consultant and the City only. No person or entity not a signatory to this Agreement shall be entitled to rely on Professional's performance of its services hereunder, and no right to assert a claim against Professional by assignment of indemnity rights or otherwise shall accrue to a third party as a result of this Agreement or the performance of Professional's services hereunder.

**22. No Right to Arbitration**

Notwithstanding anything to the contrary contained in this Agreement, the City and Consultant hereby agree that no claim or dispute between the City and Consultant arising out of or relating to this Agreement shall be decided by any arbitration proceeding, including, without limitation, any proceeding under the Federal Arbitration Act (9 U.S.C. Sections 1-14), or any applicable State arbitration statute, including, but not limited to, the Texas General Arbitration Act, provided that in the event that the City is subjected to an arbitration proceeding notwithstanding this provision, Consultant consents to be joined in the arbitration proceeding if Consultant's presence is required or requested by the City of complete relief to be recorded in the arbitration proceeding.

**23. Waiver**

No waiver by either party to this Agreement of any term or condition of this Agreement shall be deemed or construed to be a waiver of any other term or condition or subsequent waiver of the same term or condition.

**24. Complete Agreement**

This Agreement represents the entire and integrated agreement between the City and Consultant in regard to the subject matter hereof and supersedes all prior negotiations, representations or agreements, either whether written or oral, on the subject matter hereof. This Agreement may only be amended by written instrument approved and executed by both of the parties. The City and Consultant accept and agree to these terms.

**25. No Assignment**

Consultant may not sell or assign all or part interest in this Agreement to another party or parties without the prior express written approval of the City Manager of such sale or assignment. The City may require any records or financial statements necessary in its opinion to ensure such sale or assignment will be in the best interest of the City.

**26. Headings**

The headings used in this Agreement are for general reference only and do not have special significance.

**27. Severability**

All parties agree that should any provision of this Agreement be determined to be invalid or unenforceable, such determination shall not affect any other term of this Agreement, which shall continue in full force and effect.

**28. Ambiguities**

In the event of any ambiguity in any of the terms of this Agreement, it shall not be construed for or against any party hereto on the basis that such party did or did not author the same.

**29. Authority**

The officers executing this Agreement on behalf of the parties hereby represent that such officers have full authority to execute this Agreement and to bind the party he/she represents.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement in multiple copies, each of which shall be deemed to be an original, but all of which shall constitute but one and the same Agreement on the            day of           , 20           , the date of execution by the City Manager of the City of Baytown.

CITY OF BAYTOWN

\_\_\_\_\_  
RICHARD L. DAVIS, City Manager

ATTEST:


\_\_\_\_\_  
ANGELA JACKSON, City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
SCOTT LEMON, City Attorney

CONSULTANT:

\_\_\_\_\_  
HDR Engineering, Inc  
(Company Name)

\_\_\_\_\_  
  
(Signature)

\_\_\_\_\_  
David C. Weston  
(Printed Name)

\_\_\_\_\_  
Vice President  
(Title)

STATE OF TEXAS           §  
                                     §  
COUNTY OF HARRIS     §

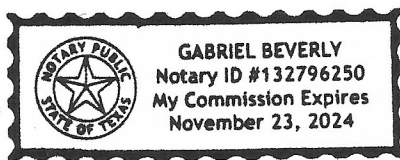
Before me on this day personally appeared David C. Weston, in his/her capacity as Vice President of HDR Engr on behalf of such Company,

☒ known to me;  
☐ proved to me on the oath of \_\_\_\_\_; or  
☐ proved to me through his/her current \_\_\_\_\_  
{description of identification card or other document issued by the federal government or any state government that contains the photograph and signature of the acknowledging person}

(check one)

to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he/she executed the same for the purposes and consideration therein expressed.

SUBSCRIBED AND SWORN before me this 1st day of September, 2022.



[Signature]  
Notary Public in and for the State of Texas

EXHIBIT A  
SCOPE OF WORK



CONSTRUCTION MANAGEMENT & INSPECTION  
SCOPE OF SERVICES

**BASIC SERVICES:** Construction Manager(s) Firm shall render the following professional services to the OWNER in connection with the construction of the Project.

**1. Pre-Construction (on specific projects, as requested by the City/Owner)**

- 1.1. Provide constructability review of plans, specifications, contract documents and validity of Engineer of Record's project duration. Identify construction issues, conflicts, deficiencies, review the adequacy and accuracy of the design and independent verification of quantities.
- 1.2. Attend Pre-Bid Meeting; provide feedback to City's Project Manager as necessary, such as: tracking and recording questions for the Engineer's written response, clarifying the Owner's expectations for the project and the project execution.
- 1.3. Chair Pre-Construction Meeting
  - 1.3.1. Schedule and conduct the pre-construction meeting; record and disseminate minutes from pre-construction meeting.
  - 1.3.2. Utilize the City's Project Management program: set communications protocol and contract administration procedures, establish progress meeting schedule and submittal schedule.
  - 1.3.3. Provide agenda for meeting: Key milestone dates, pay application procedures, schedule, public notification issues and procedures, utility coordination issues, traffic control, permitting, property owner notification and coordination, temporary facilities, contractor's use of City's Project Management program, etc.



## **2. Construction Administration and Management Services**

2.1. Act as the City's on-site representative administering the contract for construction and providing overall project oversight, maintain record of decisions and changes made.

2.2. Meetings: Schedule and conduct construction progress meetings; record minutes from construction progress meetings and distribute via The City's Project Management program to: City Project Manager, Design Engineer and contractor throughout the duration of the project.

- 2.2.1. Schedule meetings every two weeks, minimum, to review the following: work progress and schedule, outstanding issues, status of submittals and responses shop drawings unforeseen issues and changes to the work.
- 2.2.2. Coordinate additional meetings as necessary to discuss and resolve problems and provide guidance in a timely manner.
- 2.2.3. Coordinate/monitor the following: utility relocation activities for compliance, utility installation verification, reporting, record management and as-built drawings.
- 2.2.4. Attend all utility coordination, construction, and scheduling meetings.
- 2.2.5. Obtain copy of ROW permit and prints from Public Works in order to monitor progress of utility relocation per permit/plan.

### **2.3. Manage Construction**

- 2.3.1. All final documentation is required in electronic/digital format, utilizing The City's Project Management program as is feasible.

- 2.3.2. As field problems arise, notify the Design Engineer and City Project Manager of proposed solutions to resolve problems.
  - 2.3.3. Review and update as-built documents regularly with contractor.
  - 2.3.4. Monitor and verify adherence to approved project baseline schedule. Review contractor's schedule monthly, verify compliance with City's intended schedule, and provide recommendations as needed to retain and regain schedule if needed.
  - 2.3.5. Recommend alternate project sequencing/scheduling to keep project on schedule.
  - 2.3.6. Prepare monthly summary report of construction activities with outstanding issues outlined for review. Monthly progress information associated with the project will be submitted to the Project Manager for review and approval.
  - 2.3.7. Record weather conditions on jobsite daily.
- 2.4. Coordinate work of contractor with external agencies and utility companies. Coordinate contractor's operations with regard to other City contracts and construction as well as with property owners for planned service outages, street closures, and access control issues to properties including notifications.
- 2.4.1. Verify construction conformance and compliance with TCEQ, NOI and NOT.
  - 2.4.2. Verify construction conformance with permitted activities such as: City of Baytown permits, U.S. Army Corps of Engineers permits, TxDOT roadway permits, and any Railroad agreements.
- 2.5. Maintain records of all decisions, actions and activities with regard to construction operations via the City's The City's Project

Management program system (i.e. Change Orders, RFIs and responses, Submittals and responses, Request for Proposals, correspondence, SWPPP inspections.)

### **3. Construction Inspection Services**

3.1. Provide full-time on-site technical observation of Contractor's activities to verify and confirm all work materials, structures, equipment and workmanship comply with the Contract Documents including Addenda, and Change Orders. Verify and confirm that Contractor maintains good construction practices and professional standards prevailing in the local City, County, and State of Texas. Utilize City's Project Management program for all inspection reports.

- 3.1.1. Notify the City Project Manager if Contractor's work is not in compliance with the Contract Documents or specifications. Notify the City Project Manager and Design Engineer of any failure of the Contractor to take measures to repair and bring work in compliance.
- 3.1.2. Issue Advisory Notices to Contractor for work that is not in compliance with approved construction documents.
- 3.1.3. Issue Non-Compliance Reports to Contractor if non-conforming work is not brought into compliance or if plan of action to bring work into compliance is not conducted in timely manner.
- 3.1.4. Inspect and observe the materials and equipment being incorporated into the work to assure that they are handled, stored and installed in accordance with

the Contract Documents and specifications. Report to the City Project Manager regarding these activities.

- 3.2. Identify, record and notify Design Engineer of any problems or failures to meet performance requirements in a timely manner to minimize delay in the progress of the project, make recommendation(s) for appropriate solution to the City Project Manager and Design Engineer.
- 3.3. Prepare and maintain daily progress log or daily construction reports, photographs, records and track quantities installed that day utilizing the City's Project Management system.
- 3.4. Verify contractor reviews and approves daily reports and quantities.
- 3.5. Verify contractor has obtained necessary permits and is maintaining any Traffic Control, public notification and Storm Water Pollution Prevention Plans, facilities, equipment or arrangements in accordance with contract documents.
- 3.6. Attend and participate in progress meetings.
- 3.7. Create contacts for your record for: names, addresses, telephone numbers and email of all contractors, subcontractors, sub consultants and major suppliers of material and equipment; store in City's The City's Project Management program system.
- 3.8. Immediately notify the City Project Manager and Design Engineer in the event of an on-site accident. Record and note conditions, activities and witnesses to the event.
- 3.9. Maintain Resolution Log and respond to citizen complaints in The City's Project Management program system.
- 3.10. Consult with City Project Manager and Design Engineer in advance of scheduled major work operations, tests, inspections or start of important phases of project.

#### **4. Pay Applications**

- 4.1. Pay applications will be generated by the City's The City's Project Management program system based on quantities approved in the daily reports. Review and verify quantities provided by contractor for all work in compliance with contract documents.
  - 4.1.1. Review work conducted daily on daily inspection reports and material installed measurements submitted by contractor; verify work conducted and bid item quantities via The City's Project Management program; meet monthly to review pay estimate and quantities with contractor
  - 4.1.2. Review progress pay application with Design Engineer for approval or revision prior to submittal to City.
  - 4.1.3. Finalize pay application with signatures from Contractor, Engineer and Construction Manager certifying quantities and amounts via The City's Project Management program.
  - 4.1.4. Notify City Project Manager when all electronic signatures are completed in the The City's Project Management program system for invoice processing.
  - 4.1.5. Track and record requests for rain or other delays with potential to add to Contract Time in Daily Reports in The City's Project Management program.
  - 4.1.6. Provide an independent quantity forecast bid items to identify potential quantity over-runs as part of pay estimate review.
- 4.2. Upon completion of the work, prepare a final progress payment including a balancing change order zeroing out all unused quantities utilizing The City's Project Management program. Identify

and add additional quantities and make any approved changes to the Contract Time.

- 4.2.1. Review and coordinate with Design Engineer to provide Engineer's recommendation for Substantial Completion or Final Acceptance. (See Close-out Section)

## **5. Document Control**

5.1. Utilize the City's The City's Project Management program system to: receive, route, track and log all Contractor communications, Submittals, Change Orders, RFIs, Pay Applications and Citizen Complaint/Resolution Log; communicate with Contractor the status of submittal reviews; review submittal and RFI log in The City's Project Management program to verify timely responses; notify City Project Manager, Contractor and Design Engineer of time critical issues.

- 5.1.1. Respond to RFIs when such response does not require the Engineer's opinion or expertise or direction from City.
- 5.1.2. Assemble and maintain notes, comments, sketches and supportive data relative to the Project to facilitate the revision of drawings to conform to the final as-built conditions. Review Contractor's record keeping periodically to verify completeness, timeliness and progress.

## **6. Change Orders**

6.1. Prepare and issue request for proposals in a timely manner via The City's Project Management program. Review RFP and contractor proposal for additional work with City Project Manager and Design Engineer for approval. Verify the status of RFP and Responses

from Contractor, City and Design Engineer are logged and tracked in the The City's Project Management program system.

- 6.2. Provide recommendation on technical matters as an advocate for the City. Evaluate Contractor's response/proposal for merit, cost, time, accuracy and price practicality. Negotiate with Contractor on City's behalf if required.
- 6.3. Prepare Change Order and documentation including signatures of Contractor, Engineer and Construction Manager for delivery to City.

## **7. Testing Laboratory and Results**

- 7.1. Coordinate testing laboratory activities with Contractor's activities. Review test reports for compliance with Contract Documents. Log, track and retain test reports in The City's Project Management program. Review results with Contractor. Monitor any corrective action and re-testing for compliance. Maintain compliance with City's specifications
  - 7.1.1. Review lab test reports and log any failures.
  - 7.1.2. Review Invoicing from Laboratory to daily activities.

## **8. Project Completion and Close out**

- 8.1 Provide list of deliverables for substantial completion walk through/inspection. Schedule and conduct project walk through upon receipt of Contractor's notification of substantial completion. Include City Project Manager, Design Engineer and others as directed. Prepare a list of non-conforming work based on visual inspections via The City's Project Management program. Record and monitor contractor's corrective efforts and schedule. Schedule final completion inspection for any remaining corrections.

8.2 Coordinate and obtain Design Engineer's signature and seal on Substantial Completion certificate and Final Completion and Acceptance certificate via The City's Project Management program.

8.3 Review and compile any Operation and Maintenance documents required from the Contractor – forward to Engineer for review. Verify Contractor's closeout documents are uploaded to The City's Project Management program. Review for completeness and accuracy, including; affidavits of final payment, final pay estimates, as built records, redlines and drawings. Once received, notify the Design Engineer and City Project Manager when completed.

8.3.1. Upon completion of close out items, provide recommendation for City's Substantial Completion/Final Acceptance certificate.

8.3.2 Provide indexed project files, redline plans and as-built or record drawings to City via The City's Project Management program.

8.4 Conduct Project Close-Out Meeting.

8.5 Prepare and recommend final payment application. (Prepare job record logs transmittals, and correspondence reports in an organized file for delivery to City.)

8.6 Consult with City on any potential Warranty items requiring repair or replacement.

## **9. Warranty Period**

9.1 Schedule, arrange and coordinate a One Year Walk-through of the project to review status of the work 30 days prior to expiration of the One Year Maintenance period.

9.2 Provide staff to conduct and participate in the warranty inspections.

9.3 Prepare list of non conforming work for presentation to the City Project Manager, Design Engineer and Contractor via The City's Project Management program.



- 9.4. Oversee repairs for non conforming work with Contractor.
- 9.5. Submit final report on completed warranty repairs via The City's Project Management program.

**EXHIBIT B**  
**LEVEL OF EFFORT**  
**Package I - Connally Area - CM&I Services**

STAFF NAME	Title	RATE	TOTAL ESTIMATED HOURS	LABOR RATE COST
Steve P	Project Engineer/CM	\$225.55	540	\$121,797.00
Edwin R	QC/QA	\$282.15	18	\$5,078.70
Clarence M	Sr Inspector	\$134.81	1386	\$186,839.73
Ashley T	Admin	\$70.60	18	\$1,270.80
			0	\$0.00
		<b>TOTAL</b>	<b>1962</b>	

**LABOR COST SUBTOTAL** \$314,986.23

**GROSS FEE:**

RATE SHEET LABOR	\$314,986.23
SUBCONTRACTORS	\$0.00
SUB MARKUP	\$0.00
REIMBURSABLE EXPENSES	\$0.00
<b>TOTAL GROSS FEE</b>	<b>\$314,986.23</b>

Estimated Construction Cost:	\$6,940,496.00
Percentage of Construction:	4.54%

*Construction anticipated to last 55 weeks:
Steve P(PM/CM) - 10 hrs per week
Edwin R(QC/QA) - 0.3hrs per week
Clarence M(Insp) - 25hrs per week
Ashley T(Admin) - 0.3hrs per week

**Exhibit B**  
**Level of Effort**  
**Package I - Connally Area CM&I Services**

Tasks and SubTasks	Project Engineer/CM Steve P	QC/QA Edwin R	Sr Inspector Clarence M	Admin Ashley T	Total Hours
<b>Task 1 - Construction Management and Administration Support</b>					
1.1 Site Visits	55				55
1.2 Progress Meetings	55		23		78
1.3 Manage Construction and Documentation	55		23	2	80
1.4 Utility Coordination	55		23		78
1.5 Resident Project Representative Inspections.	55		1172		1227
<b>Task Total Hours</b>	<b>275</b>	<b>0</b>	<b>1241</b>	<b>2</b>	<b>1518</b>
<b>Task 2 - Pay Applications</b>					
2.1 Monthly Pay Applications - review and recommendations	23	4	23		50
<b>Task Total Hours</b>	<b>23</b>	<b>4</b>	<b>23</b>	<b>0</b>	<b>50</b>
<b>Task 3 - Document Control</b>					
3.1 Document Logging and Tracking (RFI's, Submittals, RFP, CO's	55	4	23	12	94
<b>Task Total Hours</b>	<b>55</b>	<b>4</b>	<b>23</b>	<b>12</b>	<b>94</b>
<b>Task 4 - Change Order Review and Recommendations</b>					
4.1 Change Order Coordination, RFP, Review, Negotiation	110	6	23	2	141
<b>Task Total Hours</b>	<b>110</b>	<b>6</b>	<b>23</b>	<b>2</b>	<b>141</b>
<b>Task 5 - Laboratory Testing Review</b>					
5.1 Review Laboratory Testing Results, Review Laboratory Invoicing	55	2	55	2	114
<b>Task Total Hours</b>	<b>55</b>	<b>2</b>	<b>55</b>	<b>2</b>	<b>114</b>
<b>Task 6 - Project Close Out</b>					
6.1 Punch List Preparation and Completion Coordination	8		8		16
6.2 Project Closeout Meeting	6		5		11
6.3 Final Pay Application	8	2	8		18
<b>Task Total Hours</b>	<b>22</b>	<b>2</b>	<b>21</b>	<b>0</b>	<b>45</b>
<b>Total Project Hours</b>	<b>540</b>	<b>18</b>	<b>1386</b>	<b>18</b>	<b>1962</b>

Exhibit C  
Schedule  
Package I - Connally Area CM&I Services

Description	Duration:
1. Submittals, Materials Procurement	90 Days
2. Construcion Activities	210 Days
Total Construction Phase Duration:	300 Days

**CITY OF BAYTOWN, TEXAS**  
**INDEBTEDNESS CERTIFICATION**

**Project Name:** Project Management, Construction Management, and Inspection for th

**Company Name:** HDR Engineering, Inc

**Department:** Public Works

**Date:** 08/24/2022

**Council Date:** 09/08/2022

A review of the above-described company was made in accordance with 2-663 of the City of Baytown Code of Ordinances and the aforementioned company was found:

☐ to be indebted to the City in the following areas:

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☒ not to be indebted to the City.

It is hereby certified the above is true and correct based on the best information available.

  
\_\_\_\_\_  
Director of Finance

08/24/2022

\_\_\_\_\_  
Date

For information regarding this certificate, please contact the Finance Director at 281-420-6531.

If an appeal to this determination is to be filed under section 2-664 of this code, please forward to the following address:

City of Baytown  
Director of Finance  
P O Box 424  
Baytown, TX 77522-0424



## **CITY COUNCIL MEETING**

**11. c.**

**Meeting Date:** 09/08/2022

**Subject:** Authorize Change Order No. 2 for Housing Reconstruction Project with R&R Commercial & Residential Construction, LLC.

**Prepared for:** Martin Scribner, Planning and Development Services

**Prepared by:** Christopher Chavis  
Planning and Development Services

**Department:** Planning and Development Services

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### **Information**

#### **ITEM**

Consider an ordinance approving Change Order No. 2 to the contract for Housing Reconstruction between the City of Baytown and R&R Commercial & Residential Construction, LLC.

#### **PREFACE**

This proposed ordinance approves Change Order No. 2 to the contract for Housing Reconstruction between the City of Baytown and R&R Commercial & Residential Construction, LLC, in the amount of \$36,843.80.

The City of Baytown (the "City") approved the contract with R&R Commercial & Residential Construction, LLC for the construction of three homes for the Community Development Block Grant (CDBG) Owner Occupied Housing Rehab Program on May 13, 2021. The original contract assumed that all homes would be built with slab-on-grade foundations. During the property assessment phase, it was determined that one of the three houses required a pier and beam foundation. The construction of the house on a pier & beam foundation has required a significant increase in materials needed to advance the project.

Texas local government code permits the City Manager the authority to approve up to a \$50,000 change order. The recent change order of \$36,843.80 plus the previous change orders of \$23,767.40 to this contract adds up to \$60,611.20, an amount beyond the allowable administrative approval.

Supporting documents are attached.

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### **Fiscal Impact**

**Fiscal Year:**

**Acct Code:**

**Source of Funds (Operating/Capital/Bonds):**

**Funds Budgeted Y/N:**

**Amount Needed:**

**Fiscal Impact (Additional Information):**

No fiscal impact is associated with this item.

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### **Attachments**

Ordinance - Change Order No. 2

Exhibit A - Change Order No. 2

Original Ordinance

Indebtedness Certification

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AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BAYTOWN, TEXAS, AUTHORIZING CHANGE ORDER NO. 2 TO THE CONTRACT FOR HOUSING RECONSTRUCTION WITH R&R COMMERCIAL & RESIDENTIAL CONSTRUCTION, LLC, IN AN AMOUNT NOT TO EXCEED THIRTY-SIX THOUSAND EIGHT HUNDRED FORTY-THREE AND 80/100 DOLLARS (\$36,843.80); AND PROVIDING FOR THE EFFECTIVE DATE THEREOF.

\*\*\*\*\*

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BAYTOWN, TEXAS:

Section 1: That the City Council of the City of Baytown, Texas, does hereby authorize Change Order No. 2 to the contract for housing reconstruction with R&R Commercial & Residential Construction, LLC, in an amount not to exceed THIRTY-SIX THOUSAND EIGHT HUNDRED FORTY-THREE AND 80/100 DOLLARS (\$36,843.80). A copy of said change order is attached hereto, marked Exhibit "A" and made a part hereof for all intents and purposes.

Section 2: This ordinance shall take effect immediately from and after its passage by the City Council of the City of Baytown.

INTRODUCED, READ and PASSED by the affirmative vote of the City Council of the City of Baytown this the 8<sup>th</sup> day of September, 2022.

\_\_\_\_\_  
BRANDON CAPETILLO, Mayor

ATTEST:

\_\_\_\_\_  
ANGELA JACKSON, City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
SCOTT LEMON, City Attorney





EXHIBIT "A"

# CITY OF BAYTOWN

Change Order No. 2  
**1900 Vermont**  
**8/1/2022**

**Brief Description of Changes:**

Original contract was for three homes to be construction with a slab on grade foundation. Flood plain elevation standards for this location (1900 Vermont) requires a pier and beam foundation which includes some significant plan changes and cost increase.

**Add or Delete Items:**

Item	Description	Unit	Quantity	Price	Not to Exceed
1	Extra siding	1	528 sqft	\$ 3,484.80	\$ -
2	Hardie siding panel under the wood floor		1080 sqft	\$ 3,888.00	
3	Flood vents		8.0	\$ 2,400.00	
4	Handicap ramp		1.0	\$ 19,201.00	
5	Insulation under the floor		1.0	\$ 1,600.00	
6	Paint under the floor		1.0	\$ 1,400.00	
8	Paint 4' of siding wall around perimeter of house		1.0	\$ 1,320.00	
9	Install concrete panels on the subfloor before tile.		1.0	\$ 3,550.00	
	Total			\$ 36,843.80	

**Contract Summary:**

Original Contract Price	\$ 325,223.00
Previous Change Orders	\$ 23,767.60
This Change Order (not to exceed)	\$ 57,528.40
Revised Contract Price (not to exceed)	\$ 406,519.00

Original Contract Duration	0
Previous Extensions	0
This Change Order	\$36,843.80
Revised Duration - Calendar Days	0



ORDINANCE NO. 14,730

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BAYTOWN, TEXAS, AWARDING THE CONTRACT FOR THE HOUSING RECONSTRUCTION PROJECTS LOCATED AT 1201 CHERRY STREET, 1900 VERMONT STREET AND 1821 UTAH STREET TO R&R COMMERCIAL & RESIDENTIAL CONSTRUCTION, LLC, FOR THE SUM OF THREE HUNDRED TWENTY-FIVE THOUSAND TWO HUNDRED TWENTY-THREE AND NO/100 DOLLARS (\$325,223.00); AUTHORIZING PAYMENT THEREOF; AND PROVIDING FOR THE EFFECTIVE DATE THEREOF.

\*\*\*\*\*

WHEREAS, the City of Baytown did advertise for bids for housing reconstruction projects located at 1201 Cherry Street, 1900 Vermont Street, and 1821 Utah Street to be received April 29, 2021, and

WHEREAS, notice to all bidders as to the time and place, when and where the contract would be let was published pursuant to provisions of Section 74 of the Charter of the City of Baytown; and

WHEREAS, all bids were opened and publicly read at City Hall at 10:00 a.m., Thursday, April 29, 2021, as per published notice to bidders; NOW THEREFORE,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BAYTOWN, TEXAS:

Section 1: That the City Council of the City of Baytown hereby accepts the bid of R&R Commercial & Residential Construction, LLC, for the sum of THREE HUNDRED TWENTY-FIVE THOUSAND TWO HUNDRED TWENTY-THREE AND NO/100 DOLLARS (\$325,223.00) for the following projects under the CDBG Owner-Occupied Housing Rehabilitation Program and authorizes payment thereof upon final completion and acceptance of the work by the owner and the City:

Address	Year Built	Old Ft <sup>2</sup>	Proposed Ft <sup>2</sup>	Est. Cost	Re-construction Cost	Fence, Driveway & Sidewalk	Total Cost
1201 Cherry Street	1920	768	1,100	>\$40,000	\$92,000	\$14,276	\$106,276
1900 Vermont Street	1948	1,366	1,100	>\$64,000	\$92,000	\$20,471	\$112,471
1821 Utah Street	1950	1,228	1,100	>\$57,000	\$92,000	\$14,476	\$106,476
Total							<b>\$325,223</b>

Section 2: That pursuant to the provisions of Texas Local Government Code Annotated §252.048, the City Manager is hereby granted general authority to approve any change order involving a decrease or an increase in costs of FIFTY THOUSAND AND NO/100 DOLLARS (\$50,000.00) or less, subject to the provision that the original contract price may not

be increased by more than twenty-five percent (25%) or decreased by more than twenty-five percent (25%) without the consent of the contractor to such decrease.

Section 3: This ordinance shall take effect immediately from and after its passage by the City Council of the City of Baytown.

INTRODUCED, READ and PASSED by the affirmative vote of the City Council of the City of Baytown this the 13<sup>th</sup> day of May, 2021.

  
BRANDON CAPETILLO, Mayor

ATTEST:

  
ANGELA JACKSON, Interim City Clerk



APPROVED AS TO FORM:

  
KAREN L. HORNER, City Attorney

**CITY OF BAYTOWN, TEXAS**  
**INDEBTEDNESS CERTIFICATION**

**Project Name:** Authorize Change Order No. 2 for Housing Reconstruction Project with

**Company Name:** R&R Commercial & Residential Construction, LLC

**Department:** Planning & Community Dev

**Date:** 09/02/2022

**Council Date:** 09/08/2022

A review of the above-described company was made in accordance with 2-663 of the City of Baytown Code of Ordinances and the aforementioned company was found:

☐ to be indebted to the City in the following areas:

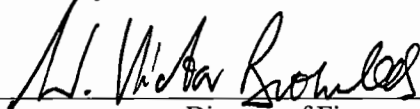
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☒ not to be indebted to the City.

It is hereby certified the above is true and correct based on the best information available.



Director of Finance

09/02/2022

Date

For information regarding this certificate, please contact the Finance Director at 281-420-6531.

If an appeal to this determination is to be filed under section 2-664 of this code, please forward to the following address:

City of Baytown  
Director of Finance  
P O Box 424  
Baytown, TX 77522-0424



## CITY COUNCIL MEETING

11. d.

**Meeting Date:** 09/08/2022

**Subject:** Next Gen 911 services from Datamark

**Prepared for:** Edward Tomjack, Information Technology Services

**Prepared by:** Edward Tomjack, Information Technology Services

**Department:** Information Technology Services

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### **Information**

#### **ITEM**

Consider an ordinance authorizing the purchase of GIS remediation services from DATAMARK, a division of Michael Baker International, Inc., to establish location validation, routing, and the geospatial layers necessary to be in compliance with National Emergency Number Association (NENA) Next Generation 9-1-1 (NG9-1-1) Core Services.

#### **PREFACE**

The Software as a Service (SaaS) and GIS remediation service agreements with DATAMARK are necessary to conform with the NENA NG9-1-1 core services. The DATAMARK GIS data remediation team is experienced with NENA standards and will ensure the completeness and quality of the City GIS data to include:

- Address Points
- Road Centerlines
- Master Street Address Guide (MSAG) data
- Automatic Location Identification (ALI) data
- Schema, topology, and attributes
- Public Safety Answering Point (PSAP) boundaries
- Emergency Service Boundaries (ESB)

The Datamark VEP software as a service (SaaS) is being purchased using Texas DIR CPO-5035 in the amount of \$11,520. The Datamark personnel service hours are being purchased using HGAC EC07-20 and is in the amount not to exceed \$80,000.

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### **Fiscal Impact**

**Fiscal Year:** FY2022

**Acct Code:** 35001-84042

**Source of Funds (Operating/Capital/Bonds):**

**Funds Budgeted Y/N:** Y

**Amount Needed:** \$91,520

**Fiscal Impact (Additional Information):**

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## **Attachments**

Ordinance - GIS Remediation Services

Exhibit A - SaaS agreement

Indebtedness Certification

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AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BAYTOWN, TEXAS, AUTHORIZING THE PURCHASE OF GIS REMEDIATION SERVICES FROM DATAMARK, A DIVISION OF MICHAEL BAKER, INTERNATIONAL, INC., TO ESTABLISH LOCATION VALIDATION, ROUTING, AND THE GEOSPATIAL LAYERS NECESSARY TO BE IN COMPLIANCE WITH NATIONAL EMERGENCY NUMBER ASSOCIATION (NENA) NEXT GENERATION 9-1-1 (NG9-1-1) CORE SERVICES; AUTHORIZING PAYMENT IN THE AMOUNT OF NINETY-ONE THOUSAND, FIVE-HUNDRED, TWENTY DOLLARS (\$91,520.00) BY THE CITY OF BAYTOWN; MAKING OTHER PROVISIONS RELATED THERETO; AND PROVIDING FOR THE EFFECTIVE DATE THEREOF.

\*\*\*\*\*

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BAYTOWN, TEXAS:

Section 1: That the City Council of the City of Baytown, Texas, hereby authorizes and directs the City Manager to execute and the City Clerk to attest to a software as a service agreement with Datamark, a division of Michael Baker, International, Inc. to establish location validation, routing, and the geospatial layers necessary to be in compliance with National Emergency Number Association (NENA) Next Generation 9-1-1 (NG9-1-1) Core Services. A copy of said agreement is attached hereto as Exhibit "A" and incorporated herein for all intents and purposes.

Section 2: That the City Council of the City of Baytown authorizes payment in the amount of Ninety-One Thousand, Five-Hundred, Twenty Dollars (\$91,520.00) to Datamark, a division of Michael Baker, International, Inc. based upon the agreement authorized in Section 1 hereinabove.

Section 3: This ordinance shall take effect immediately from and after its passage by the City Council of the City of Baytown.

INTRODUCED, READ and PASSED by the affirmative vote of the City Council of the City of Baytown this the 8<sup>th</sup> day of September, 2022.

\_\_\_\_\_  
BRANDON CAPETILLO, Mayor

ATTEST:

\_\_\_\_\_  
ANGELA JACKSON, City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
SCOTT LEMON, City Attorney



# EXHIBIT "A"

## **DATAMARK®** **Software as a Service Agreement**

This Software as a Service (SaaS) Agreement (the “**Agreement**”), by and between DATAMARK, a division of Michael Baker International, Inc. (“Michael Baker”), Michael Baker is a Pennsylvania corporation with offices located at 5 Hutton Centre Drive, Suite 500, Santa Ana, CA 92707 (“**DATAMARK**”) and City of Baytown, (“**Customer**”), a governmental entity with offices located at 7800 N. Main St. Baytown, TX 77521.

WHEREAS, Customer wishes to procure from DATAMARK the access and use of Validate-Edit-Provision (VEP) software described herein, and DATAMARK wishes to provide such access and use of VEP software to Customer, each on the terms and conditions set forth in this Agreement.

NOW, THEREFORE, in consideration of the mutual covenants, terms and conditions set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree that the following terms and conditions will apply to the software and Related Materials provided under this Agreement and subscriptions placed thereunder.

### 1. VEP Software.

- 1.1. VEP Systems. Subject to and conditioned on Customer’s and its Authorized Users compliance with the terms and conditions of this Agreement, during the Term, DATAMARK shall use commercially reasonable efforts to provide to Customer and its Authorized Users access and use of the DATAMARK VEP Software as described below, (collectively, the “**VEP Software**”), in accordance with the Related Materials and terms and conditions hereof, including to host, manage, operate, and maintain the VEP Software for remote electronic access and use by Customer and its Authorized Users.

The VEP Software is implemented using cloud native technology to provide capability for the validating, editing, and provisioning of GIS data for public safety grade GIS data (the “**VEP Systems**”). DATAMARK shall also provide to Customer and its Authorized Users, as it becomes available, materials related to the access and use of VEP Software (e.g., “**Related Materials**”). For example DATAMARK may provide Related Materials comprising specifications, documentation, other information, other data, documents, materials, works, other content, devices, methods, processes, hardware, other software and other technologies or inventions, including any deliverables, descriptions (e.g., technical, functional, etc.), requirements, plans, or reports, that are provided or used in connection with the VEP Software or otherwise comprise or relate to the VEP Software or VEP Systems. “Documentation” includes any manuals, instructions or other documents or materials that the DATAMARK provides or makes available to Customer in any form or medium and which describe the functionality, components, features or requirements of the VEP Software, such as any aspect of the installation, configuration, integration, operation, use, support or maintenance thereof.

Maintenance and support of the VEP Software for access and use by Customer and its Authorized Users will be in substantial conformity with the documentation and support based on the Service Level Agreement and Maintenance Terms provided in Appendix A.

1.2. VEP Software and System Control. Except as otherwise expressly provided in this Agreement or in the Service Level Agreement and Maintenance Terms provided in Appendix A, as between the parties:

- a) DATAMARK has and will retain sole control over the operation, provision, maintenance and management of the VEP Software and Related Materials, including the: (i) DATAMARK Systems; (ii) selection, deployment, modification and replacement of the VEP Software; and (iii) performance of support, maintenance, upgrades, corrections and repairs as described in Appendix A; and
- b) All right, title and interest in and to the DATAMARK SaaS, including the VEP System, VEP Software, and Related Materials, including all Intellectual Property Rights therein, are and will remain with DATAMARK and the respective rights holders in the Third-Party Materials. Customer has no right, license or authorization with respect to any of the DATAMARK SaaS or Related Materials except as expressly set forth in Section 2 and 3 or the applicable third-party license. All other rights in and to the VEP System, VEP Software, and the Related Materials are expressly reserved by DATAMARK and the respective third-party licensors.

1.3. Changes. DATAMARK reserves the right, in its sole discretion, to make any changes to the VEP Software and Related Materials that it deems necessary or useful.

2. DATAMARK SaaS. The specific DATAMARK internet-accessible service identified in Exhibit A that provides use and access of DATAMARK's VEP System and VEP Software that is remotely hosted by DATAMARK and/or its network provider and made available to Customer over a network on a term-use basis ("**DATAMARK SaaS**").

2.1. Authorization. DATAMARK hereby grants to Customer, during the Term, a non-exclusive, non-assignable, worldwide right to access, use, display, and execute the VEP Systems solely for the permitted Use by and through Authorized Users in accordance with the conditions and limitations set forth in this Agreement and up to the number of seats as documented in Exhibit C. DATAMARK hereby grants a non-exclusive, non-assignable, worldwide right to access, use, and display the VEP Software, and Related Materials. The grants herein are subject to and conditioned on Customer's payment of the Fees and compliance and performance in accordance with all other terms and conditions of this Agreement.

2.2. Remote Host. Customer acknowledges that this Agreement is a SaaS agreement and DATAMARK will not be delivering copies of the Software to Customer as part of this SaaS Agreement.

2.3. Customer Systems. Customer has and will retain sole control over the operation, maintenance and management of, and all access to and use of, the Customer Systems, and sole responsibility for all access to and use of the VEP Software and Related Materials by any Person by or through the Customer Systems or any other means controlled by Customer or any Authorized User, including any: (i) information, instructions or materials provided by any of them to the VEP

Software or DATAMARK SaaS; (ii) results obtained from any use of the DATAMARK SaaS or Related Materials; and (iii) conclusions, decisions or actions based on such use.

- 2.4. License from Customer. Subject to the terms and conditions of this SaaS Agreement, Customer shall grant to DATAMARK a , non-exclusive, royalty-free, non-transferable fully paid-up license, to copy, store, configure, perform, display and transmit Customer Content, such as data and materials provided by Customer to DATAMARK for use in connection with the VEP Software, including, without limitation, customer applications, data files, and graphics, within the VEP System solely as necessary by DATAMARK to provide access and use of the VEP Software to Customer.
- 2.5. Customer Data; Resultant Data. As between Customer and DATAMARK, Customer is and will remain the sole and exclusive owner of all right, title and interest in and to Customer Data and Resultant Data, including all Intellectual Property Rights relating thereto, subject to the rights and permissions granted in Section 2.6 hereto.
  - 2.5.1. Consent to Use Customer Data, Resultant Data. Customer hereby irrevocably grants all such rights and permissions in or relating to Customer Data and Resultant Data: (a) to DATAMARK, its Subcontractors and the DATAMARK Personnel as are necessary or useful to perform the DATAMARK SaaS; and (b) to DATAMARK as are necessary or useful to enforce this Agreement and exercise its rights and perform its obligations hereunder.
- 2.6. Reservation of Rights. Except as expressly set forth in Section 2.1 hereto, nothing in this Agreement grants any right, title or interest in or to, no license under any Intellectual Property Rights in or relating to, the VEP Software, VEP System, Related Materials, or third party software, systems, or related materials used by DATAMARK (“Third Party Materials”), whether expressly, by implication, estoppel or otherwise. Subject to Section 2.7 hereto, all right, title and interest in and to the VEP Systems, VEP Software, the Related Materials and the Third-Party Materials are and will remain with DATAMARK and the respective rights holders in the Third-Party Materials.
- 2.7. Restrictions. Customer will not and shall not permit anyone access or use of the VEP Software and Related Materials except as expressly permitted by this Agreement and, in the case of Third-Party Materials, the applicable third-party license agreement. For purposes of clarity and without limiting the generality of the foregoing, Customer shall not: rent, lease, lend, sell, license, assign, distribute, publish, transfer or otherwise make available in whole or in any parts of the VEP System, the VEP Software, or Related Materials, to any Person or entity, including on or in connection with the internet or any time-sharing, service bureau, software as a service, cloud or other technology or service; access or use the subscription, VEP System, VEP Software, or the Related Materials for purposes of competitive analysis, the development, provision or use of a competing software service or product or any other purpose that is to DATAMARK’s detriment or commercial disadvantage; or otherwise access or use the VEP System, VEP Software, or the Related Materials beyond the scope of the authorization granted under the terms of the SaaS Agreement.
- 2.8. Geographic Use. Customer shall only use the VEP Software for the geographic area for which its contract applies. Any use outside the geographic area will result in additional licensing fees.

3. Service Levels. The Service Level and Maintenance Agreement for the DATAMARK SaaS, the access and use of the VEP Software and VEP Systems is provided in Appendix A.

4. Customer Obligations.

4.1. Customer Systems and Cooperation. Customer shall at all times during the Term: (a) set up, maintain and operate in good repair and in accordance with the Related Materials all Customer Systems on or through which the VEP Software is accessed or used; (b) provide DATAMARK Personnel with such access to Customer's premises and Customer Systems as is necessary for DATAMARK to perform the DATAMARK SaaS in accordance with the SLA of Appendix A and Related Materials; and (c) provide all cooperation and assistance as DATAMARK may reasonably request to enable DATAMARK to exercise its rights and perform its obligations under and in connection with this SaaS Agreement.

4.2. Effect of Customer Failure or Delay. DATAMARK is not responsible or liable for any delay or failure of performance caused in whole or in part by Customer's delay in performing, or failure to perform, any of its obligations under this Agreement (each, a "**Customer Failure**").

4.3. Corrective Action and Notice. If Customer becomes aware of any actual or threatened activity prohibited by Section 2.3, Customer shall, and shall cause its Authorized Users to, immediately: (a) take all reasonable and lawful hereto measures within their respective control that are necessary to stop the activity or threatened activity and to mitigate its effects (including, where applicable, by discontinuing and preventing any unauthorized access to the DATAMARK SaaS and Related Materials ; and (b) notify DATAMARK of any such actual or threatened activity.

4.4. Audit. Customer gives DATAMARK unlimited rights to conduct an audit without advance notice to ensure that additional users that do not have licenses are not accessing the system. The DATAMARK SaaS may be suspended or terminated if DATAMARK believes, in its good faith and reasonable discretion, that: (i) Customer or any Authorized User has failed to comply with, any term of this Agreement, e.g., non-payment of fee, or accessed or used the DATAMARK SaaS beyond the scope of the rights granted, (e.g., more individuals accessing system than license paid for, etc.); (ii) Customer or any Authorized User is, has been, or is likely to be involved in any fraudulent, misleading or unlawful activities relating to or in connection with any of the DATAMARK SaaS; or (iii) this SaaS Agreement expires or is terminated.

5. Data Obligations.

5.1. Security Measures. DATAMARK will employ security measures in accordance with applicable industry practice. The VEP Software secures and restricts data access to Customer Data and/or Resultant Data through customized download and editing modules eliminating a need for additional plugins or downloads. Access to the DATAMARK SaaS is restricted to Authorized Users only and no data is made publicly available. File level access or repository browsing are transmitted through secure channels, including HTTPS security, and such capabilities are secured and not exposed to any Customer, data files used with the VEP Software are scanned for virus and malware, security performed in virtually isolated digital locations for safety from other Customer Data and Resultant Data.

5.2. Customer Control and Responsibility. Customer has and will retain sole responsibility for: (a) all Customer Data, including its content and use and any data that is not accurate; (b) all information, instructions and materials provided by or on behalf of Customer or any Authorized User in connection with the DATAMARK SaaS; (c) Customer's information technology infrastructure, including computers, software, databases, electronic systems (including database management systems) and networks, whether operated directly by Customer or through the use of third-party services ("**Customer Systems**"); (d) the security and use of Customer's and its Authorized Users' Access Credentials; and (e) all access to and use of the VEP Software, VEP Systems, and Related Materials directly or indirectly by or through the customer systems or its Authorized Users' access credentials, with or without Customer's knowledge or consent, including all results obtained from, and all conclusions, decisions and actions based on, such access or use. Customer will retain sole responsibility for prohibiting any actions to bypass or breach any security or protection used by the VEP System and/or the VEP Software, by any authorized user of Customer, or those that thereby access or use the VEP System and/or the VEP Software, other than by an Authorized User through the use of his or her own then-valid Access Credentials.

5.3. Data Breaches. DATAMARK shall implement and maintain a program for managing unauthorized disclosure or exposure of Customer Data stored by or accessible through the VEP Systems ("Data Breaches"). In the event of a Data Breach, or in the event that DATAMARK suspects a Data Breach, DATAMARK shall (i) promptly notify Customer by telephone and (ii) cooperate with Customer and law enforcement agencies, where applicable, to investigate and resolve the Data Breach. DATAMARK shall give Customer prompt access to such records related to a Data Breach as Customer may reasonably request; provided such records shall be DATAMARK's Confidential Information pursuant to Section 8 (Nondisclosure), and DATAMARK shall not be required to provide Customer with records belonging to, or compromising the security of, its other customers.

5.4. Access and Security. Customer shall employ all physical, administrative and technical controls, screening and security procedures and other safeguards necessary to: (a) securely administer the distribution and use of all Access Credentials and protect against any unauthorized access to or use of the DATAMARK SaaS; and (b) control the content and use of Customer Data, including the uploading or other provision of Customer Data for Processing by the DATAMARK SaaS. Customer shall prohibit any actions to input, upload, transmit or otherwise provide to or through the VEP System, the VEP Software, or any of DATAMARK's computers or systems, any information or materials that are unlawful or injurious, or contain, transmit or activate any harmful code, back door or otherwise damage, destroy, disrupt, disable, impair, interfere with, attempt to damage, interfere, or impede or harm in any manner the VEP System, the VEP Software, any DATAMARK Systems or activities related to DATAMARK's provision of VEP Software to any party, in whole or in part.

5.5. Suspension or Termination of Services. DATAMARK may suspend, terminate or otherwise deny Customer's, or any Authorized User's access to or use of all or any part of the VEP Software or Related Materials, without incurring any resulting obligation or liability, if DATAMARK receives a judicial or other governmental demand or order that requires DATAMARK to do so.

6. Orders and Payments.

- 6.1. Orders. All DATAMARK orders are subject to the terms and conditions of this contract and the Exhibits to the contract. If there is any conflict between an order and this contract, the contract is controlling. All services acquired by Customer shall be governed exclusively by this SaaS Agreement and the applicable Exhibits. Customer contract number assigned to a SaaS Agreement will be provided to DATAMARK, in writing, prior to the start of any work.
- 6.2. Invoice and Payment. The Customer agrees to pay DATAMARK the fees set forth in Exhibit B at a rate of compensation according to the deliverable payment schedule stated in Exhibit B. DATAMARK shall invoice Customer for all fees on the SaaS Agreement effective date. Customer shall pay all undisputed invoices within 30 calendar days after Customer receives the invoice. Invoices must include the Customer's Purchase Order number. Except as expressly provided otherwise, fees are non-refundable.
- 6.3. Fee Increases. DATAMARK Fees defined in Exhibit B of this Agreement are good for one (1) year from the execution of this agreement unless otherwise specified. If additional users are found to be accessing the system, DATAMARK shall invoice Customer for payment by billing Customer for the additional users.
- 6.4. Payment. Customer shall pay all Fees and Reimbursable Expenses within thirty (30) calendar days after the date of the invoice therefor. Customer shall make payments to the address or account specified on the invoice or such other address or account as DATAMARK may specify in writing from time to time.
- 6.5. Taxes. All Fees and other amounts payable by Customer under this Agreement are exclusive of taxes and similar assessments. To the extent required by applicable law, Customer is responsible for all sales, use and excise taxes, and any other similar taxes, duties and charges of any kind imposed by any federal, state or local governmental or regulatory authority on any amounts payable by Customer hereunder, other than any taxes imposed on DATAMARK's income. Customer hereby agrees to indemnify DATAMARK should any taxes be levied against DATAMARK for which Customer is responsible under applicable law.

## 7. Term and Termination.

- 7.1. Initial Term. The term of this Agreement shall begin on the effective date and shall continue as described in Section 7.3.
- 7.2. Termination. Either party may terminate this SaaS Agreement immediately upon a material breach by the other party that has not been cured within thirty (30) days after receipt of notice of such breach.
- 7.3. Renewal. VEP is sold on an annual subscription basis. Customer must notify DATAMARK (30) days prior to the end of the then-current term to renew VEP and continue uninterrupted use.
- 7.4. Effect of Expiration or Termination.

- 7.4.1. Upon any expiration or termination of this Agreement, DATAMARK shall immediately cease providing the VEP Software and all usage rights granted under this SaaS Agreement shall terminate.
- 7.4.2. If DATAMARK terminates this SaaS Agreement due to a breach by Customer, then Customer shall immediately pay to DATAMARK all amounts then due under this SaaS Agreement and to become due during the remaining term of this SaaS Agreement, but for such termination. If Customer terminates this SaaS Agreement due to a breach by DATAMARK, then DATAMARK shall immediately repay to Customer all pre-paid amounts for any unperformed DATAMARK SaaS scheduled to be delivered after the termination date.
- 7.4.3. DATAMARK agrees to preserve and back up Customer's entire database as it would have had the Agreement not been terminated. Upon the request of the Customer, but in any event upon termination or expiration of the Agreement or Statement of Work, DATAMARK shall surrender to Customer all documents and things pertaining to the work product, including but not limited to drafts, memoranda, notes, records, drawing, manuals, computer software, reports, data and all other documents or materials (and copies of the same) generated or developed by DATAMARK or furnished by Customer to DATAMARK, including all materials embodying the work product, any Customer confidential information, or Intellectual Property Rights in such work product, regardless of whether complete or incomplete. This Section is intended to apply to all Work Product as well as to all documents and things furnished to DATAMARK by Customer or by anyone else that pertain to the Work Product. In all events, DATAMARK shall preserve Customer's data for no more than five years following termination of this Agreement.

## 8. Confidentiality.

- 8.1. Definition. "Confidential Information" means any information disclosed by a party to the other party, directly or indirectly, which, (a) if in written, graphic, machine-readable or other tangible form, is marked as "confidential" or "proprietary," (b) if disclosed orally or by demonstration, is identified at the time of initial disclosure as confidential and is confirmed in writing to the receiving party to be "confidential" or "proprietary" within 30 days of such disclosure, (c) is specifically deemed to be confidential by the terms of this SaaS Agreement, or (d) reasonably appears to be confidential or proprietary because of the circumstances of disclosure and the nature of the information itself, including trade secrets, secret designs, research and development disclosures, or proprietary information. Confidential Information will also include information disclosed by third parties to a disclosing party under an obligation of confidentiality. Subject to the display of Customer Content as contemplated by this SaaS Agreement, Customer Content is deemed Confidential Information of Customer. DATAMARK Software and Documentation are deemed Confidential Information of DATAMARK.
- 8.2. Confidentiality. During the term of this SaaS Agreement and for 5 years thereafter, each party shall treat as confidential all Confidential Information of the other party, shall not use such Confidential Information except to exercise its rights and perform its obligations under this SaaS Agreement, and shall not disclose such Confidential Information to any third party. Without

limiting the foregoing, each party shall use at least the same degree of care, but not less than a reasonable degree of care, it uses to prevent the disclosure of its own confidential information to prevent the disclosure of Confidential Information of the other party. Each party shall promptly notify the other party of any actual or suspected misuse or unauthorized disclosure of the other party's Confidential Information. Neither party shall reverse engineer, disassemble or decompile any prototypes, software or other tangible objects which embody the other party's Confidential Information, and which are provided to the party hereunder. Each party may disclose Confidential Information of the other party on a need-to-know basis to its contractors who are subject to confidentiality agreements requiring them to maintain such information in confidence and use it only to facilitate the performance of their services on behalf of the receiving party.

8.3. Exceptions. Confidential Information excludes information that: (a) is known publicly at the time of the disclosure or becomes known publicly after disclosure through no fault of the receiving party, (b) is known to the receiving party, without restriction, at the time of disclosure or becomes known to the receiving party, without restriction, from a source other than the disclosing party not bound by confidentiality obligations to the disclosing party, (c) is independently developed by the receiving party without use of the Confidential Information as demonstrated by the written records of the receiving party; or (d) is otherwise subject to the Texas Public Information Act, Texas Government Code §§ 552.001-.376. The receiving party may disclose Confidential Information of the other party to the extent such disclosure is required by law or order of a court or other governmental authority, provided that the receiving party shall use reasonable efforts to promptly notify the other party prior to such disclosure to enable the disclosing party to seek a protective order or otherwise prevent or restrict such disclosure. Each party may disclose the existence of this SaaS Agreement and the relationship of the parties, but agrees that the specific terms of this SaaS Agreement will be treated as Confidential Information; provided, however, that each party may disclose the terms of this SaaS Agreement to those with a need to know and under a duty of confidentiality such as accountants, lawyers, bankers and investors.

## 9. Representations and Warranties.

9.1. Mutual Representations and Warranties. Each party represents and warrants to the other party that:

- a) it is duly organized, validly existing and in good standing as a corporation or other entity under the Laws of the jurisdiction of its incorporation or other organization;
- b) it has the full right, power and authority to enter into and perform its obligations and grant the rights, licenses, consents and authorizations it grants or is required to grant under this Agreement;
- c) the execution of this Agreement by its representative whose signature is set forth at the end of this Agreement has been duly authorized by all necessary corporate or organizational action of such party; and
- d) when executed and delivered by both parties, this Agreement will constitute the legal, valid and binding obligation of such party, enforceable against such party in accordance with its terms.



9.2. Additional Customer Representations, Warranties and Covenants. Customer represents, warrants and covenants to DATAMARK that Customer owns or otherwise has and will have the necessary rights and consents in and relating to the Customer Data so that, as received by DATAMARK and processed in accordance with this Agreement, they do not and will not infringe, misappropriate or otherwise violate any Intellectual Property Rights, or any privacy or other rights of any third party or violate any applicable Law.

9.3. Warranty and Disclaimer. DATAMARK shall use reasonable efforts consistent with prevailing industry standards to maintain the DATAMARK SaaS in a manner which minimizes errors and interruptions in the DATAMARK SaaS and shall provide access and use of the VEP Software and perform implementation of VEP Systems in a professional and workmanlike manner. The DATAMARK SaaS may be temporarily unavailable for scheduled maintenance or for unscheduled emergency maintenance, either by DATAMARK or by third-party providers, or because of other causes beyond DATAMARK's reasonable control, but DATAMARK shall use reasonable efforts to provide advance notice in writing or by e-mail of any scheduled service interruption. HOWEVER, COMPANY DOES NOT WARRANT THAT THE DATAMARK SAAS WILL BE UNINTERRUPTED OR ERROR FREE; NOR DOES IT MAKE ANY WARRANTY AS TO THE RESULTS THAT MAY BE OBTAINED FROM USE OF THE VEP SOFTWARE. EXCEPT AS EXPRESSLY SET FORTH IN THIS SECTION, THE VEP SOFTWARE AND VEP SYSTEMS ARE PROVIDED "AS IS" AND COMPANY DISCLAIMS ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT.

9.4. Indemnification.

9.4.1. Indemnification by DATAMARK. DATAMARK shall defend, indemnify, and hold harmless DIR, the State of Texas, and Customers, AND/OR THEIR OFFICERS, DIRECTORS, AGENTS, EMPLOYEES, REPRESENTATIVES, CONTRACTORS, SUCCESSORS, ASSIGNEES, AND/OR DESIGNEES FROM ANY AND ALL LIABILITY, ACTIONS, CLAIMS, DEMANDS, OR SUITS, AND ALL RELATED COSTS, ATTORNEY FEES, AND EXPENSES arising out of, resulting from, or related to:

- i) any acts or omissions of DATAMARK, its employees, or Third Party Providers in or in connection with the execution or performance of the Contract and any Purchase Orders issued under the Contract;
- ii) any and all third party claims involving infringement of United States patents, copyrights, trade and service marks, and any other intellectual or intangible property rights (an "Infringement") in or in connection with the execution or performance of the Contract and any Purchase Orders issued under the Contract;
- iii) any breach, disclosure, or exposure of data or information of or regarding DIR or any Customer that is provided to or obtained by DATAMARK in connection with the Contract, including DIR data, Customer data, confidential information of DIR or Customer, any personal identifying information, or any other protected or regulated data by DATAMARK, its employees, representatives, agents, or subcontractors in or in connection with the execution or performance of the Contract and any Purchase Orders issued under the Contract; and
- iv) tax liability, unemployment insurance or workers' compensation or expectations of benefits by DATAMARK, its employees, representatives, agents, or subcontractors in or in connection with

the execution or performance of the Contract and any Purchase Orders issued under the Contract. DATAMARK shall have no liability, duty to defend, or indemnify for any claim based on (a) the Customer Content, (b) modification of the DATAMARK SaaS not authorized by DATAMARK, or (c) use of the DATAMARK SaaS other than in accordance with the Documentation and this SaaS Agreement. DATAMARK may, at its sole option and expense, procure for Customer the right to continue use of the SaaS Services, modify the SaaS Services in a manner that does not materially impair the functionality, or terminate the Subscription Term and repay to Customer any amount paid by Customer with respect to the Subscription Term following the termination date.

THE DEFENSE SHALL BE COORDINATED BY SUCCESSFUL RESPONDENT WITH THE OFFICE OF THE ATTORNEY GENERAL WHEN TEXAS STATE AGENCIES ARE NAMED DEFENDANTS IN ANY LAWSUIT AND SUCCESSFUL RESPONDENT MAY NOT AGREE TO ANY SETTLEMENT WITHOUT FIRST OBTAINING THE CONCURRENCE FROM THE OFFICE OF THE ATTORNEY GENERAL. FOR NON-STATE AGENCY CUSTOMERS, THE DEFENSE SHALL BE COORDINATED BY CUSTOMER'S LEGAL COUNSEL. SUCCESSFUL RESPONDENT AND THE CUSTOMER AGREE TO FURNISH TIMELY WRITTEN NOTICE TO EACH OTHER AND TO DIR OF ANY SUCH CLAIM.

- 9.4.2 Indemnification by Customer. If a third party makes a claim against DATAMARK that the Customer Content infringes any patent, copyright or trademark, or misappropriates any trade secret, to the extent allowed by law Customer shall defend DATAMARK and its directors, officers and employees against the claim at Customer's expense and Customer shall pay all losses, damages and expenses (including reasonable attorneys' fees) finally awarded against such parties or agreed to in a written settlement agreement signed by Customer, to the extent arising from the claim. Customer shall defend and indemnify DATAMARK for any claim based on (a) the Customer Content, (b) modification of the DATAMARK SaaS not authorized by DATAMARK, or (c) use of DATAMARK SaaS other than in accordance with the Documentation and this SaaS Agreement.
- 9.4.3 Conditions for Indemnification. A party seeking indemnification under this section shall (a) promptly notify the other party of the claim, (b) give the other party sole control of the defense and settlement of the claim, and (c) provide, at the other party's expense for out-of-pocket expenses, the assistance, information and authority reasonably requested by the other party in the defense and settlement of the claim.
- 9.4.4 DATAMARK may, if threatened with infringement or an injunction, at its option and sole cost and expense: by written notice to Customer, terminate this Agreement with respect to all or part of the VEP Software and Related Materials, and require Customer to immediately cease any use of the VEP Systems and Related Materials or any specified part or feature thereof.
- 9.4.5 No Other Rights. Customer has no title to or ownership of, any intellectual property rights with respect to the Software including, without limitation, any related copyrights, trademarks, patents, trade secrets, or inventions performed with the VEP Software, DATAMARK VEP computer source code, descriptions of the VEP Software, and other intellectual property rights in the underlying functions, look, and feel of the VEP Systems. Customer has only the granted rights with respect to the Software that are expressly set

forth in this Agreement. Customer has no other rights, implied or otherwise. Customer acknowledges and agrees that the Software is being licensed, not sold, and that rights to access the Software are acquired only under this license from DATAMARK. The source code of the Software constitutes valuable trade secrets of, and confidential and proprietary information to, DATAMARK and its suppliers, and (a) may not be distributed, disclosed or otherwise provided to third parties, and (b) may be used only internally and only in conjunction with and for Customer's own authorized internal use of the Related Materials.

10 Limitations of Liability.

NEITHER PARTY (NOR ANY SERVICE, LICENSOR OR OTHER SUPPLIER OF DATAMARK) SHALL BE LIABLE FOR INDIRECT, INCIDENTAL, SPECIAL OR CONSEQUENTIAL DAMAGES, INCLUDING, WITHOUT LIMITATION, DAMAGES FOR LOST BUSINESS, PROFITS, DATA OR USE OF ANY SERVICE, INCURRED BY EITHER PARTY OR ANY THIRD PARTY IN CONNECTION WITH THIS SAAS AGREEMENT, REGARDLESS OF THE NATURE OF THE CLAIM (INCLUDING NEGLIGENCE), EVEN IF FORESEEABLE OR THE OTHER PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. NEITHER PARTY'S AGGREGATE LIABILITY FOR DAMAGES UNDER THIS SAAS AGREEMENT, REGARDLESS OF THE NATURE OF THE CLAIM (INCLUDING NEGLIGENCE), SHALL EXCEED THE FEES PAID OR PAYABLE BY CUSTOMER UNDER THIS SAAS AGREEMENT DURING THE 12 MONTHS PRECEDING THE DATE THE CLAIM AROSE. The foregoing limitations shall not apply to the parties' obligations (or any breach thereof) under Sections entitled "Restriction", "Indemnification", or "Confidentiality".

11 General Provisions.

11.1 Non-Exclusive Service. Customer acknowledges that SaaS Services are provided on a non-exclusive basis. Nothing shall be deemed to prevent or restrict DATAMARK's ability to provide the SaaS Services or other technology, including any features or functionality first developed for Customer, to other parties.

11.2 Independent Contractors. The relationship between the parties is that of independent contractors. Nothing contained in this Agreement shall be construed as creating other relationships between the parties, and neither party shall have authority to contract for or bind the other party in any manner whatsoever. Except as provided in this SaaS Agreement, neither party shall be responsible for the acts or omissions of the other party or the other party's personnel.

11.3 Publicity. DATAMARK may include Customer's name and/or logo in its customer lists and on its website upon prior written approval of Customer. Upon signing, DATAMARK may issue a high-level press release announcing the relationship and the manner in which Customer will use the DATAMARK Software and System solution. DATAMARK shall coordinate its efforts with appropriate communications personnel in DIR's and Customer's organization to secure approval of the press release.

11.4 Export Regulations. Export laws and regulations of the United States and any other relevant local export laws and regulations apply to the SaaS Services. Customer agrees that such export control laws govern its use of the DATAMARK SaaS (including technical data) and any SaaS deliverables provided under this Agreement, and Customer agrees to comply with all such

export laws and regulations. Customer agrees that no data, information, software programs and/or materials resulting from services (or direct product thereof) will be exported, directly or indirectly, in violation of these laws.

**11.5 Notices.** Except as otherwise permitted in this SaaS Agreement, notices under this SaaS Agreement shall be in writing and shall be deemed to have been given (a) five (5) business days after mailing if sent by registered or certified U.S. mail, (b) when transmitted if sent by facsimile or email, provided that a copy of the notice is promptly sent by another means specified in this section, or (c) when delivered if delivered personally or sent by express courier service. All notices shall be sent to the other party at the address set forth on the cover page of this SaaS Agreement.

**11.6 Interpretation.** The parties intend this SaaS Agreement to be construed without regard to any presumption or rule requiring construction or interpretation against the party drafting an instrument or causing any instrument to be drafted. The exhibits, attachments and appendices referred to herein are an integral part of this Agreement to the same extent as if they were set forth verbatim herein.

**11.7 Headings.** The headings in this SaaS Agreement are for reference only and do not affect the interpretation of this Agreement.

**11.8 Force Majeure.** Each party will be excused from performance for any period during which, and to the extent that, such party or any subcontractor is prevented from performing any obligation or service, in whole or in part, as a result of causes beyond its reasonable control, and without its fault or negligence, including without limitation, acts of God, strikes, civil disturbance, court order, lockouts, riots, acts of terrorism or war, epidemics, communication line failures, and power failures.

**11.9 Entire Agreement.** This SaaS Agreement (including the exhibits and appendices) constitute the entire, fully integrated agreement between the parties with respect to the subject matter hereof. Standard or printed terms contained in any purchase order or sales confirmation are deemed rejected and shall be void unless specifically accepted in writing by the party against whom their enforcement is sought; mere commencement of work or payment against such forms shall not be deemed acceptance of the terms. No amendment to or modification of this Agreement is effective unless it is in writing and signed by an authorized representative of each party. Any amendment to this SaaS shall only apply to Purchase Orders for the associated product or service offering after the effective date of such update or amendment

**9.5. DATAMARK Personal Data Obligations.** In performing the SaaS Agreement, DATAMARK will comply with the Michael Baker, International (Michael Baker) Privacy Policy, which is available at <https://mbakerintl.com/privacy-policy/>, and incorporated herein by reference. The Michael Baker Privacy Policy is subject to change at Michael Baker's discretion; however, Michael Baker's policy changes will not result in a material reduction in the level of protection provided for Customer data during the period for which fees for the VEP Software have been paid. The policies referenced in this SaaS Agreement specify our respective responsibilities for maintaining the security of Customer data in connection with the SaaS Agreement. DATAMARK will only process Customer Personal Data in a manner that is reasonably

necessary to provide a VEP System and/or VEP Software and will only process Customer Personal Data for the purpose of delivering DATAMARK SaaS.

- 9.6. Assignment. Neither party may assign this SaaS Agreement or any right under this SaaS Agreement, without the consent of the other party, which consent shall not be unreasonably withheld or delayed; provided however, that either party may assign this SaaS Agreement to an acquirer of all or substantially all of the business of such party to which this SaaS Agreement relates, whether by merger, asset sale or otherwise. This SaaS Agreement shall be binding upon and inure to the benefit of the parties' successors and permitted assigns. Either party may employ subcontractors in performing its duties under this SaaS Agreement, provided, however, that such party shall not be relieved of any obligation under this SaaS Agreement.
- 9.7. No Third-party Beneficiaries. This Agreement is for the sole benefit of the parties hereto and nothing herein, express or implied, is intended to or shall confer upon any other Person any legal or equitable right, benefit or remedy of any nature whatsoever under or because of this Agreement.
- 9.8. Severability. If any term of this SaaS Agreement is held to be invalid or unenforceable, that term shall be reformed to achieve as nearly as possible the same effect as the original term, and the remainder of this SaaS Agreement shall remain in full force.
- 9.9. Surviving Terms. Sections 1, 2, and 7 through 11 of this SaaS Agreement shall survive the expiration or termination of this SaaS Agreement for any reason.
- 9.10. Governing Law. This Agreement is governed by and construed in accordance with the internal laws of the State of Texas without giving effect to any choice or conflict of law provision or rule that would require or permit the application of the laws of any jurisdiction other than those of the State of Texas.
- 9.11. Compliance with Laws. DATAMARK shall comply with all applicable local, state, national in connection with its delivery of the DATAMARK SaaS, including those laws related to data privacy, and the transmission of technical or personal data.
- 9.12. Dispute Resolution. Customer's satisfaction is an important objective to DATAMARK in performing its obligations under this SaaS Agreement. Except with respect to intellectual property rights, if a dispute arises between the parties relating to the interpretation or performance of this SaaS Agreement or the grounds for the termination hereof, the parties agree to hold a meeting within fifteen (15) days of written request by either party, attended by individuals with decision-making authority, regarding the dispute, to attempt in good faith to negotiate a resolution of the dispute prior to pursuing other available remedies. If, within 15 days after such meeting, the parties have not succeeded in resolving the dispute, either party may protect its interests by any lawful means available to it.
- 9.13. Signatures. This Agreement may be executed in counterparts, each of which is deemed an original, but all of which together are deemed to be one and the same agreement. A signed copy

of this Agreement delivered by facsimile, e-mail or other means of electronic transmission is deemed to have the same legal effect as delivery of an original signed copy of this Agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Software as a Service Agreement as of the provided effective date: \_\_\_\_\_.

**MICHAEL BAKER  
INTERNATIONAL, INC.**

**CUSTOMER**

Signature: \_\_\_\_\_  
Name: Jason Bivens \_\_\_\_\_  
Title: Vice President \_\_\_\_\_  
Date: \_\_\_\_\_

Signature: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

## **EXHIBIT A: SCOPE OF WORK**

This proposal, including the scope of work and cost, is a firm offer valid for 60 days after submission to the City of Baytown.

This scope includes Editor subscription of DATAMARK VEP, described in detail below.

### **DATAMARK VEP (Validate, Edit, and Provision)**

VEP is a cloud-native software solution for public safety GIS data aggregation, preparation, analysis, and maintenance. VEP provides a highly configurable user-friendly interface for GIS and non-GIS personnel to perform location data validation, editing, and quality control in alignment with NENA Next Generation 9-1-1 (NG9-1-1) data standards and GIS industry best practices. VEP supports data from local and regional GIS data providers and neighboring 9-1-1 authorities.

VEP is designed to support the most current NENA NG9-1-1 GIS Data Model and to provide the flexibility to incorporate custom fields and additional schema requirements from our clients' GIS datasets. As the City of Baytown implements the NENA NG9-1-1 GIS Data Model, VEP will become an integral tool for validating, editing, and aggregating GIS data from multiple sources that will be provisioned into the NG9-1-1 GIS Core Services (NGCS) solution.

DATAMARK's technical team, comprised of experts in NG9-1-1 requirements and public safety data workflows, is ready to support the City of Baytown by providing:

- Highly configurable GIS data management solutions for novice to expert level GIS users
- Dedicated technical support of the VEP system
- Comprehensive data QC and validations to prepare data for NG9-1-1
- Platform agnostic design supporting existing public safety systems including CAD, CAD mapping, and AVL

### **Software as a Service (SaaS) Solution**

VEP is a true SaaS solution that provides end users with a secure, web-based system for collecting, preparing, maintaining GIS data. VEP streamlines and optimizes editing and validation processes for provisioning data in 9-1-1 systems and other systems reliant on accurate, reliable GIS information. VEP requires no additional investment in specialized hardware or software.

### **Cloud-Native GIS Data Management Software**

VEP leverages the benefits of cloud-native application development including on-demand access to powerful computing resources, modern data and application services, and dynamic coordination of development activities. This enables DATAMARK to effectively stay ahead of changes to industry processes and standards and bring meaningful product innovations to market faster than traditionally developed software platforms.

### **VEP Software Subscription**

VEP is offered in two subscription models, VEP Validator and VEP Editor, to address the broad range of requirements of local, regional, and state GIS stakeholders. Additionally, VEP Aggregator provides purpose-built

solutions to regional and state organizations for aggregating and managing consolidated GIS datasets used in legacy 9-1-1, NG9-1-1, and other applications.

## **VEP Validator**

Validation is the process of validating and aggregating GIS, MSAG, and ALI data using VEP's data validations. VEP Validator is used to perform a broad range of validations across dozens of categories, configured for each client's specific GIS data management requirements. Validation results are downloadable as markup tables for use within the City of Baytown's GIS environment. VEP's validation features are included in all subscription types.

Validator subscription includes Administrator and Validator user roles; the number of users is based on client population. Additional Validator and Administrator users can be added for additional fees. Validator subscription does not include Editor, Observer, or Aggregator functionality. VEP's user roles are defined in detail in the VEP User Roles section, below.

## **GIS Data Validation**

VEP's validation engine includes a comprehensive suite of tools used to validate and aggregate GIS, MSAG and ALI data which meets and exceeds NENA validation standards. The validation engine enables administrators to run unique QC checks on demand, including DATAMARK's unique Fishbone Analysis.

VEP Validator identifies schema inconsistencies and incompleteness and identifies spatial anomalies and discrepancies within the various datasets. VEP's validations evaluate attribute, topological, and spatial accuracy within each layer and performs cross-feature validations. These validations meet and exceed the NENA standards and include additional checks that support GIS industry best practices for quality control assessments. VEP Validator delivers a comprehensive series of reports on anomalies and changes over time.

## **Fishbone Analysis**

VEP's fishbone analysis compares the placed address point to its geolocated location on the road centerline. This process creates a line between the two locations which provides a powerful dataset for analysis. In clean GIS data, this typically resembles a 'fishbone' with no crossed lines. Where lines cross, a potential anomaly may exist in the GIS data. Data with crossed fishbone lines may be marked as an exception in VEP, following review, to avoid being flagged in future validations.

This analysis reveals anomalies such as address points on the wrong side of the road, out of order address points, or a range of other anomalies.

Fishbone analysis will show an address point that maps to multiple road centerlines and shows attributes duplicated on multiple road segments, or where ranges overlap, causing the address point to be placed on both segments.

Where traditional address point comparison methods may produce false positive results, VEP Validator's fishbone analysis draws a line from the address point to where it falls on its street centerline range as shown in the figure below.



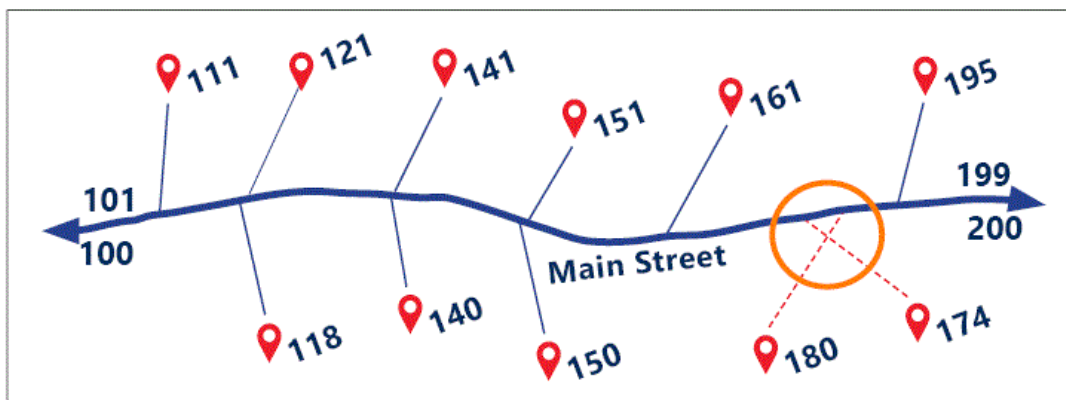


Figure1: Fishbone Analysis

*Example: If the address range of Main Street is 100-200, 150 Main Street will draw to the center of that Main Street centerline segment. In clean GIS data, the visual analysis typically resembles a fishbone along the 100-200 range of Main Street. The crossed lines for 174 and 180 Main Street show a potential anomaly in the GIS data to be reviewed and resolved.*

## VEP Editor

VEP Editor provides a web-based editing interface that enables users to create, maintain, update, validate, and export public safety GIS data. VEP's editing environment includes a comprehensive suite of tools and becomes a force multiplier for GIS departments with limited resources. Editor subscription also includes VEP's Observation features, described below.

Editor subscription includes VEP's validation, editing, and provisioning features. The number of end users who can access the system is based on client population; access for additional Administrator, Editor, Validator, and Observer end users is available for additional fees. VEP's user roles are defined in detail in the VEP User Roles section, below.

## Web-Based GIS Editing

VEP Editor's secure web-based editing environment supports experienced GIS users and can be accessed by non-GIS personnel who have been provided with access credentials without requiring separate expensive GIS desktop software, plug-ins, or extensions. This reduces operating costs, reduces the time spent administering standalone GIS solutions, and enables non-GIS users such as dispatchers, fire inspectors, and other authorized personnel to make meaningful contributions to the Client's 9-1-1 and public safety GIS data.

## Observation

VEP Editor subscription includes observation features which enable non-editors to drop a point on the map and record observations which will be reviewed and processed by GIS editors. The Observation function's ability to provide GIS data feedback from creates operational transparency, increases communication between public safety and GIS professionals, and improves the quality of the 9-1-1 and NG9-1-1 GIS data in real-time.

*Example: A fire engine misrouted to an incorrect location will inform the dispatcher of the routing issue. The dispatcher, who is not a GIS data editor, can use VEP's Observer features to create an observation point and report the routing error. This will send a notification to the GIS authority's GIS data editors, creating an audit trail the editor can use to investigate the issue, resolve any problems in the GIS data, and report how the reported observation was processed.*

## **GIS Data Provisioning with VEP**

Editor subscription includes VEP's GIS data provisioning functions and features. Implementation of VEP includes provisioning to the City of Baytown's native GIS schema and to the NENA NG9-1-1 GIS schema. VEP is platform-agnostic and capable of provisioning GIS data into currently available Spatial Interface (SI) systems.

VEP's download function offers the ability to effectively field map the default database into a custom schema of choice. This functionality enables the client to support multiple public safety and government enterprise systems without needing to change business practices, systems, and data schemas. Examples of relevant output schemas include:

- CAD systems (to potentially include regional stakeholders')
- Transportation
- Asset Management
- Permitting
- Mobile data collection application

## **VEP Aggregator**

VEP Aggregator provides regional public safety GIS stakeholders with solutions for consolidating GIS data from multiple sources into a single database, performing cross-jurisdictional validations on the aggregated dataset, identifying anomalies in the data, and exporting the dataset. After anomalies are identified, before they are exported, they are sent back to the original jurisdiction for review, correction, and resubmission.

Centralized, regional management and ongoing validation of the aggregated GIS dataset streamlines its use across public safety platforms, including legacy 9-1-1, NG9-1-1, Computer-Aided Dispatch (CAD), and others.

VEP Aggregator does not require the purchase of additional software or tools and includes VEP's validation and provisioning features. Consolidating and synchronizing local and regional databases is a seamless process using Aggregator from the VEP system dashboard. As local jurisdictions submit data into the aggregated dataset, regional GIS administrators supporting the database can use Aggregator to perform the following tasks:

- Input local GIS data to an aggregated database
- Perform validations focused on boundary, address point, and road centerline data
- Identify anomalies in the data including boundary gaps, overlaps, and other anomalies
- Export aggregated data in the NENA NG9-1-1 GIS schema

Aggregator is provided to regional or statewide GIS stakeholders managing multi-jurisdiction implementations and includes VEP's validation and provisioning features. Aggregator is not meant to replace VEP Validator or Editor for the management of individual local or regional datasets. Clients who currently use VEP to manage local GIS data can efficiently and easily submit their GIS into the aggregated dataset.

Pricing for Aggregator includes Administrator and Validator role subscription for two (2) users; access for additional Validator and Administrator users is available for additional fees. VEP Aggregator does not include Editor or Observer functionality as these are used by the organizations tasked with managing the individual local and regional GIS data which will be provisioned into the aggregated GIS dataset.

## VEP User Roles

Each VEP subscription model provides clients with specific numbers and types of end user subscription. Access to VEP is based on user role and subscription level, to ensure each user of the system has the features, functions, and tools necessary to perform the tasks that meet the City of Baytown's goals while maintaining security and access control.

VEP user roles are described below:

The **Administrator** role is included in each VEP subscription type and provides users the access to review and approve edits, provisions users and permissions, limits configuration capabilities for display and web service content of the Editor map, and more. This is the highest permission level assigned in the VEP system.

The **Validator** role provides access to VEP's upload, validate, and download functions used to perform data validation and quality control.

The **Editor** role provides access to the VEP dashboard and to the map interface used to perform geometry and attribute edits and validation markups.

The **Observer** role provides access to the map interface to create observations. Observers do not have access to VEP's editing functions.

This proposal includes VEP Editor subscription for the following user roles:

User Role	Number of Users
Administrator	1
Editor	1

*Table 1: User Roles and Number of Users*

## VEP Implementation – Onboarding and Training

The DATAMARK team will provide virtual onboarding and training services to the City of Baytown to support the use of the VEP software. The City of Baytown will provide a suitable location, computer equipment, and internet connectivity required for the DATAMARK team to provide remote virtual onboarding and training services.

### VEP Onboarding

The DATAMARK team will load City of Baytown addressing data into VEP and conduct a virtual onboarding session for VEP users to review native data schema mapping into the VEP software. Administrator user accounts will be set up during Onboarding, other user accounts will be set up by the City of Baytown's VEP Administrator user(s).

### Training – Validator

Following VEP Onboarding, DATAMARK will conduct one four-hour virtual training session for the users identified in Table 1. Validator training will cover:

- Overview of VEP's functions and features

- Accessing the VEP system
- Navigating VEP using the system dashboard
- Uploading and downloading data using VEP
- Data validation and reporting with VEP

### Training – Editor

Following VEP Validator training, DATAMARK will conduct one four-hour virtual training session for the Editor users identified in Table 1. Editor training covers additional VEP functions and features provided to Editor and Observer roles, including:

- Navigating the map section of the VEP interface to view and edit data
- Using VEP's Observation Tool to identify locations with outstanding data issues
- Reviewing and resolve observations submitted using the Observation Tool
- Reviewing editing sessions, validation anomalies, and observations

## VEP Software Support

Software support for VEP is included in the annual SaaS subscription and provided through the term of the SaaS Agreement with the City of Baytown.

VEP's annual subscription includes access to an online support and self-service knowledge center. The DATAMARK VEP Support Center is the first stop for questions about VEP workflow, functionality, and enables users to request support, report issues, and search an online library of videos and articles for information about the system.

### DATAMARK VEP Support Center

The City of Baytown's VEP users will be provided with access to the Support Center through the VEP user interface. The VEP Support Center includes an online support ticket system, a knowledge center to query common issues and system documentation, and a module-based library of user guides, how-to articles, FAQs, video workflow tutorials, and video tips and tricks.

### VEP Support Tickets

VEP provides users with secure access to the Support Center ticket system. This system is used to submit, review, and track the status of support tickets. The DATAMARK VEP Technical Support team responds to Support tickets, users can track the status of support tickets directly from the VEP Support Center.

## VEP SaaS Agreement

This proposal includes VEP subscription provided to the City of Baytown for a period of one (1) year.

**VEP is sold through an annual subscription and is subject to an annual fee.** VEP is provided as a software subscription and contracted through the execution of DATAMARK's SaaS Agreement. The agreement will be automatically renewed unless notice of cancelation is received 60 days before the renewal date.

**CLIENT**

- Participate in a review of client GIS data field mapping for upload into VEP
- Provide a space, computers, and internet connections for training

**DATAMARK**

- Conduct the review of GIS data field mapping for upload into VEP with Client
- Provide user access to VEP and the knowledge base/ticketing system
- Conduct VEP end-user training

# EXHIBIT B: COMPENSATION AND PAYMENT

Software products will be invoiced, in full, upon execution of the VEP SaaS agreement and will be billed annually on the renewal date.

Products	Price
Subtotal DATAMARK VEP Editor Subscription – Annual Cost (MSRP)	\$14,400
Texas DIR CPO-5035 Discount (20.00%)	(\$2,880)
<b>TOTAL DATAMARK VEP Editor VEP Subscription – Annual Cost</b>	<b>\$11,520</b>

## Exhibit C

### **CUSTOMER USE AUTHORIZATION**

Subscriber Name	VEP Type	Tier	A	E	V/O	Specified Rights for Identified Use
City of Baytown	Editor	2	1	1		N/A

Key: A – Administrator; E – Editor; V – Validator; O – Observer

## Appendix A

### **SAAS SERVICE LEVEL AND MAINTENANCE AGREEMENT**

The purpose of this SaaS Service Level and Maintenance Agreement (SLA) is to define the Service Level for the maintenance and support of the DATAMARK SaaS (“VEP Software”). The VEP Software shall be accessible 24 hours per day, 365 days per year subject to routine maintenance and unexpected outages.

Service Level Agreements are used as a tool to measure and guide DATAMARK and Customer in achieving the goals for effective delivery of all DATAMARK SaaS to the Customer. DATAMARK is providing Customer with the capability to run the VEP Software in a hosted environment. DATAMARK may choose to work with other Internet or Application service providers in providing its SaaS to Customer.

The SLA may be modified by DATAMARK from time to time. Updates to the SLA can periodically be found on the DATAMARK VEP Knowledge base accessed through Customer VEP portal. If a modification is unacceptable to Customer, Customer may cancel a subscription, upon written notice to DATAMARK. If Customer continues to use the VEP Software, Customer will be deemed to have accepted the modification. The following SLA shall outline DATAMARK's service level commitment:

#### **1. The VEP Software**

Specifically, DATAMARK will provide the following:

- **Application Administration**  
Software installation and software updates (patches, upgrades, support, and maintenance)
- **Technical Support**  
Online email support during coverage hours, 24x7 access to support portal
- **SaaS Management**  
Client activation, security monitoring, change control, problem management, and escalation procedures
- **System Administration**  
System configuration, deployment, support, monitoring, response, repair, tuning and capacity planning
- **Network Administration**  
Network provisioning, monitoring, response, repair, security, utilization management and capacity planning
- **Data backup and retention**  
Backups of Customer data

Customer is responsible for purchase and maintenance of its own equipment, hardware and access, including but not limited to network and data connection, to establish a connection to the Internet.

#### **2. Server Environment**

##### **2.1 Cloud Services**



The VEP Software is hosted in a secure Amazon Web Services (AWS) cloud environment. Note: AWS ensures data centers are equipped with back-up power supply to ensure power is available to maintain operations in the event of an electrical failure for critical and essential loads in the facility. Dedicated compute power for RDS may be allocated to Customers upon request with additional fees.

## 2.2 Security

DATAMARK ensures that Customer data is protected with data encryption, user authentication, application security, and more. The VEP Software adheres to the following security measures and plans:

- NIST SP 800-53
- Data encryption at TLS
- Proactive Intrusion Detection and Prevention
- Amazon Web Service backup and recovery procedures

Specific measures include:

- All servers are located behind the firewall with only essential ports enabled.
- All firewalls have Intrusion Detection enabled.
- SSL encryption

## 3. Service Measures

### 3.1 Availability

The following availability will be maintained:

Measurement	Definition	DATAMARK SLA
Software Availability	The periods of time that the Software is available for use by the Customer not including scheduled downtime.	24 x 7 x 365, 99.5% average over a month not including scheduled downtime.
User Response Time	The time it takes for the Software to complete a user request and return a response.	Because of many external factors involved in this measurement, the response time cannot be specified.
Backups	Customer data as well as application installation backups	Full database backups of Customer Data are performed routinely every evening. Backup files will be retained for 2 days.
Restoration of SaaS	In the event of a major disaster event, such as flooding of the hosting facility or an earthquake that destroys the infrastructure.	DATAMARK will restore VEP Software at one or more alternate locations within 3 business days.
Maximum Restore Age	It is the maximum age of the data should we need to restore production data from backup.	No more than 48 hours.

Problem Response Time	<p>Provision of user support.</p> <p>Primary Coverage will be 8am- 8pm Eastern time Monday through Friday, excluding statutory holidays.</p> <p>Response time will be calculated by dividing the numbers of issues responded to in one hour or less divided by the total number of issues received for the month.</p>	<p>90% of issues responded to in one hour or less during primary coverage.</p> <p>We are targeting a 90% compliance rate that every issue will be responded to in one hour or less during primary coverage. To calculate this, we take: # of issues responded to in 1 hr or less / total number of issues. For example, if a customer logs 10 issues in 1 month and 9 of them were responded to in 1 hour, we have a 90% compliance rate which means we hit our target.</p>
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### 3.2 Priority Levels

Priority Level	Definition	Expected Response	Communication Intervals
<b>Priority 1</b>	Critical System Issue – Complete System Outage	Support Team takes ownership of Problem – Implements emergency plan. System Monitoring is initiated internally.	4 hour maximum
<b>Priority 2</b>	Major Impact – Impact to the Customer’s Business with no work around	Problem is worked on continuously until it is resolved, or a reasonable workaround is applied, during normal business hours.	8 hour maximum
<b>Priority 3</b>	Large impact – Significant inconvenience to customers where a workaround might be implemented	Work is expected to continue on a workday basis until a more permanent solution is in place.	24 hour maximum
<b>Priority 4</b>	Small to Minor Impact – Minor to Small Inconvenience	Resolution is worked into a planned project list and schedule or it can be deferred until there is time allowed in the project schedule.	Initial response within 72 hour maximum, ongoing weekly updates
<b>Priority 5</b>	Reported bugs or requested enhancements	<p>Bugs are fixed if they are impacting clients’ business.</p> <p>Enhancements are evaluated if approved at DATAMARK’S sole discretion added to the development roadmap as prioritized.</p>	Quarterly unless bug fix is critical to clients’ business

### 3.3 Downtime / Maintenance

DATAMARK periodically adds, repairs, and upgrades the data center hardware and the Software and shall use its best efforts to accomplish this without affecting the Customer’s access to any Software; however, repairs of an emergency or critical nature may result in the VEP Software not being available for the Customer’s usage during the course of such repairs. DATAMARK reserves the right to take down the server(s) at the data center in order to conduct routine maintenance to both software and hardware according to the following protocols:

Item	Description	Commitment
Standard Maintenance Window	Monday - Sunday:	

	1 am – 4 am Pacific Time	
Scheduled Upgrades & Maintenance	<p>Regular planned uploads of new functionality will take place during the release schedule window.</p> <p>The release schedule includes four (4) quarterly releases and other hotfixes, patch releases and maintenance upgrades.</p>	<p>-Minimum of 5-day Notice prior to the upload going into the production environment.</p> <p>-A message will be displayed on the main site stating DATAMARK is down during scheduled upgrades.</p>
Non-Scheduled/Emergency Maintenance	May be performed outside the maintenance window and will be counted as unscheduled downtime.	<p>-Customer will be notified immediately providing Customer as much prior notice as is commercially practicable of all such emergency maintenance to be performed on the VEP Software.</p> <p>-A message will be displayed on the main site stating DATAMARK VEP Software is down.</p> <p>-Provide a general description of all such emergency maintenance performed no more than ten (10) calendar days following completion of such emergency maintenance.</p>

#### **4. Compatibility with New Software**

- 4.1 Customer consents and acknowledges that prior to upgrading customer’s third-party software, the Customer is solely responsible to verify and ensure that such third-party software is compatible with their current or future versions of Software. The most significant applications which the Customer should carefully check for compatibility before upgrading any other third-party tools used with, by, or integrated with the Software. DATAMARK will not be responsible for any failures or malfunctions’ resulting from such upgrade and reserves the right not to provide support for such installations.

#### **5. Limitation of the SLA**

- 5.1 DATAMARK agrees to maintain uptime of at least 99.5% ("Minimum Uptime Level") excluding Routine and Minor Outages. To the extent that DATAMARK fails during any calendar month to provide the Minimum Uptime Level, it shall provide, upon request of Customer, a pro-rated credit to Customer to compensate for the amount of downtime that exceeds the permitted downtime pursuant to this paragraph. Credits granted hereunder shall be determined within a reasonable amount of time.
- 5.2 DATAMARK will use commercially reasonable efforts to make the Hosted VEP Software available during the applicable Service Windows (except during Force Majeure events) and in accordance with generally recognized industry Service Level Standards for non-mission-critical SaaS applications, excluding unavailability as a result of any of the Exceptions described below in this this Section. “Service Level Failure” means a material failure of the

DATAMARK SaaS to meet the Availability Requirement. “Available” means the DATAMARK SaaS is available for access and use by Customer and its Authorized Users over the Internet and operating in material accordance with the Specifications.

- 5.3 Customer must inform DATAMARK’s Technical Support Department by email (a “Credit Request”) within ten (10) days from the end of the month in which the Customer believes that DATAMARK did not satisfy the Availability Commitment, in each instance, and the Credit Request must include a listing of the date(s), time(s) and duration of the downtime experienced during the applicable month. Failure to do so, in any instance, will forfeit Customer’s right to seek a credit from DATAMARK for the failure to achieve the Availability Commitment during the month at issue. Customer’s right to receive a credit for a failure to meet the Availability Requirement for a given month shall be Customer’s exclusive remedy in connection with the Outage(s) giving rise to the credit. The aggregate maximum value of credits to be issued by DATAMARK to Customer for any and all Outages that occur in a single month will not exceed twenty percent (20%) of the Monthly Annual Fees.
- 5.4 The SLA expressly excludes, and neither the DATAMARK SaaS will be considered un-Available nor any Service Level Failure be deemed to occur in connection with any failure to meet the Availability Requirement or impaired ability of Customer or its Authorized Users to access or use the DATAMARK SaaS that is due, in whole or in part, to any of the following:
- a) Scheduled Downtime, or disabling, suspension and/or termination of the DATAMARK SaaS pursuant to the SaaS agreement;
  - b) Installation, configuration and technical support for DATAMARK SaaS;
  - c) Technical support, consultation or problem resolution pertaining to software applications other than those supplied by DATAMARK and described in this Agreement including access to or use of the VEP Software by Customer or any Authorized User, or using Customer’s or an Authorized User’s Access Credentials, that does not strictly comply with the SaaS Agreement, Customer Failure, Customer’s Internet connectivity, failure, interruption, outage or other problem with any software, hardware, system, network, facility or other matter not supplied by DATAMARK pursuant to this Agreement;
  - d) Resolution of problems resulting from negligence of the system user. Including specifically the incorrect data entry, the use of altered data or source code and the failure to use the Software according to the instructions provided in the user guide;
  - e) Support for development (SDK, Web pages, etc.), integration and custom reports, whether developed by Customer or any party other than DATAMARK;
  - f) Any alterations or additions, performed by parties other than DATAMARK, except for programs using product interfaces provided by DATAMARK;
  - g) Use of the Software on an Operating Environment other than that for which such Software was designed, except as expressly prescribed in the user guide;
  - h) Maintenance and support for non-production environments and sand boxes; and
  - i) Data migration.
- 5.5 If Customer requires that a member of DATAMARK’s staff provide services pertaining to any of the above exclusions which are not included as part of the SLA, Customer hereby agrees to pay DATAMARK for these services according to the daily support service rate.

## EXHIBIT A: SCOPE OF WORK

This Scope of Work is attached to and made part of the HGAC-Buy Agreement number EC07-20, between the City of Baytown and DATAMARK, the public safety division of Michael Baker International, Inc.

This scope includes GIS Data Remediation, described in detail below.

### GIS Data Remediation

The DATAMARK team is experienced in remediating GIS data for completeness and quality, leveraging our VEP validation checks, to meet the objectives of public safety workflows including but not limited to NG9-1-1, CAD and AVL.

The City of Baytown will receive data remediation for the following layers:

- Address Points
- Road Centerlines
- MSAG Data
- ALI Data
- Boundaries (NENA Schema, Topology, and Attributes)
  - PSAP Boundaries
  - Emergency Service Boundaries (ESB)

Our best practice for data remediation is to execute in phases ranging from fixing GIS-based fixes to discussing anomalies that may require field verification. After each phase, DATAMARK will perform pulse checks with the Client to review findings and remediation statuses.

#### Phase 1: GIS Based Fixes

GIS-based fixes focus on issues that do not require any questions of the Client and are fixed quickly. These fixes include any required parsing, normalization of values (e.g. suffix types and changing all "AVE" and "AV" to "AVENUE" for consistency).

#### Phase 2: Q/A Review with Client

Anomalies flagged require interaction with the Client to verify and answer questions related to editing the data. This may include any spelling discrepancies or input from client that will allow for a quick fix without requiring any field verification or extensive research.

#### Phase 3: Final Data Delivery

Remaining anomalies require the Client to perform tasks to verify through other resources or field verification. These anomalies are not simple data fixes. DATAMARK will review the Data Remediation results.

#### CLIENT

- Accept Data Deliverable

## **DATAMARK**

- Final data output and data remediation summary report

## **PROJECT MANAGEMENT**

A DATAMARK project manager will be assigned to the implementation of the proposed solution. The project manager will provide hands-on contact with the City of Baytown and oversee all aspects of the project scope, schedule, and budget.

### **Project Kickoff**

The DATAMARK team will set up the project for budget management and perform internal project startup tasks. The DATAMARK team will conduct a project kickoff meeting with key City of Baytown staff overseeing the project and other stakeholders deemed appropriate for the kickoff meeting by the City of Baytown to establish a solid understanding of the project goals, timeline, and approach. Team members will be introduced at the kickoff meeting, and their project roles and responsibilities will be defined. The project schedule will be presented, with focus on the dates for key milestones, and the project management approach will be discussed. The DATAMARK team, in partnership with the City of Baytown, will initiate the project and begin execution of the Scope of Work within 15 business days of receiving a fully executed purchase order and/or fully executed contract, as applicable.

### **Approach**

The DATAMARK team will outline the project management approach, techniques, and tools. The project management approach adheres to Michael Baker's practices for managing project finances, contracts, operations, and schedule.

### **Scope/Schedule/Budget Tracking**

The DATAMARK project manager will perform ongoing tracking and monitoring of the scope, schedule, and budget to keep the overall project on track. This involves regular communication to the DATAMARK team on project status to keep the team focused and working efficiently.

### **Project Reporting**

The project manager will provide project status reports to the City of Baytown on a schedule to be determined during the kickoff meeting.

### **Project Invoicing**

The project manager will provide invoices to the City of Baytown on a monthly basis or by project milestone, as agreed to with the City of Baytown.

## **CLIENT**

- Participate in project kickoff meeting
- Review, comment on (as necessary), and approve monthly invoices

#### **DATAMARK TEAM**

- Project kickoff meeting
- Schedule project status calls and reports with the client
- Deliver invoices to the client

## EXHIBIT B: COMPENSATION AND PAYMENT

DATAMARK will invoice the City of Baytown on a monthly basis for services as they are rendered, not to exceed the total fixed price shown below.

Services	Price
Subtotal GIS Data Remediation (MSRP)	\$88,000
HGAC-Buy Agreement EC07-20 Discount (10%)	(\$8,000)
<b>TOTAL GIS Data Remediation</b>	<b>\$80,000</b>

HGAC-Buy Resource List	Hourly	% Of Project
Project Manager	\$167	11%
Technical Manager	\$140	12%
GIS Analyst	\$115	13%
GIS Technician	\$106	64%
Lodging (Per Day/Person)	Project Specific Cost	
Meals (Per Day/Person)	Project Specific Cost	
Vehicle Rental (Per Car/Day)	Project Specific Cost	
Air Travel (Per Roundtrip/Person)	Project Specific Cost	
Parking/Tolls (Each)	Direct Cost	



IN WITNESS WHEREOF, the parties hereto have executed this Scope of Work attached to the HGAC-Buy Contract number EC07-20 as of the provided effective date:

MICHAEL BAKER INTERNATIONAL, INC.

CITY OF BAYTOWN

Signature: \_\_\_\_\_

Name: Jason Bivens \_\_\_\_\_

Title: Vice President \_\_\_\_\_

Date: \_\_\_\_\_

Signature: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**CITY OF BAYTOWN, TEXAS**  
**INDEBTEDNESS CERTIFICATION**

**Project Name:** Next Gen 911 services from Datamark

**Company Name:** Michael Baker International, Inc

**Department:** Information Technology Service (ITS)

**Date:** 08/24/2022

**Council Date:** 09/08/2022

A review of the above-described company was made in accordance with 2-663 of the City of Baytown Code of Ordinances and the aforementioned company was found:

☐ to be indebted to the City in the following areas:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

☒ not to be indebted to the City.

It is hereby certified the above is true and correct based on the best information available.

  
\_\_\_\_\_  
Director of Finance

08/24/2022

\_\_\_\_\_  
Date

For information regarding this certificate, please contact the Finance Director at 281-420-6531.

If an appeal to this determination is to be filed under section 2-664 of this code, please forward to the following address:

City of Baytown  
Director of Finance  
P O Box 424  
Baytown, TX 77522-0424



## CITY COUNCIL MEETING

11. e.

**Meeting Date:** 09/08/2022

**Subject:** Professional Services Agreement with Kimley-Horn and Associates, Inc.,

**Prepared for:** Rick Davis, City Management **Prepared by:** Brian Moran, Administration

**Department:** City Management

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### **Information**

#### **ITEM**

Consider an ordinance authorizing a Professional Services Agreement with Kimley-Horn and Associates, Inc., to provide assistance in the submission of a Rebuilding American Infrastructure with Sustainability and Equity Grant for Segments C-F of Garth Road.

#### **PREFACE**

This proposed ordinance authorizes a Professional Services Agreement with Kimley-Horn and Associates, Inc. to assist in submitting a Rebuilding American Infrastructure with Sustainability and Equity (RAISE) Grant for segments C-F of Garth Road in an amount not to exceed \$60,000.

RAISE grants are for capital investments in surface transportation that have a significant local or regional impact. Projects selected to receive funding through the RAISE grant program are eligible for federal funds between 5 and 25 million dollars. The RAISE program enables the US Department of Transportation (USDOT) to use a rigorous merit-based process to select projects with exceptional benefits, explore ways to deliver projects faster, save on construction costs, and make needed investments in our Nation's infrastructure.

This contract will provide staff technical assistance and additional support to ensure a competitive and compliant application is submitted to the USDOT that meets all the required guidelines outlined in the Notice of Funding Opportunity (NOFO). The scope of the work includes project description, project location and demographics, estimated costs and uses of all project funds, merit criteria, project readiness, environmental risk assessment, and benefit-cost analysis for segments C-F of Garth Road.

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### **Fiscal Impact**

**Fiscal Year:** 21/22  
**Acct Code:** 32302-74021-RW1901-74021  
**Source of Funds (Operating/Capital/Bonds):** Capital  
**Funds Budgeted Y/N:** Y  
**Amount Needed:** \$60,000.00  
**Fiscal Impact (Additional Information):**

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### **Attachments**

Ordinance - Professional Services Agreement  
Exhibit A - Professional Services Agreement  
Indebtedness Certification

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AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BAYTOWN, TEXAS, AUTHORIZING A PROFESSIONAL SERVICES AGREEMENT WITH KIMLEY-HORN AND ASSOCIATES, INC., TO PROVIDE ASSISTANCE IN THE SUBMISSION OF A REBUILDING AMERICAN INFRASTRUCTURE WITH SUSTAINABILITY AND EQUITY GRANT FOR SEGMENTS C-F OF GARTH ROAD; AUTHORIZING PAYMENT BY THE CITY OF BAYTOWN IN AN AMOUNT NOT TO EXCEED SIXTY THOUSAND AND NO/100 DOLLARS (\$60,000.00); MAKING OTHER PROVISIONS RELATED THERETO; AND PROVIDING FOR THE EFFECTIVE DATE THEREOF.

\*\*\*\*\*

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BAYTOWN, TEXAS:

Section 1: That the City Council of the City of Baytown, Texas, hereby authorizes and directs the City Manager to execute and the City Clerk to attest to a Professional Services Agreement with Kimley-Horn and Associates, Inc., to provide assistance in the submission of a Rebuilding American Infrastructure with Sustainability and Equity Grant for segments C-F of Garth Road. A copy of said agreement is attached hereto as Exhibit "A" and incorporated herein for all intents and purposes.

Section 2: That the City Council of the City of Baytown authorizes payment to Kimley-Horn and Associates, Inc., in an amount not to exceed SIXTY THOUSAND AND NO/100 DOLLARS (\$60,000.00) for professional services in accordance with the agreement authorized in Section 1 hereinabove.

Section 3: That the City Manager is hereby granted general authority to approve a decrease or an increase in costs by FIFTY THOUSAND AND NO/100 DOLLARS (\$50,000.00) or less, provided that the amount authorized in Section 2 hereof may not be increased or decreased by more than twenty-five percent (25%).

Section 4: This ordinance shall take effect immediately from and after its passage by the City Council of the City of Baytown.

INTRODUCED, READ and PASSED by the affirmative vote of the City Council of the City of Baytown this the 8<sup>th</sup> day of September, 2022.

\_\_\_\_\_  
BRANDON CAPETILLO, Mayor

ATTEST:

\_\_\_\_\_  
ANGELA JACKSON, City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
SCOTT LEMON, City Attorney

# EXHIBIT "A"

## AGREEMENT FOR CONSULTING SERVICES

STATE OF TEXAS                   §  
   §  
COUNTY OF HARRIS           §

This Agreement (this "Agreement") is entered into by and between Kimley-Horn and Associates, INC. (hereinafter "Consultant") and the City of Baytown, a home-rule municipality located in Harris and Chambers Counties, Texas (the "City").

### 1. Scope of Services/Consultant Fees

This Agreement authorizes Consultant to perform engineering services for Garth Road Grant Services (the "Work") for and on behalf of the City. The scope of the Work is detailed in Exhibit "A." The compensation and professional fees for Consultant and its subconsultants is more particularly described in Exhibit "B" and shall not exceed SIXTY THOUSAND AND 0/100 DOLLARS (\$60,000.00). The time schedules for the Work are specified in Exhibit "C." Each of these Exhibits "A" through "C" are incorporated into this Agreement by reference for all purposes.

### 2. Compensation and Professional Fees

- a. The City shall pay Consultant in installments based upon monthly progress reports and detailed invoices submitted by the Consultant based upon the following:

1. Design Phase Services (Lump Sum).....	\$
2. Bid Phase Services (Hourly Not to Exceed) .....	\$
3. Construction Phase Services (Hourly Not to Exceed) .....	\$
4. Additional Services (Lump Sum) .....	\$
(These services require independent and specific advance, written authorization)	
5. Reimbursable Expenses (Not to Exceed).....	\$60,000.00
<b>6. Total .....</b>	<b>\$60,000.00</b>

- b. For an agreed contract amount identified as "Lump Sum," "Not to Exceed" and "Reimbursable," Consultant shall not exceed the fixed contractual amount without written authorization in the form of a Contract amendment.

- c. Reimbursable Expenses, as shown in Exhibit "B," are itemized by work category. Reimbursable Expenses shall be invoiced AT COST, without subsequent markup by Consultant. All invoices containing a request for Reimbursable Expenses shall include copies of the original expense receipts itemized per allowable category.

- (1) Allowable reimbursable Expenses include:
- (a) Hard copy reproductions, copies, and/or binding costs;
  - (b) Postage;

- (c) Mileage, for travel from Consultant's local office (within a 25-mile radius) to meetings at the City or jobsite. Mileage shall be charged at the current IRS rates;
  - (d) Travel Expenses, mileage from local office to state or federal regulatory agency office beyond 100 miles; and
  - (e) Lodging expenses for destinations beyond 100 miles from Consultant's local office AND when business hours exceed eight hours within one business day OR when Consultant's services require more than one eight-hour day at the destination; provided such expenses has been approved in writing by the City.
- (2) Disallowed Expenses include travel expenses for professional expertise traveling into the Greater Houston Area from Consultant's office outside the Greater Houston Area.
- d. Consultant shall invoice based upon total services actually completed during the applicable month. Invoices and all required or requested backup information shall be tendered no more often than once a month. Consultant shall not invoice the City for services or expenses that were incurred more than sixty (60) days before the date of the invoice. Failure to timely invoice the City for services or expenses shall result in Consultant's invoice being denied.
- e. In the event of a disputed or contested invoice, the City may withhold from payment that portion so disputed or contested, and the undisputed portion will be paid.

### **3. Personnel of Consultant**

- a. **Consultant's Project Manager**  
Consultant shall designate Peyton Arens, PE, RSP, to serve as Project Manager for the Work performed under this Agreement. Any change of Project Manager shall require thirty (30) days advance written approval from the City's Representative.
- b. **Licensed and Registered Architects/Engineers**  
Consultant shall keep full-time registered architects and/or engineers licensed in the State of Texas on staff and assigned to the Work for the duration of its performance of the Work.
- c. **Data on Consultant's Employees**  
Prior to commencement of the Work, Consultant shall forward to the City a detailed resume of the personnel that will be assigned to the Work. Such personnel shall include, but not be limited to, architects and/or engineers as applicable.

- d. Rejection of Consultant's Employees  
The City reserves the right to approve or reject from the Work any employees of Consultant.

#### **4. Designation and Duties of the City's Representative**

- a. The City's Director of Public Works and Engineering or his designee shall act as the City's Representative.
- b. The City's Representative shall use his best efforts to provide nonconfidential City records for Consultant's usage on the Work and to provide access to City's property and easements. However, the City does not guarantee the accuracy or correctness of the documents so provided. Notwithstanding the foregoing, Professional shall be entitled to use and rely upon information provided by the City in performing the services required under this Agreement only to the extent and level specified by the City in writing for each document provided. Nothing contained herein shall be construed to require the City to provide such records in any certain format. The format in which the existing data and documentation will be provided shall be at the sole discretion of the City.

#### **5. Standards of Performance**

- a. Consultant shall perform all services under this Agreement with the care and skill ordinarily used by members of Consultant's profession practicing under the same or similar circumstances, time and locality. Opinion of probable cost shall be based upon the Consultant's experience and represent its best judgment as an experienced and qualified professional. Each submittal of opinion of probable cost shall be commensurate with the project design.

Consultant shall be responsible for the technical accuracy of its services and documents resulting therefrom, and the City shall not be responsible for discovering deficiencies therein. Consultant shall correct such deficiencies without additional compensation.

- b. Codes and Standards
  - (1) All references to codes, standards, environmental regulations and/or material specifications shall be to the latest revision, including all effective supplements or addenda thereto, as of the date that the order for any necessary equipment is made by the City or that the construction specified is bid by the City.
  - (2) If any such equipment is specially manufactured, it shall be identified to the City, and the Contractor and the Seller shall present sufficient data to the City to support the design and the suitability of the equipment.



- (3) All materials specified on any City project shall be in accordance with City, ASTM, ACI, and AASHTO specifications, and with other recognized standards. Proprietary material or other materials for which no generally recognized standards exist may be used provided there has been at least five (5) years of proven experience in the field, and such satisfactory documentation has been approved by the City's Representative.
- (4) The Work shall be designed and furnished in accordance with the most current codes and/or standards adopted by city, state, or federal government or in general custom and usage by the profession and shall comply with Texas Department of Licensing and Regulation's rules and regulations, including the Texas Accessibility Standards.
- (5) The codes and standards used in the profession set forth minimum requirements. These may be exceeded by the Contractor or Consultant if superior methods are available for successful operation of equipment and/or for the construction project on which the Work is performed. Any alternative codes or regulations used shall have requirements that are equivalent or better than those in the above-listed codes and regulations. Consultant shall state the alternative codes and regulations used.
- (6) Consultant agrees the services it provides as an experienced and qualified architect/engineer will reflect the professional standards, procedures and performances common in the industry for this project. Consultant further agrees that any analysis, reports, preparation of drawings, the designation or selection of materials and equipment, the selection and supervision of personnel and the performance of other services under this contract will be pursuant to the standard of performance common in the profession.
- (7) Consultant shall promptly correct any defective analysis caused by Consultant at no cost to City. The City's approval, acceptance, use of or payment for all or any part of Consultant's services hereunder or of the Work itself shall in no way alter Consultant's obligations or the City's rights under this Agreement. As applicable, Consultant shall provide the City with record "as-built" drawings relating to the Work in an electronic format that is acceptable to the City. City shall be in receipt of record drawings, if applicable, prior to final payment.
- (8) Consultant has no control over the cost of labor, materials, equipment or services furnished by others, other than its subconsultants. Data projections and estimates are based upon Consultant's opinion based on experience and judgment. Consultant cannot and does not guarantee that actual costs and/or quantities realized will vary from the data projections and estimates prepared by Consultant.

- (9) Consultant shall submit all final construction documents in both hard copy and electronic format. Plans shall be AutoCAD compatible and all other documents shall be Microsoft Office compatible. The software versions used shall be compatible to current City standards. Other support documents, for example, structural calculations, drainage reports and geotechnical reports, shall be submitted in hard copy only. All Record Drawings electronic files shall be submitted to the City in PDF/TIF format.

## **6. Schedule**

Consultant shall not proceed with the Work or any stage thereof until written notice to proceed is provided by the City's Representative. Consultant's obligation to render services specified in Exhibit "B" will be for the entire period necessary for the final completion of the construction of the Work. If the Consultant contributes to any delay in the schedule, Consultant will have no right to seek and shall not be entitled to any additional compensation.

## **7. Instruments of Service**

Upon execution of this Agreement, Consultant grants to the City an ownership interest in the Instruments of Service. Consultant shall obtain similar interests from the City and Consultant's consultants consistent with this Agreement. As noted in Articles 5 and 11, Consultant shall be required to tender to City all Instruments of Service. With such ownership interest, it is expressly understood by the parties hereto that the City may use the Instruments of Service for any purposes which the City sees fit, including, but not limited to, subsequent construction, reconstruction, alteration, and/or repairs of the Project. As a condition to the City's use of the Instruments of Service, the City hereby expressly agrees to remove Consultant's name and all references to Consultant and its consultants from the Documents. Provided that this Agreement is not terminated for cause by the City, the City shall release any and all claims which the City could make arising out of or in connection with any reuse of the documents by the City.

## **8. Insurance**

Consultant shall procure and maintain at its sole cost and expense for the duration of the Agreement, insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the Work hereunder by Consultant, its agents, representatives, volunteers, employees or subconsultants.

- a. Consultant's insurance coverage shall be primary insurance with respect to the City, its officials, employees and agents. Any insurance or self-insurance maintained by the City, its officials, employees or agents shall be considered in excess of Consultant's insurance and shall not contribute to it. Further, Consultant shall include all subconsultants, agents and assigns as additional insureds under its policy or shall furnish separate certificates and endorsements for each such person or entity. All coverages for subconsultants and assigns shall be subject to all of the requirements stated herein.

The following is a list of standard insurance policies along with their respective minimum coverage amounts required in this Agreement:

1. Commercial General Liability
  - General Aggregate: \$2,000,000
  - Products & Completed Operations Aggregate: \$2,000,000
  - Personal & Advertising Injury: \$1,000,000
  - Per Occurrence: \$1,000,000
  - Fire Damage \$500,000
  - Waiver of Subrogation required
  - Coverage shall be broad form
  - No coverage shall be deleted from standard policy without notification of individual exclusions being attached for review and acceptance.
2. Business Automobile Policy
  - Combined Single Limits: \$1,000,000
  - Coverage for "Any Auto"
  - Waiver of Subrogation required.
3. Errors and Omissions
  - Limit: \$1,000,000 for this project
  - For all architects, engineers, and/or design companies
  - Claims-made form is acceptable
  - Coverage will be in force for one (1) year after completion of the Project.
  - Waiver of Subrogation required.
4. Workers' Compensation
  - Statutory Limits
  - Employer's Liability \$500,000
  - Waiver of Subrogation required.

b. The following shall be applicable to all policies of insurance required herein.

1. Insurance carrier for all liability policies must have an A.M. Best Rating of A:VIII or better.
2. Only insurance carriers licensed and admitted to do business in the State of Texas will be accepted.
3. Liability policies must be on occurrence form. Errors and Omissions can be on claims-made form.
4. Each insurance policy shall be endorsed to state that coverage shall not be suspended, voided, canceled or reduced in coverage or in limits except after thirty (30) days prior written notice by mail, return receipt requested, has been given to the City.

5. The City, its officers, agents and employees are to be added as Additional Insureds to all liability policies, with the exception of the Workers' Compensation and Errors and Omissions Policies required herein.
6. Upon request and without cost to the City, certified copies of all insurance policies and/or certificates of insurance shall be furnished to the City.
7. Upon request and without cost to the City, loss runs (claims listing) of any and/or all insurance coverages shall be furnished to the City.
8. All insurance required herein shall be secured and maintained in a company or companies satisfactory to the City, and shall be carried in the name of Consultant. Consultant shall provide copies of insurance policies and endorsements required hereunder to the City on or before the effective date of this Agreement.

**9. Indemnification and Release**

**CONSULTANT AGREES TO AND SHALL INDEMNIFY AND HOLD HARMLESS AND DEFEND THE CITY, ITS OFFICERS, AGENTS, AND EMPLOYEES (HEREINAFTER REFERRED TO AS THE "CITY") FROM AND AGAINST ANY AND ALL CLAIMS, LOSSES, DAMAGES, CAUSES OF ACTION, SUITS AND LIABILITY OF EVERY KIND, INCLUDING ALL EXPENSES OF LITIGATION, COURT COSTS, AND ATTORNEY'S FEES, FOR INJURY TO OR DEATH OF ANY PERSON, FOR DAMAGE TO ANY PROPERTY OR FOR ANY BREACH OF CONTRACT TO THE EXTENT ARISING OUT OF OR IN CONNECTION WITH AN ACT OF NEGLIGENCE, INTENTIONAL TORT, INTELLECTUAL PROPERTY INFRINGEMENT, OR FAILURE TO PAY A SUBCONTRACTOR OR SUPPLIER COMMITTED BY THE PROFESSIONAL OR THE CONSULTANT'S AGENT, CONSULTANT UNDER CONTRACT, OR ANOTHER ENTITY OVER WHICH THE CONSULTANT EXERCISES CONTROL (COLLECTIVELY, CONSULTANT'S PARTIES). IT IS THE EXPRESS INTENTION OF THE PARTIES HERETO, BOTH CONSULTANT AND THE CITY, THAT THE INDEMNITY PROVIDED FOR IN THIS PARAGRAPH IS INDEMNITY BY CONSULTANT TO INDEMNIFY AND PROTECT THE CITY FROM THE CONSEQUENCES OF CONSULTANT'S PARTIES' OWN WILLFUL MISCONDUCT, JOINT OR SOLE NEGLIGENCE AS WELL AS THE CONSULTANT'S PARTIES' INTENTIONAL**

**TORTS, INTELLECTUAL PROPERTY INFRINGEMENTS, AND FAILURES TO MAKE PAYMENTS ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT. SUCH INDEMNITY SHALL NOT APPLY, HOWEVER, TO LIABILITY ARISING FROM THE PERSONAL INJURY, DEATH, OR PROPERTY DAMAGE OF PERSONS THAT IS CAUSED BY OR RESULTS FROM THE NEGLIGENCE OF ANY PERSON OTHER THAN THE CONSULTANT'S PARTIES. IN THE EVENT THAT ANY ACTION OR PROCEEDING IS BROUGHT AGAINST THE CITY FROM WHICH THE CITY IS INDEMNIFIED, CONSULTANT FURTHER AGREES AND COVENANTS TO DEFEND THE ACTION OR PROCEEDING BY LEGAL COUNSEL ACCEPTABLE TO THE CITY. THE INDEMNITY PROVIDED HEREINABOVE SHALL SURVIVE THE TERMINATION AND/OR EXPIRATION OF THIS AGREEMENT.**

By this Agreement, the City does not consent to litigation or suit, and the City hereby expressly revokes any consent to litigation that it may have granted by the terms of this Contract or any other contract or agreement, any charter, or applicable state law. Nothing herein shall be construed so as to limit or waive the City's sovereign immunity. Consultant assumes full responsibility for its services performed hereunder and hereby releases, relinquishes and discharges the City, its officers, agents, and employees from all claims, demands, and causes of action of every kind and character, including the cost of defense thereof, for any injury to or death of any person (whether they be either of the parties hereto, their employees, or other third parties) and any loss of or damage to property (whether the property be that of either of the parties hereto, their employees, or other third parties) that is caused by or alleged to be caused by, arising out of, or in connection with Consultant's services to be performed hereunder. This release shall apply with respect to Consultant's services regardless of whether said claims, demands, and causes of action are covered in whole or in part by insurance.

**10. Subcontractors and Subconsultants**

Consultant shall receive written approval of the City's Representative prior to the use of any subcontractors or subconsultants. A copy of all proposed contracts with subconsultants and/or subcontractors shall be given to the City before execution of such contracts.

**11. Termination of Consultant**

The City, besides all other rights or remedies it may have, shall have the right to terminate this Agreement without cause upon written notice from the City Manager to Consultant of the City's election to do so. Furthermore, the City may immediately and without notice terminate this Agreement if Consultant breaches this Agreement. A breach of this Agreement shall include, but not be limited to, the following:

- (a) failing to pay insurance premiums, liens, claims or other charges;
- (b) failing to pay any payments due the city, state, or federal government from Consultant or its principals, including, but not limited to, any taxes, fees, assessments, liens, or any payments identified in this Agreement;
- (c) the institution of voluntary or involuntary bankruptcy proceeding against Consultant;
- (d) the dissolution of Consultant;
- (e) refusing or failing to prosecute the Work or any separable part with the diligence that will ensure its completion within the time specified in this Agreement;
- (f) failing to complete Work within the time period specified in this Agreement; and/or
- (g) the violation of any provision of this Agreement.

Upon delivery of any notice of termination required herein, Consultant shall discontinue all services in connection with the performance of the Agreement. Within ten (10) days after receipt of the notice of termination, Consultant shall submit a final statement showing in detail the services satisfactorily performed and accepted and all other appropriate documentation required herein for payment of services. At the same time that the final statement is tendered to the City, Consultant shall also tender to the City's Representative all of Consultant's instruments of service, including all drawings, special provisions, field survey notes, reports, estimates, and any and all other documents or work product generated by Consultant under this Agreement, whether complete or not, in an acceptable form and format together with all unused materials supplied by the City. No final payment will be made until all such instruments of service and materials supplied are so tendered.

If this Agreement is terminated for cause, Consultant shall be liable for any damage to the City resulting therefrom. This liability includes any increased costs incurred by the City in completing Consultant's services. The rights and remedies of the City in this section are in addition to any other rights and remedies provided by law or under this Agreement.

## **12. Records**

Within ten (10) days of the City's request and at no cost to the City, the City will be entitled to review and receive a copy of all documents that indicate work on the Project that is subject to this Agreement.

## **13. Supervision of Consultant**

Consultant is an independent contractor, and the City neither reserves nor possesses any right to control the details of the Work performed by Consultant under the terms of this Agreement.

## **14. Billing**

The City shall have thirty (30) days to pay Consultant's invoices from the date of receipt of such invoices and necessary backup information. All invoices must identify with specificity the work or services performed and the date(s) of such work or services. In the event of a disputed or contested invoice, the parties understand and agree that the City may withhold the portion so contested, but the undisputed portion will be paid. Consultant shall invoice the City for work

performed no more than once a month and may not invoice the City for work not performed. Invoices shall be received by the City no later than sixty (60) calendar days from the date Consultant and/or its subconsultants perform the services or incur the expense. Failure by Consultant to comply with this requirement shall result in Consultant's invoice being denied and the City being relieved from any liability for payment of the late invoice.

#### **15. Indebtedness**

If Consultant, at any time during the term of this Agreement, incurs a debt, as the word is defined in section 2-662 of the Code of Ordinances of the City of Baytown, it shall immediately notify the City's Director of Finance in writing. If the City's Director of Finance becomes aware that Consultant has incurred a debt, the City's Director of Finance shall immediately notify Consultant in writing. If Consultant does not pay the debt within thirty (30) days of either such notification, the City's Director of Finance may deduct funds in an amount equal to the debt from any payments owed to Consultant under this Agreement, and Consultant waives any recourse therefor.

#### **16. Verifications**

The Consultant makes the following verifications in accordance with Chapters 2271 and 2274 of the Texas Government Code:

- a. the Consultant does not boycott Israel and will not boycott Israel during the term of the contract to be entered into with the City of Baytown;
- b. the Consultant does not boycott energy companies and will not boycott energy companies during the term of the contract to be entered into with the City of Baytown; and
- c. the Consultant does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association and will not discriminate during the term of the contract against a firearm entity or firearm trade association.

#### **17. Reputation in the Community**

Consultant shall retain a high reputation in the community for providing professional architectural/engineering services. Consultant shall forward a copy of any current petition or complaint in any court of law which (a) asserts a claim for \$50,000 or more for errors or omissions in providing architectural/engineering services and/or (b) seeks to deny Consultant the right to practice architecture/engineering or to perform any other services in the state of Texas.

#### **18. Payroll and Basic Records**

- a. Consultant shall maintain payrolls and basic payroll records during the course of the work performed under this Agreement and shall preserve them for a period of three(3) years from the completion of the work called for under this Agreement for all personnel working on such work. Such records shall contain the name and address of each such employee, social security number, correct classification, hourly rates of wages paid, daily and weekly number of hours worked, deductions made and actual wages paid.

- b. Consultant shall make the records required to be maintained under the preceding subsection (a) of this section available at no cost to the City for inspection, copying or transcription or its authorized representatives within fifteen (15) days of the City's request therefor. Consultant shall permit such representatives to interview Consultant's employees during working hours on the job.

## **19. Governing Law**

This Agreement has been made under and shall be governed by the laws of the State of Texas. The parties further agree that performance and all matters related thereto shall be in Harris County, Texas.

## **20. Notices**

Unless otherwise provided in this Agreement, any notice provided for or permitted to be given must be in writing and delivered in person or by depositing same in the United States mail, postpaid and registered or certified, and addressed to the party to be notified, with return receipt requested, or by delivering the same to an officer of such party. Notice deposited in the mail as described above shall be conclusively deemed to be effective, unless otherwise stated in this Agreement, from and after the expiration of three (3) days after it is so deposited.

For the purpose of notice, the addresses of the parties shall be as follows unless properly changed as provided for herein below:

For the City:

CITY OF BAYTOWN  
Attn: City Manager  
P. O. Box 424  
Baytown, Texas 77522-0424

For Consultant:

Kimley-Horn and Associates, INC  
Attn: Connie Curtis, PE  
11700 Katy Freeway, Suite 800  
Houston, TX 77079

Each party shall have the right from time to time at any time to change its respective address and each shall have the right to specify a new address, provided that at least fifteen (15) days written notice is given of such new address to the other party.

## **21. No Third-Party Beneficiary**

This Agreement shall not bestow any rights upon any third party, but rather, shall bind and benefit Consultant and the City only. No person or entity not a signatory to this Agreement shall be entitled to rely on Professional's performance of its services hereunder, and no right to assert a claim against Professional by assignment of indemnity rights or otherwise shall accrue to a third party as a result of this Agreement or the performance of Professional's services hereunder.



**22. No Right to Arbitration**

Notwithstanding anything to the contrary contained in this Agreement, the City and Consultant hereby agree that no claim or dispute between the City and Consultant arising out of or relating to this Agreement shall be decided by any arbitration proceeding, including, without limitation, any proceeding under the Federal Arbitration Act (9 U.S.C. Sections 1-14), or any applicable State arbitration statute, including, but not limited to, the Texas General Arbitration Act, provided that in the event that the City is subjected to an arbitration proceeding notwithstanding this provision, Consultant consents to be joined in the arbitration proceeding if Consultant's presence is required or requested by the City of complete relief to be recorded in the arbitration proceeding.

**23. Waiver**

No waiver by either party to this Agreement of any term or condition of this Agreement shall be deemed or construed to be a waiver of any other term or condition or subsequent waiver of the same term or condition.

**24. Complete Agreement**

This Agreement represents the entire and integrated agreement between the City and Consultant in regard to the subject matter hereof and supersedes all prior negotiations, representations or agreements, either whether written or oral, on the subject matter hereof. This Agreement may only be amended by written instrument approved and executed by both of the parties. The City and Consultant accept and agree to these terms.

**25. No Assignment**

Consultant may not sell or assign all or part interest in this Agreement to another party or parties without the prior express written approval of the City Manager of such sale or assignment. The City may require any records or financial statements necessary in its opinion to ensure such sale or assignment will be in the best interest of the City.

**26. Headings**

The headings used in this Agreement are for general reference only and do not have special significance.

**27. Severability**

All parties agree that should any provision of this Agreement be determined to be invalid or unenforceable, such determination shall not affect any other term of this Agreement, which shall continue in full force and effect.

**28. Ambiguities**

In the event of any ambiguity in any of the terms of this Agreement, it shall not be construed for or against any party hereto on the basis that such party did or did not author the same.

**29. Authority**

The officers executing this Agreement on behalf of the parties hereby represent that such officers have full authority to execute this Agreement and to bind the party he/she represents.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement in multiple copies, each of which shall be deemed to be an original, but all of which shall constitute but one and the same Agreement on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, the date of execution by the City Manager of the City of Baytown.

CITY OF BAYTOWN

\_\_\_\_\_  
RICHARD L. DAVIS, City Manager

ATTEST:

\_\_\_\_\_  
ANGELA JACKSON, City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
SCOTT LEMON, City Attorney

CONSULTANT:

\_\_\_\_\_  
(Company Name)

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Printed Name)

\_\_\_\_\_  
(Title)

STATE OF TEXAS           §  
                                      §  
COUNTY OF HARRIS     §

Before me on this day personally appeared \_\_\_\_\_, in his/her capacity as \_\_\_\_\_ of \_\_\_\_\_, on behalf of such \_\_\_\_\_,

☐ known to me;

- ☐ proved to me on the oath of \_\_\_\_\_; or  
☐ proved to me through his/her current \_\_\_\_\_  
{description of identification card or other document issued by the federal  
government or any state government that contains the photograph and signature of  
the acknowledging person}

(check one)

to be the person whose name is subscribed to the foregoing instrument and acknowledged to me  
that he/she executed the same for the purposes and consideration therein expressed.

SUBSCRIBED AND SWORN before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Notary Public in and for the State of Texas

R:\Karen Anderson\CONTRACTS\COB Consulting Services Agreement (Fillable).doc

**CITY OF BAYTOWN, TEXAS**  
**INDEBTEDNESS CERTIFICATION**

**Project Name:** Professional Services Agreement

**Company Name:** Kimley-Horn and Associates, Inc

**Department:** Administration

**Date:** 08/25/2022

**Council Date:** 09/08/2022

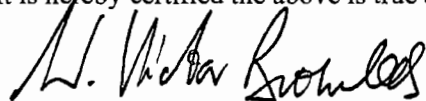
A review of the above-described company was made in accordance with 2-663 of the City of Baytown Code of Ordinances and the aforementioned company was found:

☐ to be indebted to the City in the following areas:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

☒ not to be indebted to the City.

It is hereby certified the above is true and correct based on the best information available.



Director of Finance

08/25/2022

Date

For information regarding this certificate, please contact the Finance Director at 281-420-6531.

If an appeal to this determination is to be filed under section 2-664 of this code, please forward to the following address:

City of Baytown  
Director of Finance  
P O Box 424  
Baytown, TX 77522-0424



## CITY COUNCIL MEETING

11. f.

**Meeting Date:** 09/08/2022

**Subject:** Authorizing payment to Baker Wotring, L.L.P., for Legal Services in Connection with United States of America, et al v. City of Baytown

**Prepared for:** Scott Lemond, Legal

**Prepared by:** Karen Anderson, Legal

**Department:** Legal

---

### **Information**

#### **ITEM**

Consider an ordinance authorizing payment to Baker Wotring, L.L.P., for legal services in connection with *United States of America and State of Texas v. City of Baytown*; Civil Action No. 4:22-cv-01279, in the United States District Court for the Southern District of Texas, Houston Division.

#### **PREFACE**

This proposed ordinance authorizes the payment in an additional amount not to exceed \$250,000.00, to Baker Wotring, L.L.P., for legal services in connection with *United States of America and State of Texas v. City of Baytown*; Civil Action No. 4:22-cv-01279, in the United States District Court for the Southern District of Texas, Houston Division.

---

### **Fiscal Impact**

**Fiscal Year:** FY2022/23

**Acct Code:** 30520-74021

**Source of Funds (Operating/Capital/Bonds):**

**Funds Budgeted Y/N:** Y

**Amount Needed:** \$250,000.00

**Fiscal Impact (Additional Information):**

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### **Attachments**

Ordinance - Authorize Additional Payment to Baker Wotring, L.L.P., for Legal Services

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AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BAYTOWN, TEXAS, AUTHORIZING PAYMENT TO BAKER WOTRING, L.L.P., FOR LEGAL SERVICES IN CONNECTION WITH *UNITED STATES OF AMERICA AND STATE OF TEXAS V. CITY OF BAYTOWN*; CIVIL ACTION NO. 4:22-CV-01279, IN THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF TEXAS, HOUSTON DIVISION, IN AN ADDITIONAL AMOUNT NOT TO EXCEED TWO HUNDRED FIFTY THOUSAND AND NO/100 DOLLARS (\$250,000.00); MAKING OTHER PROVISIONS RELATED THERETO; AND PROVIDING FOR THE EFFECTIVE DATE THEREOF.

\*\*\*\*\*

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BAYTOWN, TEXAS:

Section 1: That the City Council of the City of Baytown, Texas, hereby authorizes payment in an additional amount not to exceed TWO HUNDRED FIFTY THOUSAND AND NO/100 DOLLARS (\$250,000.00) to Baker Wotring, L.L.P., for legal services in connection with *United States of America and State of Texas v. City of Baytown*; Civil Action No. 4:22-cv-01279, in the United States District Court for the Southern District of Texas, Houston Division.

Section 2: That the City Manager is hereby granted general authority to approve any change order involving a decrease or an increase in costs of FIFTY THOUSAND AND NO/100 DOLLARS (\$50,000.00) or less, provided that the amount stated in Section 1 hereof may not be increased by more than twenty-five percent (25%) or decreased by more than twenty-five percent (25%) without the consent of the owners to such decrease unless otherwise provided for in the contract authorized in Section 1 hereinabove.

Section 3: This ordinance shall take effect immediately from and after its passage by the City Council of the City of Baytown.

INTRODUCED, READ, and PASSED by the affirmative vote of the City Council of the City of Baytown this the 8<sup>th</sup> day of September, 2022.

\_\_\_\_\_  
BRANDON CAPETILLO, Mayor

ATTEST:

\_\_\_\_\_  
ANGELA JACKSON, City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
SCOTT LEMOND, City Attorney



## **CITY COUNCIL MEETING**

**12. a.**

**Meeting Date:** 09/08/2022

**Subject:** Appointments: Parks and Recreation Board

**Prepared for:** Angela Jackson, City Clerk's Office

**Prepared by:** Gabriella Cuff, City Clerk's Office

**Department:** City Clerk's Office

---

### **Information**

#### **ITEM**

Consider three (3) appointments to the Parks and Recreation Board.

#### **PREFACE**

The Parks and Recreation Board is a seven-member board appointed by the Mayor with the approval of the City Council. The board members must be residents of the City of Baytown and serve at large.

The board meets on the first Wednesday of each month to perform the functions delegated to it by the Council and by the City Manager. The board assists and advises the City Council on the proper operation of the City's parks and recreational facilities.

Currently, there are two (2) Board Members whose term is set to expire on August 31, 2022, and one (1) vacancy, and they are:

<b>Board Member</b>	<b>Position</b>	<b>Current Term</b>	<b>Attendance</b>
Terry Sain	Board Member	09/01/2019 - 08/31/2022	Attended 26 Out of 29 Meetings
Kevin Jones	Board Member	09/01/2019 - 08/31/2022	Attended 28 Out of 29 Meetings
Vacancy	Board Member	09/01/2020 - 08/31/2023	N/a

If appointed, the board members will serve a three-year term beginning on September 1, 2022, and ending on August 31, 2025.

Attached for your review is the overview of the Parks and Recreation Board, a list of the current members, as well as the applications received by the City Clerk's Office.

---

### **Attachments**

Overview - Parks & Recreation Board

Board Members - Parks & Recreation Board

Alyssa Linares - Application

Carol Brodie - Application

Carlos Cienfuegos - Application



Glen McMillian - Application  
Harold Martin - Application  
Jamari Gilbert - Application  
Jose Garcia - Application  
Larry Hollaway - Application  
Mirtha Morales - Application  
Richard Kyle Carrier - Application  
Teresa Jackson - Application  
Terry Adcock - Application  
Thomas Araujo - Application  
Timothy Brockman - Application

---

## **BOARDS AND COMMISSIONS**

### **PARKS AND RECREATION BOARD**

Ordinance No. 885 – September 14, 1967

**NUMBER OF MEMBERS:** Seven (7)

**APPOINTED BY:** Mayor with approval of City Council

**COMPOSED OF:** Residents of the City of Baytown

**TERM OF OFFICE:** Members serve staggered three-year terms.

**MEETINGS:** First Wednesday of each month

**COMPENSATION:** None

**DUTIES:** The advisory board which shall assist and advise the city council on the proper operation of the city's parks and recreational facilities and shall perform the functions duly delegated to it from time to time by the Council and by the City Manager. Furthermore, the Board shall make a study of the parks and recreational facilities and policies of the City of Baytown and shall, each year, on or before the first day of June, make recommendations, in writing, to the City Manager as to any changes, modifications, and other improvements. After which, the City Manager shall meet with the Board, and a final written report shall be prepared and presented to the City Council on or before the first day of September of each year.

PARKS AND RECREATION ADVISORY BOARD

<a href="#">First Name</a>	<a href="#">Last Name</a>	<a href="#">Title</a>	<a href="#">District/Position</a>	<b>Original Appointment</b>	<a href="#">Start</a>	<a href="#">End</a>
Vacant	1	Board Member	Mayor At-Large		09/01/2021	08/31/2023
Michelle	Bitterly	Board Member	Mayor At-Large	12/10/2009	09/01/2021	08/31/2024
Thomas	Capetillo	Board Member	Mayor At-Large	11/18/2019	09/01/2021	08/31/2024
Kevin	Jones	Chairperson	Mayor At-Large	10/11/2007	09/01/2019	08/31/2022
Agustin	Loredo III	Vice Chairperson	Mayor At-Large	08/28/2008	09/01/2020	08/31/2023
Terry	Sain	Board Member	Mayor At-Large	10/25/2018	09/01/2019	08/31/2022
Dr. Yvonne S.	Thomas-Chapa	Board Member	Mayor At-Large	11/18/2019	09/01/2020	08/31/2023

## Raquel.Martinez

---

**From:** Baytown Engage <notifications@engagementhq.com>  
**Sent:** Wednesday, August 10, 2022 10:54 AM  
**To:** Sabrina.Martin; Angela.Jackson; Alisha.Segovia; Raquel.Martinez  
**Subject:** Anonymous User completed Application to Serve on a Board, Commission, or Committee

**CAUTION:** This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Anonymous User just submitted the survey Application to Serve on a Board, Commission, or Committee with the responses below.

### First Name

Alyssa

---

### Last Name

Linares

---

### Home Address

[REDACTED]

---

### City & State

Baytown, Texas

---

### Zipcode

Baytown, TX [REDACTED]

---

### Primary Phone Number

[REDACTED]

---

### Email

**Do you reside in Baytown?**

Yes.

**If yes, how long? (Years & Months)**

I grew up here, so I have lived here on and off for 33 years (college took me to different places).

**Occupational Information**

Employed

**If employed, please list the following: employer name, position/title, employer address, city/state/zip.**

Albemarle Corporation, Environmental Engineer, 2500 N. South St, Pasadena, TX 77503.

**Click on 3 of the Board, Commission, Committee, or Task Forces on which you would be willing to serve on. More information on each entity can be found in the Document Library.**

Parks and Recreation Board

Library Board

Baytown Area Water Authority (BAWA)

**Do you want to withhold your home address, home telephone, personal cell phone numbers and personal email as provided?\***

Yes

**Please explain why you wish to volunteer to serve on a Board, Commission, or Committee?**

I want to volunteer to serve on a Board, Commission, or Committee because I'd like to do what I can to help Baytown reach its full potential. There's been so much growth over my lifetime, and I'd like to help continue seeing that trend.

**What special experience/knowledge do you have that may qualify you for service?**

I grew up in Baytown and attended schools in GCCISD. I have a degree in Special Education and Elementary Education as well as a degree in Chemical Engineering. I am currently in an Environmental role, so I'm familiar with permitting and working with state agencies.

---

**What professional license(s), certification(s), or training do you have that may qualify you for service?**

Through my current position I have been trained on topics related to air and water permits as well as managing waste.

---

**Please provide any additional information you feel would be useful to the City Council in considering your application.**

I enjoy working with others to solve problems and I'd like to do my part for the community.

---

**Please certify that the foregoing information is true and complete to the best of my knowledge and belief.**

I certify that the foregoing information is true and complete to the best of my knowledge and belief.

---

**From:** [Baytown Engage](#)  
**To:** [Sabrina.Martin](#); [Angela.Jackson](#); [Alisha.Segovia](#); [Raquel.Martinez](#)  
**Subject:** Anonymous User completed Application to Serve on a Board, Commission, or Committee  
**Date:** Wednesday, November 17, 2021 10:20:19 AM

**CAUTION:** This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Anonymous User just submitted the survey Application to Serve on a Board, Commission, or Committee with the responses below.

**First Name**

Carol

**Last Name**

Brodie

**Home Address**

7447 Eastpoint Blvd, #3209

**City & State**

Baytown, TX

**Zipcode**

Baytown, TX 77521

**Primary Phone Number**

2094794282

**Email**

cabrodie2020@gmail.com

**Do you reside in Baytown?**

Yes

**If yes, how long? (Years & Months)**

7 months

**Occupational Information**

Not Currently Working

**Click on each of the Board, Commission, Committee, or Task Force on which you would be willing to serve on. More information on each entity can be found in the Document Library.**

Baytown Area Water Authority (BAWA)  
Baytown Crime Control and Prevention District (CCPD)  
Baytown Fire Control, Prevention, and EMS District (FCPEMSD)  
Baytown Hospitality Public Facilities Corporations (PFC)  
Baytown Municipal Development District (MDD)  
Baytown Redevelopment Authority (BRA)  
Planning and Zoning Commission (P & Z)  
Community Development Advisory Committee (CDAC)  
Library Board  
Parks and Recreation Board

**Do you want to withhold your home address, home telephone, personal cell phone numbers and personal email as provided?\***

No

**Please explain why you wish to volunteer to serve on a Board, Commission, or Committee?**

Having recently retired, I am looking forward to having the time to engage with the city that I live in. I would like to contribute to the future of Baytown.

**What special experience/knowledge do you have that may qualify you for service?**

Over 30 years of administrative experience, and working with diverse groups of individuals.

---

**Please include additional information as needed. A cover letter and/or resume may also be submitted with this application.**

[https://s3-us-west-1.amazonaws.com/ehq-production-us-california/75e8ba4e37391ee49cfa9eb83cd6ce01cbb9766a/original/1637166008/488cac889b216e0ec3455d4d85100ecb\\_Carol\\_Brodie\\_Resume\\_2021.doc?1637166008](https://s3-us-west-1.amazonaws.com/ehq-production-us-california/75e8ba4e37391ee49cfa9eb83cd6ce01cbb9766a/original/1637166008/488cac889b216e0ec3455d4d85100ecb_Carol_Brodie_Resume_2021.doc?1637166008)

---

**Please certify that the foregoing information is true and complete to the best of my knowledge and belief.**

I certify that the foregoing information is true and complete to the best of my knowledge and belief.

---



## Alisha.Segovia

---

**From:** Baytown Engage <notifications@engagementhq.com>  
**Sent:** Wednesday, August 10, 2022 5:11 PM  
**To:** Sabrina.Martin; Angela.Jackson; Alisha.Segovia; Raquel.Martinez; Gabriella.Cuff  
**Subject:** Anonymous User completed Application to Serve on a Board, Commission, or Committee

**CAUTION:** This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Anonymous User just submitted the survey Application to Serve on a Board, Commission, or Committee with the responses below.

### First Name

Carlos

---

### Last Name

Cienfuegos

---

### Home Address

██████████

---

### City & State

Baytown, Tx

---

### Zipcode

Baytown, TX ██████████

---

### Primary Phone Number

██████████

---

### Email

**Do you reside in Baytown?**

Yes

**If yes, how long? (Years & Months)**

35 plus years

**Occupational Information**

Employed

**If employed, please list the following: employer name, position/title, employer address, city/state/zip.**

Energy transfer Lead operator 8740 Fm 1942 Baytown tx 77523

**Click on 3 of the Board, Commission, Committee, or Task Forces on which you would be willing to serve on. More information on each entity can be found in the Document Library.**

Parks and Recreation Board

**Do you want to withhold your home address, home telephone, personal cell phone numbers and personal email as provided?\***

Yes

**Please explain why you wish to volunteer to serve on a Board, Commission, or Committee?**

I wish to volunteer to parks and Rex board to see an improvement in our local parks for our future youth to enjoy. As a kid Baytown had many parks that were up kept and a lot of things for youth to be involved with. We have fields that need attention along with our local little league parks. I want to make a positive and long lasting impact on our youth.

**What special experience/knowledge do you have that may qualify you for service?**

Have plenty of experience with industrial mobile equipment

---

**What professional license(s), certification(s), or training do you have that may qualify you for service?**

CPR/first aid, emr training, industrial fire fighter , rope rescue training, pump ops trained and certified

---

**Please provide any additional information you feel would be useful to the City Council in considering your application.**

Board member of baytown little league Lieutenant on fire brigade Member of south Houston masons lodge no 1295

---

**Please include additional information as needed. A cover letter and/or resume may also be submitted with this application.**

[https://s3-us-west-1.amazonaws.com/ehq-production-us-california/cbc1f4cf801e545c8c750649b7d34c7c5a3b0126/original/1660169459/980b136e639438affcc4d7809c8dcd20\\_Carlos' Resume %281%29.docx?1660169459](https://s3-us-west-1.amazonaws.com/ehq-production-us-california/cbc1f4cf801e545c8c750649b7d34c7c5a3b0126/original/1660169459/980b136e639438affcc4d7809c8dcd20_Carlos'_Resume_%281%29.docx?1660169459)

---

**Please certify that the foregoing information is true and complete to the best of my knowledge and belief.**

I certify that the foregoing information is true and complete to the best of my knowledge and belief.

---

**From:** [Baytown Engage](#)  
**To:** [Sabrina.Martin](#); [Angela.Jackson](#); [Alisha.Segovia](#); [Raquel.Martinez](#)  
**Subject:** Glen McMillian completed Application to Serve on a Board, Commission, or Committee  
**Date:** Wednesday, February 16, 2022 8:50:39 AM

---

**CAUTION:** This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Glen McMillian just submitted the survey Application to Serve on a Board, Commission, or Committee with the responses below.

**First Name**

Glen

---

**Last Name**

McMillian

---

**Home Address**

[REDACTED]

---

**City & State**

Baytown Tx.

---

**Zipcode**

Baytown, TX [REDACTED]

---

**Primary Phone Number**

[REDACTED]

---

**Email**

[REDACTED]

---

**Do you reside in Baytown?**

Yes

---

**If yes, how long? (Years & Months)**

9 years

---

**Occupational Information**

Not Currently Working

---

**Click on 3 of the Board, Commission, Committee, or Task Forces on which you would be willing to serve on. More information on each entity can be found in the Document Library.**

Parks and Recreation Board

Library Board

Baytown Crime Control and Prevention District (CCPD)

---

**Do you want to withhold your home address, home telephone, personal cell phone numbers and personal email as provided?\***

No

---

**Please explain why you wish to volunteer to serve on a Board, Commission, or Committee?**

I live here and I am available . I wish to be part of the government to offer my ideas and views.

---

**What special experience/knowledge do you have that may qualify you for service?**

I have been a community health care worker currently expired from HHS Texas. multiple personal positions I was a Habitat For Humanity volunteer. i also have many real-life experiences.

---

**What professional license(s), certification(s), or training do you have that may qualify you for service?**

non that are active but Please meet with me at least I can and will be serious.

---

**Please provide any additional information you feel would be useful to the City Council in considering your application.**

It takes a citizen to understand residents' needs and factors that our city should provide. I have Voted yearly and I follow the needs and concerns of my neighborhood. I have references. Worked for constable Sherman Eagleton. Local property owners and business owners' references on requests.

---

**Please certify that the foregoing information is true and complete to the best of my knowledge and belief.**

I certify that the foregoing information is true and complete to the best of my knowledge and belief.

---

**From:** [Baytown Engage](#)  
**To:** [Sabrina.Martin](#); [Angela.Jackson](#); [Alisha.Segovia](#); [Raquel.Martinez](#)  
**Subject:** Anonymous User completed Application to Serve on a Board, Commission, or Committee  
**Date:** Tuesday, November 16, 2021 9:03:12 PM

---

**CAUTION:** This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Anonymous User just submitted the survey Application to Serve on a Board, Commission, or Committee with the responses below.

**First Name**

Harold

---

**Last Name**

Martin

---

**Home Address**

[REDACTED]

---

**City & State**

Baytown, TX

---

**Zipcode**

Baytown, TX [REDACTED]

---

**Primary Phone Number**

[REDACTED]

---

**Email**

[REDACTED]

---

**Do you reside in Baytown?**

Yes

---

**If yes, how long? (Years & Months)**

68 years

---

**Occupational Information**

Not Currently Working

---

**Click on each of the Board, Commission, Committee, or Task Force on which you would be willing to serve on. More information on each entity can be found in the Document Library.**

Community Development Advisory Committee (CDAC)

Library Board

Parks and Recreation Board

---

**Do you want to withhold your home address, home telephone, personal cell phone numbers and personal email as provided?\***

No

---

**Please explain why you wish to volunteer to serve on a Board, Commission, or Committee?**

I am interested in supporting and enriching the quality of life programs and investments in Baytown

---

**What special experience/knowledge do you have that may qualify you for service?**

I am involved in Baytown Little Theater and have taught at Lee College and GCCISD. I serve as lead volunteer for the Missouri Street Church Pantry program.

---

**What professional license(s), certification(s), or training do you have that may qualify you for service?**

Advance college degrees

---

**Please certify that the foregoing information is true and complete to the best of my knowledge and belief.**

I certify that the foregoing information is true and complete to the best of my knowledge and belief.

---



## Alisha.Segovia

---

**From:** Baytown Engage <notifications@engagementhq.com>  
**Sent:** Friday, July 22, 2022 4:05 PM  
**To:** Sabrina.Martin; Angela.Jackson; Alisha.Segovia; Raquel.Martinez  
**Subject:** Anonymous User completed Application to Serve on a Board, Commission, or Committee

**CAUTION:** This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Anonymous User just submitted the survey Application to Serve on a Board, Commission, or Committee with the responses below.

**First Name**

Jamari

---

**Last Name**

Gilbert

---

**Home Address**

[REDACTED]

---

**City & State**

Baytown, Texas

---

**Zipcode**

Baytown, TX [REDACTED]

---

**Primary Phone Number**

[REDACTED]

---

**Email**

**Do you reside in Baytown?**

Yes

**If yes, how long? (Years & Months)**

20 years

**Occupational Information**

Employed

**If employed, please list the following: employer name, position/title, employer address, city/state/zip.**

Baytown Nutrition, Owner, 123 W Defee suite 11, Baytown/TX/77520

**Click on 3 of the Board, Commission, Committee, or Task Forces on which you would be willing to serve on. More information on each entity can be found in the Document Library.**

Baytown Fire Control, Prevention, and EMS District (FCPEMSD)

Baytown Crime Control and Prevention District (CCPD)

Parks and Recreation Board

**Do you want to withhold your home address, home telephone, personal cell phone numbers and personal email as provided?\***

No

**Please explain why you wish to volunteer to serve on a Board, Commission, or Committee?**

I want to serve the community in any way possible for a positive impact.

**What special experience/knowledge do you have that may qualify you for service?**

I own baytown nutrition with my wife and we serve on ACE District board and have coordinated several community initiatives.

---

**What professional license(s), certification(s), or training do you have that may qualify you for service?**

Certified Life Coach

---

**Please certify that the foregoing information is true and complete to the best of my knowledge and belief.**

I certify that the foregoing information is true and complete to the best of my knowledge and belief.

---

**From:** [Baytown Engage](#)  
**To:** [Sabrina.Martin](#); [Angela.Jackson](#); [Alisha.Segovia](#); [Raquel.Martinez](#)  
**Subject:** Anonymous User completed Application to Serve on a Board, Commission, or Committee  
**Date:** Tuesday, November 16, 2021 8:29:51 PM

---

**CAUTION:** This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Anonymous User just submitted the survey Application to Serve on a Board, Commission, or Committee with the responses below.

**First Name**

Jose

---

**Last Name**

Garcia

---

**Home Address**

[REDACTED]

---

**City & State**

Baytown, TX

---

**Zipcode**

Baytown, TX [REDACTED]

---

**Primary Phone Number**

[REDACTED]

---

**Email**

[REDACTED]

---

**Do you reside in Baytown?**

Yes

---

**If yes, how long? (Years & Months)**

7y 6m

---

**Occupational Information**

Employed

---

**If employed, please list the following: employer name, position/title, employer address, city/state/zip.**

Exxonmobil Ref / Electrician Decker Dr. Baytown TX 77521

---

**Click on each of the Board, Commission, Committee, or Task Force on which you would be willing to serve on. More information on each entity can be found in the Document Library.**

Baytown Crime Control and Prevention District (CCPD)  
Construction Board of Adjustments and Appeals  
Baytown Hospitality Public Facilities Corporations (PFC)  
Civil Service Commission  
Parks and Recreation Board  
Baytown Municipal Development District (MDD)

---

**Do you want to withhold your home address, home telephone, personal cell phone numbers and personal email as provided?\***

Yes

---

**Please explain why you wish to volunteer to serve on a Board, Commission, or Committee?**

COMunities are for the people and therefore require input from the people. In order to see change/progress one must take ownership.

---

**What special experience/knowledge do you have that may qualify you for service?**

On the technical side I am a trained journeyman electrician. I am a retired Marine who served in several capacities, such as Recruiter (HR), Aviation inspector (Quality Assurance) and Safety official (H&S inspector). My travel in the military around the world has given me life and cultural experiences that cannot be taught in a classroom.

---

**What professional license(s), certification(s), or training do you have that may qualify you for service?**

Journeyman electrician. Citizen. Bachelor's degree (GS)

---

**Please provide any additional information you feel would be useful to the City Council in considering your application.**

It will be my honor if I was granted an opportunity to participate in decisions that affect our community today and in the future.

---

**Please certify that the foregoing information is true and complete to the best of my knowledge and belief.**

I certify that the foregoing information is true and complete to the best of my knowledge and belief.

---

## Gabriella.Cuff

---

**From:** Baytown Engage <notifications@engagementhq.com>  
**Sent:** Friday, August 26, 2022 8:55 PM  
**To:** Sabrina.Martin; Angela.Jackson; Alisha.Segovia; Raquel.Martinez; Gabriella.Cuff  
**Subject:** Anonymous User completed Application to Serve on a Board, Commission, or Committee

**CAUTION:** This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Anonymous User just submitted the survey Application to Serve on a Board, Commission, or Committee with the responses below.

### First Name

Larry

---

### Last Name

Hollaway

---

### Home Address

[REDACTED]

---

### City & State

Baytown Texas

---

### Zipcode

Baytown, TX [REDACTED]

---

### Primary Phone Number

[REDACTED]

---

### Email

**Do you reside in Baytown?**

yes

**If yes, how long? (Years & Months)**

Most of my 76 years

**Occupational Information**

Not Currently Working

**If employed, please list the following: employer name, position/title, employer address, city/state/zip.**

Retired from Bayer (2001) Lab safety and training supervisor

**Click on 3 of the Board, Commission, Committee, or Task Forces on which you would be willing to serve on. More information on each entity can be found in the Document Library.**

Baytown Fire Control, Prevention, and EMS District (FCPEMSD)

Sign Committee

Parks and Recreation Board

**Do you want to withhold your home address, home telephone, personal cell phone numbers and personal email as provided?\***

No

**Please explain why you wish to volunteer to serve on a Board, Commission, or Committee?**

Would like to become involved in our community

**What special experience/knowledge do you have that may qualify you for service?**



Attended Texas A&M fire school several years. Had training through Bayer (Emergency Care Attendant) Drove the Ambulance

---

**What professional license(s), certification(s), or training do you have that may qualify you for service?**

ECA expired

---

**Please provide any additional information you feel would be useful to the City Council in considering your application.**

I am a task-oriented person and can focus on difficult duties easily. As a former teacher and supervisor, I can work with challenging situations. I work well with others.

---

**Please certify that the foregoing information is true and complete to the best of my knowledge and belief.**

I certify that the foregoing information is true and complete to the best of my knowledge and belief.

---

**From:** [Baytown Engage](#)  
**To:** [Sabrina.Martin](#); [Angela.Jackson](#); [Alisha.Segovia](#); [Raquel.Martinez](#)  
**Subject:** Anonymous User completed Application to Serve on a Board, Commission, or Committee  
**Date:** Saturday, November 13, 2021 8:15:05 PM

---

**CAUTION:** This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Anonymous User just submitted the survey Application to Serve on a Board, Commission, or Committee with the responses below.

**First Name**

Mirtha

---

**Last Name**

Morales

---

**Home Address**

[REDACTED]

---

**City & State**

Baytown Texas

---

**Zipcode**

Baytown, TX [REDACTED]

---

**Primary Phone Number**

[REDACTED]

---

**Email**

[REDACTED]

---

**Do you reside in Baytown?**

Yes

---

**If yes, how long? (Years & Months)**

40 years

---

**Occupational Information**

Employed

---

**If employed, please list the following: employer name, position/title, employer address, city/state/zip.**

Ziegler Cooper Architects 700 Louisiana Ste 350 Houston Texas 77002 Accounts Receivable

---

**Click on each of the Board, Commission, Committee, or Task Force on which you would be willing to serve on. More information on each entity can be found in the Document Library.**

Ethics Commission

Parks and Recreation Board

Baytown Crime Control and Prevention District (CCPD)

---

**Do you want to withhold your home address, home telephone, personal cell phone numbers and personal email as provided?\***

Yes

---

**Please explain why you wish to volunteer to serve on a Board, Commission, or Committee?**

I have lived here all my life and being involved in the community is important for our future generation

---

**What special experience/knowledge do you have that may qualify you for service?**

Previously served in the BLL Board. In my early 20's I worked in a Drug and Alcohol facility where we were involved with the Community in School and taught life skills and parent classes. I assisted with the grant application to received funds from the state of Texas. I was able to submitted and receive approval for a baseball team non profit organization.

---

**What professional license(s), certification(s), or training do you have that may qualify you for service?**

No Answer

---

**Please provide any additional information you feel would be useful to the City Council in considering your application.**

No Answer

---

**Please certify that the foregoing information is true and complete to the best of my knowledge and belief.**

I certify that the foregoing information is true and complete to the best of my knowledge and belief.

---

## Alisha.Segovia

---

**From:** Baytown Engage <notifications@engagementhq.com>  
**Sent:** Monday, August 15, 2022 4:59 PM  
**To:** Sabrina.Martin; Angela.Jackson; Alisha.Segovia; Raquel.Martinez; Gabriella.Cuff  
**Subject:** Anonymous User completed Application to Serve on a Board, Commission, or Committee

**CAUTION:** This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Anonymous User just submitted the survey Application to Serve on a Board, Commission, or Committee with the responses below.

### First Name

Richard Kyle

---

### Last Name

Carrier

---

### Home Address

██████████

---

### City & State

Baytown Texas

---

### Zipcode

Baytown, TX ██████████

---

### Primary Phone Number

██████████

---

### Email

**Do you reside in Baytown?**

YEs

**If yes, how long? (Years & Months)**

14 years

**Occupational Information**

Employed

**If employed, please list the following: employer name, position/title, employer address, city/state/zip.**

Harris County Insurance Center

**Click on 3 of the Board, Commission, Committee, or Task Forces on which you would be willing to serve on. More information on each entity can be found in the Document Library.**

Baytown Crime Control and Prevention District (CCPD)  
Parks and Recreation Board

**Do you want to withhold your home address, home telephone, personal cell phone numbers and personal email as provided?\***

Yes

**Please explain why you wish to volunteer to serve on a Board, Commission, or Committee?**

I want to find ways to Serve my Community

**What special experience/knowledge do you have that may qualify you for service?**

I currently have experience with City Boards through serving on the TIRZ Board

---

**What professional license(s), certification(s), or training do you have that may qualify you for service?**

I am a Licensed Insurance Agent ; So I am always of the mindset of Safety First !

---

**Please certify that the foregoing information is true and complete to the best of my knowledge and belief.**

I certify that the foregoing information is true and complete to the best of my knowledge and belief.

---

**From:** [Baytown Engage](#)  
**To:** [Sabrina.Martin](#); [Angela.Jackson](#); [Alisha.Segovia](#); [Raquel.Martinez](#); [Gabriella.Cuff](#)  
**Subject:** Anonymous User completed Application to Serve on a Board, Commission, or Committee  
**Date:** Monday, August 15, 2022 3:39:55 PM

**CAUTION:** This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Anonymous User just submitted the survey Application to Serve on a Board, Commission, or Committee with the responses below.

**First Name**

Theresa

**Last Name**

Jackson

**Home Address**

[REDACTED]

**City & State**

Baytown Texas

**Zipcode**

Baytown, TX [REDACTED]

**Primary Phone Number**

[REDACTED]

**Email**

[REDACTED]

**Do you reside in Baytown?**

Yes

**If yes, how long? (Years & Months)**

11 years 2 months

**Occupational Information**

Employed

**If employed, please list the following: employer name, position/title, employer address, city/state/zip.**

Emerson Shipping/ Receiving 9311 Bay Area Blvd Pasadena Texas 77507

**Click on 3 of the Board, Commission, Committee, or Task Forces on which you would be willing to serve on. More information on each entity can be found in the Document Library.**

Parks and Recreation Board  
Ethics Commission  
Baytown Hospitality Public Facilities Corporations (PFC)

**Do you want to withhold your home address, home telephone, personal cell phone numbers and personal email as provided?\***

Yes



---

**Please explain why you wish to volunteer to serve on a Board, Commission, or Committee?**

I want to be more involved with the community.

---

**What special experience/knowledge do you have that may qualify you for service?**

I have been umpiring the adult softball program for years and have seen a lot of changes. There is still a lot that can be done with other sports and recreation also

---

**What professional license(s), certification(s), or training do you have that may qualify you for service?**

None

---

**Please provide any additional information you feel would be useful to the City Council in considering your application.**

I love living in Baytown and would like to help maybe make some improvements to the city

---

**Please include additional information as needed. A cover letter and/or resume may also be submitted with this application.**

[https://s3-us-west-1.amazonaws.com/ehq-production-us-california/f7c9b7361e472629b9908742cf0c86a2bc33ebfc/original/1660595983/99f1ca8ea887d8506f9319e3709096d3\\_resume\\_2021.docx?1660595983](https://s3-us-west-1.amazonaws.com/ehq-production-us-california/f7c9b7361e472629b9908742cf0c86a2bc33ebfc/original/1660595983/99f1ca8ea887d8506f9319e3709096d3_resume_2021.docx?1660595983)

---

**Please certify that the foregoing information is true and complete to the best of my knowledge and belief.**

I certify that the foregoing information is true and complete to the best of my knowledge and belief.

---

## Gabriella.Cuff

---

**From:** Baytown Engage <notifications@engagementhq.com>  
**Sent:** Sunday, August 14, 2022 6:15 PM  
**To:** Sabrina.Martin; Angela.Jackson; Alisha.Segovia; Raquel.Martinez; Gabriella.Cuff  
**Subject:** Anonymous User completed Application to Serve on a Board, Commission, or Committee

**CAUTION:** This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Anonymous User just submitted the survey Application to Serve on a Board, Commission, or Committee with the responses below.

### First Name

TERRY

---

### Last Name

ADCOCK

---

### Home Address

[REDACTED]

---

### City & State

BAYTOWN TX

---

### Zipcode

Baytown, TX [REDACTED]

---

### Primary Phone Number

[REDACTED]

---

### Email

**Do you reside in Baytown?**

YES

**If yes, how long? (Years & Months)**

66 YEARS, 10 MONTHS (ALL MY LIFE

**Occupational Information**

Not Currently Working

**If employed, please list the following: employer name, position/title, employer address, city/state/zip.**

RETIRED FROM CHEVRON PHILLIPS CHEMICAL COMPANY LP & UNION CARBIDE CORP.

**Click on 3 of the Board, Commission, Committee, or Task Forces on which you would be willing to serve on. More information on each entity can be found in the Document Library.**

Parks and Recreation Board

**Do you want to withhold your home address, home telephone, personal cell phone numbers and personal email as provided?\***

No

**Please explain why you wish to volunteer to serve on a Board, Commission, or Committee?**

I have been on the board for The Friends of the Baytown Nature Center for 12 years and currently hold the position of VP. I have been a docent for the Baytown Historical Museum for 10 years educating 3rd graders about the Karankawa Indians and Texas Revolution. I enjoy serving the Baytown community.

**What special experience/knowledge do you have that may qualify you for service?**

I have a BS in Industrial Engineering from Texas A&M and have served on multiple committees, both with GCCISD and industry.

---

**What professional license(s), certification(s), or training do you have that may qualify you for service?**

I'm a Certified Purchasing Manager and a former licensed Real Estate agent.

---

**Please provide any additional information you feel would be useful to the City Council in considering your application.**

Billy Barnett was a friend and I admired the way he served his community.

---

**Please certify that the foregoing information is true and complete to the best of my knowledge and belief.**

I certify that the foregoing information is true and complete to the best of my knowledge and belief.

---

**From:** [Baytown Engage](#)  
**To:** [Sabrina.Martin](#); [Angela.Jackson](#); [Alisha.Segovia](#); [Raquel.Martinez](#)  
**Subject:** Tomas completed Application to Serve on a Board, Commission, or Committee  
**Date:** Friday, January 14, 2022 8:53:46 AM

---

**CAUTION:** This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Tomas just submitted the survey Application to Serve on a Board, Commission, or Committee with the responses below.

**First Name**

Thomas

---

**Last Name**

Araujo

---

**Home Address**

[REDACTED]

---

**City & State**

Baytown, TX

---

**Zipcode**

Baytown, TX [REDACTED]

---

**Primary Phone Number**

[REDACTED]

---

**Email**

[REDACTED]

---

**Do you reside in Baytown?**

yes

---

**If yes, how long? (Years & Months)**

48yrs

---

**Occupational Information**

Employed

---

**If employed, please list the following: employer name, position/title, employer address, city/state/zip.**

Calpine IT\Senior Business Analyst 717 Texas Ave. Houston, TX 77002

---

**Click on 3 of the Board, Commission, Committee, or Task Forces on which you would be willing to serve on. More information on each entity can be found in the Document Library.**

Parks and Recreation Board  
Baytown Police Advisory Committee (BPAC)  
Baytown Redevelopment Authority (BRA)

---

**Do you want to withhold your home address, home telephone, personal cell phone numbers and personal email as provided?\***

No

---

**Please explain why you wish to volunteer to serve on a Board, Commission, or Committee?**

I want to give back to my community. I'm proud to be an Baytownian; I want to help progress our city forward.

---

**What special experience/knowledge do you have that may qualify you for service?**

I have been in the corporate world for over 20 years mainly in the oil, gas, and electricity generation industries. I have travelled all over the world and experienced many cultures, governments, and city governments.

---

**What professional license(s), certification(s), or training do you have that may qualify you for service?**

I have driven and taken part of many projects from software development to construction of electricity generation units.

---

**Please provide any additional information you feel would be useful to the City Council in considering your application.**

I have old ties to Baytown. Exxon and Baytown provided for my family. I want to help ensure the progress of our city.

---

**Please certify that the foregoing information is true and complete to the best of my knowledge and belief.**

I certify that the foregoing information is true and complete to the best of my knowledge and belief.

---

**From:** [noreply@civicplus.com](mailto:noreply@civicplus.com)  
**To:** [City Clerk](#); [Angela.Jackson](#); [Raquel.Martinez](#); [Alisha.Segovia](#)  
**Subject:** Online Form Submittal: Application to Serve on a Board, Commission, Committee or Task Force  
**Date:** Friday, December 3, 2021 9:01:23 AM

**CAUTION:** This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

## Application to Serve on a Board, Commission, Committee or Task Force

### Applicant Information

Full Name of Applicant Timothy Brockman, Ph.D.

Home Address

City & State Baytown, Texas

Zip Code

Primary Phone Number

Secondary Phone Number *Field not completed.*

Email

Secondary Email *Field not completed.*

Do you reside in Baytown? Yes

If yes, how long? (Years & Months) 25 years & three months

(Section Break)

Occupational Information Employed

If employed, please list the following:

Employer Name Self

Position/ Title Owner/Consultant

Employer Address 4704 Spring Ln



City, State & Zip	Baytown, Texas 77521
-------------------	----------------------

(Section Break)

#### Preference

*In order of preference, list the Board, Commission, Committee, or Task Force on which you wish to serve:*

1st Preference	Baytown Area Water Authority
2nd Preference	Library Board
3rd Preference	Parks and Recreation Board
Do you want to withhold your home address, home telephone, personal cell phone numbers and personal email as provided?	No

(Section Break)

#### Applicant Questionnaire

What professional license(s), certification(s), or training do you have that may qualify you for service?	I currently hold certifications in public communication, public policy and public leadership. These include writing, analysis and research.
What special experience/knowledge do you have that may qualify you for service?	I have extensive experience with water conservation and public policy writing and analysis around that subject in working with water conservation districts and river authorities across Texas. Public policy and previous volunteer activities have also provided well-rounded experiences in working with various organizations from environmental to municipal (e.g. parks and recreation, museums, voting and election volunteer organizations.)
Please explain why you wish to volunteer to serve on a Board, Commission, Committee, or Task Force?	I have a strong belief and desire to give back to my community and provide services based upon my academic and professional experience. These skills I have developed for professional development can and should be utilized to help improve my community in any ways I can serve my fellow Baytownians. Keeping involved is the best way to help improve and continue to grow, responsibly, my city.
Please provide any	I have attached a copy of my cv for reference.

additional information  
you feel would be  
useful to the City  
Council in considering  
your application.

---

Please include [TimBrockmanCV.pdf](#)  
additional information  
as needed. A cover  
letter and/or resume  
may also be submitted  
with this application.

---

Name of Applicant	Timothy Brockman
-------------------	------------------

---

Signature	Timothy Brockman
-----------	------------------

---

Date	12/3/2021
------	-----------

---

Thank you for your interest in serving on a City of Baytown Board, Commission, Committee, or Task Force!

Completed applications may be submitted via mail to: City of Baytown, City Clerk, P.O. Box 424, Baytown, Texas 77522-0424, via email to: [cityclerk@baytown.org](mailto:cityclerk@baytown.org), via fax to: (281) 420-5891, or in person to the City Clerk's Office, City of Baytown City Hall. Should you have any questions regarding this process, feel free to contact the City Clerk's Office at (281) 420-6504.

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Email not displaying correctly? [View it in your browser.](#)