

ORDINANCE NO. 24-S-14

AN ORDINANCE BY THE CITY COUNCIL OF THE CITY OF SCHERTZ, TEXAS TO AMEND PART III, SCHERTZ CODE OF ORDINANCES, THE UNIFIED DEVELOPMENT CODE (UDC) ARTICLE 1 – GENERAL PROVISIONS, ARTICLE 4 – PROCEDURES AND APPLICATIONS, AND ARTICLE 14 – TRANSPORTATION

WHEREAS, pursuant to Ordinance No. 10-S-06, the City of Schertz (the “City”) adopted and Amended and Restated Unified Development Code on April 13, 2010, as further amended (the “Current UDC”); and

WHEREAS, City Staff has reviewed the Current UDC and have recommended certain revision and updates to, and reorganization of, the Current UDC;

WHEREAS, on March 6, 2024, the Planning and Zoning Commission conducted a public hearing and thereafter recommended approval; and

WHEREAS, on April 2, 2024, the City Council conducted a public hearing and after considering the Criteria and recommendation by the Planning and Zoning Commission, determined that the proposed amendments are appropriate and in the interest of the public safety, health, and welfare.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SCHERTZ, TEXAS: THAT:

Section 1. The current UDC is hereby amended as set forth in Exhibit A, Exhibit B, and Exhibit C hereto.

Section 2. The recitals contained in the preamble hereof are hereby found to be true, and such recitals are hereby made a part of this Ordinance for all purposes and are adopted as a part of the judgment and findings of the Council.

Section 3. All ordinances and codes, or parts thereof, which are in conflict or inconsistent with any provision of this Ordinance are hereby repealed to the extent of such conflict, and the provisions of this Ordinance shall be and remain controlling as to the matters resolved herein.

Section 4. This Ordinance shall be construed and enforced in accordance with the laws of the State of Texas and the United States of America.

Section 5. If any provision of this Ordinance or the application thereof to any person or circumstance shall be held to be invalid, the remainder of this Ordinance and the application of such provision to other persons and circumstances shall nevertheless be valid, and the City hereby declares that this Ordinance would have been enacted without such invalid provision.

Section 6. It is officially found, determined, and declared that the meeting at which this Ordinance is adopted was open to the public and public notice of the time, place, and subject matter of the public business to be considered at such meeting, including this

Ordinance, was given, all as required by Chapter 551, as amended, Texas Government Code.

Section 7. This Ordinance shall be effective upon the date of final adoption hereof and any publication required by law.

PASSED ON FIRST READING, the ____ day of _____ 2024.

PASSED, APPROVED and ADOPTED ON SECOND READING, the ____ day of _____, 2024.

CITY OF SCHERTZ, TEXAS

Ralph Gutierrez, Mayor

ATTEST:

Sheila Edmondson, City Secretary

(city seal)

Exhibit "A"

Proposed Unified Development Code (UDC) Amendments

Article 1 – General Provisions

Sec. 21.1.10. Development manual.

The Development Manual is prepared by the City of Schertz Planning and Community Development Department - Planning Division and is hereby adopted by reference as if set forth in full. The Development Manual shall contain application forms, required application materials, fees, and application submittal deadlines. The Development Manual may be amended by the City Manager or his/her designee from time to time. A copy of the current Development Manual shall be posted to the City's website. Any amendment to the Development Manual shall be published to the City's website within 30 calendar days from when the amendment is made in accordance with LGC Section 212.0081 or its successor statute.

(Ord. No. 17-S-39 , § 1(Exh. A), 10-24-2017)

Sec. 21.1.11. Public works specification manual.

The Public Works Specification Manual prepared by the City of Schertz Public Works Division is hereby adopted by reference as if set forth in full. The Public Works Specification Manual shall contain specifications necessary to complete public projects. The Public Works Specification Manual may be adopted and updated from time to time by ordinance approved by the City Council. In accordance with LGC Section 212.002 & .0021 a public hearing is required and notice of the public hearing shall be published in a newspaper of general circulation in the city.

(Ord. No. 17-S-39 , § 1(Exh. A), 10-24-2017)

Exhibit “B”

Proposed Unified Development Code (UDC) Amendments

Article 4 – Procedures and Applications

ARTICLE 4. PROCEDURES AND APPLICATIONS

Sec. 21.4.1. Purpose and Intent.

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

Sec. 21.4.2. Initiation of Application.

- A. *Application Submittal.* All development applications to be considered by any Board, Commission or Committee, or by the City Council shall be initiated by the filing of the application by the owner of the property on which the permit is applicable or by the owner's designated agent. In the event an application is submitted by a designated agent, the application must be accompanied by a written statement, signed by the owner, authorizing the agent to file the application on the owner's behalf.
- B. *Determination of Application Completeness.*
1. All development applications shall be subject to a determination of completeness by the City Manager or his/her designee.
 2. No application shall be deemed complete and accepted for processing unless it is accompanied by all documents required by and prepared in accordance with the requirements of this UDC and the Development Manual.
 3. The City Manager or his/her designee may from time to time identify additional requirements for a complete application that are not contained within but are consistent with the application contents and standards set forth in this UDC.
 4. A determination of completeness shall not constitute a determination of compliance with the substantive requirements of this UDC.
 5. Not later than the tenth (10th) business day after the date an application is submitted, the City Manager or his/her designee shall make a written determination whether the application constitutes a complete application. This shall include a determination that all information and documents required by this UDC and the Development Manual for the type of permit being requested or other requirements have been submitted. A determination that the application is incomplete shall be sent to the applicant within such time period by email to the address listed on the application or by United States mail at the address listed on the application. The determination shall specify the documents or other information needed to complete the application and shall state that the application will expire if the documents or other information are not submitted within forty-five (45) days after the date the application was submitted.
 6. An application filed on or after the effective date of this amended and restated UDC shall be deemed complete on the eleventh (11th) business day after the application has been received, if the applicant has not otherwise been notified that the application is incomplete. For purposes of this section, the applicant shall be deemed to have been notified if the City has emailed or mailed a copy of the determination as provided in subsection B.5 above.

-
7. The processing of an application by any City employee prior to the time the application is determined to be complete shall not be binding on the City as the official acceptance of the application for filing. However, this application may be denied for incompleteness within the forty-five (45) day period.
 8. A Development Application shall be deemed to expire on the forty-fifty (45th) day after the application is submitted to the City Manager or his/her designee for processing if the applicant fails to provide documents or other information necessary to meet the requirements of this UDC, the Development Manual or other requirements as specified in the determination provided to the applicant. Upon expiration, the application will be discarded and a new application must be submitted.
 9. No vested rights accrue solely from the filing of an application that has expired pursuant to this section, or from the filing of a complete application that is subsequently denied.

C. *Application for Letters of Certification*

1. *Certifying Departments.* - Prior to filing an application for Subdivision Plat, Master Development Plan, or Site Plan approval the applicant shall secure letters of certification as required by this UDC. A request for letters of certification and required items shall be filed by the applicant with the following entities as required by the Development Manual:
 - a. Planning and Community Development Department
 - b. Engineering Department
 - c. Fire Department
 - d. Parks and Recreation
2. *Application Requirements.* Any request for a Letter of Certification shall be accompanied by an application prepared in accordance with the Development Manual.
3. *Completeness Review.* Upon receipt of a request for letters of certification, the City Manager or his/her designee shall preform a determination of application completeness pursuant to Section 21.4.2.B.
4. *Decision.* The following procedures shall apply to the issuance of a letter of certification:
 - a. After the City Manager or his/her designee has determined whether the request for letters of certification and required technical data is complete, each certifying department shall issue or deny a letter of certification within ninety (90) days. When a certifying department determines that the proposed plan, plat or any of the required accompanying data does not conform with the requirements of this UDC or other applicable regulations, ordinances or laws, the applicant may at his/her option revise any nonconforming aspects. If any data is revised and resubmitted, the certifying department/agency shall have up to thirty days (30) days from the latest date of submission to issue or deny a letter of certification.
 - b. Failure to Submit Letter of Certification. If a letter of certification is not issued or denied within the time periods prescribed in subsection C.4.a. above, the same shall be deemed issued and the applicant may submit an application for master development plan, subdivision plat, or site plan approval, without submitting the letter of certification.
5. *Issuance Criteria.* The letter of certification request is a process for compiling a complete application for master development plan, subdivision, or site plan review. The City Manager or his/her designee, in considering action on a Letter of Certification request should consider the following criteria:
 - a. the certification request complies with all applicable regulations, ordinances and laws including but not limited to the Unified Development Code, Code of Ordinances, Development Manual, Public Works Technical Specifications, and Public Works Design Guide.

-
- b. A letter of certification does not authorize any subdivision or development activity, and any action by the certifying department shall constitute only a recommendation as to whether the activities subject to the request for letters of certification would comply with the applicable development requirements.
 6. *Scope of Issuance.* A letter of certification does not authorize the development or subdivision of land. Upon receipt of all letters of certification, the applicant may submit an application for master development plan, subdivision plat, or site plan approval. Letters of certification shall remain valid for one (1) year from the date of issuance by the certifying department/agency. After that time period, new or updated letters of certification shall be required. Each new master development plan, subdivision plat, or site plan to be filed will be required to obtain new letters of certification prior to application submittal.
 7. *Amendments.* A letter of certification may be amended prior to filing an application for subdivision approval if the proposed amendment:
 - a. Does not increase the number of lots subject to the application.
 - b. Does not increase by more than five percent (5%) the lineal footage of roadways or the areas within the paved surface of the street right-of-way.
 - c. Does not reduce the amount of open space within the proposed subdivision.
 8. *Recording Procedures.* A letter of certification is not recorded. A letter of certification shall be maintained by the applicant and presented with the proposed application for master development plan, subdivision plat, or site plan approval.
 - D. *Application Withdrawal.* Any request for withdrawal of an application must be submitted in writing to the City Manager or his/her designee. If notification is required for the application and has been properly given via publication in the newspaper and/or written notification to surrounding property owners, such application must be placed on the agenda. The staff representative shall notify the Board, Commission, Committee or the City Council of the request for withdrawal. The Board, Commission, Committee or the City Council may, at its discretion, accept the request for withdrawal of the application by general consent of the members. Application fees are not refundable unless reimbursement is otherwise authorized by the City Manager or his/her designee.

(Ord. No. 19-S-22 , § 1(Exh. A), 9-3-2019)

Sec. 21.4.3. Notice Requirements.

- A. *Published Notice.* Whenever published notice of a public hearing before a Board, Commission, Committee or the City Council is required, the City Manager or his/her designee shall cause notice to be published in an official newspaper or a newspaper of general circulation in the City before the fifteenth (15th) day before the date set for the required hearing. Said notice shall set forth the date, time, place and purpose of the hearing as required under LGC section 211.006(a).
- B. *Written Notice.* Whenever written notice of a public hearing before a Board, Commission, Committee or the City Council is required, before the tenth (10th) day before the hearing date, the City Manager or his/her designee shall cause written notice to be sent to each owner, as indicated by the most recently approved municipal tax roll, of real property within 200 feet of the exterior boundary of the property in question. Said notice shall set forth the date, time, place and purpose of the hearing as required under LGC section 211.007(c). The notice may be served by its deposit, properly addressed with postage paid, in the United States mail. If the property within 200 feet of the property in question is located in territory within the City and is not included on the most recently approved municipal tax roll, notice to such owners shall be given by

one (1) publication in an official newspaper or a newspaper of general circulation in the municipality at least fifteen (15) days before the date of the hearing. Failure of owners to receive notice of hearing shall in no way affect the validity of the action taken.

- C. *Posted Notice.* Whenever posted notice of a public hearing is required, notification signs shall be posted by the applicant a minimum of eleven (11) days prior to the scheduled public hearing and shall remain posted during the course of the public hearings, until such time that final action has been taken on the permit application. Signs shall be posted on the subject property and/or along public right-of-way in a format approved by the City Manager or his/her designee. The number of signs, size of signs and content to be placed on the signs shall be in accordance with the Development Manual.

It shall be the responsibility of the applicant to periodically check sign locations to verify that signs remain in place and have not been vandalized or removed. The applicant shall replace any missing or defective signs within one (1) business day from the time that a City official notifies the applicant that the signs are missing. It is unlawful for a person to alter any notification signs, or to remove it while the case is pending. Removal or alteration that is beyond the control of the applicant shall not constitute a failure to meet notification requirements of this section.

(Ord. No. 17-S-42 , § 1(Exh. A), 10-24-2017)

Sec. 21.4.4. Public hearings.

- A. *Public Hearing Required.* Whenever a public hearing is required, the City Manager or his/her designee shall establish the date, time and place of the public hearing and shall cause any notice required under section 21.4.3 of this Article to be prepared and made accordingly.
- B. *Conduct of Hearing.* Any person may appear at the public hearing and submit evidence, either individually or as a representative of an organization. Each person who appears at a public hearing shall state his or her name, address, and if appearing on behalf of an organization, state the name and mailing address of the organization for the record. Subject to the chairperson's inherent authority to conduct meetings, public hearings shall generally be conducted as follows.
1. The City staff may present a description of the proposed project and a written or oral recommendation, if required. Any written recommendation shall be available to the public at the time that the agenda packet for the body conducting the hearing is compiled.
 2. The applicant may present any information it deems appropriate.
 3. Testimony in support of the application may be presented by any individual who expresses an interest in the proposed project.
 4. Testimony in opposition to the application may be presented by any individual who expresses an interest in the proposed project.
 5. At the discretion of the chairperson, the City staff and the applicant may respond to any statement by the public.
 6. The body conducting the hearing may exclude testimony or evidence that it finds to be irrelevant, immaterial or unduly repetitious.
 7. At the sole discretion of the chairperson of the body conducting the hearing, an individual may be permitted to pose relevant questions to staff, the applicant or the body conducting the hearing, as directed by the chairperson.
 8. The public hearing shall be closed.
 9. The advisory body (i.e. Board, Commission or Committee) shall make a recommendation.

-
10. The advisory body (i.e. Board, Commission or Committee) shall prepare a written report with its recommendations to the City Council.
- C. *Continuance of Hearing.* The body conducting the hearing may, on its own motion or at the request of any person, for good cause, continue the hearing to a fixed date, time and place. Except as required by the Texas Open Meetings Act or other applicable law, no notice shall be required if a hearing is continued. If a public hearing is closed, no further public testimony shall be taken.
 - D. *Additional Rules.* The body conducting the hearing may adopt additional rules of procedure and may apply such additional rules to govern the public hearing which are not inconsistent with this section.
 - E. *Joint Public Hearing.* Unless otherwise prescribed in this UDC, whenever an application must be preceded by a public hearing both before an advisory body (i.e. Board, Commission and/or Committee) and before the City Council, the advisory body and the Council may conduct a joint public hearing and take action on the application in the following manner.
 1. The City Council shall establish the date of the joint public hearing by motion at a regular or special meeting.
 2. The City Council shall cause notice of the joint public hearing to be provided as required by this UDC and the Texas Open Meetings Act and, by a vote of two-thirds of its members, may prescribe the type of notice for the joint public hearing.
 3. The advisory body (i.e. Board, Commission and/or Committee) and the City Council shall be convened for the hearing and for any action to be taken on the petition or application.
 4. The advisory body (i.e. Board, Commission and/or Committee) and the City Council may take action on the application at the same meeting, provided that the City Council shall not take action until the written report and recommendation of the advisory body (i.e. Board, Commission and/or Committee) has been received.

Sec. 21.4.5. Post-Decision Procedures.

- A. *Notification Required.* Within ten (10) business days following final action on any Development Application, the appropriate City department shall provide written notification to the applicant of the decision of the Board, Commission, Committee or the City Council considering the request. If an application has been denied, the notification should include the reasons for denial as well as any information relating to reapplication procedures for the appropriate application.
- B. *Reapplication Following Denial.* Whenever any Development Application, with the exception of any plat application, is denied, a Development Application for all or a part of the same property shall not be accepted for filing for a period of six (6) months after the date of denial unless the subsequent application involves a proposal that is substantially different from the previously denied proposal. For the purpose of this section, a request may be considered substantially different if the change is to a different zoning classification, there is a change in conditions relating to zoning principles of the property or surrounding properties or there is a change in the nature of the development of the property or surrounding properties. The City Manager or his/her designee shall resolve any questions concerning the similarity of the reapplication. The final decision-maker may, at its option, waive the six (6) month waiting period if, after due consideration of the matter at a scheduled and posted meeting, it is determined that denial of the request was based upon erroneous or omitted information, or if substantial new information pertaining to the request is discovered.
- C. *Amendments and Revisions to Approved Application.* Unless otherwise expressly provided by this UDC, any request to amend or revise an approved Development Application shall be considered a new application, which must be decided in accordance with the procedures governing the original application and the standards in effect at the time such new application is filed with the City.

-
- D. *Amendments Required.* Whenever a subsequent Development Application differs substantially from a previously approved Development Application to which the subsequent application must conform, the applicant shall submit an amended Development Application for the initial Development Application, which shall be decided prior to the subsequent application. The applicant's failure to comply with this section shall result in denial of the subsequent application

Sec. 21.4.6. Comprehensive Land Plan Amendment.

- A. *Applicability.* The Comprehensive Land Plan of the City reflects the long-term plan for growth and development of the City. The City Council may, from time to time, on its own motion, by request of the City Manager or his/her designee or by application from a property owner, amend, supplement, change, modify or repeal the text of the Comprehensive Land Plan or may amend the boundaries shown on the Future Land Use Map, Master Thoroughfare Plan or any other applicable maps contained in the Comprehensive Land Plan. Approved amendments to the Comprehensive Land Plan authorize a property owner to submit subsequent development applications consistent with the amendment.
- B. *Application Requirements.*
1. *Application Required.* Any request for an amendment to the Comprehensive Land Plan shall be accompanied by a completed Planning Department Development Application.
 2. *Accompanying Applications.* Any request for amendment of the Future Land Use Map submitted by a property owner may be accompanied by an application for a zoning change consistent with requested Future Land Use Map amendment for land within the City limits, or by a Subdivision Master Plan, for land within the ETJ. Approval of an amendment to the Comprehensive Land Plan shall require all subsequent development applications to be consistent with the approved amendments.
- C. *Processing of Application and Decision.*
1. *Submittal.* An application for an amendment to the Comprehensive Land Plan shall be submitted to the City Manager or his/her designee. The City Manager or his/her designee shall review the application for completeness in accordance with section 21.4.2 of this Article. The City Manager or his/her designee may, at its option, request a recommendation from any other City department or consultant. The City Manager or his/her designee shall notify the applicant of items requiring correction or attention before providing a recommendation on the application. After appropriate review, the City Manager or his/her designee shall forward a written recommendation to the Planning and Zoning Commission for consideration.
 2. *Notification Requirements.* An application for an amendment to the Comprehensive Land Plan requires the following notification in accordance with section 21.4.3 of this Article:
 - a. Written notice prior to consideration by the Planning and Zoning Commission; and
 - b. Published notice prior to consideration by the City Council.
 3. *Commission recommendation.* The Planning and Zoning Commission shall hold a public hearing in accordance with the Texas Open Meetings Act and section 21.4.4 of this Article and make a written recommendation regarding a proposed amendment to the Comprehensive Land Plan to the City Council. The Planning and Zoning Commission may recommend approval, approval with conditions, or denial of the amendment.
 4. *Decision by City Council.* The City Council shall receive the written recommendation of the Planning and Zoning Commission regarding a proposed amendment to the Comprehensive Land Plan and shall hold a public hearing in accordance with the Texas Open Meetings Act and section 21.4.4 of this Article. The City Council may vote to approve, approve with conditions, or deny the amendment.

-
- D. *Criteria for Approval.* The Planning and Zoning Commission, in making its recommendation, and the City Council, in considering final action on an amendment to the Comprehensive Land Plan, should consider the following criteria:
1. The proposed amendment promotes the health, safety, or general welfare of the City and the safe, orderly, efficient and healthful development of the City;
 2. An amendment to the text is consistent with other policies of the Comprehensive Land Plan, taking into account the nature of any proposed map amendment associated with the text amendment;
 3. An amendment to the Future Land Use Map, Master Thoroughfare Plan or any other applicable maps contained in the Comprehensive Land Plan is consistent with the policies of the Comprehensive Land Plan that apply to the map being amended, taking into account the nature of any proposed land use associated with the map amendment;
 4. Any proposed amendment is consistent with the goals and objectives of the Comprehensive Land Plan;
 5. Any proposed amendment addresses circumstances that have changed since the last time the plan map or text was considered, implements plan policies better than the current plan map or text corrects a mapping error or addresses a deficiency in the plan; and
 6. Other criteria which, at the discretion of the Planning and Zoning Commission and City Council, are deemed relevant and important in the consideration of the amendment.

Sec. 21.4.7. Unified Development Code Amendment.

- A. *Applicability.* The provisions of this section apply to any request for an amendment to the text of this UDC. The City Council may, from time to time, on its own motion, or at the request of the City Manager or his/her designee, amend, supplement, change, modify or repeal the text of any portion of this UDC in order to establish and maintain sound, stable and desirable development within the jurisdiction of the City. The provisions of this section shall exclude amendments to any appendix which may be amended by general consent of the City Council.
- B. *Application Requirements.* Requests for amendments to the text of this UDC may be initiated by the request of the Planning and Zoning Commission, the City Council or the City Manager on his/her own initiative. A request for an amendment to the text of this UDC shall be accompanied by a completed Development Application.
- C. *Processing of Application and Decision.*
1. *Submittal.* An application for an amendment to the text of this UDC shall be submitted to the City Manager or his/her designee. The City Manager or his/her designee shall review the application and may direct the proposed amendment to any other City departments or consultant for review and recommendation. After appropriate review, the City Manager or his/her designee shall forward a recommendation to the Planning and Zoning Commission for consideration.
 2. *Notification Requirements.* An application for an amendment to the text of this UDC requires published notice prior to consideration by the City Council.
 3. *Commission recommendation.* The Planning and Zoning Commission shall hold a public hearing in accordance with the Texas Open Meetings Act and section 21.4.4 of this Article and make a written recommendation regarding a proposed amendment to the text of this UDC to the City Council. The Planning and Zoning Commission may recommend approval, approval with conditions, or denial of the amendment.

-
4. *Decision by City Council.* The City Council shall receive the written recommendation of the Planning and Zoning Commission regarding a proposed amendment to the text of this UDC and shall hold a public hearing in accordance with the Texas Open Meetings Act and section 21.4.4 of this Article. The City Council may vote to approve, approve with conditions, or deny the amendment. Such amendment shall be by ordinance, and the identifying number of any such ordinance shall be noted on the cover of this UDC.
- D. *Criteria for Approval.* The Planning and Zoning Commission, in making its written recommendation, and the City Council, in considering final action on an amendment to the text of this UDC, should consider the following criteria:
1. The proposed amendment promotes the health, safety, or general welfare of the City and the safe, orderly, efficient and healthful development of the City;
 2. An amendment to the text is consistent with other policies of this UDC and the City;
 3. Any proposed amendment is consistent with the goals and objectives of this UDC and the City; and
 4. Other criteria which, at the discretion of the Planning and Zoning Commission and the City Council, are deemed relevant and important in the consideration of the amendment.
- E. *Non-Substantive Amendments.* Notwithstanding the other provisions of this section, the City Council may by resolution correct spelling or punctuation errors, cross-reference errors, and other matters herein determined by the City Attorney to be non-substantive without complying with the foregoing provisions of this section. The number of any such resolution shall be noted on the cover of this UDC.

Sec. 21.4.8. Annexation.

- A. *Applicability.* Annexation may be voluntary or involuntary and shall be required to meet all requirements of the LGC, Local Government Code for each type of annexation.

The provisions of this section apply to any request for voluntary annexation by a property owner wishing to extend the corporate limits of the City to incorporate property adjacent to the City's existing municipal boundaries.

- B. *Application Requirements.*
1. *Application Required.* A request for annexation shall be accompanied by an application prepared in accordance with the Development Manual.
 2. *Accompanying Applications.* Any request for annexation shall be accompanied by an application to establish the initial zoning on the property. An application to establish the zoning may be considered at the same meeting as the annexation request so long as the ordinance providing for annexation is acted on prior to any action on the zoning request. In the event that an application for annexation is considered concurrently with the application for zoning, the Planning and Zoning Commission may consider the zoning request and provide a written recommendation to the City Council so long as the City Council has adopted the annexation ordinance.
- C. *Processing of Application and Decision.*
1. *Submittal.* An application for annexation shall be submitted to the City Manager or his/her designee. The City Manager or his/her designee shall review the application for completeness in accordance with section 21.4.2 of this Article. The City Manager or his/her designee may, at its option, request a recommendation from any other City department or consultant. The City Manager or his/her designee shall notify the applicant of items requiring correction or attention before providing a recommendation on the application. After appropriate review, the City Manager or his/her designee shall forward a written recommendation to the City Council for consideration.

-
2. *Development Agreement.* The City Manager or his/her designee shall comply with the approval. The City Council shall comply with LGC, Local Government Code § 43.035.
 3. *Notification requirements.* The City Manager or his/her designee shall provide notification in accordance with LGC, Local Government Code § 43.062.
 4. *Service plan required.* The City Manager or his/her designee shall prepare an annexation service plan in accordance with LGC, Local Government Code § 43.056.
 5. *Decision by City Council.* The City Council shall hold two public hearings in accordance with LGC, Local Government Code § 43.063 and shall take final action as required in LGC, Local Government Code.
 6. *Other Procedures Applicable.* A request for annexation is subject to all applicable rules and procedures required by State law. In the event of a conflict between the requirements of this UDC and State law, the requirements of State law shall apply.
- D. *Criteria for Approval.* When considering a request for voluntary annexation, the City Council should consider the following criteria:
1. The application is consistent with the requirements of State law and this UDC;
 2. The annexation promotes the health, safety, or general welfare of the City and the safe, orderly, efficient and healthful development of the City;
 3. The property owners and residents of the area consent to the annexation;
 4. The application includes a service plan as required by subsection 21.4.8.C.4 above;
 5. The annexation is consistent with the goals and objectives of the Comprehensive Land Plan; and
 6. Other criteria which, at the discretion of the Planning and Zoning Commission and the City Council, are deemed relevant and important in the consideration of the amendment.

(Ord. No. 18-S-04 , § 1(Exh. A), 1-23-2018)

Sec. 21.4.9. Reserved.

Editor's note(s)—Ord. No. 19-S-02 , § 2, adopted Feb. 5, 2019, repealed § 21.4.9, which pertained to the designation of landmark properties and heritage neighborhoods and derived from Ord. No. 13-S-58 , § 1, adopted Dec. 10, 2013.

Sec. 21.4.10. Development Agreements.

- A. *Applicability.* The purpose of a Development Agreement is to determine whether the City wishes to authorize a plan of development for land located within its ETJ, to prescribe land uses, environmental standards, development standards and public facilities standards governing development of the land for the term of the agreement, to provide for the delivery of public facilities to the property and to provide for annexation of the property to the City. A Development Agreement may be approved for land located in the ETJ of the City in accordance with LGC, Local Government Code § 212.172.
- B. *Application Requirements.*
 1. *Application Required.* Any application for a Development Agreement shall be accompanied by an application prepared in accordance with the Development Manual.
 2. *Accompanying Applications.* An application for a Development Agreement shall be accompanied by a preliminary plat prepared in accordance with section 21.12.7 of this UDC. Approval of a preliminary

plat as part of a Development Agreement shall meet the requirements for preliminary plat approval under section 21.12.7.

C. *Processing of Application and Decision.*

1. *Submittal.* An application for a Development Agreement shall be submitted to the City Manager or his/her designee. The City Manager or his/her designee shall review the application for completeness in accordance with section 21.4.2.
2. *Preparation and Negotiation of Development Agreement.* An application for a Development Agreement shall be prepared in accordance with LGC, Local Government Code § 212.172. After review by the City staff, the application and accompanying plans shall be transmitted to the office of the City Attorney for review. After appropriate review by all parties, a recommendation shall be forwarded to the Planning and Zoning Commission for review and recommendation. The City Council shall have the final authority for approval of a Development Agreement.
3. *Commission Recommendation.* The Planning and Zoning Commission shall hold a public hearing in accordance with the Texas Open Meetings Act and section 21.4.4 and make a written recommendation regarding a proposed Development Agreement to the City Council. The Planning and Zoning Commission may recommend approval, approval with conditions, or denial of the agreement. The Planning and Zoning Commission may, on its own motion or by request of the property owner, postpone consideration of the request to a certain date that is not more than thirty (30) calendar days after the date of the current consideration in order to review additional information or modifications which may have a direct bearing on the recommendation to the City Council.
4. *Decision by City Council.* The City Council shall receive the written recommendation of the Planning and Zoning Commission regarding a proposed Development Agreement and shall hold a public hearing in accordance with the Texas Open Meetings Act and section 21.4.4. The City Council may vote to approve, approve with conditions, or deny the Development Agreement. The City Council may, on its own motion or by request of the property owner, postpone consideration of the request to a certain date that is not more than thirty (30) calendar days after the date of the current consideration in order to review additional information or modifications which may have a direct bearing on the final decision. If the City Council approves the Development Agreement, it shall approve the agreement by appropriate action that authorizes the City Manager to execute the agreement on behalf of the City following execution by the property owner. Unless otherwise specified by the City Council, the property owner shall accept the Development Agreement and accompanying preliminary plat within ten (10) working days after the date the City Council's action is adopted. If not executed by the property owner within such period, the Council's approval shall be deemed void.
5. *Recording Development Agreement.* The approved Development Agreement shall be recorded in the real property records of each county in which land subject to the agreement is located.

(Ord. No. 18-S-04 , § 1(Exh. A), 1-23-2018)

Sec. 21.4.11. Utility service extension.

A. *Applicability.*

- a. An application for a Utility Service Extension shall be required when a property owner seeks water or wastewater services from the City for a proposed project that is located within the City's service area(s), that is not required to plat or for which the platting requirement falls under a different jurisdiction than the City at the time of the proposed Utility Service Extension. Approval of an application for a Utility Service Extension authorizes the property owner to submit development applications consistent with the capacity of the utility facilities to be extended and,

upon approval of the development applications, to construct extensions of the utility facilities in accordance with the terms of the approved Utility Service Extension application, as long as the City is allowed to make approvals consistent with agreements executed with other utility service providers.

- b. An application for a Utility Service Extension shall be required when a property owner seeks water or wastewater services from the City for a proposed project that is located outside the City's service area(s) that is not required to plat or for which the platting requirement falls under a different jurisdiction than the City at the time of the proposed extension and subsequent development. Approval of an application for a Utility Service Extension authorizes the property owner to submit development applications consistent with the capacity of the utility facilities to be extended and, upon approval of the development applications, to construct extensions of the utility facilities in accordance with the terms of the approved Utility Service Extension application, as long as the City is allowed to make approvals consistent with agreements executed with other utility service providers.

B. *Application Requirements.*

1. *Application Required.* Any application for Utility Service Extension shall be accompanied by a completed Development Application.
2. *Accompanying Applications.*
 - a. An application for Utility Service Extension for a proposed project that is not located within the City Limits may be accompanied by a request for voluntary annexation. The City may, at its option, elect to annex the property upon request or may delay the annexation until such time the City deems necessary to promote the health, safety or general welfare of the City and the safe, orderly, efficient and healthful development of the City.
 - b. An application for Utility Service Extension may be accompanied by an application for a Subdivision Master Plan prepared in accordance with section 21.12.5. A Subdivision Master Plan may not be approved until final approval of the Utility Service Extension by the City Council.
 - c. An application for Utility Service Extension for a proposed project that is not located within the City's service areas shall be accompanied by an approval for a Certificate of Convenience and Necessity (CCN) transfer through the Public Utility Commission (PUC) or appropriate Commission, as well as an updated Service Area Map and Capital Improvement Plan amendment for the proposed development and areas to be served in the future by the proposed utility service extension.

C. *Processing of Application and Decision.*

1. *Submittal.* An application for Utility Service Extension shall be submitted to the City Manager or his/her designee. The City Manager or his/her designee shall review the application for completeness in accordance with section 21.4.2.
2. *Review and Processing of Request.* The City Manager or his/her designee shall circulate the application among applicable City departments for review and recommendation. The City Manager or his/her designee shall evaluate the request for consistency with the approval criteria and shall prepare a written recommendation to be forwarded to the City Council. The recommendation should include any comments received from other departments including, but not limited to, an analysis of the financial feasibility of extending services and any fiscal impacts on existing utilities from the extension.
3. *Decision by City Council.* The City Council shall receive the written recommendation of the City Manager or his/her designee and shall decide whether to approve, approve with conditions, or deny the request for Utility Service Extension.

-
- D. *Criteria for Approval.* The City Council, in considering final action on a request for Utility Service Extension, should consider the following criteria:
1. Whether the proposed development to be served by the extension is consistent with the Comprehensive Land Plan;
 2. Whether the extension is proposed to be constructed in accordance with all applicable City ordinances, resolutions, regulations and standards;
 3. For applications for service to property outside the City's service area(s) - Whether it is feasible to annex the property, and any intervening property which is needed for utility rights-of-way, into the City;
 4. Whether the utility extension would compromise the City's ability to timely provide adequate water or wastewater facilities to property inside the City;
 5. Whether the utility extension will lead to premature development that cannot be served efficiently and timely by roadway, drainage or park facilities;
 6. Whether the utility extension is financially feasible given the proposed means of financing the extension;
 7. Whether the utility extension will lead to significant degradation of water quality or other environmental resources, either from construction of the water or wastewater improvements, development of the property owner's land, or development of other land that may be served through the extended facilities;
 8. Whether the property owner proposes to extend wastewater facilities without utilizing City water facilities; and
 9. The extent to which the proposed agreement promotes the health, safety or general welfare of the City and the safe, orderly, efficient and healthful development of the City.

Sec. 21.4.12. Variances.

- A. *Applicability.*
1. The BOA shall have the ability to authorize, in specific cases, a variance from the zoning regulations of this UDC if the variance is not contrary to the public interest and, due to special conditions, a literal enforcement of this UDC would result in unnecessary hardship, so that the spirit of this UDC is observed and substantial justice is done. A variance shall not be granted to relieve a self-created or personal hardship, nor shall it be based solely on economic gain or loss, nor shall it permit any person a privilege in developing a parcel of land not permitted by this UDC to other parcels of land in the district.
 2. Approval of a variance authorizes a property owner to submit subsequent development applications consistent with the approved variance.
- B. *Application Requirements.* Any request for a variance shall be accompanied by an application prepared in accordance with the Development Manual.
- C. *Processing of Application and Decision.*
1. *Submittal.* An application for a variance shall be submitted to the City Manager or his/her designee. The City Manager or his/her designee shall review the application for completeness in accordance with section 21.4.2. The City Manager or his/her designee may, at its option, request a recommendation from any other appropriate City department or consultant. The City Manager or his/her designee shall notify the applicant of items requiring correction or attention before providing a recommendation on

-
- the application. After appropriate review, the City Manager or his/her designee shall forward a written recommendation to the BOA for consideration.
2. *Notification requirements.* An application for a variance requires the following notification in accordance with section 21.4.3:
 - a. Written notice; and
 - b. Published notice.
 3. *Decision by the BOA.*
 - a. The BOA shall receive the recommendation of the City Manager or his/her designee and shall hold a public hearing in accordance with section 21.4.4. The Board may vote to approve, approve with conditions, or deny the variance.
 - b. The Board may, on its own motion or by request of the property owner, postpone consideration of the variance to a certain date that is not more than thirty (30) calendar days after the date of the current consideration in order to review additional information or modifications which may have a direct bearing on the final decision.
 - c. The approval shall be effective for a period of 180 days after the date of such approval. If no application for building permit is submitted within that time, the variance shall become null and void.
 - d. The disapproval of a variance shall require compliance by the applicant, if applicable, within fifteen (15) days after the date of disapproval and upon written notification by staff.
- D. *Criteria for approval.* In order to make a finding of hardship and grant a variance from the zoning regulations of this UDC, the Board must determine the following:
1. The requested variance does not violate the intent of this UDC or its amendments;
 2. Special conditions of restricted area, topography or physical features exist that are peculiar to the subject parcel of land and are not applicable to other parcels of land in the same zoning district;
 3. The hardship is in no way the result of the applicant's own actions; and
 4. The interpretation of the provisions in this UDC or any amendments thereto would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district that comply with the same provisions.
5. In considering a variance as applied to a structure, the board may consider the following as grounds to determine whether an unnecessary hardship would result from compliance with the ordinance:
- a. The financial cost of compliance is greater than 50 percent of the appraised value of the structure as shown on the most recent appraisal roll certified to the assessor for the municipality under Section 26.01, Tax Code;
 - b. Compliance would result in a loss to the lot on which the structure is located of at least 25 percent of the area on which development may physically occur;
 - c. Compliance would result in the structure not being in compliance with a requirement of a municipal ordinance, building code, or other requirement;
 - d. Compliance would result in the unreasonable encroachment on an adjacent property or easement; or
 - e. The municipality considers the structure to be a nonconforming structure.

-
- E. *Appeals of BOA Decisions.* Any person or persons aggrieved by any decision of the BOA, or any taxpayer or any officer, department, board of the City may appeal a decision of the BOA regarding any variance request in accordance with section 21.3.4 of this UDC.
 - F. *Finding of fact.* The board shall complete a finding of fact for variance or appeal to support its conclusion for each variance or appeal presented to it.

(Ord. No. 18-S-04 , § 1(Exh. A), 1-23-2018)

Sec. 21.4.13. Reserved.

Sec. 21.4.14. Appeals.

- A. *Purpose and Applicability.* The purpose of an appeal is to contest an initial decision on a Development Application based upon alleged misapplication of the regulations contained within this UDC and the criteria for approval of the Development Application. An appeal may not be used to amend, vary or otherwise modify the standards of this UDC that apply to the Development Application. Any decision on a Development Application required by this UDC may be appealed to the Board, Commission or the City Council indicated within the procedures for each Development Application. The granting of an appeal supersedes the decision from which the appeal was taken and results in approval, conditional approval or denial of the Development Application for which the approval was sought.
- B. *Appeal Requirements.* Any person or persons aggrieved by any decision on a Development Application, or any marshal, officer, department, or board of the City may appeal a decision on a Development Application to the Board, Commission or the City Council responsible for consideration of the appeal as indicated in this UDC. An appeal shall contain a written statement of the reasons why the decision is erroneous, and shall be accompanied by a fee established by the City Council. An appeal by an applicant shall be accompanied by a copy of the Development Application on which the initial decision was rendered. An appeal may include any other documents that support the position of the appellant. A written appeal must be filed with the City Manager or his/her designee no later than twenty (20) days after the date of the decision on the Development Application.
- C. *Processing of Appeal and Decision.*
 - 1. *Submittal.* An appeal shall be submitted to the City Manager or his/her designee for processing of the Development Application being appealed. Upon receipt of a written appeal, the City Manager or his/her designee shall compile all documents constituting the record of the decision subject to appeal and transmit the record to the Board, Commission or the City Council responsible for considering the appeal.
 - 2. *Stay of Proceedings.* Receipt of a written appeal of a decision on a Development Application stays all proceedings of the City in furtherance of the decision from which appeal is taken, including without limitation acceptance, processing or issuance of any subsequent development applications, and any development activities authorized by initial approval of the Development Application. The stay shall be lifted only if the City Manager or his/her designee certifies in writing to the Board, Commission or the City Council responsible for consideration of the appeal that a stay would cause imminent peril to life or property. Thereafter, the stay may be reinstated only by order of the Board, Commission or the City Council responsible for consideration of the appeal or a court of record, on application, after notice to the City Manager or his/her designee, for due cause shown.
 - 3. *Notification Requirements.* An appeal requires the following notification in accordance with section 21.4.3:

-
- a. Written notice; and
 - b. Published notice.
4. *Decision on Appeal.* The Board, Commission or the City Council responsible for consideration of the appeal shall hold a public hearing and decide the appeal not later than the next meeting for which notice can be provided and not later than the 60th day after the date the appeal is filed. The Board, Commission or the City Council responsible for consideration of the appeal shall affirm, reverse or modify the decision from which the appeal was taken.
 5. *Notification of Decision on Appeal.* The property owner and the applicant for the Development Application under appeal shall be notified of the decision on the appeal in accordance with section 21.4.5.
- D. *Criteria for Approval.* In deciding the appeal, the Board, Commission or the City Council responsible for consideration of the appeal shall apply the same criteria that govern the initial decision on the Development Application under the provisions of this Article.
 - E. *Expiration and Extension.* For purposes of determining expiration or extension periods under this UDC, the date the Board, Commission or the City Council responsible for consideration of the appeal grants relief on the appeal is the date on which the Development Application is deemed approved.
 1. Once the Board, Commission or the City Council grants relief on the appeal, a new Development Application or permit application shall be submitted within 180 days after the date of such approval or the appeal shall become null and void.
 2. The disapproval of an appeal shall require compliance by the applicant, if applicable, within fifteen (15) days after the date of disapproval and upon written notification by staff.

Sec. 21.4.15. Public infrastructure improvements, construction plans, and improvement agreements.

- A. *Applicability.* The provisions of this section applies to the construction of any public infrastructure improvements.
- B. *Processing of Construction Plans and Decision.*
 1. *Submittal.* Construction plans shall be submitted to the City Manager or his/her designee prior to construction of public infrastructure improvements. Submittal of construction plans shall be in accordance with the Engineering Department's permitting requirements.
 2. *Decision by the City Manager.* The City Manager or his/her designee may approve, approve with conditions, or deny the construction plans.
 3. *Criteria for Approval.* The City Manager or his/her designee, or the City Council on appeal, shall apply the following criteria in making a decision on the construction plans:
 - a. The construction plans are consistent with the approved preliminary plat or the proposed final plat in the event that the public infrastructure improvements are in relation to a plat; and
 - b. The construction plans conform to all applicable regulations pertaining to the construction and installation of public infrastructure improvements.
 4. *Expiration.* The approval of construction plans shall remain in effect for two years after the date the construction plans were approved by the City Manager or his/her designee. If construction of the project has not commenced during the two year period, approval of the construction plans shall expire. For public infrastructure improvements that are associated with a final plat, approval of the

construction plans shall remain in effect for the time that approval of the final plat is in effect and shall expire when approval of the final plat expires, unless an extension is granted, pursuant to Section 21.4.15.B.5, Extension.

5. *Extension.* At the written request of the property owner or their representative, the expiration date for the approval of construction plans may be extended by the City Manager or his/her designee for a period not to exceed six (6) months. In no case shall the construction plan extension be later than the final plat expiration.

C. *Timing of Public Infrastructure Improvements.*

1. *Completion Prior to Final Plat Recordation.* For public infrastructure improvements associated with a proposed subdivision or development, except as provided below, completion of the improvements shall be in accordance with the approved construction plans and shall occur before an approved final plat is recorded, unless the obligation to construct public infrastructure improvements has been deferred and an improvement agreement is executed. Other infrastructure including all electric utility services necessary to serve the development shall be installed within the development prior to plat recordation.
2. *Installation after Final Plat Recordation.* The property owner or applicant may request to defer the obligation to construct and install one (1) or more public improvements to serve the associated subdivision until after final plat recordation. The request shall be submitted in writing and specify what is being requested for deferral. Deferral of the obligation to install public improvements shall be conditioned on execution of an improvement agreement and provision of sufficient security. The City Manager or his/her designee may approve or deny the request to defer installation of public infrastructure improvements.
3. *Off-Site Easements.* All necessary off-site easements required for installation of off-site public improvements to serve the subdivision or development shall be acquired by the subdivider or developer and conveyed solely to the City by an instrument approved by the City.

D. *Inspection and Acceptance of Public Infrastructure Improvements.*

1. *Inspections.* Inspection of the public infrastructure improvements shall be conducted by the Engineering Department. Construction shall be in accordance with the approved construction plans. Any significant change in design required during construction shall be subject to approval by the City Manager or his/her designee.
2. *Submission of As-Built Plans or Record Drawings.* The City shall not accept dedication of required public improvements until the applicant has submitted detailed "as-built" record drawings in accordance with Engineering Department's requirements and the Public Works Specification Manual.
3. *Acceptance of Improvements.* When the City Manager or his/her designee has determined that the public infrastructure improvements have been installed in accordance with the approved Construction Plans, the City Manager or his/her designee shall accept such improvements on behalf of the City. Acceptance of the improvements shall mean that the property owner has transferred all rights to all the public improvements to the City for use and maintenance. Upon acceptance of the required public improvements, the City Manager or his/her designee shall have a certificate issued to the property owner stating that all required public improvements have been satisfactorily completed.

E. *Maintenance and Warranty of Improvements.*

1. *Maintenance During Construction.* The developer shall maintain all required public improvements during construction of the development.
2. *Bond.* The developer or owner shall covenant to warranty the required public improvements for a period of two (2) years following acceptance by the City of all required public improvements or

following the date of plat recordation, whichever occurs later. A warranty bond shall be provided in the amount of 20% of the costs of the improvements for such period. All public improvements shall be bonded.

F. *Improvement Agreements.*

1. *Obligations Under Agreement.* Whenever public improvements to serve development are deferred until after recordation of the final plat, the property owner shall enter into an Improvement Agreement and provide adequate security as determined by the City Manager or his/her designee.

The Improvement Agreement shall be subject to review and approval by the City Manager or his/her designee and the City Attorney. The agreement shall contain the following provisions:

- a. covenants to complete the improvements be no later than two (2) years after approval of the final plat, unless otherwise stipulated in the terms and conditions of the Improvement Agreement;
 - b. covenants to warranty the required public improvements for a period of two (2) years following acceptance by the City of all required public improvements, unless stated otherwise in the Improvement Agreement;
 - c. covenants to provide a warranty bond in the amount of 20% of the costs of the improvements for such period, unless stated otherwise in the Improvement Agreement;
 - d. provisions for participation in the costs of the improvements by the City, if authorization has been obtained from the City Council, and a performance bond for such improvements from the contractor;
 - e. provisions for securing the obligations of the agreement consistent with subsection G below; and
 - f. such other terms and conditions as are agreed to by the City and the property owner, or as may be required by this UDC.
2. *Covenants to Run with the Land.* The Improvement Agreement shall provide that the covenants contained in the Agreement run with the land and bind all successors, heirs and assignees of the property owner. All existing owners and lienholders shall be required to execute the Agreement or provide written consent to the covenants contained in the Agreement.

G. *Security for Completion of Improvements.*

1. *Security.* Whenever the property owner has entered into an Improvement Agreement to defer installation of public improvements, the property owner shall provide sufficient security for completion of the required public improvements. The security shall be in the form of a cash escrow, a performance bond or surety bond provided by a licensed surety company, or other security as approved by the City Manager or his/her designee.
2. *Amount and Acceptability.* The security shall be issued in the amount of 125% of the estimated cost of completion that is approved by the City Manager or his/her designee for the required public infrastructure improvements. The terms of the security agreement shall be subject to the approval of the City Manager or his/her designee and the City Attorney.
3. *Remedies.* Where an Improvement Agreement has been executed and security has been posted and required public improvements have not been installed in accordance with the terms of the agreement, the City may:
 - a. declare the Agreement to be in default and require that all the public improvements be installed regardless of the extent of completion of the development at the time the Agreement is declared to be in default;

-
- b. obtain funds under the security and complete the improvements itself or through a third party; or
 - c. assign its right to receive funds under the security to any third party, including a subsequent owner of the development in exchange for the subsequent owner's agreement and posting of security to complete the public infrastructure improvements.

(Ord. No. 17-S-41 , § 1(Exh. A), 10-24-2017)

Editor's note(s)—Ord. No. 17-S-41 , § 1(Exh. A), adopted Oct. 24, 2017, amended § 21.4.15, and in so doing changed the title of said section from "Public infrastructure improvement, construction plans and community facilities agreements" to "Public infrastructure improvements, construction plans, and improvement agreements," as set out herein.

Sec. 21.4.16. Building permits.

- A. *Applicability.* An application for a building permit is required within the City corporate limits, or where provided for in a Development Agreement, in the City's ETJ, prior to the placement, construction or alteration of a building or structure. Approval of an application for a building permit authorizes the property owner to construct, alter or place a structure on the lot, tract or parcel. Approval of an application for a building permit also authorizes the property owner, upon completion of a structure intended for human occupancy, to make application for a certificate of occupancy.
- B. *Application Requirements.* Any request for a building permit shall be accompanied by an application prepared in accordance with requirements of the building inspections division. The City Manager or his/her designee shall be responsible for determining the form and content of the building permit application.
- C. *Processing of Application and Decision.*
 - 1. *Submittal.* An application for a building permit shall be submitted to the The City Manager or his/her designee. The City Manager or his/her designee shall review the application for completeness in accordance with section 21.4.2. The City Manager or his/her designee shall review the permit for compliance with all adopted building codes and regulations and shall provide written notification of any items requiring correction or attention within forty-five (45) days after submittal of a complete application.
 - 2. *Decision by the City Manager.* The City Manager or his/her designee may approve, approve with conditions, or deny the building permit.
 - 3. *Appeals.* Any person or persons aggrieved by any decision of the City Manager or his/her designee, or any taxpayer or any officer, department, or board of the City may appeal the decision of the City Manager or his/her designee to the Building and Standards Commission.
- D. *Criteria for Approval.* The City Manager or his/her designee shall apply the following criteria in deciding the application for a building permit:
 - 1. The application generally conforms to all prior approved development applications for the property and any variance petition authorizing variation from the standards otherwise applicable to the permit;
 - 2. The location of the structure on the property is in accordance with all prior approved development applications;
 - 3. The proposed plan for construction or alteration conforms to the Building Code and other applicable construction codes adopted by the City;
 - 4. All applicable fees, including impact fees, have been paid;

-
5. A final plat of the property has been recorded in the appropriate County plat records; and
 6. All public infrastructure required has been installed and accepted by the City and all electric, gas, telephone and cable utility services necessary to serve the development have been installed within the development.
- E. *Issuance.* No building permit shall be issued on property that is not a lot of record with the following exceptions:
1. Additions to existing structures not exceeding twenty-five percent(25%) of the building at the time of the adoption of this UDC; and
 2. Interior finish out or improvements to existing structures.

(Ord. No. 17-S-40 , § 1(Exh. A), 10-24-2017; Ord. No. 18-S-04 , § 1(Exh. A), 1-23-2018)

Exhibit “C”

Proposed Unified Development Code (UDC) Amendments

Article 14 – Transportation

ARTICLE 14. TRANSPORTATION

Sec. 21.14.1. Streets.

- A. *Street Layout.* The arrangement, extent, character, width, grade and location of all streets shall conform to the Master Thoroughfare Plan, the Public Works Specification Manual, and the City's adopted Comprehensive Plan. Collector streets shall provide adequate circulation within the neighborhood and yet discourage through traffic. The street layout shall be arranged to achieve the most desirable development of the entire neighborhood unit with appropriate consideration of creeks, drainage channels, wooded areas and other topographical features, which lend themselves to special treatment. Permits must be obtained from TxDOT for driveways and streets accessing any state roadway. The proposed location of driveways must comply with all applicable City and State requirements.
- B. *Relation to Adjoining Streets.* Adjoining areas shall be continued and tied into the street layout.
- C. *Projection of Streets.* When adjoining properties are not yet subdivided, the arrangement of streets shall provide for the proper projection of streets into the adjoining unsubdivided areas and shall generally conform to the Comprehensive Plan and the Master Thoroughfare Plan.
- D. *Private Streets.*
1. Private streets within the City may be authorized providing all the following conditions are met:
 - a. A homeowner's association is established to maintain and upkeep all streets in a subdivision in accordance with the City's public street standards, to include the mowing of shoulders and rights-of-way, removal of weeds and unclogging of culverts.
 - b. Private streets are constructed in accordance with the City's standards for public streets.
 - c. The following "maintenance agreement" note will appear on the subdivision plat:

"Streets within this subdivision shall be constructed in accordance with the City of Schertz public streets standards. The upkeep and maintenance to include the mowing of shoulders and rights-of-way, removal of weeds and unclogging of culverts shall be the responsibility of the homeowner's association. The City of Schertz is released from any liability for these streets. Periodic inspection by a public official who is authorized to enforce complaints about poor maintenance is permitted."
 - d. Provide access for fire protection, ambulance, police, school bus, garbage service and other utility agencies.
 2. *One Residence.* A private street or road serving only one (1) residence is exempt from construction and maintenance standards for public streets.
 3. *Ingress/Egress.* Private streets shall connect directly to a public street or road.
- E. *Dead-End Streets and Cul-De-Sacs.*
1. Dead-end streets greater than five hundred (500') feet in length as measured from the center of the intersection to the end of the pavement or center of the cul-de-sac, shall be prohibited. Short stubs projected to be continued in future subdivisions in conformance with Paragraph C of this section and not having any lots fronting the short stub are not required to have a cul-de-sac or temporary turn around at the end. All other dead-end streets shall end in a cul-de-sac or temporary turnaround meeting the requirements of paragraph E.2 below.

-
2. Cul-de-sac streets shall have a turnaround of not less than one hundred forty (140') feet in diameter of ROW and one hundred twenty (120') feet in diameter of pavement in single-family residential areas, one hundred sixty (160') feet in diameter of ROW and not less than one hundred (130') feet in diameter of pavement in multi-family, commercial, and industrial areas. This provision may be modified upon approval of the Fire Chief and City Engineer or his/her designee.
- F. *Alignment.* The alignment of all arterial and collector streets shall generally conform to the Master Thoroughfare Plan and the requirements of the Public Works Specifications Manual.
 - G. *Intersections.* The curb radius at street intersections shall conform to the specifications in the Public Works Specifications Manual.
 - H. *Street Names and Street Numbers.* Names of all new streets shall be subject to the approval by the Planning and Zoning Commission and be coordinated regionally. Street names shall have prior approval of the regional E911 authority and meet all City and County guidelines relevant to location. Upon request, the City will coordinate new street numbers with existing addresses and provide subdivider with an approved addressing document.
 - I. *Construction Standards.* All streets shall be constructed with reference to base, surfacing, curbs, grades, horizontal curves and intersection curve radius in accordance with the standards prescribed in the Public Works Specifications Manual and any other applicable specifications of the City.
 - J. *Reserve Areas are Prohibited.* There shall be no reserve areas controlling access to land dedicated or intended to be dedicated to public use.
 - K. *Half Streets or Adjacent Streets.*
 1. No new half streets shall be platted that do not conform to the Master Thoroughfare Plan and the Comprehensive Land Plan. Where the proposed subdivision abuts upon an existing street or half street not conforming to the Comprehensive Land Plan requirements or the requirements of this UDC, the subdivider shall be required to dedicate any additional right-of-way to meet the street width required to the extent permitted by State Law.
 2. If new development of property abuts City maintained roads that do not meet the width standards in this UDC, the Developer shall be required to make the necessary dedication and improvements in conformance with this UDC or any other applicable code of the City to the extent permitted by State Law.
 3. The minimum dedication and construction costs shall be equal to one-half (½) of the minimum right-of-way (ROW) and construction costs associated with the proposed street.
 4. Improvements shall include right-of-way dedication, paving, curb and guttering, shoulder improvements, sidewalk, multi-use paths and/or hike/bike trails as determined by the City.
 5. Should any pavement be laid to widen existing pavement, the existing pavement shall be saw-cut back a minimum of two feet (2') to assure an adequate sub-base and pavement joint.
 - L. *Public Accesses.* All residential subdivisions shall have a minimum of two (2) locations accessing existing public streets. Access may be provided through the construction of a public street. The extent and location of all accesses is subject to review and approval by the City. The Planning and Zoning Commission shall not permit "island" subdivisions, lots or streets that would be surrounded by the flood water of a one hundred (100) year flood unless the area is accessible to high ground by at least one dedicated street elevated above the one hundred (100) year flood level.
 - M. *Safety Lanes (Fire Lanes).*
 1. Manufactured home parks, recreational vehicle parks, apartments, multi-family residences, malls, commercial and business areas shall have driving surfaces within the site designated and clearly

identified as safety lanes or fire lanes for fire protection, EMS, etc. These areas must be paved with concrete or asphalt and be maintained by the owners. Exits from these sites shall be a minimum of thirty feet (30') in width and must exit into a dedicated street. The pavement width for interior safety lanes will be a minimum of twenty-four feet (24'). Additional width will be required when adequate off-street parking is not provided.

2. Exits from single family residential areas shall be a minimum pavement width of twenty-four (24') feet.
 3. All roadways that serve emergency vehicles are required to have a minimum clearance of fifteen feet (15') to any overhead obstructions including, but not limited to, bridges, trees, canopies, awnings and signs.
- N. *Access to Arterial Streets and Freeways.* Access to arterial streets and freeways should be limited to protect the flow of traffic from the lots. Along arterial streets and freeways, lots that have access to another public right-of-way shall not take access from the arterial street or freeway.
- O. *Street and Traffic Control Signs.*
1. All street signs in a new subdivision within the City limits, including street name, speed limit, stop and yield signs, etc. shall be paid for by the developer, and shall be provided by and installed by the City's Public Works Department in accordance with the Public Works Specifications Manual. Traffic control devices required within the subdivision shall be installed in accordance with the latest revision of the Texas Manual on Uniform Traffic Control Devices for Streets and Highways.
 2. Any installation of speed control devices, such as speed bumps or humps, must also be approved by the fire department to determine potential impact to emergency response vehicles.
 3. A required traffic control device must be fitted with traffic preemption compatible devices for activation by emergency vehicles.
- P. *Street Improvements.*
1. All street improvements shall meet the current requirements of the Comprehensive Plan, the Master Thoroughfare Plan, and this Article, but in no case shall be less than the following to the extent allowed by State Law:

Classification	ROW	Pavement **	Drainage Width	Sidewalk and Multi-Use Path Width
Six Lane Principal Arterial	130 feet*	74 feet with 16-foot median*	Curb and Gutter	10 feet both sides
Four Lane Principal Arterial	120 feet	54 feet with 10-foot median	Curb and Gutter	5 feet one side, 10 feet one side
Secondary Arterial	90 feet	54 feet with 10-foot median	Curb and Gutter	5 feet one side, 10 feet one side
Commercial Collector	70 feet	42 feet	Curb and Gutter	5 feet one side, 10 feet one side
Local Street - Residential	50 feet	30 feet	Curb and Gutter	5 feet both sides

Local Street - Commercial/Industrial	60 feet	42 feet	Curb and Gutter	5 feet both sides
Paved Alley	24 feet	24 feet	Curb or Curb and Gutter	None

* Schwab Road north of IH-35 has a ROW width of 200 feet and wider pavement section as determined by the City Engineer.

** Pavement width is measured from the face of curb to face of curb on curb and gutter roadways.

2. Typical sections identified in the Master Thoroughfare Plan may be modified by the City Manager or his/her designee based on drainage needs, traffic needs, site specific conditions, and other factors as part of the development review and approval process.

3. *Islands in Roadways.* Islands in road rights-of-way will be considered on a case-by-case basis. The street right-of-way will be engineered to accommodate all emergency and utility vehicles and two-way traffic. At a minimum, all islands shall provide at least twenty-four feet (24') of pavement on each side of the island. All islands provided within street ROW shall be designated on the plat and shall be dedicated by the developer or its successors and/or assigns. A plat note shall be provided which identifies maintenance of islands as the responsibility of the developer or its successors and/or assigns. Any islands that are not maintained in accordance with this section may be removed by the City and shall be removed at the expense of the developer or its successors and/or assigns, after due notice and the written recommendation by the City Manager or his/her designee.

4. *Medians.* Medians are typically located at the approximate center of a city street or state right-of-way that is used to separate the directional flow of traffic.

Q. *Drainage.* The storm drainage for all streets shall be designed per the most current edition of the Public Works Specification Manual and shall comply with the City's Stormwater Pollution Prevention and Drainage Plan requirements.

R. *Curb and Gutter.* Curbs and gutters shall be installed by the subdivider on both sides of all streets within or forming part of the boundary of the subdivision. Curb and gutter shall be constructed in accordance with the Public Works Specifications Manual. The City Engineer or his/her designee may waive the requirements for construction of curb and gutter or may approve an alternative curb and gutter construction where developments result in an overall density of less than one (1) unit per one-half (½) acre.

S. *Streetlights.*

1. Developers shall furnish satisfactory easements for installation of services to street lights as required by the City and any applicable electric utility provider.

2. Street light number, type and size shall be determined by the City and any applicable electric utility provider and shall conform to the requirements of the Public Works Specification Manual. Street lights shall be designed to maximize the light directed toward the ground.

3. The developer shall pay the cost of purchasing and installing all street lighting equipment and the cost of all street lighting services for a period of two (2) years or until such time as seventy percent (70%) of the buildings for which building permits have been issued are completed, whichever is sooner.

4. A lighting plan shall be submitted with the Public Infrastructure Improvement Plans for review and approval by the City and any applicable electric utility provider. The lighting plan shall include:

a. Streetlight locations;

-
- b. A description of lighting fixtures, including lamps, poles or other supports and shielding devices, which may be provided as catalog illustrations from the manufacturer;
 - c. Additional information as may be required by the City Manager or his/her designee;
 - d. Streetlights shall be located every 300 feet (maximum) for local and collector roadways; every two hundred fifty (250') feet (maximum) on arterial roadways; placed at every street intersection; in all cul-de-sacs greater than two hundred (200') feet in length, and at neighborhood mailbox unit locations.

Sec. 21.14.2. Criteria and Design.

The criteria and specific design standards for transportation related development as described in this Article are set by the City's Public Works Specification Manual.

Sec. 21.14.3. Additional Design Requirements.

A. Purpose and Applicability.

1. The purpose of this Section is to establish additional development standards applicable to certain streets within the City to ensure uniform and quality development resulting in an attractive environment compatible with businesses and residential dwellings which does the following:
 - a. Provides an environment and living conditions favorable to the public;
 - b. Provides a creative approach to land use and related physical development;
 - c. Creates a pattern of development which preserves trees and outstanding natural topography and prevents soil erosion and pollution;
 - d. Encourages mixed use development through innovative uses of modern development concepts; and;
 - e. Produces open space and recreation areas.
2. The requirements of this section shall be applicable to IH-35, IH-10, and all roadways classified as Principal Arterials or Secondary Arterials in the Master Thoroughfare Plan.

B. Permitted Uses. Buildings, structures and land shall be used in accordance with the uses permitted in the applicable zoning district and shall comply with the dimensional requirements of that district in accordance with Article 5 of this UDC.

C. Building Setback Line. A minimum fifty-foot (50') building setback shall be required adjacent to all rights-of-way. A waiver may be granted by the Planning and Zoning Commission which would allow for a reduction in the minimum required setback when an alternative site layout and design provides for additional open space or landscaping and off-street parking will be located entirely at the rear of the building or lot. In no case shall the minimum building setback be reduced less than the minimum required setback for the applicable zoning district in. The requirements of this section are not applicable to properties zoned Main Street Mixed-Use - New Development (MSMU-ND).

D. Driveways and Access (Connectivity). Access shall be limited to provide for safe traffic flow and the design shall provide interior drives to limit the number of accesses to the public right-of-way. Access easement should be utilized to limit the number of driveway accesses. Accesses should be planned to match existing driveways or street intersections on the opposite side of the street. All driveways shall have a minimum sight distance of two hundred forty (240') feet.

-
- E. *Screening.* A masonry screening wall a minimum of eight foot (8') in height shall be provided where the rear yard of any residential or nonresidential lot abuts a Principal or Secondary Arterial. Any masonry screening wall constructed as part of a new residential subdivision shall be constructed of a like and similar material and color as screening walls in adjacent subdivisions to provide a consistent streetscape.

(Ord. No. 16-S-27, § 9, 8-30-2016; Ord. No. 17-S-40, § 1(Exh. A), 10-24-2017; Ord. No. 21-S-26, § 1(Exh. A), 7-6-2021)

Sec. 21.14.4. Alleys.

- A. *Commercial and Industrial Districts.* Alleys provided within commercial and industrial districts shall be privately owned and maintained and not less than twenty-four feet (24') paved width.
- B. *Garden Home (GH) Zoning Districts.* Where garden home districts are designated by the developer to require rear ingress/egress, twenty-four feet (24') paved alley shall be provided.
- C. *Intersections and Turns.* Alley intersections and sharp changes in alignment shall be avoided, but where two (2) alleys intersect, or an alley turns at an angle sharper than one hundred degrees (100°), a cut off not less than ten (10') feet from the normal intersection of the property lines shall be provided and shall be designed in accordance with the adopted Fire Code.
- D. *Dead End Alleys.* Dead end alleys are prohibited.
- E. *Construction Standards.* All alleys shall be constructed in accordance with the standards prescribed in the Public Works Specifications Manual.
- F. *Limitations.* Construction of alleys is limited to commercial and industrial districts and prohibited in residential areas except in garden home zoning districts.

Sec. 21.14.5. Driveways.

The arrangement, placement, spacing, width and return radii of all driveways connecting to a street, roadway or alley shall be constructed, provided, altered or repaired in accordance with requirements of the Public Works Specifications Manual. For all driveways connecting to a state roadway facility, the arrangement, placement, spacing, width, etc. shall be in accordance with TxDOT requirements.

- A. *Commercial Property.*
 - 1. Curb cuts for commercial driveway aprons shall not exceed forty feet (40') in width as measured at the ROW line, and the aggregate width of all curb cuts shall not exceed fifty percent (50%) of the parcel frontage.
 - 2. Where multiple driveway aprons are used for commercial property, the curb cuts shall be at least two hundred feet (200') apart on collector streets and four hundred feet (400') apart on arterial streets provided a minimum of fifty feet (50') of spacing as measured along the curb is available between all approaches, including curb cuts on adjacent properties.
 - 4. For parcels of commercial property, no curb cut will be permitted for any parking facility which requires vehicles to enter a street in reverse.
- B. *Curb Cuts in Curb Returns.* No curb cut in curb returns will be permitted in the City.
- C. *Waivers.* Where the City Manager or his/her designee finds that extraordinary hardship may result from strict compliance with the regulations prescribed in this Article, the City Manager or his/her designee may vary the regulations so that substantial justice may be done and the public interest secured, provided that such waiver will not have the effect of nullifying the intent and purpose of this Article. In granting waivers and

modifications, the City Manager or his/her designee may require such conditions as will, in his/her judgment, secure substantially the objective of the standards or requirements so varied or modified. In the event the City Manager or his/her designee should disapprove a request for a waiver, the applicant may request an appeal to the Planning and Zoning Commission.

(Ord. No. 17-S-40, § 1(Exh. A), 10-24-2017)

Sec. 21.14.6. Sidewalks and Hike and Bike Trails.

- A. *Requirement.* Sidewalks shall be required along both sides of all streets throughout the City as required in section 21.14.1. All lots must have access to sidewalks.
- B. *Curb Ramps.* Curb ramps shall be provided at all street intersections at the time of construction or reconstruction and shall comply with the provisions in the Federal Register 28, CFR part 36 (Americans with Disabilities Act or ADA) and Texas Accessibility Standards as amended from time to time.
- C. *Location and Width.* Where sidewalks are required, they shall be installed in accordance with the Public Works Specifications Manual and shall be a minimum of five feet (5') in width. Sidewalks placed directly against curbs shall be six feet (6') minimum width.
- D. *Timing of Construction.* Sidewalks shall generally be installed concurrently with the construction of the primary structure on a lot except on primary or secondary arterials where they shall be installed concurrently with street construction.
- E. *Construction Concurrent with Street Construction.* If a street is constructed which shall have no residential lot access points, then sidewalks shall be installed concurrently with street construction.
- F. *Corner Lot.* Where sidewalks are installed on corner lots, sidewalks shall be installed along both street frontages and shall be extended to the curb with handicapped access ramps in accordance with current ADA and Texas Accessibility standards.
- G. *Waiver or Deferment of Sidewalk Installation.* The City Manager or the City Engineer may waive the requirements of this section where he/she finds that topographical conditions or other unique conditions exist which would preclude the construction of sidewalks. The Planning and Zoning Commission may defer the installation of sidewalks to a time deemed more appropriate. If the installation of sidewalks is deferred, the developer shall provide a subdivision improvement agreement in accordance with section 21.4.15 guaranteeing the installation of sidewalks.
- H. *Hike and Bike Trails.* The City recognizes the need for connectivity and adequate access to and from public parkland areas and to provide for safe bicycling and pedestrian transportation. Hike and bike trails shall be installed in accordance with the Public Works Specification Manual. Additionally, hike and bike trails shall conform to the requirements as set forth in the City's Parks Master Plan and the Master Thoroughfare Plan.

In-lieu of construction of sidewalks in accordance with this Article, the City may, at its option, require construction of a hike and bike path adjacent to the street right-of-way. Any required hike and bike path shall be constructed in-lieu of the minimum sidewalk along one (1) side of the street, unless under the requirements of subsection 21.14.3.D. above.

(Ord. No. 17-S-43, § 1(Exh. A), 10-24-2017)

Sec. 21.14.7. Traffic Impact Analysis.

- A. *Application Requirements.* Every application for development within the City or its ETJ shall be accompanied by a Traffic Impact Analysis (TIA) Determination Form provided in the Development Manual. The TIA

Determination Form shall be utilized to determine the level of TIA required or if the development is eligible for a TIA waiver.

- B. *TIA Required.* The threshold requirement for a TIA and the level of TIA required shall be based on a land use or combination of land uses that results in peak hour trips in accordance with Table 21.14.7A. If the proposed land use does not exceed the peak hour trip threshold, a TIA waiver shall be noted on the TIA Determination Form. Peak hour trips shall be based on the most current edition of the Institute of Traffic Engineers (ITE) Trip Generation Manual.

Table 21.14.7A TIA Requirements	
Peak Hour Trips Generated	TIA Level Required
1,001 or more	Level 3 TIA
501—1,000	Level 2 TIA
101—500	Level 1 TIA
100 or less	None Required

- C. *TIA Scope.* If a TIA is required, the applicant shall meet with the City Manager or his/her designee to determine the scope for the study prior to beginning work on the TIA. The applicant shall be prepared, prior to the meeting with the City Manager or his/her designee, to discuss potential intersections, streets, and driveways to be evaluated, data assumptions or any other information required by the City Engineer.
- D. *TIA Study Area.* The study area required for the TIA shall be based on the level of the TIA required in Paragraph B. above. The City Manager or his/her designee may, at his/her discretion, require additional area to be included in the study area if deemed necessary to provide adequate review of the transportation network. The following Table 21.14.7B identifies the minimum acceptable study area:

Table 21.14.7B TIA Study Areas	
TIA Level	Study Area
Level 1 or 2 TIA	The site area and the area within a one quarter (¼) mile radius from the boundary of the site.
Level 2 TIA	At the discretion of the City Manager or his/her designee, the study area may be extended up to a maximum of one (1) mile from boundary of the site.
Level 3 TIA	The site area and the area within a one (1) mile radius from the boundary of the site.

- E. *TIA contents.* The TIA shall conform to accepted industry standards and shall include a detailed description of the area street network, a description of proposed land uses, the anticipated stages of construction, the anticipated completion date of the various phases of land development, and the trigger points requiring implementation of necessary improvements. The City Engineer may require any additional information necessary to ensure adequate review. Additional information required may include, but not be limited to, analysis of weekend trip generation and traffic, traffic signal warrant analysis, gap analysis, queue length analysis, stopping sight distances, and pedestrian counts. The TIA shall contain, at a minimum, the following information:

-
1. Trip generation rates for both the A.M. and P.M. peak periods using the ITE Trip Generation Manual linear trip generation rates, except where the ITE Trip Generation Manual clearly indicates the use of regression equations better captures the trip generation estimates, for all the land uses specified;
 2. Trip distribution;
 3. Adequacy determination for existing and proposed street cross-sections by phase of development based on the Transportation Research Board's Highway Capacity Manual (HCM);
 4. Intersection Level of Service (LOS) analysis for each phase of development, driveway sizes, locations, and adequacy based on the HCM;
 5. Layout showing lane usage (pavement marking layout) for all boundary streets including driveway locations and roadway geometry within the site;
 6. Driveways and intersecting streets connecting to boundary streets including all lane widths, traffic islands, medians, sidewalks, curbs, and traffic control devices;
 7. Existing and proposed turning movement counts for the site;
 8. Identification of and timing for transportation improvements both on-site and off-site within the study area, if any, needed to mitigate the effects of the additional traffic generated by the development. The development is responsible for the full costs of implementation of the improvements including costs of right-of-way acquisition, utility relocation, design and construction;
 9. Traffic Impact Analysis Elements
 - a. Establish the baseline traffic conditions and peak hour operations prior to development of the subdivision or site This baseline shall be used to establish the existing Level of Service (LOS) of the key intersections, and street segments where appropriate.
 - b. LOS analysis for the future opening date of the development. This analysis shall be based on the baseline traffic conditions described above, plus the estimated traffic growth from the baseline to the future opening date.
 - c. LOS analysis at the future opening date including the development traffic. This analysis shall be based on the traffic conditions described in Section 21.14.E.9.b above plus the development traffic distributed onto the roadway network. Special analysis may be required to determine signal warrants, gap analysis, minimum safe sight distances, drive approach locations, turning lane length, or similar requirements.
 - d. Mitigation improvements shall be identified to either maintain a minimum LOS of C, or when the projected traffic delay values measured in seconds per vehicle is already below a LOS C to maintain the delay value to within ten (10) percent of the traffic delay identified in Section 21.14.6.E.9.b above for unsignalized intersections and to within twenty (20%) percent of the traffic delay identified in Part B above for signalized intersections.
 - e. For intersections functioning below a LOS of C as described in paragraph b above (Sec. 21.14.6.E.9(b)), the City may participate in the costs of improvements to achieve proportionality between the traffic impacts created by the proposed developments and the City's obligation to provide adequate streets and intersections. The percentage of development traffic added to the intersection to the intersection traffic as described in Section 21.14.6.E.9.b above will be used as the basis for determining the development's proportionate cost of improvements. Such agreement and timing of collection of those costs shall be determined by the execution of an Escrow Agreement for the development's proportionate share of the improvements.

-
- f. Comply with the Public Works Specification Manual requirements.

 - 10. For projects adjacent to a TxDOT ROW, the TIA shall be accompanied by a letter from TxDOT which outlines any agreements between the developer and TxDOT for planned improvements; and
 - 11. The TIA shall be certified by a Texas Licensed Engineer with experience in the field of traffic engineering.
- F. *TIA Submittal.* Upon completion of the TIA, the applicant shall submit a digital copy of the report to the City Engineer or his/her designee. The applicant shall be responsible for submitting copies of the report to TxDOT, or any other entities, as required.
- G. *TIA Review.* The TIA shall be reviewed by the City Engineer or his/her designee and any other necessary review authorities. Review comments shall be provided to the applicant for response. Response by the applicant shall be in electronic format. The applicant shall submit a final copy of the TIA to the City Engineer containing all modifications prior to final approval of the application for which the TIA was conducted.
- H. *City Assistance in Development.* While providing for improvements, the City may cooperate with the developer in the use of its governmental powers to assist in the timely and cost-effective implementation of improvements. Assistance shall not mean financial aid in actual easement acquisition, construction or engineering costs. Specifically, the City agrees to:
- 1. Assist in the acquisition of necessary right-of-way and easements;
 - 2. Assist in the relocation of utilities;
 - 3. Assist in obtaining approvals from applicable county entities;
 - 4. Assist in obtaining approvals from TxDOT; and
 - 5. Assist in securing financial participation for major street improvements from applicable county entities, TxDOT or the Metropolitan Planning Organization.
- I. *TIA Revisions.* It is recognized that the scope of the developer's plans may change from time to time. The monitoring reports may also demonstrate changes in the area street conditions and travel patterns within and around the City. Periodic updates to the TIA may be required to address these issues and identify changes to the level of service at study intersections and streets. When a development change occurs that deviates from the activity on which the previous TIA was submitted and accepted, and the new activity places the project in a different TIA level as defined by Table 21.14.7A from that of the previous TIA or generates an increase of at least 100 peak hour trips relative to the previous TIA, the property owner or its agent shall perform and submit to the City an updated TIA. These updates shall address modifications to the magnitude and timing of improvements recommended by the original TIA. Any TIA amendments must be acceptable to the City.

(Ord. No. 18-S-04, § 1(Exh. A), 1-23-2018)

Section 21.14.8 Conflicts.

- A. If any provisions of this section are in conflict or inconsistent with provisions in any other City regulations, the order of precedence shall be
 - a. Master Thoroughfare Plan
 - b. Public Works Specification Manual
